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RELIGION AND CIVILITY: A STUDY OF IBN AL-QAYYIM'S *AḤKĀM AHL AL-DHIMMA* AND A COMPARATIVE READING FROM THE ḤANBALĪ AND ḤANAFĪ SCHOOLS OF LAW

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Abstract

This thesis asks, what does the Islamic legal tradition say about maintaining civil relations with non-Muslims? This thesis advances a hypothesis to this question using traditional hermeneutics in interpreting Islamic law by engaging with three distinct legal epistemologies: Ibn al-Qayyim's Ḥanbalī-fundamentalism as well as the Ḥanbalī and Ḥanafī discursive traditions. As the primary text, I translate and engage with Ibn al-Qayyim's 'On Social Interactions with the Protected People' in his *Aḥkām Ahl al-Dhimma.* The *Aḥkām*'s case-studies from this chapter rule on rudimentary forms of social interaction and engagement with non-Muslims, from which a theory of religious civility can be established. Some examples include greeting non-Muslims, attending their funerals, visiting them when they are sick and offering congratulations and commiserations for their achievements and losses.

I then compare Ibn al-Qayyim's purport with the discursive traditions of the Ḥanbalī and Ḥanafī school. This thesis argues that the Ḥanbalī school offers a limited scope of interaction with non-Muslims, where the scholars of its later epoch (*muta'akhkhirūn*) have almost always opted for the position of prohibition. For example, the strongest opinions of the school relay that one is not allowed to initiate a non-Muslim with any form of greeting, nor visit them when they are sick, congratulate them for their achievements nor offer commiserations for their losses. While scholars from the early-middle epoch took non-committal stances on most of these rudimentary forms of social interactions, references of the late Ḥanbalī epoch opined the position of prohibition, almost wholesale. It is only through the opinions of outliers, such as Ibn al-Qayyim and his mentor, Taqī al-Dīn Ibn Taymiyya, that a positive case for civility with non-Muslims can be established. For the Taymiyyan duo, kindness

is enacted to win the hearts of non-Muslims and to entice them to Islam. For Ibn Taymiyya, one enacts civility and equity for the preponderate benefit (*maṣlaḥa rājiḥa*) it provides the Muslim community.

In stark contrast, the Ḥanafī school is profoundly permissive as legal considerations for the emotional well-being of non-Muslims routinely feature in their jurisprudence. Similarly, positive social relations are theorised as recommended good deeds. Nonetheless, these three distinct strands argue for religious and theological obligations that are not to be negotiated. Herein, I present a hypothesis of tolerant restraint in social interactions, which entails restraining oneself respectfully and courteously when one is presented with a non-negotiable theological paradox or religious prohibition. In such situations, a religiously sound alternative can be legitimately offered, while enacting tolerant restraint to refuse or avoid the prohibited action. Crucially, the Ḥanafīs encourage civility as a good deed in and of itself, while for Ibn Taymiyya and Ibn al-Qayyim, it is the pragmatic means to a much loftier goal: proselytisation, conversion and/or winning the hearts of others. As Islamophobic far-right political voices gain widespread popularity across Europe, the pragmatic benefits of civility cannot be overstated as it serves to humanise an especially othered European minority.

In the last chapter of this thesis, I reconcile this hypothesis with the doctrine *al-walā' wa l-barā'* from Qur'ānic exegetical sources. This doctrine demands that Muslims should display loyalty to God, the Prophet and the Muslim community, and dissociate themselves from sin and unbelief. While some argue that this doctrine problematises civility with non-Muslims, I demonstrate that this doctrine does not outlaw civil relations. In fact, there is a near consensus of exegetes who argue that equitable, just and kind relations with non-Muslims are justified and legitimate. Moreover, with

specific reference to Q. 60:8, God explicitly permits civil relations so long that they are not hostile

combatants.

Dedicated to my Father, Shuruj Miah
For his financial, emotional, and spiritual investment in me.

আমার বাবা, প্রিয় শুরুজ মিয়াকে উৎসর্গ করলাম,
আমার প্রতি তার আর্থিক, মানসিক এবং আত্মিক সহায়তার জন্য।

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Above all, I acknowledge the will of Allah in inspiring me towards this noble cause, for whomsoever Allah guides none can lead them astray. May peace, blessings and salutations be upon the Final Prophet, Muḥammad b. ʿAbd Allah, his noble family, his blessed companions and all those that followed them in excellence until the Last Day. *Wa l-ḥamd li-Llah Rabb al-Ālamīn*

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Transliteration, Abbreviations and Dates

Arabic	Symbol	Arabic	Symbol
ا	a, ā	ط	ṭ
ب	b	ظ	ẓ
ت	t	ع	'
ث	th	غ	gh
ج	j	ف	f
ح	ḥ	ق	q
خ	kh	ك	k
د	d	ل	l
ذ	dh	م	m
ر	r	ن	n
ز	z	و	w, ū
س	s	ه	h,
ش	sh	ء	'
ص	ṣ	ي	y, ī,
ض	ḍ		

Abbreviations

s.	singular	pl.	plural
d.	died	b.	Ibn (son of)
c.	circa	r.	ruling reign from
Q.	Qur'ān verse		

Letters are repeated to represent the *shadda*, e.g. *Muta'akhkhirūn.* Qur'ānic verses have been translated according to M.A.S. Abdel Haleem's *The Qur'ān: A New Translation,* published in the Oxford World's Classics series. Dates are normally given for both *hijrī* and common era, separated by a forward slash, e.g. 751/1350. When only one date is given, it is normally the *hijrī* date. In the case where only a *hijrī* year is known, and not the exact day and month, a dash will be used to indicate the possible common era dates, e.g. 2002-3.

Arabic words which have common usage in English have been written without diacritics, e.g. Jihad, Sunni, Shia, Salafi, Sharia, Wahhabi, Halal. Similarly, names of authors like Tariq Ramadan, Al-Alwani, Al-Azem, and Al-Matroudi will appear without diacritics. This is because, despite having Arabic names, their books are written in English. Therefore, I have referenced their names accordingly. Moreover, the word Allah will be used without diacritics when referred to God, but the name 'Abd Allāh will be written with diacritics as the former has common usage in English while the latter is being transliterated from the Arabic.

1.0   INTRODUCTION

1.1   Background

1.1.1   Muslims in Europe

In 2016, Muslims accounted for 4.9% of Europe's population totalling a figure of 25.8m, and that figure is expected to rise to 7.4% by the year 2050.[1] The mass migration of Muslims to the West has persisted since the twentieth century, becoming a global phenomenon which poses various challenges to the Muslims, and their host societies. Issues of security, terrorism, the perceived lack of social and political integration are among the many significant socio-political contentions.

For Muslims themselves, living as a religious minority in a non-Muslim[2] majority country poses various challenges. The perennial challenge is that Muslims find themselves in a system where specific values and aspects of the host culture oppose established principles of their religion. One such example is the prevalence of usury (*ribā*) in the economic system; Islam forbids taking or administrating interest-bearing loans which almost all credit in the West is based on. If Muslims are to buy houses, take out tuition or business loans to further their standing in life, conventionally this entails usury. In such situations, Muslims may find themselves in the perilous position of having to weigh up the demands of their faith, and the convention of their host society which almost obliges forms of usury to get ahead in life.

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[1] Hackett, Conrad et al., *Europe's Growing Muslim Population* (Washington DC: Pew Research Centre, 2017): 4-5.

[2] In this thesis, the unbelievers of Islam will be referred to as non-Muslims. In the Islamic legal tradition, there is a thorough debate regarding the classification of unbelievers. Though, it is not the intention of this thesis to conduct a sustained analysis of the vast literature on this issue. For a comprehensive discussion on the various opinions in the Sunni schools of law, see: Freidman, Yohanan, "Classification of unbelievers" in: *Tolerance and Coercion in Islam* (New York: Cambridge University Press, 2003): 54-86.

For the European host-nations, Islam is seen both as an internal and external threat. Internally, the religious integration of Muslims into their secular spaces has been a significant challenge for politicians and policymakers as Muslim religious practice, and public perception of their beliefs and values allegedly contradict core Western values.[3] Islam supposedly challenges the separation of religious and political practice, rupturing the idea of private and public religiosity through the visibility of Muslim signs and practices. As Talal Asad observes, European Christendom went through a historical change following the Enlightenment where religion was regulated to the private sphere, separated from public life. As technology and modern science advanced throughout the centuries, the line distinguishing the religious and the secular continued to shift, such that religion was eventually demoted to the moods and motivations of the individual believer only.[4] With the decreasing of religious influence in public life, the individual emerged as an independent agent whose practice was no longer subjected to the centralised authority of religion. Some of the fundamental principles of European liberalism includes individual liberty, freedom of expression, democracy and the rule of law. This separation meant that the 'immanent' public life was not to be regulated by 'transcendent' religious order.[5] Jocelyne Cesari observes the universal principle of secularity, which is enjoined by two core principles: the separation of religion and politics and a disjuncture between private and public behaviour.[6] In the age of religious and cultural pluralism, the

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[3] Abdal Hakim Murad points out that this "clash of civilisation" characterisation of the West and the Islamic world has a longstanding precedent in European history. As Murad points out, the first historical precedent of self-identification of the idea of 'Europe' came in contrast to the Turkic and Saracenic Muslim other. See: Murad, Abdal Hakim, *Travelling Home: Essays on Islam in Europe*. (Cambridge: The Quilliam Press, 2020): 20-21.

[4] Asad, Talal, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*. (Baltimore: Johns Hopkins University Press, 1993): 39.

[5] Cesari, Jocelyne, *Why the West Fears Islam: An Exploration of Muslims in Liberal Democracies*. (New York: Palgrave Macmillan, 2013): 112.

[6] Ibid., 107.

universal principle of secularity ensures political stability by limiting the power of dominant religious or cultural groups.[7]

Some perceive Muslim practice as a challenge to the separation of private and public life. Firstly, Islam is a religion which regulates all spheres of life. Therefore, for most faithful adherents of the religious tradition, individual liberty does not dictate how to act in the world. Instead, God and his commandments regulate an individual's behaviour. Islam regulates practices, social and political relations, as well as dietary habits. Secondly, the visibility of Islamic embodiments of practice in public spaces – hijabs, niqabs, middle eastern tunics, beards, minarets – rupture the Western disjuncture between private and public behaviour. More importantly, the Islamic religious and cultural heritage has been perceived as an external threat to Western societies for decades. From 9/11 to the most recent Streatham stabbings in February 2020, some will argue that Huntington's "clash of civilisations" has been enacted on Western shores since the turn of the millennium.

Another notable feature of Western values is its co-option as a part of the history of Western civilisation, such that nationalistic tendencies are formed around it. Thus, a rejection of these values is akin to a rejection of the nation. In the case of Britain, Britishness as an entity is defined by idealistic and value-orientated principles. For example, in the aftermath of the Trojan Horse scandal,[8] David Cameron, the then Prime Minister, defined 'Britishness' as shared values of:

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[7] Ibid., 144.

[8] This scandal broke out in 2014 when information was leaked that several Muslim school governors, teachers and community leaders allegedly conspired to introduce Islamist ethos into several schools in the British city of Birmingham.

a belief in freedom, tolerance of others, accepting personal and social responsibility,

respecting and upholding the rule of law – are the things we should try to live by every day.[9]

In this "muscular liberal" definition of Britishness as a set of values, a threat to these values is innately

existential, thereby justifying coercive state measures of preservation and protection.[10] Cameron

continues that in recent years, British society has not promoted these values, but instead allowed and

tolerated those that hold contradictory values; thus, allowing extremism to flourish. In his 'big steps'

to eradicate this, Cameron announced that there would be an impetus to ensure immigrants can

speak English.[11] Tellingly, this article is available on the *gov.uk* website in Urdu and Arabic; thus, the

target audience of this address is clear.

Islam is not only seen as an internal threat to the *superior* ideals and ethics of the West, but

as an external threat which wishes to eradicate it; thus, also posing various existential questions

about the future of Western cultural identity, integration, and counter-terrorism. As Cesari

demonstrates, various public opinion polls and surveys across Europe and America display that there

is a sizable public opinion which considers Islam as an external and internal threat to the West.[12] In

Britain, a Pew survey uncovered that 54 per cent of British respondents believe that there is a conflict

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[9] Cameron, David, "British Values: article by David Cameron" *gov.uk,* 15 July 2014. From: https://www.gov.uk/government/news/british-values-article-by-david-cameron (accessed 07 October 2019).

[10] Jim Jose introduces the concept of "muscular liberalism" in interpreting Cameron's various speeches on British values, assimilation and extremism. Jose marks the shift to a specific kind of coercive and unapologetic liberalism which seeks to impose assimilation of the Muslim other in opposition to the previous tolerance of multiculturalism, which was deemed effeminate. As Jose notes that this exclusion of the Muslim other is an inherent manifestation of liberalism, and this new form is supercharged by racist and colonial undertones. See: Jose, Jim, "A liberalism gone wrong? Muscular liberalism and the quest for monocultural difference" *Social Identities* 21, no. 5 (2015): 444-458.

[11] Cameron, "British Values."

[12] Cesari, Jocelyne, *Why the West Fears Islam*, 6-20.

between being a devout Muslim and living in modern society.[13] The British Social Attitudes Survey of 2019 found that 17 per cent of the British public viewed Islam negatively,[14] and a recent Chatham House survey found that 47 per cent of British respondents want to halt migration from Muslim-majority countries.[15]

How does one explain why the West fears Muslims? Cesari makes two striking observations. Firstly, the progressively negative perception of Islam as an external and internal threat to the West which leads to hard-line immigration and security policies. This hysteria is then proliferated and reinforced by the popularity and widespread nature of a specific anti-Western interpretation of Islam: Wahhabi Salafism.[16] The doctrines of this strand originate from Muḥammad b. ʿAbd al-Wahhāb (d. 1206/1792) whose alliance with the House of Saud played an instrumental role in the formation of the Saudi state.[17] Wahhabi Salafism has a global influence, with figures recording that since the 1970s, the Saudi Government spent over $80 billion in various Islamic causes in foreign countries.[18] Importantly, a typical feature of this interpretation of Islam is their propensity to separate the world into Muslims and infidels (*kuffār* s. *kāfir*).[19]

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[13] Ibid., 15

[14] Voas, David and Bruce, Steve. "Religion" *British Social Attitudes 36* (London, NatCen, 2019): 19.

[15] Eatwell, Roger, and Matthew Goodwin, *National Populism: The revolt against liberal democracy* (London: Penguin, 2018): 117-19. Moreover, 71 per cent of Polish respondents agreed to stop migration from mainly Muslim countries, while 61, 53 and 51 per cent of respondents from France, Germany and Italy, respectively, agreed to the prompt.

[16] Cesari, Jocelyne, *Why the West Fears Islam,* xviii.

[17] For the relationship and alliance between Ibn ʿAbd al-Wahhāb and Muḥammad b. Saʿūd which led to the formation of the Kingdom of Saudi Arabia, see: Delong-Bas, Natana, *Wahhabi Islam: from revival and reform to global jihad* (London: Oxford University Press, 2004): 34-40.

[18] Cesari, *Why the West Fears Islam,* 131.

[19] Ibid., 133-4.

A focus of this thesis is the doctrine *al-walā' wa l-barā'*, often translated as allegiance and disavowal. It demands that Muslims should ally and display their loyalty to God, the Prophet Muḥammad and Muslims, and disavow, hate and dissociate themselves from anything which displeases God such as sin, as well as the disbelief and religious practices of nonbelievers.[20] While this doctrine is understood to be one of consensus (*ijmā'*), recognised by the Qur'ān and Sunna (prophetic tradition),[21] the manifestation of this doctrine is disputed heavily among Muslim scholars, especially among the different strands of Salafism. Various Salafi epistles dedicated to explicating this doctrine promote migration to Muslim lands, shunning Western culture, civility and even jihad (Holy war) as manifestations of one's loyalty to the Muslims, and their complete disavowal of unbelief. This doctrine will be analysed in some detail in the next section.

This thesis asks, what does Islam, or more specifically, Islamic law (*fiqh*)[22] say about the permissibility of religious civility in secular non-Muslim nations; that being, respectful and courteous relationship between Muslims and non-Muslims? Does the Islamic legal tradition promote values that instil civility among all people, or does it preach hostility between Muslims and their non-Muslim

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[20] This definition is taken from: al-'Awnī, Ḥātim b. 'Ārif al-Sharīf, *al-Walā' wa l-Barā Bayn al-Ghuluww wa l-Jafā'* (Amman: Awriqa, 2016): 15-16. See also: Ali, Mohammed Bin, *The Roots of Religious Extremism: Understanding the Salafi Doctrine of Al-Wala' wal Bara'* (London: Imperial College Press, 2016): 71-3.

[21] al-'Awnī, *al-Walā' wa l-Barā*, 21-30.

[22] *Fiqh* as an Islamic concept which refers to legal doctrines and traditions. In Sunni Islam, *fiqh* is usually operationalised through four schools of thought which have their own legal theories, methodologies and axiomatic practices. As pointed out by Zeeshan Chaudri, the word *Fiqh,* a pre-modern concept, may not align perfectly with the modern construct of "Law" but will be used herein for facilitation. See: Chaudri, Zeeshan Ahmed, "Demarcating the Contours of the Deobandī Tradition via a Study of the 'Akabirīn from 1900-1960" (PhD diss., School of Oriental and African Studies, University of London, 2020): 41. see: Hallaq, Wael, "What is Sharī'ah?" in: *Yearbook of Islamic and Middle Eastern Law, Volume 12 (2005–2006),* eds. Eugene Contran and Martin Lau. (Leiden: Brill, 2007): 151-169.

counterparts? It questions, how has *al-walā' wa l-barā'* been applied for social interactions by the various intellectual strands of the Sunni legal tradition.

The Sunni legal tradition is usually understood as four schools of legal thought, or *madhhabs*.[23] These schools - Ḥanafī, Mālikī, Shāfiʻī and Ḥanbalī – base their legal opinions, methodology and epistemology on the works, writings and reports of their eponymic scholars: Abū Ḥanīfa (d. 150/767) Mālik b. Anas (d. 179/795) al-Shāfiʻī (d. 204/820) and Aḥmad b. Ḥanbal (d. 241/855).[24] Western scholarship often refers to the *madhhabs* as self-regulating guilds.[25] A study of the entire legal tradition would prove fruitful, but the colossal nature of providing an accurate representation of these legal traditions puts such a task outside the scope of a master's thesis. Therefore, this thesis focusses on legal interpretations which are profoundly relevant for the British context.

Ibn Qayyim al-Jawziyya's (691-751/1292-1350)[26] juridical manual on Muslim and non-Muslim relations – *Aḥkām Ahl al-Dhimma* (Ordinances Regarding the Protected Peoples) – will be the primary source for engagement. In authoring this book, Ibn al-Qayyim was asked about the *jizya* (poll-tax) the protected people (*ahl al-dhimma*, s. *dhimmī*) were expected to pay.[27] The protected people were religious minorities living under Islamic governance who paid a poll-tax for their residence. Ibn al-

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[23] This thesis will use the words legal school and *madhhab* interchangeably.

[24] For a historical study on the development of the Sunni legal schools, see: Melchert, Christopher, *The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E.* (Leiden: Brill, 1997); Hallaq, Wael, *The Origins and Evolution of Islamic Law.* (New York: Cambridge University Press, 2005).

[25] Makdisi, George, "The Guilds of Law in Medieval Legal History: An Inquiry into the Origins of the Inns of Court" *Cleveland State Law Review.* 34 (1985): 3-16. Melchert, *The Formation of the Sunni Schools of Law*, xiv-xvii; Hallaq, *Authority, Continuity and Change in Islamic Law* (Cambridge: Cambridge University Press, 2004):19-20.

[26] Henceforth, the author will be referred to as Ibn al-Qayyim for a more succinct reading experience.

[27] Ibn al-Qayyim, Muḥammad b. Abī Bakr, *Aḥkām Ahl al-Dhimma*, ed. Ṣubḥī al-Ṣāliḥ, 2 vols. (Damascus: Maṭbaʻat Jāmiʻat Dimashq, 1961): 1:1; Hoover, Jon, "Ibn Qayyim al-Jawziyya," in: *Christian-Muslim Relations: A Bibliographical History. Volume 4 (1200-1350)* eds. David Thomas and Alex Mallet. (Leiden, Brill, 2012): 992.

Qayyim responded to this query by authoring a lengthy response about the poll-tax, its subsequent rulings, before delving further into other jurisprudential and theological issues regarding the protected people. For example, social interactions, inter-religious marriages, eating their slaughtered meat, to name a few.[28] This monograph became *Aḥkām Ahl al-Dhimma.*

I have decided upon this work due to Ibn al-Qayyim's revered status as one of the intellectual fathers of Salafism, and his independence and originality in juridical judgement. Ibn al-Qayyim's material will be analysed and compared against the discursive legal traditions of two Sunni schools of law: the Ḥanafī and Ḥanbalī school. The significance of these legal interpretations will be expanded in another section.

The distinct feature of my thesis is its engagement with the legal tradition through the use of traditional hermeneutics in understanding whether there are restrictions on Muslims establishing respectful and cordial relations with their non-Muslim counterparts. While studies of this nature exist from liberal interpretations of Islamic law, there is limited literature discussing civility from traditional interpretations. The traditional and liberal approach will be unpacked in the forthcoming section of this chapter. The rationale behind this line of inquiry and the subject matter will also be discussed in the following sections. In the immediate section, I define religious civility, and why particular interpretations of *al-walā' wa l-barā'* could impede on its viability in secular non-Muslim nations.[29]

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[28] For a discussion on the main positions Ibn al-Qayyim asserts in this book, see al-Ṣāliḥ, Subḥī in: Ibn al-Qayyim, *Aḥkām Ahl al-Dhimma*, 1: xi-xliii.

[29] 'Non-Muslim nations' here refers to countries which promote religious freedom and allow Muslims to express their central features of faith (*iẓhār shaʿāʾir al-islām*). The scholars of Islam unanimously agree that a Muslim is

1.1.2   *al-walā' wa l-barā'* as a potential impediment for religious civility

In defining religious civility, Catherine Newell writes:

> Civility can be defined as being courteous and showing respect for others in a socially acceptable manner. Therefore, religious civility is acting in this way in regard to the beliefs of others, whether the two parties believe the same or not.[30]

Religious civility is courteous and respectful relations between members of different faiths. It does not necessitate that faith members agree with each other on all matters, but that they disagree with respect and decency. Religious civility and political civility are the idealistic cornerstones of the liberal West. It is also a moral virtue as it involves the "consideration of other's feelings, engaging in tolerant restraint, gratitude and politeness".[31]

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not permitted to live in a non-Muslim country wherein their lives, wealth and practices of faith are not protected. In such scenarios, Muslim scholars rule that the financially and physically able are obligated to emigrate to a place which offers dignity and the freedom to practice their faith. This ruling is based on the Qur'ānic verse: "When the angels take the souls of those who have wronged themselves, they ask them, 'What circumstances were you in?' They reply, 'We were oppressed in this land,' and the angels say, 'But was God's earth not spacious enough for you to migrate to some other place?' These people will have Hell as their refuge, an evil destination" (Q. 4:97). Based on this verse, scholars agree that those that are physically and financially able must migrate away from a land that restricts and persecutes the practice of their faith. The exegete, Ibn Kathīr (d. 774/1373) states that a person who abstains from migrating in such a circumstance has committed an unlawful action according to the consensus of the scholars. See: Ibn Kathīr, Ismā'īl b. 'Umar, *Tafsīr al-Qur'ān al-'Aẓīm* (Beirut: Dār al-Kutub al-'Ilmiyya, 1999): 2:334; al-Nawawī, Yaḥya b. Sharaf, *al-Majmū' Sharḥ al-Muhadhdhab*, 20 vols. (Beirut: Dār al-Fikr, n.d.): 19:262-5; al-'Asqalānī, Aḥmad b. 'Alī Ibn Ḥajar, *Fatḥ al-Bārī*, 13 vols. (Beirut: Dār al-Ma'rifa, 1959/60): 7:299-300; al-Zuḥaylī, Wahba b. Muṣṭafa, *Tafsīr al-Waṣīṭ li-Zuḥaylī*, 3 vols. (Damascus: Dār al-Fikr, 2001/2): 1:369; Ludyānwī, Rashīd Aḥmad, *Aḥsan al-Fatāwā*, 10 vols. (Karachi: H.M Saeed Company, 2004): 6:11-12.

[30] Newell, Catherin, "The Coexistence of Religion and Civility: One with the Other," *Citations Journal of Undergraduate Research*, Vol. 16 (2019): 1.

[31] Frydenlund, Iselin, "Religion, Civility and Conflict: Towards a Concept of Critical Civility" *tf.uio.no*, 6 December 2011. From: https://www.tf.uio.no/english/research/projects/goba/project-hub/blog/plurel/civility/religion-civility-and-conflict-towards-a-concept-of-critical-civility-0.html (accessed 30 March 2020). However, liberal democracies retain a coercive arm of conformity when its values are at stake. We have noted this trend in the securitisation of the Islamic faith and its adherents through strict immigration

The fear of Muslims as an external threat is exacerbated by particular interpretations of Islam which promote hostility between Muslims and non-Muslims. For example, Salafi epistles on *al-walā' wa l-barā'* question the possibility of civility and mutual tolerance in non-Muslim countries. While *al-walā' wa l-barā'* is an orthodox doctrine, its manifestations on a social and political level are highly disputed. Moreover, its discussion as a matter of importance is all but monopolised by Salafis. In this section, I ask what is Salafism, what is *al-walā' wa l-barā'* and how significant is it as an impediment for religious civility?

In general terms, one who describes themselves as a 'Salafi' falls into several categories. This group claims to base their religious interpretations on the *Salaf al-Ṣāliḥīn,* the pious predecessors of the first three generations of Islamic history. One who calls themselves 'Salafi' attributes themselves to these earliest generations. Nonetheless, all Muslims claim to ascribe themselves and their scholarly interpretations to that era as it is the very definition of orthodoxy.

Khaled Abou El Fadl argues that Saudi Wahhabis co-opted the public usage of Salafi. Salafism initially emerged in the late-nineteenth century with the likes of Muḥammad 'Abdūh (d. 1905) and Rashīd Riḍā (d. 1935).[32] Unlike Muḥammad b. 'Abd al-Wahhāb, these scholars were considered to be liberal-reformers and tolerant of different opinions.[33] Abou El Fadl expresses that projects of Arab nationalism and apologetics that took place in the twentieth century deeply limited advocates of

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and counterterrorism policies. For a relevant ethnographic study of neoliberal coercion of Muslims amidst the rise of nationalism in Europe, see: Jaffe-Walter, Reva, *Coercive Concern: Nationalism, Liberalism and the Schooling of Muslim Youth* (Stanford: Stanford University Press, 2016).

[32] Abou El-Fadl, Khaled, *The Great Theft: Wrestling Islam from the Extremists* (New York: HarperCollins, 2005): 75-94.
[33] Ibid., 75.

these liberal reforms, and in the 1970s, the Saudi Wahhabi Project co-opted Salafism.[34] Saudi

influence, power and oil-money quickly spread their monopolising and puritanical view around the

world.[35] Records show that the Saudi Government invested over $80 billion in Islamic causes across

the world, increasing their influence by building mosques, funding universities, seminaries and

scholars from around the world.[36]

While there are various strands of Salafism, they agree upon certain tenets of faith: literalism

in understanding God's attributes, opposition against innovation and anything which compromises

God's oneness in worship (*tawḥīd*), as well as a reverence for Taqī al-Dīn Aḥmad Ibn Taymiyya al-

Ḥarrānī[37] (d. 728/1328) and his closest discipline, Ibn al-Qayyim as authorities in legal and theological

matters.[38]

One point of divergence for the various strands of Salafism is the understanding of *al-walā'

wa l-barā'*. The doctrine obliges Muslims to remain loyal to God, the Messenger and the Muslims, and

exonerate themselves entirely from infidel practice and unbelief. Nonetheless, how should one

manifest their loyalty to God and disavowal of unbelief, socially and politically? Socially, does it entail

isolating oneself from the non-Muslim population or shunning every aspect of 'non-Islamic' culture?

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[34] Ibid., 79.

[35] Ibid., 87-8.

[36] For further details about the global influence of Salafism see, Ibid., 62-67. See also: Cesari, *Why the West Fears Islam,* 130-2.

[37] Henceforth in this thesis, whenever 'Ibn Taymiyya' is mentioned without an epithet, it will refer to Taqī al-Dīn. This is to avoid confusion between Taqī al-Dīn and his grandfather Majd al-Dīn Ibn Taymiyya, another prominent Ḥanbalī jurist and author of the Ḥanbalī reference work *al-Muḥarrar*.

[38] Qadhi, Yasir, "On Salafi Islam" *MuslimMatters.org*, n.d., Available from: https://muslimmatters.org/2014/04/22/on-salafi-islam-dr-yasir-qadhi/ (accessed on 19 October 2019). This article provides a clear breakdown of the various subgroups of Salafi Islam, and the various points of contention among their various off-shoots.

Does it require harbouring hate for non-Muslims and promoting migration to Muslim lands? Politically, is one allowed to ally with the non-Muslims? Is one obligated to fight them in religious wars? There is no unanimous agreement among Salafis regarding these questions. Nonetheless, through this doctrine, contemporary Salafis deliver verdicts which seem to impede on civility.

For example, in his epistle on *al-walā' wa l-barā'*, Ṣāliḥ al-Fawzān[39] states, seemingly unequivocally, that one must migrate away from non-Muslim countries to Muslim countries.[40] Al-Fawzān also states that it is impermissible to travel to a non-Muslim country for a holiday. One should, instead, go to Muslim countries for vacations as taking a holiday in a non-Muslim country vitiates one's loyalty to the Muslims.[41] Religious civility is a tall order if one is obliged to migrate to the Muslim lands, travelling far away from non-Muslim influence.

Al-Fawzān is a highly respected and internationally renowned Salafi scholar, especially in the UK. Salafi Publications (Henceforth, SPUBs) is a notable example. SPUBs, led by the enigmatic Abu Khadeejah, is a notorious Birmingham-based group who have national recognition and influence.[42] Many describe SPUBs as a cult due to their alleged mind control and puritanical dissociation tactics

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[39] al-Fawzān is a prominent Salafi scholar hailing from Saudi Arabia where he is a member of the highest religious council of the country. His status as a Salafi reference is so revered that some testify the correctness of another's Salafi methodology based on their adherence to al-Fawzān. This aspect of his cult-like following will be analysed in the main body of the text.

[40] al-Fawzān, Ṣaliḥ, *al-Walā' wa l-Barā' fī l-Islām* (Gaza: Markaz al-Baḥth al-'Ilmī Jam'iyyat Dār al-Kitāb wa l-Sunna, n.d.): 4.

[41] Ibid., 5.

[42] While their leaders come from Birmingham, Salafi Publications have bases, mosques and preachers in most major cities of Britain, including: London (Stratford, Shepherd's Bush, Tooting, Woolwich, Cranford), Cardiff, Leeds, Manchester, Liverpool, Bradford, Bolton, Oxford, and Loughborough. SPUBs is also affiliated to DUS Dawah, a missionary organisation based in Shepherd's bush with an active YouTube platform where they upload regular videos of their proselytisation at Hyde Park's Speaker's Corner.

for those they deem misguided.[43] SPUBs dedicate an entire website to translating al-Fawzān's

theological, juridical and spiritual discourse,[44] utilising his works as primary references in their

refutational and puritanical agenda. Al-Fawzān is also heavily rated by popular internet preacher

'Dawahman',[45] describing him as "one of the most prestigious scholars of the entire world".[46]

Critically, in an off-the-cuff remark, Dawahman states that "you need to check your *manhaj* [Salafi

methodology] if you don't know the *Shaykh*," thereby implying that a person truly on the Salafi

methodology is one who acknowledges al-Fawzān as a major reference.[47]

Incidentally, both Dawahman and Abu Khadeejah actively advocate and promote migration

from Britain to Muslim countries.[48] Dawahman cites religious intolerance and discrimination as one

of his main reasons. Abu Khadeejah, on the other hand, cites the danger of liberal values as corrupting

and compromising the faith of Muslims and their progenies. Followers of al-Fawzān's verdict could

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[43] Battle, Lamont, "The Mind Control Network for the Abu Khadijites [SPUBS]" *abuaaliyah.com,* 16 October 2017. From: http://www.abuaaliyah.com/2017/10/16/the-mind-control-network-for-the-abu-khadijitesspubs/ (accessed 26 January 2020). Interestingly, an entire YouTube channel entitled "SP-Files" was created to reveal the cult-like practices of Salafi publications. Presently, the YouTube channel has 145 videos dedicated to Salafi Publications. See: SP-Files (n.d.). Videos [YouTube Channel] From: https://www.youtube.com/channel/UC2r4gfsJI62gx920_c5ndeg/videos (accessed 17 July 2020).

[44] See: http://www.fawzan.co.uk/ (accessed 28 January 2020). Herein, al-Fawzān is rendered "from the major scholars of the Ummah".

[45] Dawahman or Imran Ibn Mansur is a prominent UK-based internet preacher who has amassed a YouTube following of over 200,000 subscribers.

[46] Naseeha Sessions, "Meeting Shaykh Saleh al Fawzan!!!" YouTube Video, 18:09. 13 September 2017. https://www.youtube.com/watch?v=ku60xIKViLc (accessed 28 January 2020).

[47] Ibid.

[48] MEMRI TV Videos, "British Preacher 'Dawah Man' Imran Ibn Mansur Advises His Listeners to Return to Muslim Lands" YouTube Video, 5:11. 20 September 2018. https://www.youtube.com/watch?v=rgvwJ_uYzm4 (accessed 28 January 2020); Abu Khadeejah, Abdul Wahid "Why Muslims need to go to their Muslim Heritage Countries to Live and Invest in their Future (hijra)" SoundCloud audio, 9:27, 09 July 2018. https://www.salafisounds.com/why-muslims-need-to-got-to-their-muslim-heritage-countries-to-live-and-invest-by-abu-khadeejah/ (accessed 28 January 2020).

immediately exclude themselves from the entire British nation, as the values of Britain are so dangerous that one has to move away from it in the hope of saving one's faith.

Another faction of Salafism describes a perpetual battle and conflict between Muslims and non-Muslims. Contributors of this strand – principally al-Qaḥṭānī, al-Maqdisī[49] and al-Ẓawāhirī[50] – believe that the pinnacle of one's manifestation of rejecting non-Islam is through jihad.[51] Religious civility is a far-fetched matter when one deems it necessary to fight and wage war against the non-Muslims they are living with. Here, there is no agreement to disagree; it is agreement or war. This view is not shared by al-Fawzān, whose understanding of *al-walā' wa l-barā'* is purely on a social level.

This necessity of jihad is just one point of difference among Salafis in how to express their loyalty to Muslims, and their disloyalty to non-Muslims. Mohamed Bin Ali[52] observes three strands in Salafi writing, all of whom differ on how it is manifested socially and politically. He observes the Purists, such as Fawzān and the senior clergy of Saudi Arabia, whose *al-walā' wa l-barā'* facilitates the purification of religion from corruptible un-Islamic and deviant influences.[53] The Politicos, such as

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[49] Abū Muḥammad al-Maqdisī is a radical jihadi cleric who has had significant influence in shaping radical Islam in the Middle East. Joas Wagemakers notes that al-Maqsidī played a major role in the development of *al-walā' wa l-barā* as a Jihadi Salafi doctrine, and that al-Maqdisī significantly influenced al-Qaeda figureheads Abū Musʻab al-Zarqāwī and Ayman al-Ẓawāhirī. See: Wagemakers, Joas. *A Quietist Jihadi: The ideology and influence of Abu Muhammad al-Maqdisi* (New York: Cambridge University Press, 2012): 147-190.

[50] Ayman al-Ẓawāhirī became the leader of al-Qaeda following the death of Bin Laden.

[51] al-Qaḥṭānī mentions this explicitly. In the case of al-Ẓawāhirī, his exposition on the enmity towards non-Muslims turns into a rally for the global Muslim community to join their fight against America, Arab rulers and others. See: al-Qaḥṭānī, Muḥammad b. Saʻīd, *al-Walā' wa l-Barā' fi l-Islām* (Mecca, Dār al-Ṭayyiba, 1993) 290-1; al-Ẓawāhirī, Ayman Muḥammad Rabīʻ, *al-Walā' wa l-Barā': Aqīda.* (s.l.: Iṣdārāt Ghurfat al-Fajr, 2002).

[52] See: Ali, *The Roots of Religious Extremism,* 215-20.

[53] One typical example of this approach is al-Fawzān's position that to use the Gregorian calendar opposes one's loyalty to Islam as these calendars chronicle the cultural holidays and beliefs of the non-Muslims (i.e. Christmas). In contrast, the Muslim *ḥijrī* calendar chronicles the cultural holidays and beliefs of the Muslims. See: al-Fawzān, *al-walā' wa l-barā' fi l-Islām,* 7.

the Saḥwa movement in Saudi Arabia, who state that one's *al-walā' wa l-barā'* should be manifested politically – Muslims must ally with the collective Muslim interests and not ally with non-Muslims in a way which compromises one's loyalty and alliance to the Muslims.[54] They are very critical of the promotion of jihad, social isolation and harshness with non-Muslims. The last group Bin Ali observes, are the Jihadists who have a robust anti-Western slant, viewing jihad as the highest manifestation of one's disavowal of nonbelievers and their methods. Writers from this interpretation, such as al-Qaḥṭānī, al-Ẓawāhirī and al-Maqdisī call for war against the nonbelievers. Al-Ẓawāhirī's epistle is an open invitation for war and violence against the nonbelievers, entrenching a hostile notion of 'us vs them'.[55] Equally, al-Maqdisī makes the doctrine the foundation for his theory of jihad.[56]

There are examples of high-profile and influential Purists and Jihadist in Britain, while the influence of the Politicos seem to be restricted to the Middle East. Judging from his material, Abu Khadeejah of the SPUBs appears to be a Purist. Bin Ali categorises Purists as those who do not call for jihad, do not advocate for political activism and preach the legitimacy of the Muslim rulers. Abu Khadeejah entirely replicates these views. He does not call for jihad,[57] nor political activism calling it

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[54] Ibn 'Abd al-Khāliq's *al-Walā' wa l-Barā'* personifies this approach. He promotes a tolerant and respectful relationship between Muslims and non-Muslims, and heavily criticizes the Jihadis. Ibn 'Abd al-Khāliq's epistle gives the impression that the political realm is the main arena for expressing one's allegiance and disavowal. See: Ibn 'Abd al-Khāliq, 'Abd al-Raḥmān, *al-Walā' wa l-Barā'*, (Kuwait: s.n., 1986).

[55] al-Ẓawāhirī closes his article off with the following: "The Muslim youth should not wait for permission from anyone as jihad against America, the Jews and their hypocrite apostate allies is a religious obligation for everyone - as we have discussed. All groups of the youth should take on the responsibility of its nation and plan to fight back against the enemies. We must set fire to the earth beneath the feet of our enemies, for they will not leave otherwise." See: al-Ẓawāhirī, *al-Walā' wa l-Barā'*, 33.

[56] Wagemakers, Joas. "The Transformation of a Radical Concept: al-wala' wa-l-bara' in the Ideology of Abu Muhammad al-Maqdisi" in: *Global Salafism-Islam's New Religious Movement,* ed. Roel Meijer. (London: Hurst, 2009): 81-106.

[57] Abu Khadeejah, "Jihad against the innovators: writing, speaking and warning against them is better than jihād on the battlefield against non-Muslims! That was the Manhaj of the Salaf," *abukhadeejah.com,* 12 October 2016.

an imitation of the principles of disbelievers.[58] He glorifies the Saudi government[59] and so puritanical is his *al-walā' wa l-barā'* that he disavows from even Muslims that are not on the correct '*manhaj'*. Moreover, their positions on jihad and political activism are reinforced by statements of al-Fawzān.

It is difficult to gauge the influence of the jihadist interpretation, primarily due to their secretive nature. Evidently, one who calls for jihad will be detained or monitored by the security services. The *al-walā' wa l-barā'* expressed by Mizanur Rahman[60] seems to fall within the jihadi strand.

From: https://www.abukhadeejah.com/jihad-against-the-innovators-writing-speaking-and-warning-against-them-is-better-than-jihad-on-the-battlefield-against-non-muslims-that-was-the-manhaj-of-the-salaf/ (accessed 28 January 2020); Abu Khadeejah, "People are talking of jihād and you Salafis are still talking about Tawheed" *abukhadeejah.com,* 6 March 2016. From: https://www.abukhadeejah.com/people-are-talking-of-jihad-and-you-salafis-are-still-talking-about-tawheed/ (accessed 28 January 2020); Abu Khadeeja, "Free Leaflet: ISIS Jihad in the Path of Satan, an Article by Shaikh Fawzaan" *abukhadeejah.com,* 21 November 2015. From: https://www.abukhadeejah.com/free-leaflet-isis-jihad-in-the-path-of-satan-an-article-by-shaikh-fawzaan/ (accessed 28 January 2020).

[58] Abu Khadeejah, "Muslims are oppressed around the world, but you refuse to protest in the streets and boycott goods. Why?!" *abukhadeejah.com*, 27 August 2018. From: https://www.abukhadeejah.com/muslims-are-oppressed-around-the-world-but-salafis-refuse-to-protest-in-the-streets-and-boycott/ (accessed 28 January 2020).

[59] Abu Khadeejah, "What law does Saudi Arabia rule by? King Abdul-Azeez and Shaikh Ibn Baz" *abukhadeejah.com,* 13 April 2015. From: https://www.abukhadeejah.com/what-law-does-saudi-arabia-rule-by-king-abdul-azeez-and-shaikh-ibn-baaz/ (accessed 28 January 2020); Abu Khadeeja, "Saudi Arabia – The Land of Tawheed" SoundCloud audio, 28:00, 29 March 2015. https://www.salafisounds.com/saudi-arabia-the-land-of-tawheed-by-abu-khadeejah/ (accessed 28 January 2020).

[60] Mizanur Rahman – known by his alias Abu Baraa in Salafi circles – is a British Islamist. He was detained from 2016-2018 for his support of ISIS. He is one of the major deputies of the al-Muhajiroun and its affiliated organisations whose central aim involves establishing an Islamic caliphate in the UK. Rahman is also well-known in Salafi circles for his role in the "Khilafa Debate" hosted by Salafi Media UK. In this debate, Rahman defended the view that ISIS is a valid caliphate. See: Salafi Media UK, "The Khilafah Debate: Ustadh Abdur Rahman Hassan & Ustadh Abu Bara'ah" *archive.org.,* 2:47:37, 12 December 2014. From: https://archive.org/details/TheKhilafahDebateUstadhAbdurRahmanHassanUstadhAbuBaraah (accessed 17 July 2020).

Rahman, a deputy of Anjem Choudary's[61] terrorist organisation "Al-Muhajiroun,"[62] was convicted and imprisoned for supporting ISIS. While his position explicitly calling for jihad is difficult to come across, Rahman employs the typical excommunication (*takfīrī*) tactics of the jihadist interpretation, where large swathes of the Muslim community are excommunicated from the religion. Rahman openly excommunicates the leaders of the Muslim countries, especially Saudi Arabia, as well as others whom ally with non-Muslim countries.[63] Rahman excommunicates those that vote as voting is rendered polytheism (*shirk*).[64] In his lecture on *al-walā' wa l-barā'*, Rahman claims, "the original rule between Muslims and Non-Muslims is that they are in a war with each other [...] always in confrontation with each other".[65]

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[61] Anjem Choudary is a British Islamist and former lawyer. Choudary was detained with Rahman for their support of ISIS from 2016-18. Choudary served as leader of the various organisations which make up the "al-Muhajiroun network" and is well-known for his media appearances on BBC Newsnight, BBC Big Questions, FOX News and CNN.

[62] By al-Muhajiroun, I mean all affiliated organisations such as 'Ahlus Sunnah wal Jama'ah' and 'Islam4UK'. Historically, al-Muhajiroun was classified as a terrorist organisation by the British government, thus they started organising themselves under these new names. Michael Kenny uses the word 'al-Muhajiroun' to refer to a network of groups and affiliates that follow the teachings of Omar Bakri Mohammed and wish to establish an Islamic caliphate in the UK. I use this word in the same respect. See: Kenny, Michael, "What is to be done about al-Muhajiroun? Containing the emigrants in a democratic society" *Commission for Countering Extremism, gov.uk*, 7 October 2019. From: https://www.gov.uk/government/publications/what-is-to-be-done-about-al-muhajiroun-containing-the-emigrants-in-a-democratic-society (accessed 29 January 2020).

[63] Abu Taymiyyah, "'Saudi Arabia is Kaafir Because They Make Riba Halal' Critical Analysis – Ustadh Abu Taymiyya" YouTube Video, 30:06, 30 November 2015. From: https://www.youtube.com/watch?v=AKklb0x_Rwk (accessed 29 December 2020); Rahman, "Apostasy to ally with the Disbelievers". *archive.org*., 4:31. 01 July 2018. From: https://archive.org/details/AlWalaaWalbyIUMR_201807/Abu+Baraa/Apostasy+to+ally+with+the+Disbelievers+fighting+Islam+I+UMR.mp4 (accessed 29 January 2020).

[64] Strange Time, "Why Voting is Shirk – Abu Baraa". YouTube Video, 9:02. 22 November 2018. From: https://www.youtube.com/watch?v=ChtsughwpLI&bpctr=1580340622 (accessed 20 December 2020). Rahman comments at the end of the clip, "beware, stay Muslim and don't vote".

[65] Rahman, Mizanur, "Al Walaa Walby I UMR" *archive.org*., 01:53:33, 01 July 2018. From: https://archive.org/details/AlWalaaWalbyIUMR_201807/Abu+Baraa/Al+Walaa+Walby+I+UMR.mp4 (accessed 29 January 2020). For an unfiltered take on *al-walā' wa l-barā'* by another member of the al-Muhajiroun network, see: Strange Times, "Al Walaa' Wal Bara – Abu Waleed". YouTube Video, 59:26. 12 November 2018. From:

Is Rahman a reference in Britain? As the 'academic' mouthpiece of Anjem Choudary who proselytises through classes and lectures, Rahman had traction among radicals in Britain before his imprisonment. Journalists reported that when Rahman and Choudary were imprisoned, the activity of al-Muhajiroon decreased. However, thinktanks allege that they are "stirring back into life" as the duo were released from prison between October and November 2018.[66] The government is still concerned about their influence, such that the Commission for Countering Extremism published an article entitled "What is to be done about al-Muhajiroun" in October 2019.[67] One should also note that Rahman's and Bakri Mohammed's lectures were re-uploaded on websites like '*4shared.com*' and '*archive.org*' from 2018-9, corresponding to Rahman and Choudary's prison release. Indicatively, "strange times" joined YouTube in November 2018, uploading almost a hundred videos of Rahman, Choudary and other affiliates of the al-Muhajiroun network.[68] Similarly, in February 2019, *TheGhuraba* blog – a blog known for promoting radical preachers – linked various *4shared* and *Archive.org* links containing hundreds of lectures of the network.[69] Due to the nature of these views and the associated security implications, we see that there is no explicit indication that these individuals have

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https://www.youtube.com/watch?v=aNPxeSP6rR4&bpctr=1580396576 (accessed 30 January 2020). Abu Waleed's take is far more radical, where he begins by describing the mission of Muḥammad as one of war and dominating the earth with God's law. His take could be described as very intolerant, as he regularly insults and discharges ordinary Muslims with disbelief and apostasy.

[66] Dearden, Lizzie, "UK's 'most dangerous extremist group' regenerating after terrorist prisoners released". *Independent.co.uk,* 15 February 2019. From: https://www.independent.co.uk/news/uk/home-news/terror-islamists-uk-anjem-choudary-al-muhajiroun-prison-release-a8781826.html (accessed 29 January 2020).

[67] Kenny, "What is to be done about al-Muhajiroun?"

[68] Strange times (n.d.). Videos [YouTube Channel] From: https://www.youtube.com/channel/UCMh4rsQfaAsrkZvgCOA_Slw/videos (accessed 29 January 2020).

[69] TheGhurabah, "Lectures of Shaykh Omar Bakri, Ustadhs Abu Baraa, Abu Waleed and Abu Luqman (Anjem Chowdary)" *theghurabah.blogspot.org,* 20 February 2019. From: http://theghurabah.blogspot.com/2019/02/lectures-of-shaykh-omar-bakri-ustadhs.html (accessed 29 January 2020)

resurfaced to the level of exposure they had before their imprisonment. Nonetheless, there is implicit evidence from government and think-tanks, which is reaffirmed by the re-emergence of their lectures and clips. Thus, there is an indication that Rahman is still a reference to a silent group in Britain.

One final point which unites all contributions to *al-walā' wa l-barā'* – from the Purists, Politico, Jihadi strands to the lectures of Abu Khadeejah and Rahman – is the heavy reliance on Qur'ānic verses. Some of these verses include:

> The believers should not make the disbelievers their allies rather than other believers–
> anyone who does such a thing will isolate himself completely from God– except when you
> need to protect yourselves from them (Q. 3:28).
> Do those who ally themselves with the disbelievers rather than the believers seek power
> through them? In reality, all power is God's to give (Q. 4:139).
> You who believe, do not take the disbelievers as allies and protectors instead of the
> believers: do you want to offer God clear proof against you? (Q. 4:144).
> You who believe, do not take the Jews and Christians as allies they are allies only to each
> other. Anyone who takes them as an ally becomes one of them– God does not guide such
> wrongdoers (Q. 5:51).
> Believers, do not take your fathers and brothers as allies if they prefer disbelief to faith:
> those of you who do so are doing wrong (Q. 9:23).

The word *awliyā'* is of central importance, which has been translated as allies and protectors. Often, this word is translated in English as 'friends' which is not entirely accurate. Raymond Ibrahim falls into this error, thus rendering these verses as 'do not take the Jews and Christians for friends' and 'if your fathers and brothers love unbelief more than belief, then do not befriend them'.[70] To translate

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[70] Ibrahim, Raymond, *The Al Qaeda Reader* (New York: Broadway Books, 2007): 71-2.

the word *awliyā'* purely as friends is a considerable disservice to the nuance enshrined in the text and context of the Qur'ān. Rahman seems to fall into this issue[71] as well as his al-Muhajiroun associate Shahid Janjua (Abu Waleed), both of whom explicitly translate *awliyā'* as friends.[72] Janjua argues that the doctrine demands hating disbelief and the disbeliever, calling those who wish to integrate into British society "Chocolate Muslims" and "Coconut Muslims".[73] Such translations perpetuate the understanding that Muslims cannot maintain positive relations with non-Muslims as God supposedly forbids it. If one is to frame a discussion about Islamic religious civility with non-Muslims based on the above translations of the Qur'ān, the discussion will come to a swift halt.

In summary, both UK brands of *al-walā' wa l-barā'* that we have observed – the purist brand of Abu Khadeeja and the jihadist brand of Rahman and his affiliates – problematise religious civility in secular contexts. These interpretations preach such intolerance to difference that they believe that one is obliged to either migrate away from Britain or remain to fight and establish a Muslim caliphate. Therefore, the question this thesis seeks to answer is what kind of social relationship is an ordinary Muslim permitted to maintain with his non-Muslim colleagues, neighbours and community members? Can it be one of tolerance, respect and coexistence or is one obliged to be hostile and apathetic? The hope for a successfully cohesive society and community is predicated on the potential for religious and political civility. Does one's *walā' wa l-barā'* prevent this from taking place?

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[71] Rahman, "Al Walaa Walby I UMR."
[72] Strange Times, "Al Walaa' Wal Bara – Abu Waleed."
[73] Ibid.

There has been ample focus on *al-walā' wa l-barā'* as a doctrine in Salafism in Western scholarship.[74] What remains is a systematic look at how *al-walā' wa l-barā'* has been applied by the Islamic legal tradition when discussing Muslim and non-Muslim social interactions. This study aims to uncover how jurisprudents have applied the doctrine in their *furū'* works when detailing aspects of social interaction between Muslims and non-Muslims. It questions, what are the boundaries they have set when interacting with non-Muslims, and what are the axioms and principles they have considered? The base text, Ibn al-Qayyim's *Aḥkām*, will be analysed and compared against the discursive legal traditions of two schools of Sunni law: Ḥanafī and Ḥanbalī. Finally, by focusing on traditional hermeneutics of interpreting Islamic law, this study provides a sophisticated understanding of social relations between Muslim and non-Muslims. At present, I am unaware of any such work which has followed this line of inquiry from traditional hermeneutics.

In the section that follows, I detail the significance of the traditional hermeneutical approach and the relevance of opting for Ibn al-Qayyim's works, compared against the Ḥanafī and Ḥanbalī traditions.

1.2   Significance of this study

1.2.1   The Traditional Approach

My research is significant because there is an ever-increasing need for a nuanced study of Islamic law and its juridical precedents of Muslim and non-Muslim social interaction using traditional

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[74] See, Ali, *The Roots of Religious Extremism*; Wagemakers, "The Transformation of a Radical Concept;" idem, "Framing the "Threat to Islam": al-Wala' wa al-Bara' in Salafi Discourse" *Arab Studies Quarterly* (2008): 1-22; idem, "The Enduring Legacy of the Second Saudi State: Quietist and Radical Wahhabi Contestations of al-Walā' wa-l-Barā'" *International Journal of Middle East Studies* 44, no. 1 (2012): 93-110.

hermeneutics. While studies of this nature exist from liberal interpretations of the legal tradition, there is limited literature discussing Islamic law from traditional hermeneutics.

The four *madhhabs* of Sunni Islamic law, or guilds as they are often called, based their legal doctrines, methodology and epistemology on the works of their master-jurist eponyms. Each guild-school has its own discursive tradition which is a long line of scholarship across the generations and geographical locations where scholars develop the opinions and verdicts of the school to meet the demands and social needs of the time. This tradition is usually represented as legal edicts (*fatwā*, pl. *fatāwā*) or *furū'* works wherein jurisprudents either acknowledge a different opinion, explain, clarify, support or disagree with the inherited scholarly tradition of their school. This process, which takes place across the centuries, creates a rich tradition of debate and development of legal thought on even the most primary religious matters.[75] As the discursive tradition developed, it became the second main constitutive element of the schools of Sunni Islamic law.[76]

By traditional hermeneutics, I mean a study which positively engages with the discursive tradition of a school of law through the process of rule-discovery. This process assumes that the tradition has a healthy debate on an issue, and the researcher engages with the centuries of discussion that take place within one tradition, to discover an authoritative rule which can be applied

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[75] For a clear exposition on the discursive nature of the schools of law, as well as various examples of how debate and development took place through the generations, see: Calder, Norman, "Law" in: *History of Islamic Philosophy*, eds. Sayyed Hossein Nasr and Oliver Leaman. (London: Routledge, 1996): 979-998. See also: Asad, "The Idea of an Anthropology of Islam" *Qui Parle* 17, no. 2 (2009): 1-30. For *Muftīṣ* and *Muṣannifs* as articulators of Islamic Law's change to social changes, see: Hallaq, *Authority, Continuity and Change in Islamic Law*, 166-235.
[76] Melchert, "The relation of Ibn Taymiyya and Ibn Qayyim al-Jawziyya to the Ḥanbalī school of Law" in: *Islamic Theology, Philosophy and Law: Debating Ibn Taymiyya and Ibn Qayyim al-Jawziyya*, eds. Birigit Krawietz et al. (Berlin: De Gruyter, 2013): 146.

to modern times.[77] Talal al-Azem points out that there are two distinct features of the "madhhab-law tradition", rendering it a system unlike statutory or common law systems: its process of rule-determination and rule discovery (*taṣḥīḥ*) and respecting the binding-precedent of the scholars of the past (*taqlīd*).[78]

In discussing the significance of the discursive traditions of Islamic law, it is pertinent to reference contemporary debates concerning the reinterpretation of Islamic law. Since the nineteenth century, there has been an ongoing debate regarding hermeneutical approaches to the revelatory texts. Various approaches were assumed to deal with the political, socio-economic and technological advancement of the world; specifically how Muslim scholars should interact with their intellectual tradition.[79] Herein, a central question is the place of authority within the intellectual tradition and its role in dealing with contemporary challenges.[80]

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[77] For further elucidation on this method, see: Mohammed, Amjad, "Muslims as Minorities in Non-Muslim Lands with Specific Reference to the Ḥanafī Law School and Britain" (MPhil diss., University of Bradford, 2011): Ch. 4.

[78] al-Azem, Talal, *Rule-Formulation and Binding Precedent in the Madhhab-Law Tradition: Ibn Quṭlūbughā's Commentary on the Compendium of Qudūrī* (Leiden: Brill, 2016): 4-5.

[79] Pemberton, Kelly, "An Islamic Discursive Tradition on Reform as Seen in the Writing of Deoband's Mufti Muhammad Taqi Usmani" *The Muslim World* 99, no. 3 (2009): 452; 456.

[80] Muḥammad Abduh and Rashīd Riḍā were arguably the most influential scholars to question the authority of the intellectual tradition during this period. They favoured the reformation of the Islamic legal methodology, by promoting the supremacy of *ijtihād* (new juristic vision) to solve contemporary issues. They also strongly opposed blind imitation (*taqlīd*). See: Kerr, Malcolm Hooper, *Islamic Reform: The Political and Legal Theories of Muhammad 'Abduh and Rashīd Riḍā* (Berkeley: University of California Press, 1966); Taizir, Aswita, "Muhammad Abduh and the Formation of Islamic Law" (MA diss., McGill University, 1994); Scharbrodt, Oliver, *Islam and the Baha'i Faith: A comparative study of Muhammad 'Abduh and 'Abdul-Baha 'Abbas* (New York: Routledge, 2008): 106-9, 131-8. For an outline of their proposed developments to Islam's legal methodology, and its influence on later jurists, see: Hallaq, Wael, "Crises of Modernity: toward a new theory of law?" in: *The History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997): 207-255.

In line with this, Amjad Mohammed[81] develops an interpretive spectrum to record the different hermeneutic methods of interpreting sacred texts when arriving at juridical conclusions. Mohammed records three strands: literalists, traditionalists and liberal/modernists.[82] The literalists promote an understanding of the law which is derived purely from the Qurʾān and the Sunna; there are no dispensations nor flexibility away from its literal application.[83] Mohammed describes the liberals as those who seek to reinterpret the sacred texts in a way which may or may not involve forsaking core beliefs and religious traditions to conform within the modern liberal framework.[84] Concerning the authority of the discursive tradition of Islamic law, both camps are somewhat united: its jurisdiction is muted. For the literalist, the literal sacred text is of utmost importance, while the liberal approach may disregard the tradition by considering other competing secular or religious factors.

The traditionalist school firmly upholds the authority of the revealed texts and the scholarly tradition through the practice of *taqlīd* (following the binding precedent of the legal school) while also considering one's social and cultural setting.[85] In what follows, I will briefly chronicle the liberal school, its major drawbacks and why a study from the traditionalist method is authoritative and significant. Moreover, the need to highlight the liberal school is clear – they are arguably the most significant group that have furthered ideas about peaceful coexistence with non-Muslims.

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[81] Mufti Amjad Mahmood Mohammed is a traditionally trained Muslim scholar and academic based in Bradford, UK. He is at the helm of various organisations which seek to meet the contemporary juridical and religious needs of Muslims in Britain. One such organization is his "Institute for the Revival of Traditional Islamic Studies" (IRTIS) which promotes research through traditional hermeneutics of interpretation.

[82] See: Mohammed, "Muslims as Minorities in Non-Muslim Lands," Ch. 3.

[83] Ibid., 80.

[84] Ibid., 14; 81.

[85] Ibid., 13.

1.2.2   The Liberal/Modernist Approach

In his section on liberal hermeneutic approaches to Islamic law, advocates of *fiqh al-aqalliyāt* (the jurisprudence of Muslim minorities) serve as Amjad Mohammed's main interlocutors. This approach emerged in the last few decades as a legal doctrine which sought to address the unique religious needs of Muslims residing as religious minorities. This is achieved through a reinterpretation of the revelatory texts, which endorses dispensation based on perceived difficulty (*ḍarūra*) customary practice (*'urf*) and the holistic objectives of the Sharia (*maqāṣid al-sharīā*). This reinterpretation should attempt to harmonise the above factors with the specific circumstances Muslim minorities find themselves in.[86] It is alleged that Taha Jabir Al-Alwani coined the term *fiqh al-aqalliyāt* in 1994.[87]

One of the most noteworthy advocates of this doctrine is the internationally recognised, Yūsuf al-Qaraḍāwī, who founded and served as president of the European Council for Fatwa and Research (ECFR).[88] The ECFR, a council built on the promotion of *fiqh al-aqalliyāt* and *maqāṣid al-sharī'a*,

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[86] This definition is based on my reading. As highlighted by al-Haddad, there appears to be no uniformity in its definition. Cf: Al-Alwani, Taha Jabir, *Towards a Fiqh for Minorities: Some Basic Reflections,* Trans. Shamis Ashur (London: The International Institute of Islamic Thought, 2010): 2-3, 11; al-Qaraḍāwī, Yūsuf, *Fī Fiqh al-Aqalliyāt al-Muslima* (Cairo: Dār al-Shurūq, 2001): 30-1; Ibn Bayya, 'Abd Allāh b. al-Maḥfūẓ, *Ṣinā'āt al-Fatwā wa l-Fiqh al-Aqallliyāṭ,* (Dubai: Markaz al-Muwaṭṭa', 2018): 251-4. See: al-Haddad, Haytham, "A critical analysis of selected aspects of Sunni Muslim minority fiqh, with particular reference to contemporary Britain" (PhD diss., School of Oriental and African Studies, University of London, 2010): 16.

[87] Masud, Muhammad Khalid. "Islamic law and Muslim minorities" *ISIM Newsletter* 11 (2002): 1. Some have problematised the label "*fiqh al-aqalliyāt*", cf: Ramadan, Tariq, *Western Muslims and the Future of Islam* (New York: Oxford University Press, 2004): 51-55; al-Nashmī, 'Ajīl Jāsim, "Baḥth Madkhal ilā Uṣūl wa Fiqh al-Aqalliyāt li l-Ustādh al-Duktūr Tāhā Jābir al-'Alwānī," *dr-nashmi.com*, 13 May 2015. From: https://www.dr-nashmi.com/%d8%a7%d9%84%d8%aa%d8%b9%d9%84%d9%8a%d9%82%d8%a7%d8%aa-%d8%b9%d9%84%d9%89-%d8%a8%d8%ad%d8%ab-%d9%85%d8%af%d8%ae%d9%84-%d8%a5%d9%84%d9%89-%d8%a3%d8%b5%d9%88%d9%84-%d9%88%d9%81%d9%82%d9%87-%d8%a7/ (accessed 21 January 2020).

[88] Fishman, Shammai, *Fiqh al-Aqalliyyat: a legal theory for Muslim minorities.* (Washington DC: Hudson Institute, 2006): 1.

have paved the way with their scholarly conferences where major contemporary issues are discussed by specialists in Islamic law, politics, sociology and medicine, presenting a forum for collective *ijtihād* to solve contemporary religious and theological challenges.[89]

The equally distinguished ʻAbd Allāh Bin Bayya and Tariq Ramadan are also sympathetic to *fiqh al-aqalliyāt* methodology. By reading their respective theoretical treatises on *fiqh al-aqalliyāt,* its broader aims can be argued as the contextual application of the rules and principles of Islamic law as founded in the Qur'ān and the Sunna. Those in broad agreement with this doctrine argue for certain unifying principles.

Firstly, they express the need to resort back to the revelatory sources to practice *ijtihād* in dealing with the religious needs of Muslims minorities. One could argue that these scholars are the contemporary torchbearers of the reformist agenda of ʻMuḥammad ʻAbdūh and Rashīd Riḍa who promoted fresh *ijtihād* as the method of re-imagining jurisprudence for the modern age. In their respective methodological manuals on *fiqh al-aqalliyāt*, al-Qaraḍāwī,[90] Al-Alwani[91] and Ibn Bayya[92] describe how the practice of *ijtihād* may take place in the contemporary setting.

Al-Qaraḍāwī believes that the minorities living outside or far away from Muslim majority countries require a specific jurisprudence as these Muslims find themselves involved in systems and

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[89] For detailed studies of the individual figures associated with *fiqh al-aqalliyāt*, the doctrine's methodology, its application in legal verdicts and critical insights, see: al-Haddad, "A critical analysis"; Zahalka, Iyad, "Fiqh al-Aqalliyyāt: Methodology and Implementation in the Field of Personal Standing" in: *Sharīʿā in the Modern Era: Muslim Minorites Jurisprudence.* (Cambridge: Cambridge University Press, 2016): 62-107; Fishman, *Fiqh al-Aqalliyyat;* Taha, Dina, "Muslim Minorities in the West: Between Fiqh of Minorities and Integration," *The Electronic Journal of Islamic and Middle Eastern Law,* Vol. 1 (2013): 1-36.

[90] al-Qaraḍāwī, *Fī Fiqh al-Aqalliyāt al-Muslima.*

[91] Al-Alwani, *Towards a Fiqh for Minorities.*

[92] Ibn Bayya, *Ṣināʻāt al-Fatwā wa l-Fiqh al-Aqallliyāṭ.*

cultures that oppose the Islamic systems. Therefore, in attempting to harmonise between these opposing systems, new *ijtihād* needs to take place which considers their particular place, time and circumstances.[93] Al-Alwani also advocates for this approach, arguing that there is a need for a "fresh juristic vision" to deal with the issues that inhibit Muslims from building a strong minority in their host-nations.[94] Al-Alwani is very critical of the inherited *fiqh*; he calls *taqlīd* unscientific and declares the need to go beyond the jurisprudence inherited from the past with new interpretations and applications of the religious texts, guided by the objectives of the Sharia.[95] Importantly, the need for *ijtihād* stems from the fact that Muslims living as minorities are in positions of weakness; therefore, the Sharia should judge to empower and strengthen their status, by facilitating their integration into their host societies.[96]

Importantly, the cases which require "fresh juristic vision" are not exclusively new cases. This effort may also extend to old cases which the tradition has long solved but may render life as a minority difficult. Due to this, al-Haddad categorises al-Qaraḍāwī, Al-Alwani and Tariq Ramadan into the liberal school of *fiqh al-aqalliyāt*. Al-Haddad defines the liberal school as those who wish to practice *ijtihād* to develop new rules to cases that classical jurisprudence has long solved.[97] Some clear

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[93] al-Qaraḍāwī, *Fī Fiqh al-Aqalliyāt al-Muslima*, 30-1.

[94] Al-Alwani, *Towards a Fiqh for Minorities*, 7-8.

[95] Ibid., 4. al-Haddad characterises this motif as a "revolution" against the inherited tradition, see: al-Haddad, "A critical analysis," 28.

[96] Al-Alwani, *Towards a Fiqh for Minorities*, xiv, 6-8; Qaraḍawī comments that the ECFR was built upon the need to accelerate this *ijtihād.* For an assessment of the ECFR slogan "integration without assimilation" (*al-intimāj bi-lā dhawbān*) see: Caeiro, Alexandre, "The power of European fatwas: the minority fiqh project and the making of an Islamic counterpublic" *International Journal of Middle East Studies* 42, no. 3 (2010): 435-449.

[97] al-Haddad, "A critical analysis*,*" 22-3.

examples of this approach include their collective interest in going beyond the traditional division of the world into Muslim and non-Muslim nations (*taqsīm al-dārayn*), usury and mortgages.

The second salient feature of scholars from the *fiqh al-aqalliyāt* movement is the idea of the universality of Islam (*ālamiyyat al-Islām*). As Zahalka argues, *fiqh al-aqalliyāt* originates from this principle.[98] The universality of Islam suggests that Islam has come for all times and places; thus, as a global project, proselytisation (*da'wa*) is a significant manifestation.[99] Proselytisation affords the immigrant Muslim a stake in their host society; they are given the responsibility to change hearts through their superior moral values and by upholding justice. Al-Alwani comments that "the Muslim Ummah's role is not limited by land or confined in space. It has to reach out to others to convey the Message of God".[100] Through this moral duty to convey the Message of God, Muslims form a binding relationship with their non-Muslim counterparts, thus justifying residence among them.[101] So entrenched is this notion of proselytisation that Al-Alwani and Ramadan divide the world into Muslim nations (*dār al-Islām*) and nations of proselytisation (*dār al-da'wa*).[102]

While the *fiqh al-aqalliyāt* approach has its merits, it has significant drawbacks. Firstly, as Abdur-Rahman Mangera argues, Islamic law already retains the provision to deal with unique circumstances and novel occurrences; therefore, the creation of a new system or even a new term is

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[98] Zahalka, Iyad, "Fiqh al-Aqalliyyāt," 62.

[99] Al-Alwani, *Towards a Fiqh for Minorities,* 27-9; al-Qaraḍāwī, *Fī Fiqh al-Aqalliyāt al-Muslima*, 33-4; Ramadan, *Western Muslims and the Future of Islam*, 69, 73-5.

[100] Al-Alwani, *Towards a Fiqh for Minorities,* 28.

[101] See also, March, Andrew, "Sources of Moral Obligation to non-Muslims in the" Jurisprudence of Muslim Minorities"(*Fiqh al-aqalliyyāt*) Discourse" *Islamic Law and Society* 16, no. 1 (2009): 34-94.

[102] Al-Alwani, *Towards a Fiqh for Minorities,* 29. Tariq Ramadan's *dār al-shahāda* reworks *dar al-da'wa* where one's faith is of central importance and is manifested in various ways; one of which is proselytisation. See: Ramadan, *Western Muslims and the Future of Islam,* 73-5.

a redundancy.[103] Mangera argues that *fiqh al-aqalliyāṭ* is no different from *fiqh al-nawāzil*, a long-established branch of jurisprudence aimed at dealing with novel occurrences through the normal *ijtihād* process. This process weighs up the tradition and upholds its authority while considering local context and needs. Abū l-Layth al-Samarqandī's *Kitāb al-Nawāzil* – which serves as Mangera's primary area of study – is an example where rulings were formulated with local contexts in mind.[104] There are numerous examples of entire works dedicated to formulating legal edicts which consider local contexts and culture. Mangera cites examples from the modern and post-modern Indian Subcontinent, Andalusia and Algiers as well as a continuation of these practices in South Africa, North America, and Europe.[105] Importantly, this is not a new occurrence; as Hallaq describes, inherent within traditional Islamic legal systems is its anchorage in social reality, such that it "regularly keeps pace with the ever-changing social exigencies".[106] Islamic law has a long-established provision for local contexts through the process of *ijtihād*; therefore, is there a need for a new doctrine?

Secondly, the basic premise of the doctrine is that Muslims in the West are limited in their ability to express aspects of their religion freely. Abdal Hakim Murad points out that the ever-increasing strictness of religious practice and religious assembly in majority-Muslim countries undermines this basic premise. In reality, Muslims in the West enjoy greater freedoms than those available in other majority-Muslim countries.[107] A poignant example of this is the demonisation of

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[103] Mangera, Abdur-Rahman, "A critical edition of Abū 'l-Layth al-Samarqandī's Nawāzil" (PhD diss., School of Oriental and African Studies, University of London, 2013): 72.

[104] Ibid., 74-5.

[105] Ibid., 74.

[106] Hallaq, Wael, *Authority, Continuity and Change in Islamic Law*, 174. See Chapter 6 "The Jurisconsult, the Author-Jurist and Legal Change" for a robust articulation of this process.

[107] Murad, *Travelling Home,* 17.

keeping a beard in Egypt, which is caricatured as an affiliation to banned political or extremist

groups.[108] Anecdotally, I have countless stories from bearded colleagues that have been harassed at

Egyptian airports as potential "terrorists". Similarly, many Arab nations problematise religious

gatherings and classes without state-authorisation.[109] Surely, in this department, Muslims in the West

enjoy much greater freedoms.

Another criticism is that *fiqh al-aqalliyāt* is predicated on the erroneous assumption that the

legal tradition is not capable of dealing with the challenges of the contemporary age, thus

necessitating new insights from the revelatory texts.[110] Nonetheless, one questions whether sufficient

effort has been placed in exploring Islam's discursive tradition of law before coming to this

conclusion? Mohammed argues that the traditional approach is the most accurate and relevant, and

there is no need to replace it to deal with Muslim minorities.[111] In his study, Mohammed defines

traditional hermeneutic approach as the contextual use of Islam's discursive tradition, which has

been developed since the earliest centuries of Islam. Mohammed applies the traditional methodology

to various contemporary case studies such as the division of the world into Muslim and non-Muslim

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[108] This can be ascertained from a drawn-out case between bearded police officers and the state which lasted from 2012-2018. The Egyptian state demanded that Police officers could only return to work if their beards were trimmed in compliance with state regulations. The government wished for a secular looking police force, and worried that beards may demonstrate affiliation to banned organizations. See: Wirstchafter, Jacob and El Tohamy, Amr, "Egypt's bearded police lose court to keep their beats" *thenational.ae,* 13 September 2018. From: https://www.thenational.ae/world/mena/egypt-s-bearded-police-lose-court-battle-to-keep-their-beats-1.770097 (accessed 12 May 2020).

[109] For example, See: The New Arab, "Jail sentences for 'unauthorised' religious meetings in the UAE" *alaraby.com*, 15 November 2017. From: https://english.alaraby.co.uk/english/news/2017/11/15/uae-introduces-tough-laws-against-unauthorised-religious-meetings (accessed 21 July 2020).

[110] For instance, Al-Alwani's views on 'inherited fiqh' see: Al-Alwani, *Towards a Fiqh for Minorities,* 8-9.

[111] Muḥammad, "Muslims as Minorities in Non-Muslim Lands*,"* 21.

abodes,[112] Halal meat issues,[113] organ transplantation,[114] currency trading,[115] and participating in elections.[116] These legal applications demonstrate sufficient flexibility and applicability of the traditional method to the contemporary age.

Similarly, there are examples of collective efforts by neo-traditionalist scholars providing solutions to the same contemporary issues the ECRF are attempting to solve. Critically, this is arising from a transnational reformist movement known for its zealousness in *taqlīd* and strict adherence to the Ḥanafī school: the Deobandī sub-school of the Ḥanafī law. While Abdūh, Riḍā and sub-continent reformers Sir Syed Aḥmad[117] and Ṣiddiq Ḥasan Khān[118] rejected the authority of the four Sunni schools and preached revisiting the sacred texts for *ijtihād* into new issues, the Deobandī reformers took the

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[112] Ibid., 258-277.

[113] Ibid., 286-9.

[114] Ibid., 299-302.

[115] Ibid., 308-11.

[116] Ibid., 312-7.

[117] Sir Syed Aḥmad Khān (d. 1898) was the founder of Muhammadan Anglo-Oriental College in 1875, which was later named Aligarh Muslim University. Sir Syed rejected the four schools and promoted *ijtihād*. He was noted for his attempts to harmonise science with Islamic teachings. For further details on the History of Aligarh, and Sir Syed's reformist thoughts, see: Metcalf, Barbara, *Islamic Revival in British India: Deoband, 1860-1900* (Princeton: Princeton University Press, 2014); 317-335; Begum, Rahmani Mohammed Ruknuddin Hassaan, "The Educational Movement of Sir Syed Ahmed Khan 1858-1898" (PhD diss., School of Oriental and African Studies, University of London, 1959).

[118] Ṣiddīq Ḥasan Khān (d. 1890), male consort for the then Nawab Begum of Bhopal, was credited for founding the Wahhabi-styled Ahl-i Ḥadīth movement of India. Much like Saudi Wahhabis, the Ahl-i Ḥadīth movement gave supremacy to the Quran and Sunna for the application of law and aimed to purify Islamic practice from heretical esoteric and mystical practices. Moreover, the movement view Ibn Taymiyya and Ibn al-Qayyim as seminal intellectual references. See: Preckel, Claudia, "Screening Ṣiddīq Ḥasan Khān's Library: The Use of Ḥanbalī Literature in 19th Century Bhopal" in: *Islamic Theology, Philosophy and Law: Debating Ibn Taymiyya and Ibn Qayyim al-Jawziyya*, eds. Birigit Krawietz et al. (Berlin: De Gruyter, 2013):162-219; Keen, Caroline, "The Rise and Fall of Siddiq Hasan, Male Consort of Shah Jahan of Bhopal" in: *The Man Behind the Queen,* eds. Charles Beem and Miles Taylor. (New York: Palgrave Macmillan, 2014): 185-204; Metcalf, *Islamic Revival in British India,* 268-296. Importantly, while Khān shared typical views of the Saudi Wahhabis, he rejected the label for himself, in his *Tarjumān-I Wahhābiyya* (Lahore: Dar Maṭbaʿ Muḥammad Wāqiʿ, 1985). See also: Rahmatullah, "Contribution of Nawab Siddique Hasan Khan to Quranic and Hadith Studies" (PhD diss., Aligarh Muslim University, 2015): 108-9.

opposite route. The Deobandīs affirmed the authority of the pre-modern legal tradition by actively advocating the necessity of *taqlīd,* thereby limiting the scope and validity of *ijtihād.*[119] As *ijtihād* is often pitched as the only method of dealing with the social exigencies of the modern age, one would assume that the *taqlīdī* contributions of the Deobandīs would be stagnant. However, Deobandīs and affiliates have set up numerous organisations aimed at tackling the same issues modernist organisations like the ECFR are attempting to solve.

The Islamic Fiqh Academy, India (IFA) is one such significant example. Established by Mujāhid al-Islām al-Qāsmī[120] in 1988, the IFA aims to find juridical solutions to the contemporary Muslim problems. As Deobandī-Ḥanafīs dominate the Academy, it has a continued devotion to the Ḥanafī school, despite its institutional objectives to be broader than any one school.[121] In reading through the Academy's resolutions and publications, they remain heavily reliant on Ḥanafī sources and references. Despite this Ḥanafī reliance and Deobandī dominance, the IFA's numerous scholarly conferences have passed resolutions to solve the majority of contemporary juridical challenges brought up by changes in social, political, socio-economic, and technical spheres of life. In their

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[119] For a study of the opinions of Deobandī elders regarding *taqlīd,* see: Chaudri, "Demarcating the Contours of the Deobandī Tradition," 45-85. Herein, Chaudri argues that there is a general agreement among the Deobandī elders over the necessity of doing *taqlīd* of a legal school and limiting the scope of *ijtihād.* Chaudri demonstrates that nuance exists in the opinions of some elders, thus representing a general agreement of *taqlīd*, but not a monolithic and unified message.

[120] A graduate from Dār al-'Ulūm Deoband, Qāḍī Mujāhid al-Islām was known for his Presidency of the All India Muslim Personal Law Board, and founding the IFA. He also serves as an executive member at the Centre for Islamic Studies, Oxford.

[121] In reading their institutional decrees, the Fiqh Academy fashion themselves similarly to the ECFR, in their promotion of solving contemporary challenges through the Quran and Sunnah, and an emphasis on the objectives of the *Sharī'a.* See: IFA, *A Brief Report: Islamic Fiqh Academy, Year 1989-2014* (New Delhi: Islamic Fiqh Academy, 2014): 8-9. However, as Ḥanafī Deobandīs dominate the Academy, most of their material is justified through Ḥanafī sources. For more on the Deobandī Ḥanafī dominance of the IFA, see: Zaman, Muhammad Qasim, *Modern Islamic Thought in a Radical Age* (New York: Cambridge University Press, 2012): 96-99.

conferences, the IFA invite jurists from around the world to discuss and debate ideas about these major challenges. While the IFA is not based in Europe, they envision themselves for an international audience, publishing their conference resolutions in Arabic and English. Their institutional introduction notes their desire to coordinate with Muslims and institutions with a significant Muslim minority population, like Europe and North America.[122]

Another closely related example is the scholarly conferences of the Jamiat Ulama-e-Hind.[123] Like the IFA, this organisation also holds annual scholarly conferences aimed at solving contemporary juridical issues, further demonstrating the pragmatism of Deobandī affiliated scholars. For example, the 2018 conference explored the juristic modality of various forms of digitised trade and commerce, such as Google AdSense, Uber and various franchising agreements. Oxymoronically, both organisations facilitate collective *ijtihad* through *taqlīd* by heavily relying on classical Ḥanafī references. While this scholarly work takes place within India, due to their close relationship with Deoband or to a strong *taqlīdī* Ḥanafī approach, these resolutions communicate directly to the transnational Deobandī movement which spans across the world. Institutions of this nature demonstrate that *taqlīd* and traditional hermeneutical approaches have sufficient relevancy and flexibility in dealing with the same challenges the liberal reformers are dealing with.

The creativity of these *muqallid*[124] jurists are not limited to India, but there are at least two significant British Deobandī examples which continue this pragmatism in applying and

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[122] IFA, *A Brief Report,* 7.

[123] Initially, this Deobandī organisation was created to carry out the non-violent struggle for freedom from British Imperialism. Since Independence, the Jamiat has positioned themselves as a pressure-group for the Indian Muslim minority.

[124] A practitioner of *taqlīd* is known as a *muqallid.*

contextualising Ḥanafī juridical precedents for the Western context. Amjad Mohammed and his various organisations are an excellent example of this. Mohammed is the founder of the *Markaz al-Iftā,* a social-media based organisation which facilitates questioning and answering between scholars trained in *fatwā,* and Muslims from around the world. Herein, their thousands of members can ask juridical questions about faith, prayer, finance, bioethics, and receive responses from trained jurisconsults who employ a close adherence to the principles of the Ḥanafī school.

The Whitethread Institute, a post-graduate seminary in London, is another such organisation tasked at contextualising the discursive Ḥanafī tradition within the British context. Whitethread Founder, Abdur-Rahman Mangera comments that the core aim of his institute is "marrying text with context".[125] Whitethread's flagship "Iftā Specialisation Program" is a unique five-year jurisconsult (*muftī*) training program, primarily due to its length and academic rigour. Mangera started this program which the hope of developing their candidates with the ability to conduct the contextual application of Islamic law, while deeply grounding candidates in the doctrines, principles and maxims of the Ḥanafī school. Through this, candidates are trained as jurisconsults who can answer the questions of the public with confidence. Crucially, their first cohort of six students answered over a thousand questions, over two years, thus demonstrating the impact of such training on the broader community.

Markaz al-Iftā and the Whitethread Institute are two British institutions who are attempting to meet the juridical and religious demands of this ever-changing world, despite being affiliated to a

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[125] Islam UK, "Mufti Dr Abdur Rahman Mangera – Marrying Text with Context: A Case Study of Whitethread Institute" YouTube Video, 15:25. 23 March 2020. https://www.youtube.com/watch?v=BLvGU2f1MG8 (accessed 13 April 2020).

movement known for its strict *taqlīd* and adherence to the Ḥanafī school. They present a motion to

navigate, and adapt to these changes, cautiously; upholding the authority and integrity of their

inherited religious and legal tradition to avoid 'throwing the baby out with the bathwater'. These

Deobandī institutions, be that the IFA in India or Whitethread in London, demonstrate that scholars

with a strong devotion to their legal tradition are working hard to meet the demands of the modern

age. These developments pose a severe challenge against the assumption that *ijtihād* is necessary as

the traditional hermeneutical approach is broken. The revival of this creative *taqlīdī* approach

questions the very need for *fiqh al-aqalliyāt*.

Having chronicled three critical shortcomings of the *fiqh al-aqalliyāt* approach, I conclude

with a polemical criticism. Some argue that this doctrine manipulates the Sharia, promoting

assimilation over integration. Integration is a dialogical process where one retains their religious or

cultural heritage and contributes to the existing culture of the host nation, thereby enriching society.

Assimilation is seen as a one-way exercise where one compromises on their own culture to conform

with the culture of their host societies. If the Islamic legal tradition dictates that something is

prohibited, the idea of integration as a dialogical process promotes participating and enriching one's

host nation by being true to their traditions. The prohibition, in this case, should be upheld, and

respectful and religiously-sound alternatives should be offered by the jurist – thus facilitating the

enrichment of the host nation's culture. The traditional approach is, therefore, theoretically better

suited to promote integration as a dialogical process as it balances the demands of the tradition, and

– as displayed by Mangera and Hallaq – the local needs.

1.2.3   The Project

The traditional hermeneutics utilised in this thesis will focus on a study of Ibn al-Qayyim's *Aḥkām Ahl al-Dhimma.* The discursive traditions of two legal schools will be looked at, in relation to, and at times, in contrast to the *Aḥkām,* to uncover how these three distinct strands of Islamic law have ruled on Muslim relations with their non-Muslim counterparts. The two discursive traditions chosen for this project are the Ḥanafī and Ḥanbalī schools of law, while Ibn al-Qayyim's juridical reflections represent a third strand which Christopher Melchert describes as "Ḥanbalī-fundamentalism".[126] Melchert uses this term to describe Ibn al-Qayyim's methodology in the *Aḥkām* as it produces jurisprudence by going back to the bare statements of Ibn Ḥanbal, thereby disregarding the discursive tradition of the school altogether. In what follows, I shall describe why the scholars and legal schools I have chosen are significant and relevant.

Ibn al-Qayyim, a thirteenth-century Damascene Ḥanbalite, has become one of the most influential scholars of the Islamic tradition in recent centuries. Most well-known for being the close discipline of Ibn Taymiyya, both are recognised as critical intellectual figures who shaped the methodology and thought of modern Salafism.[127] Through her survey on Ibn al-Qayyim's works and

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[126] Melchert, "The relation of Ibn Taymiyya and Ibn Qayyim al-Jawziyya to the Ḥanbalī school of Law," 156.

[127] As noted by William M. Watt, Ibn 'Abd al-Wahhāb's reform movement depended on the Taymiyyan literary works for its insistence on returning to the purity of Islam. See: Watt, William Montgomery, *Islamic Philosophy and Theology* (Edinburgh: Edinburgh University Press, 1985): 146. See also: Laoust, Henri, "Ibn Ḳayyim Al-Djawziyya" in: *Encyclopaedia of Islam,* Second Edition, edited by P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, P.J. Bearman (Volumes X, XI, XII), Th. Bianquis (Volumes X, XI, XII), et al. (Accessed March 5, 2020) doi: http://dx.doi.org/10.1163/1573-3912_islam_SIM_3242; Ali, *The Roots of Religious Extremism,* 47; Abou El-Fadl notes that some even attribute the origin of Salafism as a creed to Ibn Taymiyya and Ibn al-Qayyim in: Abou El-Fadl, *The Great Theft,* 75, 152. Moreover, this hypothesis is arguably the very reason why De Gruyter published an anthology on the theological, political and jurisprudential thought of the duo. See: Kokoschka, Alina and Krawietz, Birgit, "Introduction: Appropriation of Ibn Taymiyya and Ibn Qayyim al-Jawziyya" in: *Islamic Theology, Philosophy and Law: Debating Ibn Taymiyya and Ibn Qayyim al-Jawziyya,* 1-37.

their available editions, Krawietz demonstrates that there has been a surge in the popularity of his

books in the last century.[128] Ibn al-Qayyim became what Norman Calder described as a

'fundamentalist reactionary' to the discursive tradition of Islamic law. Such scholars detested how

the scholarly tradition of one's school of law took primacy over the revealed text.[129] While Ibn al-

Qayyim followed the Ḥanbalī school, he believed that one should not be bound by a legal tradition.

Instead, Ibn al-Qayyim highly detested following the opinions of men blindly when one finds clear

evidence from the Qur'ān and Sunna.[130] Ibn al-Qayyim's legal methodology gave supremacy to these

two primary sources of law, as understood by the first three generations of Islam: the *Salaf al-Ṣāliḥīn*.[131]

The *Aḥkām* is the only monograph Ibn al-Qayyim authored on practical jurisprudence.

Despite this, the juridical inclinations of the *Aḥkām* are heavily cited by Salafis, particularly within

the context of social relations between Muslim and non-Muslims. *Islamqa.info*, a Salafi website focused

on answering the religious queries of ordinary Muslims, quotes the *Aḥkām* forty times in questions

related to non-Muslim celebrations, festivals and inter-religious marriages.[132] *Islamqa* is one of the

most influential Salafi websites in the world. Troid, the online forum-arm of SPUBs also quotes the

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[128] Krawietz, "Ibn Qayyim al-Jawziyyah: His Life and Works," *Mamluk Studies Review* 10, no. 2 (2006): 19-64. Krawietz gauges Ibn al-Qayyim's popularity through the fact that Salafi printing houses from across the world are publishing multiple editions of his books, famous Salafi scholars are editing them, and numerous Salafi scholars from Middle Eastern universities are conducting doctoral and master's level research on his works.
[129] Calder, "Law," 993-4.
[130] Mustafa, Abdurrahman, *On Taqlid: Ibn Al Qayyim's Critique of Authority in Islamic Law* (New York: Oxford University Press, 2013): 61-4.
[131] Abū Zayd, Bakr b. 'Abd Allāh, *Ibn Qayyim al-Jawziyya: Ḥayātuhū Āthāruhū Mawāriduhū* (Riyadh: Dār al-'Āsima, 2002): 85-94. For a clear exposition of Ibn al-Qayyim's legal methodology, see: Ibn al-Qayyim, *I'lām al-Muwaqi'īn 'An Rabb al-'Ālamīn*, ed. Mashhūr b. Ḥasan Āl Salmān, 7 vols. (Dammam: Dār Ibn al-Jawzī, 2003-3). See also: Krawietz, Birgit. "Transgressive Creativity in the Making: Ibn Qayyim al-Gawziyyah's Reframing within Ḥanbalī Legal Methodology" *Oriente Moderno* 90, no. 1 (2010): 47-66.
[132] These numbers were arrived at by running a digital search of the terms "Ibn al-Qayyim", "Ahkam Ahl al-Dhimma" and "non-Muslim festivals" on the website's search function. I have ensured that this figure does not include any overlaps.

Aḥkām twice; once regarding extending Christmas greetings to non-Muslims,[133] and again when discussing extending *salāms* (greetings) to non-Muslims.[134] Subsequently, in his much larger essay on the issue of Christmas, SPUBs leader Abu Khadeejah quotes the *Aḥkām* as the main justifications of his stance.[135] Abu Khadeejah is not alone in quoting the *Aḥkām* concerning Christmas, several Salafis use the *Aḥkām* as one of their key pieces of evidence, such as Abdul-Aziz bin Abdur-Rauf Shakir,[136] and "Umm Mohammad" on *al-Sunnan.org*.[137]

The significance of choosing this book is clear; the *Aḥkām* is profoundly respected by Salafis, and Ibn al-Qayyim is a major figurehead in their intellectual tradition. This thesis engages with the *Aḥkām*, thereafter, comparing Ibn al-Qayyim's views against the discursive traditions of the Ḥanbalī and Ḥanafī school. By looking at Ibn al-Qayyim's case studies through a comparison with parallel texts, i.e. these discursive traditions, I will produce the same juridical verdicts from three epistemologically different methods.

These legal schools are significant for the following reasons. Firstly, opting for the Ḥanbalī school is considerable because - while various studies contest the substance behind such a claim –

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[133] Troid. "Benefit: Extending Christmas Greetings to Non-Muslims" *troid.org*, 21 December 2018. From: https://www.troid.org/brief-benefits/2895-benefit-extending-christmas-greetings-to-non-muslims (accessed 26 January 2020).

[134] Troid. "Who Deserves the Salāms? Ibn al-Qayyim al-Jawziyyah" *troid.org*, 29 May 2007. From: https://www.troid.org/new-and-basics/more-important-basics/126-who-deserves-the-salams (accessed 26 January 2020).

[135] Abu Khadeejah, "The Pagan Roots of Christmas and how a Muslim should behave during this Season" *abukhadeejah.com,* 22 December 2017. From: https://www.abukhadeejah.com/the-pagan-roots-of-christmas-and-how-a-muslim-should-behave-during-this-season/ (accessed 26 January 2020).

[136] Shakir, Abdul-Aziz bin Abdur-Rauf, "Festivals are one the most unique things by which religions are distinguished" *madeenah.com,* 29 May 2011. From: https://www.madeenah.com/festivals-are-one-of-the-most-unique-things-by-which-religions-are-distinguished/ (accessed 26 January 2020).

[137] Umm Mohammad, "Respond to Merry Christmas" *al-sunan.org,* 18 December 2011. From: https://www.al-sunan.org/vb/showthread.php?t=9777 (accessed 26 January 2020).

many Salafis, at least, claim to adhere to the Ḥanbalī school. This includes the Saudi Salafis who constitute the majority of the global Salafi movement.[138] However, Vogel's study of the Saudi legal and judiciary system uncovers that the country's insistence on the Ḥanbalī school does not always measure up to reality. Despite constitutional and royal decrees which necessitate the use of Ḥanbalī works for the sake of uniformity, on the ground, Saudi jurists and judges are free to adopt views from other schools and perform *ijtihād* based on the revealed texts.[139] Abou El-Fadl describes this is as "selective Ḥanbalism", arguing that Salafis choose the opinions of Ibn Taymiyya and Ibn al-Qayyim in an "abusively selective manner".[140] Thus, while their Ḥanbalī credentials are questionable substantively, it is correct that, on the surface, Saudi Salafis claim to adhere to the Ḥanbalī school.

Moreover, Ibn al-Qayyim's engagement with the Ḥanbalī school in the *Aḥkām* disregards the discursive tradition of the school. It attempts to synthesise and produce rulings from the direct statements of Ibn Ḥanbal.[141] Therefore, a comparative reading of the *Aḥkām* against the discursive tradition of the school will reveal two variant methodological stances in ruling on the same case-studies; somewhat significant for most Salafis.

Secondly, opting for the discursive tradition of the Ḥanafī school is noteworthy as according to the most conclusive statistics on the matter, at least 68.9 per cent of Muslim Britons follow the

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[138] Qadhi, "On Salafi Islam"; Vogel, Frank. *Islamic law and the legal system of Saudi: Studies of Saudi Arabia*. (Leiden: Brill, 2000): 13.

[139] See: Vogel, *Islamic law and the legal system of Saudi*, Ch. 3 and 4. See also, Al-Atawneh, Muhammad. "Wahhābī Legal Theory as Reflected in Modern Official Saudi Fatwās: Ijtihād, Taqlīd, Sources, and Methodology" *Islamic Law and Society* 18, no. 3-4 (2011): 327-355. Herein, al-Atawneh argues that Wahhabi jurists tend to operate beyond the Ḥanbalī school, despite initially maintaining a strong adherence to it

[140] Abou El-Fadl, *The Great Theft*, 152. For an independent study on how Salafis oppose the Ḥanbalī school's stance on theological matters, spirituality and practical jurisprudence, see, Ḥamd, Muṣṭafa and al-Ḥanbalī, 'Alyān, *al-Sādat al-Ḥanābila wa Ikhtilāfihim Ma'a al-Salafiyya al-Mu'āṣira* (Amman: Dār al-Nūr al-Mubīn, 2014).

[141] Melchert, "The relation of Ibn Taymiyya and Ibn Qayyim al-Jawziyya to the Ḥanbalī school of Law," 156.

Ḥanafī school.[142] Therefore, I present these same case studies from the methodological and epistemological stance which aligns with the juridical inclinations of the majority of British Muslims. Moreover, the Ḥanafī school has an incredibly rich history of development and dealing with novel occurrences as it was the official legal doctrine of many Muslim Empires.[143]

1.3　　　Scope of Research

In discussing the aims and significance of this thesis, it is necessary to identify the scope of its research. For example, in selecting Ibn al-Qayyim's Ḥanbalī-fundamentalism as an entry point to analyse the Ḥanbalī and Ḥanafī discursive traditions, other legal traditions have been excluded in this research. For example, contributions from the Mālikī and Shafiʻī Sunni schools and the Jaʻfarī Shia school of law will not feature in this thesis. One acknowledges that an exploration of the entire Islamic legal tradition would be an invaluable contribution to this field of knowledge. Nonetheless, this is a colossal task which a master's thesis will not be able to represent fairly and accurately as justice demands. A survey of this breadth is likely to require a comprehensive doctoral dissertation or a separate monograph. While I will not pursue this line of inquiry for this thesis, I do hope that I can pursue it in subsequent research.

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[142] This appears to be the most conclusive report recording the mosques in Britain. Herein, the mosques are not recorded according to juridical methodology, but on denomination. Hence, an entirely accurate figure is yet to be gauged. The figure 68.9% is based on the Deobandi and Bareilvi groups, which represent 41.2% and 27.4% of British mosques respectively. These two groups are exclusively Ḥanafī. There are other denominations of the study which are not affiliated to these denominations but may also be Ḥanafī. For example, some Maudoodi-inspired Jamat al-Islami mosques which represents 2.4 % of the mosques in Britain, See: Naqshbandi, Mehmood, "UK Mosque Statistics / Masjid Statistics" *Muslimsinbritain.org,* 30 January 2020. From: https://www.muslimsinbritain.org/statistics/statistics01.php (Accessed 30 January 2020).
[143] Keller, Nuh Ha Meem, "Which of the four orthodox madhhabs has the most developed fiqh for Muslims living as minorities" *masud.co.uk,* 20 January 2014. From: http://masud.co.uk/92/ (accessed 26 January 2020).

Similarly, I recognise that social interaction and courtesy is a narrow entry point into the broader issue of civility in secular spaces. While the engagement of the *Aḥkām* alongside these discursive traditions will provide a relevant and nuanced understanding of the law governing social interaction between Muslims and non-Muslims, I acknowledge that other issues require deliberation by Muslim scholars. For instance, civil relations with the opposite gender or with members of the LGBT community. I hope that once this argument proves the strength of the traditional hermeneutics in advancing a hypothesis for religious civility, this methodological stance can be advanced by others to solve these corollary issues.

This thesis will not discuss the religio-legal (*sharʿī*) position of Muslims living in non-Muslim countries. This conventionally invokes the classical jurisprudential discussion of *taqsīm al-dārayn* - splitting up the world into Muslim and non-Muslim abodes (*dār al-islām/dār al-kufr*). Usually, discussions surrounding the necessity of migrating to Muslim lands (*hijra*) and jihad are predicated on this division of the world.[144] Arguably, this has been one of the most critical questions of the past century. As such, it has a deep and lengthy body of contemporary research behind it. Scholars of various influences discuss the jurisprudential implications of this territorial split of the world, in application to the European and Northern American experience.[145] This thesis will not conduct an

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[144] For a survey of classical objections to living under non-Muslim rule, and its implications on the necessity of migration and war, see: March, "Islamic Objections to Citizenship in Non-Muslim Liberal Democracies" in: *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (New York: Oxford University Press, 2009): 103-33.

[145] For *ijtihādī* attempts at approaching the *taqsīm al-dārayn* question, see: al-Judayʿ, ʿAbd Allāh b Yūsuf, *Taqsīm al-Maʿmūra fī l-Fiqh al-Islam Wa Atharuhū fī l-Wāqiʿ* (Beirut: Muʾassasat al-Rayyān 2008); Ramadan, "In the West: First Attempts at Reform" in: *Western Muslims and the Future of Islam,* 62-101; al-ʿAwnī, "Hal Hunāk Dār Islām wa Dār Ḥarb" *dr-alawni.com*, April 6 2014. From: http://dr-alawni.com/articles.php?show=197 (accessed 26 April 2020). For attempts at solving this question from within the boundaries of the legal tradition and through *taqlīd*, see: Mohammed, "al-Diyār: Political Domains – The Context" in: "Muslims as Minorities in Non-Muslim Lands*,"*

analysis of the vast literature in this field. Instead, based on this existing research, this thesis initiates

from the premise that it is religiously and legally valid for Muslims to live in most Western nations.[146]

Secondly, I am not concerned with engaging with debates about the treatment of the

protected people (*ahl al-dhimma)* under Islamic rule, nor do I aim to conduct a prolonged assessment

of the vast discourse on its social history. The primary focus of this thesis is the abstract Islamic legal

tradition, through which civility among people of other faiths may be imagined. Nonetheless, it is

conducive to briefly highlight the manifestation of civility throughout Islamic history to

acknowledge that the abstract legal precedents of this study are not purely theoretical. They were

manifested in the legal and social implementation of the Sharia.

In studying *dhimmīs* living under Islamic imperium, the discussion is often framed through

tolerance and intolerance.[147] For example, some point at how the Muslim majority often

institutionally marginalised *dhimmīs*. Bat Yeor's studies of *dhimmī* status under Muslim rule suggest

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235-77; Raḥmānī, Khālid Sayfullah, *Jadīdī Fiqhī Masā'il*, 5 vols. (Karachi: Zamzam Publishers, 2010): 4:39-60; al-A'ẓamī, Niẓām al-Dīn, *Muntakhabāt Niẓām al-Fatāwā,* 3 vols. (Delhi: IFA Publications, 2013): 1:263-71. The first group of scholars propose contemporary solutions to this debate by revisiting the source revelatory texts and conducting *ijtihād*. The second group propose solutions through sources from the Ḥanafī school. For a detailed study of contemporary jurisprudential literature on the *taqsīm al-dārayn* debate, see: Albrecht, Sarah. *Dār al-Islām Revisited: Territoriality in Contemporary Islamic Legal Discourse on Muslims in the West*. (Leiden: Brill, 2018). See also: March, Andrew, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus*; idem, "Liberal citizenship and the search for an overlapping consensus: The case of Muslim minorities" *Philosophy & Public Affairs* 34, no. 4 (2006): 373-421; idem, "Islamic foundations for a social contract in non-Muslim liberal democracies" *American political science review* 101, no. 2 (2007): 235-252.

[146] See discussion at the end of section 1.1.1 of this thesis for further details.

[147] Oft-referred to as the myth and counter-myth of tolerance in Islam. For comparison of these different viewpoints, compare the following collection of essays which advocate the view of tolerance and intolerance, see: Spencer, Robert ed. *The Myth of Islamic Tolerance: How Islamic Law treats non-Muslims* (Amherst: Prometheus Books, 2005) and Abou El Fadl et al., *The Place of Tolerance in Islam*, (Boston: Beacon Press, 2002). For an analysis of myth and counter-myth literature, see: Cohen, Mark "Islam and Jews: Myth, Counter-Myth, History" in: *Jews among Muslims: Communities in the Precolonial Middle East*, eds. Walter Zenner et al. (New York: New York University Press, 1996). This last reference was taken from: Emon, Anver, *Religious pluralism and Islamic law: Dhimmis and others in the Empire of Law* (Croydon: Oxford University Press, 2012): 34.

that these non-Muslims were subjected to dhimmitude: a discriminatory position of legal inferiority deeply internalised by all aspects of Islamic society.[148] Early sources – such as the Pact of 'Umar and its alternative approaches[149] – describe facially discriminatory laws which explicitly limit and discriminate against the freedom of non-Muslims, such as clearly demanding that *dhimmī*s dress and act differently to Muslims to signify their alternative status.[150]

However, historical data into the legal pluralism of Islamic societies poses a significant challenge against this narrative. Najwa al-Qattan, for instance, demonstrates that a multitude of Ottoman *dhimmī*s petitioned and litigated at Muslim courts, despite having fully autonomous and officially recognised religious courts of their own.[151] The Ottoman Empire recognised three official religious communities, known as Millets: the Orthodox Church, Jews and Armenians. The Millet system was a devolved system of governance where the head of the Millet had complete jurisdiction of civil matters, and at specific points of history, even criminal jurisdiction.[152] Despite this, al-Qattan's study of Ottoman court records from Damascus demonstrate that not only were *dhimmī*s petitioning

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[148] Yeor, Bat, "Dhimmitude: Jews and Christians Under Islam" *Midstream*, February/March (1997):9. See also, idem, *Islam and Dhimmitude: Where Civilisations Collide* (Cranbury: Associated University Press, 2002).

[149] Levy-Rubin argues that the variant Pacts of 'Umar represent an ongoing discussion by scholars of the eighth and ninth century about the status of *dhimmī*s, before a specific variation of the text was canonised. Levy-Rubin argues that these different versions of the Pact represent alternative approaches to the *dhimmī* rules. See: Levy-Rubin, Milka, "Shurūṭ 'Umar and its Alternatives: The Legal Debate on the Status of Dhimmīs" *Jerusalem Studies in Arabic and Islam* 30 (2005): 170-206; idem, *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence* (New York: Cambridge University Press, 2011): 58-87.

[150] For a detailed analysis on the concept *ghiyār,* which necessitates outward signs to differentiate between Muslims and non-Muslims see: Levy-Rubin, "The Date and Ideology of the Ghiyār Code" in: *Non-Muslims in the Early Islamic Empire,* 88-99.

[151] al-Qattan, Najwa, "Dhimmīs in the Muslim court: legal autonomy and religious discrimination" *International Journal of Middle East Studies* 31, no. 3 (1999): 429-444.

[152] Abu Jaber, Kamel, "The Millet System in the Nineteenth-Century Ottoman Empire" *The Muslim World* 57, no. 3 (1967): 212-223.

at Muslim courts, but *dhimmī*s routinely requested to be judged by Sharia.[153] Rather than being a vehicle of oppression, al-Qattan concludes that the Muslim courts disregarded gender, social and religious status, and implemented the Sharia impartially, even against Muslim plaintiffs.[154]

Similar findings are found in court records from Mughal India. Nandini Chatterjee argues that the Mughal Islamic court system was permissive to all subjects, even non-Muslim villagers, commenting that the bulk of litigators were non-Muslims.[155] With reference to civility, there are examples from the Mughal period that exemplify their commitment to peaceful coexistence. Firstly, the formulation of the Aurangzeb-commissioned Ḥanafī compendium, *al-Fatāwā al-Hindiyya*, reveals how scholars behind this project co-opted for opinions which reflected the pluralism of Mughal India. While the early Ḥanafīs disagreed on whether *dhimmī*s can erect and maintain places of worship, the compilers of the *Fatāwā* opted for the Baghdad opinion which allowed this in rural areas, as Baghdad was akin to India as the majority of its subjects were non-Muslims.[156] Furthermore, Giunchi alleges that Mughal judges used Ḥanafī law as a moral reference only, instead opting for the position which reflects collective interests (*maṣlaḥa*), in a ploy to avoid disturbing the communal peace (*mafsada*).[157] For example, a villager killed a peacock on behalf of a Christian friar. The villager was incarcerated as this transcended local Hindu taboo of killing peacocks. The friar protested that Muslims permitted

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[153] al-Qattan, "Dhimmīs in the Muslim Court" 432-36.

[154] Ibid., 436.

[155] Chatterjee, Nandini, "Reflections on religious difference and permissive inclusion in Mughal law" *Journal of Law and Religion* 29, no. 3 (2014): 396-415.

[156] Khalfoui, Mouez, "Together but separate: How Muslim scholars conceived of religious plurality in South Asia in the seventeenth century" *Bulletin of the School of Oriental and African Studies* 74, no. 1 (2011): 87-96.

[157] Giunchi, Elisa, "The reinvention of Sharī'a under the British Raj: In search of authenticity and certainty" *The Journal of Asian Studies* 69, no. 4 (2010): 1122.

killing peacocks, and the officials struck down this plea enforcing Akbar's decree of respecting local customs.[158]

These examples reinforce Khalfoui's conclusion that the governance of religious diversity under the Mughal Empire emphasised the possibility of communal coexistence between Muslims and non-Muslims so long as both groups respected certain social and geographical norms.[159] One may argue that it is discriminatory and unjust for norms of demarcation to exist between minority subjects. However, the limits of minority freedoms are symptomatic to all legally diverse societies. Anver Emon advances this hypothesis through his study of the constitutive relationship between the law and enterprises of governance, arguing that there is an inherent hegemony of the law which necessitates restrictions on minority freedoms. This constitutive relationship is examined through the *dhimmī* rules to understand its intelligibility.[160]

The Islamic empires retained an ethos which preached the universality of Islam, thereby legitimating imperial expansion to spread the message of God. As they conquered non-Muslim majority regions, they required local people to continue cultivating the land and paying taxes. Hence, pluralism and coexistence was a necessity for the viability of the empire.[161] Governing a diverse population is a messy business, and Emon advances considering the Sharia as a rule of law, an institution with its own political motivations. The Sharia has to accommodate for others to maintain the stability and economic viability of the empire, and at the same time, uphold the empire's

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[158] Chatterjee, "Reflections on religious difference," 405.
[159] Khalfoui, "Together but Separate," 95.
[160] For an overview of his thesis, see: Emon, *Religious pluralism and Islamic law,* 24-30
[161] Ibid., 33-76.

commitment to the Islamic universalism which must dominate the public sphere. This is the legal

logic which justifies *dhimmī* rules: the counterbalance between the hegemonic message of the law

and the accommodations for diverse communities. For example, *dhimmīs* can drink alcohol, but public

consumption violates the hegemonic spirit of the imperial order and the universalism of Islam the

enterprises of governances intend to uphold.[162] Therefore, to maintain the broader considerations of

the state machinery, it must justify limitations on individual freedoms. Similarly, *dhimmīs* can have

their own prayer spaces, but outside Muslim communities or in private to ensure that not all rituals

are seen as equal to Islamic ones.[163] Herein, the rights of the minority are limited to uphold the core

values which represent the majoritarian ethos of the imperial order.

These laws do not explain an inherent prejudice within the Sharia; Instead, Emon argues that

this is an issue inherent within all jurisdictions which have to manage the sovereignty of different

legal traditions which exist in one space. Emon describes cases in France, Britain and Northern

America where the freedoms of Muslim women are limited as the enterprises of governance

promotes an ethos of gender equality, security and effective communication.[164] Thus, covering the

face or wearing certain clothes ruptures the public good the ethos is attempting to fulfil, therefore

justifying restrictions to uphold the legitimacy of the ethos. Emon cites the British case of *Shabina*

Begum v the Headteacher and Governors of Denbigh High School. Begum, a schoolgirl from Luton, wore a

jilbab (long tunic) to school. As it violated school policy, the school refused her entry. The school felt

that their existing uniform policy was sufficiently inclusive as in allowed its majority south-Asian

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[162] Ibid., 108-113.

[163] Ibid., 119-123.

[164] Ibid., "Chapter 7: Religious Minorities and the Empire of Law."

student body to wear *shalwar kameez,* a traditional South Asian dress. The case was eventually taken

to the House of Lords, who sided with the school, arguing that allowing *jilbab* would create an

environment of religious coercion and extremism. The judges felt that Begum's ability to wear the

jilbab would adversely affect girls who wished not to wear it, as the *jilbab* would be the signifier of a

'good' and 'bad' Muslim. The influence of extremism was also a real concern in Luton. Hence, to

promote the public good of protecting the individual choice of other Muslim girls, i.e. third-party

right considerations, the House of Lords felt that limiting Begum's right to religious freedom was

justified.[165]

While the myths and counter-myths of tolerance in reading social history are rife, it is

somewhat rooted in the fallacy of presentism. Theoretically, Muslim empires attempted to create an

environment of coexistence and respect in governing their diverse polity. There are notable

examples of fair judicial systems and Muslim jurists – most notably Mughal jurists – who considered

their non-Muslim counterparts in formulating legal edicts and judgments.[166] Similarly, the Ottoman

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[165] For a description of this case, see: Ibid., 291-99.

[166] One popular objection that one may level against the Mughals is Aurangzeb's (r. 1658-1707) alleged religious "bigotry" against Hindus. The status of Aurangzeb has become quintessential in the building of a right-wing Indian state. To quote Katherine Brown, "the very name of Aurangzeb seems to act in the popular imagination as a signifier of politico-religious bigotry and repression, regardless of historical accuracy". A popular example cited to support this view is the fact that Aurangzeb destroyed Hindu temples. History offers a substantial challenge against this view. Firstly, there are a plethora of *firmāns* (imperial/royal decrees) that demonstrate Aurangzeb's explicit desire to allow Hindus freedom to practice their faith, even as much as donating large portions of government land for these purposes. See: Chandra, Jnan, "Aurangzeb and Hindu temples" *Journal of the Pakistan Historical Society* 5, no. 4 (1957): 247-254; idem "'Alamgir's Tolerance in the light of Contemporary Jain literature" *Journal of the Pakistan Historical Society* 6, no. 4 (1958): 269-272; Truschke, Audrey, "Overseer of Hindu Religious Communities" in: *Aurangzeb: The Man and the Myth* (Delhi: Penguin, 2018): 82-91. Secondly, the overwhelming majority of temples in the empire were untouched. In the case of the few dozen temples Aurangzeb destroyed, they were almost always for political reasons. See: Asher, Catherine, *Architecture of Mughal India.* (Cambridge: Cambridge University Press, 1992): 253-55. Therefore, we are left with a stalemate. One must

Millet system proposes a tactful policy in the governance of religious and cultural pluralism by officially recognising the traditions of their pluralistic empire. As al-Qattan demonstrated, the official courts judged cases fairly, irrespective of religion, social class and gender. Nonetheless, it is inescapable that some *dhimmī* rules discriminated against non-Muslims. Using the work of Emon, I have described how the hegemony of the law is inescapable, especially at the intersection of the law, enterprises of governances and the claims of minority subjects. The issue is not intolerance, but how the state negotiates the authority of different legal traditions within one space. As Emon argues, this discrimination is not an issue exclusive to the Sharia, but an issue inherent within legal pluralism.

1.4   Methodology

This research has gone through four major stages of research. The first stage of research includes producing a translation of Ibn al-Qayyim's 'On Social interactions with the Protected People' in the *Aḥkām*.[167] For this translation, I consulted Subḥī al-Ṣāliḥ's critical edition published by Maṭbaʿat Jāmiʿat Dimashq in 1961. For a succinct reading experience, honorifics and salutations were omitted, the chains of narrations (*isnād*) were translated freely, and I have added words in square brackets to

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recognise the reality of Aurangzeb's genuine tolerance towards non-Muslims, and his political choices to destroy certain temples. Interpreted through the theory of Emon, the intelligibility of Aurangzeb's policies can be best understood through the constitutive relationship between the law and enterprises of governance. As an imperial order, Aurangzeb had to accommodate for Hindu and Jain worship as the empire incorporated new areas under its control. After all, Muslims were the minority. However, threats to his authority could not be tolerated to justify the legitimacy of the public good the enterprises of governance were attempting to uphold. For instance, the Keshavdeva Temples drew large crowds, run by Brahmins who continually hoodwinked the less fortunate through dubious representations of their texts. This devalued the Mughal objectives of creating a just society. While some temples were investigated by Mughal officials, others like the Keshavdeva were demolished. See: Truschke, *Aurangzeb,* 89-90. See also. Brown, Katherine Butler. "Did Aurangzeb ban music? Questions for the historiography of his reign" *Modern Asian Studies* 41, no. 1 (2007): 77-120.

[167] The Arabic name of the chapter is *Dhikr Maʿamalātihim ʿInd l-Liqāʾ*, see: Ibn al-Qayyim, *Aḥkām*, 1:191-206.

enable the flow of the sentence. As far as possible, I have translated in a way where the English resembles the original Arabic. Preceding the translation, I discuss brief biographical details about Ibn al-Qayyim and have posited his discussion within the context of war in which he lived. Notably, four Mongol-European attempted invasions of the Levant took place during Ibn al-Qayyim's formative years. This section also focusses on Ibn al-Qayyim's attitudes towards non-Muslims as reflected in his broader literary oeuvre.

A translation of the entire tract precedes the analysis: the second and third stage of research. This will entail a study of Ibn al-Qayyim's thoughts, in comparison to the discursive tradition of the Ḥanbalī and Ḥanafī school. In the section that follows, the methodology used to uncover the rulings of these two legal traditions will be detailed.

1.4.1 Ḥanafī methodology: *rasm al-muftī* as the codified tradition of rule-discovery

Rule-discovery is a fundamental concept when engaging with the discursive traditions of the Sunni legal schools. Each school has its own rich history of discussion and development on even the most mundane act of law, such that there could be various internal disagreements in a single case. Importantly, scholars of the tradition attempt to define, abridge, authenticate, and author verdicts based on opinions of the *madhhab*. The *madhhab*, as an authenticated and preponderated entity, exists in the dozens of books that are considered reliable (*muʿtamad*) in the *madhhab*. It is the role of the jurisconsult (*mufti)*, judge or jurisprudent to discover the *madhhab*, and rule according to the most authenticated opinion. This process is known as rule-discovery, and in the Ḥanafī school, it is governed by the codified tradition known as *rasm al-muftī*.

Translated by Calder as 'the jurisconsult's task', *rasm al-muftī* is a genre of study which allows the researcher to navigate through the Ḥanafī *madhhab*. It regulates all opinions, juridical works, scholars and forms of verifications into hierarchical guidelines and taxonomies for the jurisconsult to follow. When one is unable to arrive at a conclusion using these taxonomies, the *rasm* provides a framework for an independent assessment. This framework allows the jurisconsult to issue a ruling through other considerations, such as change of times (*taghyīr al-zamān*), custom (*'urf*), public predicament (*'umūm al-balwā*) or strength in evidence (*rujḥān fi l-dalīl*) to name a few.[168] In practice, in any one case, there may be two or three opinions in the school, each of which have received verification (*taṣḥīḥ*) or preponderance (*tarjīḥ*). Through the axioms and taxonomies of the *rasm*, the jurisconsult chooses an opinion for their edict. It might be that their chosen opinion is that of Abū Ḥanifa, or the opinion of a high-ranking scholar according to the taxonomy; alternatively, one may consider the word of verification (*ṣīghat al-taṣḥīḥ*) being utilised by the scholar. If the scholars throughout the centuries have given preponderance to one opinion, and another opinion exists which the scholar believes to be of relevance – either due to custom, public predicament and so on – that individual jurisconsult can rule accordingly.

Al-Azem notes that the *rasm* first emerged as a brief sub-chapter (*faṣl*) preceding Qāḍīkhān's (d. 592/1196) *al-Fatāwā*. Qāḍīkhān briefly chronicled methods of verifying the various opinions from Abū Ḥanīfa and his two most senior students: Abū Yūsuf (d. 181/798) and Muḥammad b. Ḥasan al-

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[168] The most comprehensive and authoritative manual in this genre is Ibn ʿĀbidīn's *Uqūd Rasm al-Muftī* and its *Sharḥ* (explanation). Both works have been translated, annotated and analysed in English. See: Calder, "The ʿUqūd rasm al-muftī of Ibn ʿĀbidīn" *Bulletin of the School of Oriental and African Studies* 63, no. 2 (2000): 215-228; Alī al-Fijawi, Muhammad, "Principles of Issuing Fatwa (Usul al-ifta) in Ḥanafī Legal School: An Annotated Translation, Analysis and Edition of Sharḥ ʿUqūd Rasm al-Mufti of Ibn ʿĀbidīn al-Shāmī" (PhD diss., International Islamic University of Malaysia, 2012).

Shaybānī (d. 189/805).[169] A few centuries later, Ibn Quṭlūbugha (d. 879/1474) wished to codify a theory of rule-discovery that non-expert jurists could follow to navigate through the rich history of the *madhhab* to fulfil their public offices as jurisconsults and judges. Ibn Quṭlūbughā's work assisted these non-experts through the formulation of clear rules and axioms to follow when formulating a judgement.[170] The concept was then developed in its most comprehensive form by Ibn ʿĀbidīn (d. 1252/1836). The Ḥanafī reading of my research will draw its authority and significance by carefully following this tradition; a tradition I have received years of formal training in.

1.4.2   Ḥanbalī methodology

Melchert argues that Ibn al-Qayyim's lack of engagement with the discursive Ḥanbalī tradition ensured that even in a field of jurisprudence where he authored a specialised book (i.e. the *Aḥkām*), he remained a minor Ḥanbalī.[171] Thus, the works of the broader school will be consulted to flesh out a fundamentalist and discursive Ḥanbalī contribution to this debate.

Like the Ḥanafī school, the Ḥanbalīs have a rich discursive tradition, as well as legal maxims and hierarchical taxonomies that allow the researcher to navigate through the tradition to 'discover' the *madhhab*. The Ḥanbalī school is represented through three scholastic epochs: the *mutaqaddimūn* (the earliest generation, 241-403/855-1013), the *mutawaṣṣiṭūn* (the middle generation, 403-884/1013-1479), and the *mutaʾakhkhirūn* (the later generation, 885- /1480-).

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[169] al-Azem, Talal. *Rule-Formulation and Binding Precedent,* 103-4.

[170] Ibid., 46-49.

[171] Melchert, "The relation of Ibn Taymiyya and Ibn Qayyim al-Jawziyya to the Ḥanbalī school of Law," 154-6.

Bakr Abū Zayd writes that the *mutaqaddimūn* were primarily focused on narrating the opinions of Ibn Ḥanbal and at some level authenticating the reliable opinions of the school. An expanded effort to clearly define and preponderate the authentic opinions of the school took place in the later epochs. The *mutawassiṭūn* scholars, Abū Yaʿla (d. 458/1066), Ibn Aqīl (d. 513/1119-20), Muwaffaq Ibn Qudāma (d. 620/1223), Majd al-Dīn Ibn Taymiyya (d. 652/1255) and Taqī al-Dīn Ibn Taymiyya (d. 728/1328) worked primarily with the works of the *mutaqaddimūn* to authenticate and preponderate the various conflicting narrations from Ibn Ḥanbal. The *mutaʾakhkhirūn* did the same, though the scholars of this epoch prepared various works tasked as navigating through their entire history of scholarship. Hence, al-Mardāwī's (d. 885/1480) *al-Insāf fi Maʿrifat al-Rājiḥ min al-Khilāf,* al-Ḥajāwi's (d. 968/1560) *al-Iqnāʾ fi Fiqh al-Imām Aḥmad Ibn Ḥanbal,* Ibn Najjār's (d. 972/1564-5) *Muntaha al-Irādāt,* Marʿī's (d. 1033/1624) *Ghāyat al-Muntaha fi Jamʾ al-Iqnāʾ wa l-Muntaha* are seminal books in compiling and authenticating the *madhhab* in its totality.[172]

Scholars from this tradition have also specified a taxonomy of scholarship, legal maxims and reliable books to consult to arrive at the most reliable opinion of the school. Ibn Ḥamdān (d. 695/1295) – a scholar from the middle generation – provides an early contribution to this genre, informing the jurisconsult on how to authenticate the earliest opinions of the *madhhab*.[173] Nonetheless, Bakr Abū Zayd's contribution to this field is the most comprehensive; it provides researchers with clear maxims, hierarchical taxonomies of scholarship, reliable books to consult, and other tools that are

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[172] Abū Zayd, Bakr b. ʿAbd Allāh, *al-Madkhal al-Mufaṣṣal ilā Fiqh al-Imām Aḥmad b. Ḥanbal.* (Beirut: Dār ʿĀṣima, n.d.): 463-485.

[173] Ibn Ḥamdān, Aḥmad, *Ṣifat al-Muftī wa l-Mustaftī*, ed. Abī Janna al-Ḥanbalī (Riyadh: Dār al-Sumayʿī, 2015): 207-17.

used to discover the trustworthy and authoritative positions of the *madhhab*.[174] Abū Zayd's

taxonomies and legal maxims will be used in my study. While I have received training in the Ḥanbalī

school, my reading of it will not deviate from the authoritative principles and axioms relayed by Abū

Zayd.

1.4.3 Exegetical methodology

The final stage of research will focus on providing an exegesis of key Qur'ānic verses which

are seminal for discussions surrounding *al-walā' wa l-barā'*. These verses are critical as they have been

co-opted by Salafi scholars to justify *al-walā' wa l-barā'* as a doctrine. One such verse is:

> The believers should not make the disbelievers their allies rather than other believers–
> anyone who does such a thing will isolate himself completely from God– except when you
> need to protect yourselves from them (Q. 3:28).[175]

This chapter aims to look at the exegesis of these verses, to uncover the philological meaning of the

word *awliyā'*, its context of revelation and its context in relation to its passage. For an argument based

on tradition, this thesis could fall into fundamental issues through this exegetical chapter as exegeses

can often become an independent interpretation where the author interjects their own ideas into

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[174]Abū Zayd, *al-Madkhal al-Mufaṣṣal.*

[175] There are numerous verses which offer a similar meaning, such as Q. 4:138, Q. 4:144, Q. 5:51, Q. 9:23, Q. 60:1-8. Critically, all these verses are Medinan, therefore indicating that they were revealed towards the end of the chronology of revelation. With specific reference to Q. 9:23, it is contained within a chapter considered to be one of the last chapters to be revealed. Therefore, it is unproductive to charge these verses with abrogation. For a chronological list of Qur'ānic chapters, in relation to its revelation, see: al-Suyūṭī, Jalāl al-Dīn 'Abd al-Raḥmān b. Abī Bakr, *al-Itqān fī 'Ulūm al-Qur'ān*, ed. Muḥammad Abū l-Faḍl Ibrāhīm, 4 vols. (Cairo: al-Hay'at al-Miṣriyya, 1974): 1:40-43.

scripture.[176] How does one produce exegesis correctly? While manuals of *uṣūl al-tafsīr* (Qur'ānic exegetical hermeneutics) exist from beyond the pre-modern age,[177] there is an agreement in modern scholarship that this field is underdeveloped as a science.[178] Therefore, contemporary efforts are being made to develop this field, such that the *Markaz Tafsīr li-Dirāsāt al-Qurāniyya* (Tafsir Centre for Qur'ānic Studies) in Saudi Arabia has dedicated a department for the study of *uṣūl al-tafsīr*.[179]

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[176] In biblical hermeneutics, the word eisegesis is used when a person interjects their own thoughts and ideas into scripture, rather than interpreting scripture in light of its historical context, grammar, syntax and context. Biblical interpretation takes different hermeneutical styles to ensure scripture is understood correctly. For a critical engagement of biblical literature on hermeneutics, see: Faherty, Robert et al., "The Critical Study of Biblical Literature: Exegesis and Hermeneutics" *Britannica.com,* 02 October 2018. From: https://www.britannica.com/topic/biblical-literature/The-critical-study-of-biblical-literature-exegesis-and-hermeneutics#ref73485 (accessed on 21 April 2020).

[177] Seminal references in this genre from the pre-modern age include: Ibn Taymiyya, Taqī al-Dīn, *Muqaddima fī Uṣūl al-Tafsīr* (Beirut: Dār Maktabat al-Ḥayāt, 1980); al-Zarkashī, Badr al-Dīn Muḥammad b. ʿAbd Allāh, *Burhān fī ʿUlūm al-Qurʾān,* ed. Muḥammad Abū l-Faḍl Ibrāhīm, 4 vols. (Beirut: Dār al-Maʿrifa, 1957); al-Suyūṭī, *al-Itqān*; al-Dihlawī, Shāh Walī Allāh, *al-Fawz al-Kabīr* (Cairo: Dār al-Ṣaḥwa, 1986).

[178] See: Bhutta, Sohaib Saeed, "The Shāhīn Affair and the Evolution of uṣūl al-tafsīr" *Journal of Qur'anic Studies* 21, no. 3 (2019): 114-144. Herein, Bhutta argues that the lack of established norms in *tafsīr* is explicitly demonstrated when a Cairene professor produced an exegesis which attempted to harmonise the creation story with evolution. Due to the lack of established norms of *tafsīr*, the blasphemy case against him collapsed.

[179] This department is known as the *Waḥda Uṣūl al-Tafsīr*. The *Waḥda*'s *Uṣūl al-Tafsīr fī ʿĀrāʾ l-Mutakhaṣṣiṣīn* (Qur'ānic hermeneutics, according to experts) is indicative of the need for the development of *uṣūl al-tafsīr* as a discipline. In this study, the Markaz present the findings of questionnaires they sent out to experts of *tafsīr,* from which 82 of their 135 respondents were PhDs. The findings show that 91.3 per cent of experts believed there was a strong-need/need to formulate *uṣūl al-tafsīr*, and its terminology. Similarly, when questioned about the most important subjects and themes of *uṣūl al-tafsīr,* the majority of experts decided on topics which dealt with how to conduct exegesis, such as an explication of its sources, axioms, and principles of preponderance amidst difference of opinion. For a summary of their key findings, see: al-Ṭayyār, Musāʿid b. Sulaymān et al., *Uṣūl al-Tafsīr fī ʿĀrāʾ l-Mutakhaṣṣiṣīn* (Riyadh: Markaz Tafsīr l-Dirāsāt al-Qurāniyya, 2016): 88-92.

Musāʿid al-Ṭayyār[180] and Ḥātim al-ʿAwnī[181] are among the most important scholars to have advanced theories in Qurʾānic hermeneutics. For this thesis, the traditionalist method of al-ʿAwnī will be adopted. Al-ʿAwnī's traditionalist trajectory offers a road-map one should employ when attempting to uncover the exegesis of a verse and how one develops the ability to interpret the Qurʾān, in an effort to avoid interjecting one's own ideas into the Qurʾān. This method has specific limits on innovation and creativity, judging the authenticity of an exegesis in its engagement with philology (*lugha*) and context (*siyāq*), the revelatory sources, the exegesis of the earliest generations, and the preponderances of exegetical authorities.

As a Muslim living in a non-Muslim majority country, I do not wish to interpolate my own biases into scripture subconsciously. Therefore, I aim to adopt al-ʿAwnī's standardised methodology. This will restrict my work to the interpretations of exegetical authorities, in an attempt to base my analysis on the authority of the religious tradition. Thus, this exegetical chapter does not offer original exegetical insight (*ijtihād*).

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[180] al-Ṭayyār is a contemporary specialist in t*afsīr* and Professor at King Saud University. al-Ṭayyār is one of the heads of the *Markaz Tafsīr.* In *Uṣūl al-Tafsīr fī ʿĀrāʾ l-Mutakhaṣṣiṣīn*, experts in the field deemed al-Ṭayyār's works as the second most important source in Qurʾānic hermeneutics. See: al-Ṭayyār et al., *Uṣūl al-Tafsīr fī ʿĀrāʾ l-Mutakhaṣṣiṣīn*, 54-5. al-Ṭayyār's key contributions in Qurʾānic hermeneutics are: al-*Taḥrīr fī Ūsūl al-Tafsīr* (Jedda: Markaz Tafsīr l-Dirāsāt al-Qurāniyya, 2017); idem, *Maqālāt fī ʿUlūm al-Qurʾān wa Uṣūl al-Tafsīr* (Riyadh: Dār al-Muḥaddith, 2004); idem, *Fuṣūl fī Uṣūl al-Tafsīr* (Riyadh: Dār al-Nashr al-Dawlī, 1993).

[181] al-ʿAwnī, Professor at Umm al-Qura University, is considered an expert in Ḥadīth and Qurʾānic studies. His key contribution in Qurʾānic hermeneutics is: *Takwīn Malakat al-Tafsīr* (Beirut: Nama Centre of Research and Studies, 2013). This text will form the foundation of my exegetical methodology.

1.5   Chapter Break-down

The main focus of Chapter 2 is to present the full translation of the *Aḥkām*'s 'On Social relations with the Protected People'. The translation is preceded by an exploration of Ibn al-Qayyim as a scholar and the turbulent era he lived through. I describe how Ibn al-Qayyim lived through four Mongol invasion attempts on the Levant, in an era described as the Mamluk-Ikhanid Cold War.[182] Significantly, these events shaped Ibn al-Qayyim's world-view as these invasion attempts revealed the dissidents of the Muslim empire, especially individual Christians living under Muslim rule. Nonetheless, I argue that when reading Ibn al-Qayyim's polemical works against those of other faith, particularly Christians, it is crucial to characterise him as a genuine and sincere scholar. I argue that Ibn al-Qayyim's attitudes towards Christians were not purely hateful or hostile. Instead, Ibn al-Qayyim saw Christians with apprehension and suspicion due to God's statement in the Qur'ān that some Christians and Jews deem it permissible to deceive Muslims. This Qu'ranic message was reified by several historical precedents of Christian and Jewish betrayal.

In Chapter 3, I present the analysis of this translation. Herein, I advance my hypothesis for religious civility using tradition hermeneutics of interpreting Islamic law. This chapter is separated into two parts. In the first part, I describe that Ibn al-Qayyim is rather permissive when it comes to various forms of courtesy and equity when interacting with non-Muslims. I describe how Ibn al-Qayyim considers principles of necessary equity and forms of courtesy as a means of spreading Islam and winning hearts. His positions resemble the views of Ibn Taymiyya, who considered forms of

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[182] Amitai-Preiss, Reuven, "In the aftermath of ʿAyn Jālūt: The beginnings of the Mamlūk-Ilkhānid Cold War" *al-Masāq* 3, no. 1 (1990): 2.

kindness as permissible due to the preponderate benefit (*maṣlaḥa rājiḥa*)[183] they provide the Muslim

community. The idea of preponderate benefit will be advanced in this chapter; specifically, the

necessity of civility to ensure the survival of the Muslims in Europe. Thereafter, in exploring the

discursive Ḥanbalī tradition, I conclude that their tradition is locked into a gridlock where

rudimentary forms of social interaction are forbidden, thereby concluding that it is only through

adopting the opinions of outliers like Ibn Taymiyya and Ibn al-Qayyim that the Ḥanbalīs can permit

religious civility.

In the second part, I read these same studies from the Ḥanafī school. I argue that the Ḥanafī

school unanimously agrees and promotes courteous and respectful relations with non-Muslims,

considering it a good deed, and viewing offending non-Muslims as undesirable. I argue for the

permissibility of religious civility with non-Muslims using the broader Ḥanafī tradition, and elements

of Ibn al-Qayyim and Ibn Taymiyya's juridical views.

In Chapter 4, I look at the exegetical tradition exploring verses where God prohibits Muslim

from taking non-Muslims as *awliyā'*. In our study of these selected verses, I have found a near

consensus which legitimates and permits equitable and kind relations with non-Muslims. With

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[183] This is an integral aspect of Ibn Taymiyya's legal ethics. It involves a utilitarian judgement between acquiring benefit (*maṣlaḥa*) and avoiding detriment (*mafsada*) when ignorance, human weakness and needs make following the law difficult. In such a situation, Jon Hoover argues that Ibn Taymiyya's ethical framework engages in utilitarian calculations between competing courses of actions to determine the best way of advancing religious practice. Ibn Taymiyya refers to the result of this benefit-detriment analysis as preponderate benefit (*maṣlaḥa rājiḥa*). See: Hoover, Jon "Foundations of Ibn Taymiyya's Religious Utilitarianism" in: *Philosophy and Jurisprudence in the Islamic World,* ed. Peter Adamson. (Berlin: De Gruyter, 2019): 145-168. Herein, Hoover critiques and goes beyond the Taymiyyan conception of *maṣlaḥa* proposed by Opwis and Vasalou. See: Opwis, Felicitas, *Maṣlaḥah and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century* (Leiden: Brill, 2010): 181-199; Vasalou, Sophia, *Ibn Taymiyya's Theological Ethics* (New York: Oxford University Press, 2016): 198-220.

specific reference to Q. 60:8, God explicitly permits kindness so long that they are not combatants. Critically, I demonstrate that most major references in the Sunni exegetical tradition have understood the word *awliyā'* as confederate allies (*ḥulafā'*), patrons (*anṣār/naṣīr*), supporters (*ẓahīr*) and sponsors (*mu'īn*); thereby considering this term along political lines.

In my conclusion, I deliberate over the future of the traditional method, and avenues of research that are yet to be explored.

2.0 TRANSLATION: 'ON SOCIAL INTERACTIONS WITH THE PROTECTED PEOPLE'

2.1. Introduction

This chapter will provide the translation for Ibn al-Qayyim's 'On Social Interactions with the Protected People' in the *Aḥkām.* As the *Aḥkām* focuses on jurisprudential laws governing Muslim and non-Muslim interaction, it is vital that we also consider Ibn al-Qayyim's biographical profile and the historical context of his scholarship when reading his content. Mamluk Damascus was fraught with regional instability after a history of war with the Ikhanate Mongol Empire and the Christian Crusaders. Ibn al-Qayyim was born in this turbulent era, and as such, retelling historical precedents of non-Muslim dissidence and betrayal appears to be a theme in the *Aḥkām.* In the section that follows, some biographical musings will be presented, with a focus on recreating a historical image of Mamluk Damascus. Thereafter, I will focus on Ibn al-Qayyim's general thought towards non-Muslims in the *Aḥkām*, before preceding to the translation.

2.2. Ibn al-Qayyim: A Biography

There is much literature on the biographical details on Ibn al-Qayyim. While this section will not be exhaustive,[184] I will aim to reflect on specific information about Ibn al-Qayyim's life. He was

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[184] For exhaustive and critical accounts into Ibn al-Qayyim's life in Arabic, see: al-Sayyid, Jamāl b. Muḥammad, *Ibn Qayyim al-Jawziyya wa juhūduhū fī khidmat al-Sunnat al-Nabawiyyah,* 3 vols (Medina: ʿImādat al-Baḥth al-ʿilmī,

Muḥammad b. Abī Bakr b. Ayyūb al-Zaraʿī;[185] more famously known by his nickname – Ibn Qayyim al-Jawziyya, the son of the chancellor of the Jawziyya Madrasa of Damascus.[186] Most notably, the Jawziyya served as the headquarters of the Ḥanbalī chief-judge of Damascus.[187] Ibn al-Qayyim's family attribute themselves to the village of Zarʿ in the Ḥawrān region of the Levant,[188] though they moved to nearby Damascus. Ibn al-Qayyim began his education at a young age and was well trained in Ḥanbalī law, legal theory (uṣūl al-fiqh) and theology,[189] contributing seminally to these fields.[190] Most

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2004); Abū Zayd, *Ibn Qayyim al-Jawziyya.* For English sources, see: Holtzman, Livnat, "Ibn Qayyim al-Jawziyyah" in: *Essays in Arabic Literary Biography*, eds. Joseph Lowry and Devin Stewart. (Wiesbaden: Harrassowitz Verlag, 2009): 201-222; Krawietz, "Ibn Qayyim al-Jawziyyah: His Life and Works," 19-64; Bori, Caterina, and Livnat Holtzman, "Introduction: a Scholar in the Shadow" *Oriente Moderno* 90, no. 1 (2010): 13-44; Ovadia, Miriam, *Ibn Qayyim al-Jawziyya and the Divine Attributes: Rationalized Traditionalistic Theology* (Leiden: Brill, 2018): 22-38.

[185] Western scholars have referred to his toponym as 'al-Zurʿī', 'al-Zarʿī', 'al-Zaraʿī', attributing Ibn al-Qayyim to the village of Zaraʿ. I have given preponderance to the verification 'al-Zaraʿī' as explicitly opined by the Damascene Ḥanbalite Ibn Nāṣir al-Dīn (d. 842/1438). See: Ibn Nāṣir al-Dīn, Muḥammad b. ʿAbd Allāh, *Tawḍīḥ al-Mushtabih,* 10 vols (Beirut: Muʾassasa al-Risāla, 1993) 4:287. For further research into the name of this village, its origins and the changes the name has gone through before, during and after Ibn al-Qayyim, see: al-Sayyid, *Ibn Qayyim al-Jawziyya,* 1:82-3; Abū Zayd, *Ibn Qayyim al-Jawziyya*, 19-20.

[186] The Jawziyya Madrasa of Damascus was established in 623/1226 by Yūsuf b. Abū l-Faraj ʿAbd al-Raḥmān Ibn al-Jawzī (d. 655/1258). See: Ibn Kathīr, *al-Bidāya wa l-Nihāya*, 15 vols. (Beirut: Dār al-Fikr, 1986): 13:112. This endower was the son of the famous Ḥanbalite scholar, Abū l-Faraj ʿAbd al-Raḥmān Ibn al-Jawzī (d. 597/1201), author of the *Mawḍūʿāt.* It appears that Miriam Ovadia has misattributed the founder of Jawziyya Madrasa to Abū l-Faraj ʿAbd al-Raḥmān, rather than his son Yūsuf. See: Ovadia, *Ibn Qayyim al-Jawziyya and the Divine Attributes,* 22.

[187] Krawietz, "Ibn Qayyim al-Jawziyyah," 21. Since 663/1265, the Mamluks had established four chief judge positions, representing the four recognized schools of law, to preside over the principal cities of the empire. Thus, Cairo, Damascus, Aleppo, Tripoli and Hama each had four chief-judges. The seat for the Ḥanbalī chief-Judge of Damascus was at the Jawziyaa. For details on the establishment of the four chief judgeships, see: Escovitz, Joseph, "The Establishment of Four Chief Judgeships in the Mamlūk Empire" *Journal of the American Oriental Society* (1982): 529-531.

[188] Abū Zayd, *Ibn Qayyim al-Jawziyya,* 19; al-Sayyid, *Ibn Qayyim al-Jawziyya,* 82.

[189] For Ibn al-Qayyim's education, see: Bori and Holtzman, "Introduction: a Scholar in the Shadow," 15-7.

[190] Krawietz categories Ibn al-Qayyim's vast literary oeuvre into nine genres: Inner-Islamic religious polemics, intercommunal polemics with Jews and Christians, Eschatology, Qurʾānic studies, Ḥadīth, Legal Methodology, Practical Jurisprudence, Moral psychology, Pervasion of everyday life. See: Krawietz, "Ibn Qayyim al-Jawziyyah: His Life and Works," 30-60.

notably, his influence is observed in his popularity among Salafis of all persuasions, credited as a major intellectual figurehead of their religious thought and practice.[191]

Ibn al-Qayyim was known as a devoted servant of God. His students, Ibn Kathīr (d. 774/1373) and Ibn Rajab (d. 795/1397) discuss his devotion to God and his worship in detail; such that Ibn Rajab comments that "he was not sinless, but I have not seen anyone who fits its criteria other than him" (*laysa huwa al-maʿṣūm wa lākin lam ara fī maʿnāhū mithlahū*).[192]

In opposition to the scholarly consensus of his generation, Ibn al-Qayyim's literary corpus heavily relied on the Qurʾān and Sunna, as he promoted the supremacy of the understanding of the first three generations (*al-Salaf al-Ṣāliḥīn*) in operationalising and understanding religious discourse, thought and practice.[193] One could summarise his broad literary corpus and his significant gripes against the scholarly community of his generation into the following statement:

> The sunnah is more important [to be entrusted] in their hearts, as opposed to preferring a juridical opinion, argumentative discourse, Sufi ideas, theological speculation, philosophical analogy or political decisions over it.[194]

For Ibn al-Qayyim, his contemporaries surrendered the unaltered tradition of the Prophet in preference for philosophical, political and heretical considerations. The simplicity of Islam – for belief and practice – is operationalised through the words of the Prophet, not through speculation, analogy and argumentation.

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[191] For references which detail this influence, see footnoted discussion in section 1.2.3.

[192] Ibn Rajab, ʿAbd al-Raḥmān b. Aḥmad, *Dhayl Ṭabaqāt al-Ḥanābila,* ed. ʿAbd al-Raḥmān b. Sulaymān al-ʿUthaymīn, 5 vols. (Riyadh: Maktabat al-Abaykān, 2005) 5:173. For Ibn Kathīr's description of Ibn al-Qayyim's devotion to God, see: Ibn Kathīr, *al-Bidāya*, 14:234-7, esp. 14:235.

[193] For more details on Ibn al-Qayyim's writing style, see: Abū Zayd, *Ibn Qayyim al-Jawziyya*, 85-128.

[194] Ibn Qayyim al-Jawziyya, *Ḥādī al-Arwāḥ ilā Bilād al-Afrāḥ.* (Cairo: Maṭbaʿat al-Madanī, n.d.): 13.

Due to his non-conformist positions, Ibn al-Qayyim harboured a notorious reputation for sustaining the reform agenda of his mentor Ibn Taymiyya. The duo regularly challenged the status quo of Mamluk scholarly elite with their alternative ideas in jurisprudence, spirituality, theology and religious practice. Ibn Taymiyya was imprisoned four times for his views on God's attributes, the intercession of saints, triple-divorce and visiting the tombs of saints.[195] Ibn al-Qayyim actively replicated these controversial views. Al-Maqrīzī notes that Ibn al-Qayyim's support for Ibn Taymiyya's *fatwā* against visiting the tomb of Abraham and his position on triple-divorce earned Ibn al-Qayyim imprisonment in the Damascus Citadel with Ibn Taymiyya.[196] Leading up to his imprisonment, Ibn al-Qayyim was beaten and was put on a donkey in Damascus as a spectacle of humiliation.[197] Ibn al-Qayyim was released when his mentor passed away in captivity,[198] after which

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[195] Each of these four controversial views landed Ibn Taymiyya with a prison sentence. In 1296, he was charged, and later imprisoned in Damascus for allegedly attributing corporealism (*tajsīm*) to God in his *al-Wāsiṭṭiyya* which involved three public trails. In 1308, he was then imprisoned in Alexandria for his views against the intercession of saints (*istigātha*), and then put under house arrest. He was released from detainment in 1310. Ibn Taymiyya was then imprisoned for five months for his views on triple-divorce from 1320-21. The scholarly consensus attested that three divorces in one setting would amount to three separate divorces; Ibn Taymiyya passed the *fatwa* that only one divorce will occur which angered the authorities and scholarly community. In 1326, he was finally imprisoned for his view against taking an arduous journey to visit of the tomb of Abraham, which landed both Ibn Taymiyya and Ibn al-Qayyim in prison. Ibn Taymiyya passed away during this prison stretch in the Damascus Citadel. Most of these imprisonments included large public trails with the majority of the scholarly elite offended by his views. For the large public trail for his views in the *al-Wāsiṭṭiya,* see: Jackson, Sherman. "Ibn Taymiyyah on trial in Damascus" *Journal of Semitic Studies* 39, no. 1 (1994): 41-85. For details on his other prison sentences, see: Laoust, Henry, "Ibn Taymiyya" In Encyclopaedia of Islam, Second Edition, edited by P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs, P.J. Bearman (Volumes X, XI, XII), Th. Bianquis (Volumes X, XI, XII), et al. (Accessed May 28, 2020) doi:http://dx.doi.org/10.1163/1573-391.

[196] Quoted in: Holtzman, "Ibn Qayyim al-Jawziyya," 211. For detailed accounts of this event by contemporaries of Ibn Taymiyya and Ibn al-Qayyim, cf: Ibn Kathīr, *al-Bidāya,* 14:123-4; al-Jazarī, Muḥammad b. Ibrāhīm, *Tārīkh Ḥawādith al-Zamān*, ed. ʿUmar ʿAbd al-Salām Tadmurī, 2 vols. (Beirut: al-Maktabat al-ʿAṣriyya, 1998) 2:111-14.

[197] al-Maqrīzī, Aḥmad b. ʿAlī, *al-Sulūk li-Maʿrifat Dawl al-Mulūk*, ed. Muḥammad ʿAbd al-Qādir ʿAṭā, 8 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1997) 3:89. al-ʿAsqalānī notes that he was whipped and paraded on a camel, rather than a donkey. See: al-ʿAsqalānī, Aḥmad b. ʿAlī Ibn Ḥajar, *al-Durar al-Kāmina fī Aʿyān al-Miʾat al-Thāmina*, ed. Muḥammad ʿAbd al-Muʿīd Ḍān, 6 vols. (Hyderabad: Majlis Dāʾirat al-Maʿārif al-ʿUthmāniyya, 1972): 5:138

[198] al-Ṣafadī, Khalīl b. Aybak, *Aʿyān al-ʿAṣr wa Aʿwān al-Naṣr,* ed. Abū Zayd et al., 5 vols. (Beirut: Dār al-Fikr, 1998): 4:368.

he established himself as a *muftī* of considerable influence.[199] His subsequent reiteration of the triple

divorce edict and his theological literalism in understanding God's attributes thoroughly cemented

his place as the "dangerous successor" to Ibn Taymiyya's theological and jurisprudential ideas.[200]

Shāfiʿī chief-judge Taqī al-Dīn al-Subkī's counter-campaign against Ibn Taymiyya and then Ibn al-

Qayyim is legendary as al-Subkī recognised the influence of these controversial ideas.[201] For example,

al-Subkī dedicated two theological treatises[202] refuting the anti-Ashʿarī and non-conformist

theological claims of Ibn al-Qayyim, which grew traction and popularity among ordinary people.

Crucially, the position of the Shāfiʿī chief judge was the highest-ranking position from among the

four chief-judges.[203] Thus, Ibn al-Qayyim's ideas were so controversial that the highest religious

authority of the city began a thorough counter-campaign to denounce his views.

Most saw Ibn al-Qayyim as a mouthpiece of his non-conformist mentor, Ibn Taymiyya. Ibn

Ḥajar al-ʿAsqalānī (d. 852/1449) comments that "his [Ibn al-Qayyim's] love for Ibn Taymiyya

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[199] Holtzman, "Ibn Qayyim al-Jawziyya," 214.

[200] Ovadia, *Ibn Qayyim al-Jawziyya and the Divine Attributes,* 33-38; Bori and Holtzman, "Introduction: a Scholar in the Shadow," 24.

[201] Bori and Holtzman, "Introduction: a Scholar in the Shadow," 20-24. Bori and Holtzman note that al-Subkī wrote six books in refutation of the duo – four directed at Ibn Taymiyya and two directed at Ibn al-Qayyim.

[202] al-Subkī wrote a treatise affirming the position that Heaven and Hell will last for eternity. Bori and Holtzman note that while al-Subkī does not name his interlocutor, it is unquestionable that Ibn al-Qayyim's views were being challenged therein. Ibid., 22. See: al-Subkī, Taqī al-Dīn ʿAlī b. ʿAbd al-Kāfī, *al-Iʿtibār bi-baqāʾ al-Janna wa l-Nār,* quranicthought.com, 6 October 2019. From: https://www.quranicthought.com/books/%D8%A7%D9%84%D8%A7%D8%B9%D8%AA%D8%A8%D8%A7%D8%B1-%D8%A8%D8%A8%D9%82%D8%A7%D8%A1-%D8%A7%D9%84%D8%AC%D9%86%D8%A9-%D9%88%D8%A7%D9%84%D9%86%D8%A7%D8%B1/ (accessed 08 June 2020). The second text he wrote is: *al-Sayf al-Ṣaqīl fī Radd ʿalā Ibn Zafīl,* ed. Zāhid al-Kawtharī (Cairo: al-Maktabat al-Azhariyya li -Turāth, n.d.). This work was dedicated to refuting Ibn al-Qayyim's popular *al-Nūniyya* poem which presented Taymiyyan theology to the masses with a strong anti-Ashʿarī slant. According to Abū Zayd, al-Subkī did not call Ibn al-Qayyim Ibn Zafīl (Son of Zafil – the maternal grandfather of Ibn al-Qayyim) in the title of the book. Instead, this was a later addition by the Ottoman Ḥanafite, Zāhid al-Kawtharī (d. 1371/1952). See: Abū Zayd, *Ibn Qayyim al-Jawziyya,* 31-33.

[203] Joseph, "The Establishment of Four Chief Judgeships in the Mamlūk Empire," 529-531.

submerged him, such that he did not deviate from his opinions at all".[204] However, any deep

exploration of Ibn al-Qayyim scholarly contributions will reveal an incredible legal mind, and

theologian in his own right. As such, there have been many scholarly attempts from Arab scholars to

encapsulate his thought and methodology. Western academia – though picking up pace – lags far

behind in their exploration of Ibn al-Qayyim's contribution to the Islamic tradition.

2.2.1.   A Context of War: Turbulence in Mamluk Damascus

Consideration of Ibn al-Qayyim's historical and political context is critical when reading his

ideas about other non-Muslims, most notably Christians. Politically, there were various issues during

Ibn al-Qayyim's life in Mamluk Damascus. This turbulent era was marked by a possible existential

crisis as two viable political threats surrounded the Muslim empire: the Christian Crusaders from the

West and the Mongols from the East. As such, the threat of invasion was constant for large portions

of his life.

These wars would have marked Ibn al-Qayyim's formative years. From the West, the Crusades

came to its zenith in 690/1291 as the Muslims expelled the Crusaders from the region under the

leadership of Khalīl b. Qalāwūn. Crucially, Ibn al-Qayyim was born a year after this momentous

Muslim victory, and this victory was important for Muslim consciousness. As Ibn Kathīr comments,

the Muslims had regained territory that the Francs had captured for generations to the extent that

the Francs did not have "a single stone left in their control".[205] While the threat of an exclusive

Christian campaign from the West had concluded, the subsequent Mongol invasions were a

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[204] al-'Asqalānī, *al-Durar al-Kāmina,* 5:138.
[205] Ibn Kathīr, *al-Bidāya,* 13:319-20.

continuation of the Christian threat as the Mongols sought alliance and approval from the papacy and neighbouring Christian kings. Thus, a European-Mongol alliance was formed against their common Mamluk enemy.[206]

As Reuven Amitai-Preiss notes, "the Mongols were the Mamluks' greatest concern in the realm of foreign relations".[207] The Mongols, who had previously desolated and defeated almost everyone that stood in their way, suffered a significant defeat at 'Ayn Jālūt in 658/1260.[208] While this was a historic victory, the Mamluks knew it was only a matter of time before the Mongols struck again. This marked the beginning of the "Mamluk-Ilkhānid Cold War" which lasted for sixty years, until the Mamluk-Ilkhānid peace treaty c. 720/1320.[209] Amitai-Preiss describes this period as a "cold war" due to the constant threat of large-scale warfare which was immediately characterised by raids, espionage, skirmishes and ideological justifications.[210] This threat would have had a significant impact on Ibn al-Qayyim's formative years. Ibn al-Qayyim would have been between seven and eleven

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[206] Amitai-Preiss, "Mamluk perceptions of the Mongol-Frankish rapprochement" *Mediterranean Historical Review* 7, no. 1 (1992): 50-65; Aigle, Denise, "The Mongol Invasions of Bilâd al-Shâm by Ghâzân Khân and Ibn Taymîyah's Three "Anti-Mongols" Fatwas" *Mamluk Studies Review* 11, no 2 (2007): 90-92.

[207] Amitai-Preiss, *Mongols and Mamluks: The Mamluk-Īlkhānid War, 1260-1281.* (Cambridge: Cambridge University Press, 1995): 2.

[208] See: Ibn Kathīr, *al-Bidāya,* 13:220-2 for further details.

[209] Amitai-Preiss, "In the aftermath of 'Ayn Jālūt," 2. The foreign relations and diplomatic strategies of the Mamluk Empire with their neighbouring Mongol and Christian Kingdoms has been the subject of a new academic anthology, published by Brill. This book outlines the delicate balance of war and diplomacy the Mamluks employed in dealing with the various surrounding empires. See: Bauden, Frédéric, and Malika Dekkiche, eds. *Mamluk Cairo, a Crossroads for Embassies: Studies on Diplomacy and Diplomatics.* (Leiden: Brill, 2019).

[210] Ibid.

during Ghāzān Khān's three Ikhānid invasions of Syria in 1299-1303,[211] and between twenty and

twenty-one during Oljeitu's invasion in 1312.[212]

Al-Sayyid notes that this history of war revealed the dissidents in the Muslim empire –

namely the *nuṣayriyya* and *rawāfiḍ* Shia sects and Christians under Muslim rule who sided with the

Crusaders and Mongols.[213] Al-Sayyid even comments that Ibn al-Qayyim was motivated to remind

people of this dissidence. For example, Ibn al-Qayyim laments over the effect of their dissidence for

siding with the enemies of the Muslims, and for the hand they played in the atrocities which took

place under Hulagu's Mongol aggression.[214] In other works, Ibn al-Qayyim writes a scathing attack on

the *rawāfiḍ* Shia calling them 'heretics' who sided with Hulagu, to kill the believers, scholars, leaders

and decimate the mosques and religious schools.[215] Not only was the recent betrayal of Christians and

specific Shia sects alive in the collective consciousness of the Muslims, but they were also blamed for

their role in the destruction of Islamic heritage.

To conclude, politically, Mamluk Damascus was fraught with the existential threat of

plausible Mongol-European Invasion. Ibn al-Qayyim's formative years were spent during this political

turmoil. This may lead one to conclude that Ibn al-Qayyim held resentment for Christians. Has a

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[211] Hoover, Jon, "Jihad and the Mongols" *sites.google.com/jhoover363,* n.d., From: https://sites.google.com/site/jhoover363/taymiyyan-studies/jihad-against-the-mongols (Accessed 08 March 2020).

[212] For details of this invasion, see: Aigle, "The Mongol Invasions of Bilâd al-Shâm," 90-92.

[213] al-Sayyid, *Ibn Qayyim al-Jawziyya,* 41.

[214] Ibid.

[215] Ibn al-Qayyim, *Ighāthat al-Lahafān min Maṣāyid al-Shayṭān*, ed. Muḥammad Ḥāmid al-Faqqī, 2 vols (Riyadh: Maktabat al-Maʿārif, n.d): 2:267. Ibn Taymiyya also reinforces this view, adding that the *Rawāfiḍ* Shia also sided with the Christians against the Muslims during the Crusades. See: Ibn Taymiyya, Taqī al-Dīn, *Minhāj al-Sunnat al-Nabawiyya fī Naqḍ Kalām al-Shīʿat al-Qadariyya,* ed. Muḥammad Rashād Sālim, 9 vols. (Riyadh: Jāmiʿat al-Imām Muḥammad b. Saʿūd al-Islāmiyya, 1986): 2:498.

history of Christian betrayal blurred Ibn al-Qayyim's polemical and philosophical insights against

them? The following section will analyse Ibn al-Qayyim's broader thoughts on non-Muslims.

2.2.2. Ibn al-Qayyim's attitudes towards non-Muslims

In his literary oeuvre, Ibn al-Qayyim presents numerous scathing intellectual and polemical

attacks against non-Muslims, most notably Christians. For example, in *Ighātat al-lahafān min Maṣāyid*

al-Shayṭān (Rescuing the Distressed from Satan's traps), Ibn al-Qayyim devotes an entire chapter on

Satan's deception and manipulation of Christians,[216] disparaging their theological beliefs as

intellectually unfulfilling and bizarre. For Ibn al-Qayyim, his rational conception of God is an

infinitely faultless being – one whose actions, will and very essence demands absolute perfection and

faultlessness. "He would not be, except with infinite perfection",[217] Ibn al-Qayyim writes. Thus, Ibn

al-Qayyim deemed the Christian conception of God as inherently blasphemous and illogical, as it

entailed ascribing profound deficiency to God. For example, in one section, Ibn al-Qayyim presents a

long list of some of the most 'repugnant' Christian beliefs; herein, the Christian understanding of

Jesus is questioned. The emergence of God on earth as Jesus, placed in the womb of a mortal woman

to be born naturally to then eat, sleep, excrete and eventually die for the sins of man is intrinsically

blasphemous for Ibn al-Qayyim, as it negates the perfect qualities of God and necessitates deficiency

in God's nature.[218] He comments, "how can a thinking person be content with this as the scope of

their intellect and the limits of their knowledge?"[219]

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[216] Ibn al-Qayyim, *Ighāthat al-Lahafān*, 2:269-298.

[217] Ibn al-Qayyim, *Aḥkām,* 1:193. This faultless conception of God is described in great detail in the translation section of this thesis. See pages: 62-5.

[218] Ibn al-Qayyim, *Ighāthat al-Lahafān*, 2:283-4.

[219] Ibid., 2:289.

While individual statements might be read as offensive and insensitive, I would argue that it is still too simplistic to interpret Ibn al-Qayyim's view of non-Muslims as one of hate. Instead, Ibn al-Qayyim was suspicious of Jews and Christians, due to particular Qurānic instructions which suggest that some deemed it permissible to deceive Muslims. Critically, this world-view was supported by historical examples of major Christian betrayal and deceit. In the *Aḥkām*, Ibn al-Qayyim gives various indications of his suspicion toward them, most notably in his chapter vis-a-vis prohibiting the protected people from any government or official work on behalf of the state.[220]

Throughout this chapter, Ibn al-Qayyim discusses the leadership of various Muslim kings, some of whom were successful for not employing non-Muslims – such as 'Umar b. 'Abd al-'Azīz (r. 99-101/717-720) – and others whose Muslim population suffered at the hands of high ranking non-Muslims officials – as occurred during the reign of Abbasid Caliph al-Mahdī (r. 158-169/775-785), and al-Āmir b. Aḥkām Allāh (r. 495-524/1101-1130). In this chapter, Ibn al-Qayyim relates various Qur'ānic instructions and examples which reaffirm his apprehensive world-view.[221] Firstly, he repeats various Qur'ānic verses which prohibit Muslims from taking non-Muslims as allies (*awliyā'*).[222] God prohibited taking non-Muslims as allies and as such these Caliphs have fallen due to allying with non-Muslim political actors that oppressed Muslims. Another Qur'ānic verse, central in understanding Ibn al-Qayyim's attitude towards non-Muslims, informs Muslims that some Christians and Jews believe that they are permitted to deceive and steal from Muslims. Ibn al-Qayyim writes:

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[220] Ibn al-Qayyim, "Chapter Regarding the Prohibition of Employing Jews and Christians in any role of Governing Over the Affairs of Muslims" in: *Aḥkām*, 1:208-44.
[221] Ibid., 1:212-27.
[222] Ibid., 1:238-42.

And God informed us about the protected people that they do not view deceiving Muslims or taking their wealth to be a sin or an offence. God says: "there are People of the Book who, if you [Prophet] entrust them with a heap of gold, will return it to you intact, but there are others of them who, if you entrust them with a single dinar, will not return it to you unless you keep standing over them, because they say, 'we are under no obligation towards the gentiles.' They tell a lie against God, and they know it [Q. 3:75]."[223]

For Ibn al-Qayyim, Qur'ānic instruction about Jewish or Christian practice and belief was deemed invaluable. As Freidenreich notes regarding the *Aḥkām's* chapter on non-Muslim meat, Ibn al-Qayyim trivialised the deliberations of Christian and Jewish scholars regarding their religious practice and theology. [224] Instead, Ibn al-Qayyim defines authentic Christian and Jewish practice through the Qur'ān as the real and undistorted word of God.[225] Thus, if God says that some Christian and Jews believe that taking the wealth of Muslims is permissible and not sinful, that is authentic Judaic and Christian practice, irrespective of what their scholars say themselves. Following this world-view, it seems plausibly rational to treat Christians and Jews with a degree of apprehension.

However, Christian and Jewish deceit was not only a theory in books alone, but it was also enacted in Ibn al-Qayyim's recent history. In various places in the *Aḥkām,* Ibn al-Qayyim laments over

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[223] Ibid., 1:242.

[224] Freidenreich, David, "Five Questions about Non-Muslim Meat: Toward a New Appreciation of Ibn Qayyim al-Gawziyyah's Contribution to Islamic Law" *Oriente Moderno* 90, no. 1 (2010): 89-110.

[225] Ibid., 100-8. Through this methodology, Ibn al-Qayyim deduces that it is not permissible for Muslims to eat camel meat and fatty portions of meat if slaughtered and prepared by a Jew as God prohibits the Jews from eating these items in the Qur'ān. As for animals with lung-defects, if a Jew slaughters this, a Muslim can eat it as this prohibition is not found in the Qur'ān, but in Judaic scholarly writings. While Rabbinical teachings may prohibit such animals for consumption, crucially, God has not prohibited it in the Qur'ān. Therefore, Muslims are permitted to eat these animals if slaughtered and presented by a Jew.

the betrayal suffered at the hands of the Christians and Jews. For example, he depicts the atrocities

of a Christian patriarch under the rule of Fatimid Caliph, al-Āmir b. Amr Allāh (d. 524/1130). Abū

Najāḥ b. Fannā, leader of the municipal Christian Patriarchate and government bureaucrat, known

merely as al-Rāhib (the monk) confiscated the wealth of numerous government officials, bureaucrats,

fighters, merchants from all social classes of society, be they Muslim or Christian.[226] Ibn al-Qayyim

describes an occasion where al-Rāhib addressed a group of officials to justify his actions. Al-Rāhib felt

that the Muslims usurped Christian lands, and thus, it was permissible for them to seize the wealth

of all Muslim subjects in retaliation.[227] In another passage, Ibn al-Qayyim describes another historical

example of non-Muslim betrayal under the reign of Ṣāliḥ al-Ayyūb, leader of Egypt from 638-47/1240-

9. Here, a group of Christians, notably an individual called Abā l-Faḍā'il b. Dukhān, conspired with the

Franc Crusaders against the Muslim leaders, divulging Muslim and state secrets.[228]

Ibn al-Qayyim viewed Christians and Jews with mistrust and suspicion. God's announcement

of Christian and Jewish ethical negotiation and the recent history of betrayal and deception would

have been etched into the mind of a Mamluk living through the Mamluk-Ilkhānid Cold War.

Nonetheless, describing this as a position of hate may be too simplistic and avoids the theological and

historical background of Ibn al-Qayyim's world-view. For example, Ibn al-Qayyim did not promote

violence and hate towards non-Muslims living under Muslim rule, despite viewing them with

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[226] Ibn al-Qayyim, *Aḥkām*, 1:226. For the historical details of al-Rāhib's confiscation of Muslim and Christian wealth, see: al-Barkamī, Muḥammad b. Ibrāhīm, *Wafayāt al-A'yān wa Anbā' Abnā' al-Zamān*, ed. Iḥsān 'Abbās, 7 vols. (Beirut: Dār Ṣādir, 1900-1994): 5:299; al-Maqrīzī, *At'āẓ al-Ḥunafā' bi-Akhbār al-A'immat al-Fāṭimiyyin al-Khulafā'*, ed. Jamal al-Dīn al-Shiyāl et al., 3 vols. (s.l.: Lajnat Iḥyā' al-Turāth al-Islāmī, n.d.): 3:117-8. These references were inspired by: Walker, Paul, "Al-Āmir Bi-Aḥkām Allāh" in: *Encyclopaedia of Islam, THREE,* ed. Kate Fleet et al (Accessed March 6, 2020) doi: http://dx.doi.org/10.1163/1573-3912_ei3_COM_23060.
[227] Ibn al-Qayyim, *Aḥkām*, 1:227.
[228] Ibid., 1:242-3.

suspicion. Commenting on Q. 60:8, a verse which promotes good relations, kindness and justice between Muslims and non-combatant non-Muslims,[229] Ibn al-Qayyim writes:

> God clarified [with this verse] that this [treating non-combatant non-Muslims with kindness and justice] is not considered among the alliance which he has prohibited. He has not prohibited this [i.e., kindness and justice]. Instead, it is among the goodness that he loves and is pleased with, for He has ordained kindness and justice in all matters.[230]

When these verses are seen in conjunction with Q. 3:75, Ibn al-Qayyim's world-view can be reconstructed. Placing Muslim lives and wealth in the hands of a Christian or Jewish official or political ally who may deem it permissible to deceive and steal the wealth of Muslims is irresponsible and impermissible. However, God does not prohibit treating non-combatant non-Muslims with good relations but instead obligates justice in all matters.

This theme can be observed throughout the *Aḥkām,* especially in his 'On Social Interactions with the Protected People' which will be translated in the following section of this chapter. The translation will feature a margin on its right-side. This serves two purposes. Firstly, the Bakrī and 'Ārūrī edition interject a few intuitive titles to a few sub-chapters which appear nameless. To differentiate between the foundational al-Ṣāliḥ edition and the secondary Bakrī and 'Ārūrī edition, these additions will be marked in the margin. Secondly, the margin marks as a signifier of the translation, thereby distinguishing it from the rest of the thesis.

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[229] By non-combatant non-Muslim, the Islamic legal tradition usually refers to any person who is not a *ḥarbī*. A *ḥarbī* as defined by Majid Khadduri as "a person belonging to a territory of war, is equivalent to an alien in modern terminology, but may be regarded as an enemy as well since he was also in a state of war with Muslims" in: *the Islamic Law of Nations: Shaybani's Siyar* (Baltimore: John Hopkins Press, 1966): 47.
[230] Ibn al-Qayyim, *Aḥkām,* 1:301.

Presenting the translation of the entire chapter is necessary to appreciate the significance and effort behind Ibn al-Qayyim juridical opinions. In his reliance on Ibn Ḥanbal's transmitted tradition, Ibn al-Qayyim often independently negotiates Ibn Ḥanbal's various contradictory opinions through the use of prophetic tradition, logic and theology as adjudicators. In this chapter, Ibn al-Qayyim quotes direct students of Ibn Ḥanbal exclusively, so his judgements are as original as they are independent. Therefore, appreciating the process of how one gets from A to B is instrumental in understanding the originality Ibn al-Qayyim employs in the *Aḥkām*.

2.3.   Translation

'On Social Interactions with the Protected People'

The reprehensibility (*karāha*) of initiating the *salām* greeting and how to respond to the Protected People.

On the authority of Abū Hurayra, the Messenger of God said: 'do not initiate Jews and the Christians with *salām*,[231] and when you meet them on the pathways, compel them towards its narrowest part.' This has been reported by Muslim [b. Ḥajjāj][232] in his *Ṣaḥīḥ*. Moreover, [it is

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[231] Here, the Prophet is referring to initiating a specific type of greeting: the Muslim greeting *salām ʿalaykum*. Ibn al-Qayyim focusses on the specific meaning and associated connotations of this prayer-like greeting in the next section.

[232] Muslim b. al-Ḥajjāj b. Muslim al-Qushayrī an-Naysābūrī (d. 261/875) is the author of *Ṣaḥīḥ Muslim*. For biographical details: al-Khaṭīb al-Baghdādī, Aḥmad b. ʿAlī, *Tārīkh Baghdād*, ed. Bashshār Awād Maʿruf, 16 vols. (Beirut: Dār al-Gharb al-Islāmī, 2002): 15:121-8.

mentioned] in the *Ṣaḥiḥayn*[233] on the authority of ʿAbd Allāh b. ʿUmar that

the Messenger of God said: 'when the Jews greet you, they will [often] say

"death be upon you" (*sām ʿalaykum*). So, respond saying "and upon you".'

Thus, with the "and" (*wāw*). In other wording, it appears as "Upon you",

without 'and' (*wāw*).

On the authority of Anas b. Mālik that the Messenger of God said:

'if the People of the Book greet you with *salām,* say to them, "and upon

you". Ibn Ḥanbal[234] has also reported this as such. According to the

wording of Imām Aḥmad [it states] 'say to them "upon you".' without

'and' (*wāw*). On the authority of ʿĀ'isha, who said: 'a group from the Jews

came to the Messenger of God and said, "death be upon you" (*sām*

ʿalaykum). I understood [what they had said] and so responded "and may

death and God's curse be upon you" (*ʿalaykum al-sām wa l-laʿna*). The

Messenger of God said, "easy, O ʿĀ'isha; indeed, God loves compassion in

everything". I said: "O Messenger of God, did you not hear what they

said?" The Messenger of God responded, "I have already said: "and upon

you".' [The authenticity of this narration is] agreed upon (*muttafaq*

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[233] The name given to the two Sunni Canonised *Ḥadīth* compilations: the *Ṣaḥīḥ* of al-Bukhārī, and the *Ṣaḥīḥ* of Muslim. For an independent study of its process of canonisation, see: Brown, Jonathon, *The Canonization of al-Bukharī and Muslim: The Formation and Function of the Sunni Ḥadīth Canon* (Leiden: Brill, 2007).

[234] Aḥmad b. Muḥammad b. Ḥanbal al-Shaybānī (d. 241/855) is the eponymic scholar of the Ḥanbalī school of Islamic Law. Commonly referred to by his students as Abū ʿAbd Allāh (the Father of ʿAbd Allāh). For biographical details, al-Dhahabī, Muḥammad b. Aḥmad, *Siyar Aʿlām al-Nubalāʾ*, ed. Shuʿayb al-Arnaʾūṭ (Beirut: Muʾassasat al-Risāla, 1985): 13:516-26. Henceforth in this thesis, he will be referred to as Ibn Ḥanbal.

'*alay*)[235] and the wording is from al-Bukhārī.[236] In other wording, it appears as 'I have already said: "upon you".' Muslim [in his narration] did not mention 'and' (*wāw*).

According to the wording of al-Bukhārī: "Ā'isha said: "and upon you, may God curse you and may his anger be upon you". He [the Prophet] responded, "easy, O 'Ā'isha. You must be compassionate, beware of sternness and coarseness". She said, "did you not hear what they said?" He responded, "did you not hear how I responded to them? For what I said will be accepted [by God], and what they said will not be accepted". Furthermore, according to Muslim: 'I [Ā'isha] said: "Rather, may death and disgrace be upon you".'

And [it is recorded] according to Muslim also, on the authority of Jābir b. 'Abd Allāh, who said: 'a group from the Jews greeted the Messenger of God. They said, "death be upon you, O Father of Qāsim". He responded, "upon you". 'Ā'isha said in anger, "did you not hear what they said?" He responded, "of course, I heard, and I responded to them [with] "upon you". Indeed [our curse] against them will be accepted, and [their curse] against us will not be accepted".'

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[235] *Muttafaqq 'alay* is a technical term used when a particular narration appears in the *Ṣaḥiḥayn.*
[236] Muḥammad b. Ismā'īl al-Ju'fī al-Bukhārī (d. 256/ 870) is the author of *Ṣaḥīḥ al-Bukhārī* which is commonly understood by Muslims to be the most authentic compilation of *ḥadīth* tradition.

On the authority of Abū Nuṣra, who said: 'the Messenger of God said, "indeed, we are going to the Jews tomorrow, so do not initiate them with *salām*, and if they greet you, respond with "and upon you".' This is reported by Aḥmad. Aḥmad also reports, on the authority of 'Uqba b. 'Āmir who reports, 'the Messenger of God said "we are travelling to the Jews tomorrow, so do not initiate them with *salām.* If they greet you, respond to them with "and upon you".'

As '*al-Salām*' is a name from the names of the Lord – glorified and exalted be He - it is used initially as a verbal noun (*ism al-maṣdar*) to mean faultlessness, like the verbal nouns *al-kalām* (*speech*) and *al-aṭā*' (*giving*). The Almighty Lord is most deserving of such a name as opposed to anyone else, for He is free from all afflictions, defects, deficiencies and blame. Indeed, He has unlimited perfection (*al-kamāl al-muṭlaq*) from every perspective. His perfection is a necessary consequence of his essence as He would not be, except with infinite perfection. '*Al-Salām*' entails the faultlessness of his actions from redundancy, oppression, and from being contrary to wisdom, and [entails] faultlessness of his attributes from resembling the attributes of created beings, faultlessness of his essence from any deficiencies or defects, and faultlessness of his names from any blame. Thus, the name '*al-Salām*' entails establishing all

forms of perfection for him and negating all forms of deficiencies from him.

This is the meaning of 'Glory be to God, and all praises are for God' as this entails singling God out as a deity, and singling God out for glorification. This is [also] the meaning of 'there is none worthy of worship but God, and God is the greatest'. Hence, the word '*al-Salām*' embodies the lasting good [deeds and sayings] through which the Lord – may his Glory be exalted – is praised. On further elaboration, He is the ever-living being whose life is free from death, slumber, sleep and change; the Omnipotent whose ability is free from weariness, tiredness, fatigue and helplessness from what he wants; the Omniscient whose knowledge is free from the weight of an atom escaping it, or for anything that can be known to be hidden from it. All of God's attributes are like this.

Therefore, God's pleasure cannot be contested by anger. His forbearance cannot be contested by retaliation. His will cannot be contested by compulsion. His power cannot be contested by inability. His will cannot be contested with that which opposes it. His speech is free from any lie or injustice occurring in it. Instead, all of his words are truthful and just. His promises are free from being broken. He is free from

anything being before him, after him, in front of him and behind him. Instead, He is elevated above all, in front of all, before all and after all. He encompasses all.

His giving and restricting cannot occur in other than its [correct] place. His forgiveness cannot be contended with, or be stretched by the sins of his slaves. Unlike the forgiveness of the people, his forgiveness does not stem from an inability to acquire his rights. His mercy, favour, compassion, goodness, existence and his closeness to his chosen friends, as well as his endearment and sympathy for them [his chosen friends], his mentioning of them [in front of the angels] and his salutations upon them is not because of a need for them nor from being supported or increased in number by them. In sum, He is free from anything which negates his sanctified speech in any shape or form. One who claims that '*al-Salām*' is from the names of negation (*asma' al-sulūb*) has made a major mistake. For 'negation' alone does not encapsulate perfection. Instead, the name '*al-Salām*' encapsulates perfection, free from everything which opposes it.

Moreover, if one does not do injustice to this name and [instead] honours its meaning; they will find [the name] entails: the sending of messengers, the revelation of books, the legislating of sacred law, the creation of the afterlife and the universe, the establishing of divine

decree and predestination (*al-qaḍā wa l-qadr*), the elevation of the Lord, Most High, over His creation, His vision of their actions and hearing their sounds, His awareness of their secrets and public affairs, His exclusive possession over their plans, His Oneness in His sanctified perfection, without partners of any form. For He is the real faultless being in every way, just as He is the transcendent and exonerated being from the deficiencies of man, in all respects.

Furthermore, as He is attributed to having two hands, none of them are left. Instead, both of His hands are a blessed right. Similarly, all His names are beautiful; all His actions are good; all His attributes are perfect. Indeed, He has made *Salām* the greeting of His chosen servants in this world, and on the day of His meeting. When He created Adam, and perfected his creation and settled (*istawā*), and God said to him, 'go to those groups of angels and hear what they greet you with, for this will be the greeting of you and your progeny'. And the Exalted said: 'for them is *dār al-salām* (Heaven, translated as the '*abode of al-Salām*') with their lord'. Furthermore, He said: 'and God is calling towards *dār al-salām*'. The scholars have differed in the reason for naming Heaven *dār al-salām*. Some say that *al-salām* is God, and Heaven is his abode. Others have said '*al-salām*' is faultlessness, and Heaven is an abode which is free from all afflictions, defects and deficiencies. Others had said that it is called *dār al-*

salām because the greeting of its dwellers will be '*salām*'. There are no contradictions between these different meanings.

The Muslim's statement '*al-salām 'alaykum*' is a statement regarding the safety the other will receive from murder, deception, trickery and affliction from another Muslim. The other person responds with the same, i.e. May God do this to you and effectuate it upon you [safety from murder, deception, etc.]. Therefore, the difference between this interpretation and the first interpretation is that the first one is an informative statement, and the second interpretation is a request.

It [*al-salām 'alaykum*] means: 'remember God who has saved you from affliction, protected you from danger, kept you safe from that which you fear and who dealt with us with the soundness and peace he dealt with you.' Thereafter, the responder retorts in like, and it is recommended that he exceeds in it, just as it is recommended for the recipient of a gift to reward the gift-giver with more than they were given. Whoever prays for you, it is appropriate that you supplicate for them with more than they supplicated for you.

It [*al-salām 'alaykum*] means that the greeting of the Muslim and the other person's response is a glad tiding from God. God has placed this [glad tiding] on the tongues of the Muslims to one another regarding their protection from evil, and their acquisition of mercy and blessing.

This [glad tiding] is the continuation and constancy of this acquisition.

They were given this glad tiding as they belong to the religion of Islam.

The most greatly rewarded of them is the one who is best in greeting and

the first one in delivering this glad tiding [i.e. the one who greets the

other first], as mentioned in the *ḥadīth*: 'the best of the two is the one who

precedes his companion in saying *salām*'. God, from one of his own names,

has derived the greeting of his chosen people to one another. The name

of his religion is Islam which is the religion of his prophets, messengers

and angels. As God said: 'do they then seek other than God's religion,

while those in the Heavens and earth submit to him willingly and

reluctantly, and to him they shall be returned'.

The fifth interpretation

Every nation has a method of greeting one another through

statements or actions – such as prostration, kissing the hands or the *ḍarb*

al-jūk greeting.[237] Some say 'good morning' while others say 'may you live

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[237] In the original manuscript used by al-Ṣāliḥ, it states "*ḍarb al-jūk*". According to Mamluk Historian, Ibn Faḍl Allāh al-ʿUmarī, this refers to an elaborate Irani and Tehrani dance-like greeting which involves a clapping-like meeting of the left and right hands. In his description of Malian customs, al-ʿUmarī describes that an arriving official would conduct a greeting similar to *ḍarb al-jūk* in the presence of the king. Al-Ṣāliḥ speculates in the footnote that *ḍarb al-jūk* could be a scribal error and instead it may refer to the striking of drums, i.e. "*ḍarb al-junūk*". I have deemed the original manuscript inscription as the sounder preference for a few reasons. Firstly, al-Umarī was a contemporary of Ibn al-Qayyim. Secondly, the context of Ibn al-Qayyim's writing suggests that the *ḍarb al-jūk* must have been a common one, as it has been likened to other common greetings. Importantly, al-ʿUmarī uses *ḍarb al-jūk* in describing the exotic culture of another to his Mamluk readership. One, therefore, assumes that the *ḍarb al-jūk* greeting was common enough, such that al-ʿUmarī's Mamluk readership could relate to it. Lastly, al-Ṣāliḥ's deliberation in this matter amounts to mere speculation, in his use of the word *laʿalla* (it could be). Therefore, as a plausible definition to *ḍarb al-jūk* has been provided by a Mamluk contemporary, *ḍarb al-jūk* is a sound opinion to take, and crucially, it is fitting for the context. For a detailed description of the *ḍarb al-jūk* greeting, see: al-ʿUmarī, Shihāb al-Dīn Aḥmad b. Yaḥya b. Faḍl Allāh, *Masālik al-Abṣār fī Mamālik al-Amṣār*, 27 vols. (Abu Dhabi: al-Majmaʿ al-Thaqāfī, 2002-3): 4:116-7.

for a thousand years'. God legislated '*salām 'alaykum*' for the people of Islam. This is better than the greetings of all nations due to its inclusion of safety, without which there is no life nor success. For it [safety] is the foundational principle before everything.

A believer can only make the most of his life if he has two things: safety from evil and the acquisition of good. Protection from evil comes before the acquisition of a good, as it is the foundational principle. For indeed human beings, nay all living creatures, care about their safety first and their acquisitions second. Moreover, complete safety includes the procurement of good, for if one had lost out on goodness, they would have acquired ruin, damage and deficiency [the antonyms of safety]. The elusion of goodness prevents the acquisition of complete safety. Therefore, safety includes the deliverance of the slave from evil, and his success in [acquiring] good, as it [safety] is derived from the name of God.

'*Al-Salām*' is His name, His quality and His action. To utter it is to remember Him, as it is mentioned in the *Sunan*: 'a man greeted the Prophet, and he did not respond to him until he performed dry ablution (*tayammum*). He responded to him and said, "I dislike taking the name of God, except in a state of ritual purity".' Thus, a greeting of such nature deserves to be safeguarded from being used for those that are not Muslim; otherwise, the enemies of the sanctified and faultless being will

be greeted with it [along with its entailed meaning]. Due to this reason,

the Prophet's letters to the disbelieving kings stated '*al-Salām*' upon those

who follow guidance' (*salām 'alā man ittaba'a al-hudā*). He did not ever

write '*salām 'alaykum*' to a disbeliever, and for this reason, he said

regarding the People of the Book 'do not initiate them with *salām*'.

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Chapter[238]

When responding to them,[239] we have been instructed to suffice

with 'upon you' (*'alaykum)*. The narrations differ in affirming and

omitting the 'and' (*wāw*); both are authentic. Some have objected to the

entry of 'and' here since it is for affirming and confirming the first

statement, as is the case in the following example: someone says, 'you did

this, and you did that' and you respond with, 'and you did so [too]'. Also,

if they say, 'so and so prays his five daily prayers', and you continue with,

'and pays his dues (*zakāt*) on his wealth'.[240]

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Responding to the *Salām* of the Protected People

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[238] The al-Ṣāliḥ edition regularly renders certain chapters simply as '*faṣl*' – chapter, without a name. The Bakrī and 'Ārūrī edition provide neat and intuitive subheading titles on such occasions, which will accompany "chapter" on the right margin.

[239] Herein, Ibn al-Qayyim refers to responding to a protected person when one ascertains that they have said, "death be upon you". This is made implicit in this section, and explicit in the next section when Ibn al-Qayyim writes: "The above applies when one ascertains that they have said 'death be upon you' (*al-sām 'alaykum)* or one doubts what they have said." See: *Aḥkām*, 1:199.

[240] This meaning has been deemed problematic as the entry of 'and' in response entails affirming and confirming death upon oneself. Thus, when one says, "death be upon you", the 'and' in response renders the response in affirmation of this statement with: "yes, [I affirm this statement] and upon you too". Thus, this group of scholars have objected to the entry of 'and' in response to "death be upon you". According to this view, one should, therefore, respond with: "'*alaykum* – upon you".

Some say that its [the 'and's] usage is one of retraction, not one of affirmation and sharing [in the first statement]. Thus, it is used as 'Rather, upon you', not as 'and upon you [too]'. Hence, if the 'and' is omitted, [the statement] is a repetition of what the first person said without acknowledging that you understood his intention [of greeting] (*murāduhū*). If you were to add the word 'Rather', you indicate to the other that you have understood his [deceitful] intention and responded to him in like.

The first option [of affirmation] is more appropriate because of respect and honour, and due to this subtlety – and God knows best – the 'and' is added. Moreover, there is no problem in adding it, for death does not escape anyone. Hence, it is as if the responder is saying: 'that which you have invoked upon us, you and I are in the same boat; it [death] will occur to us, and you'. This is more appropriate than claiming the narrator has committed an error in adding it [the 'and'] since that would be infeasible.

Al-Khaṭṭābī states: 'the majority of traditionalists reported this narration with 'and'. Ibn Uyayna narrated with its omission, and this is the correct position.' It is said that 'Abd Allāh b. 'Umar preserved the 'and', 'Abd Allāh b. Dīnār preserved it from him, and Mālik preserved it from Ibn Dinār. Abū Dāwūd mentions in his Sunan: 'Mālik has also

narrated it from 'Abd Allāh b. Dīnār; Thawrī also narrated it from 'Abd Allāh b. Dīnar who said, "and upon you".' This narration was selected by al-Bukhārī in his *Ṣaḥīḥ* as mentioned previously. Al-Bukhārī and Muslim also report the narration of Sufyān al-Thawrī; both with 'and'. As for al-Khaṭṭābī's quote, "Ibn 'Uyayna narrated it with its omission", indeed the narrations from Ibn 'Uyayna differ too.

Another solution to this, and perhaps it is better than the first explanation, is that adding 'and' is not an affirmation of the contents of the [first] greeting. Instead, it is a response to it and an affirmation of it to them [the greeter(s)], i.e. 'we supplicate for you with the supplication you used for us too'. For indeed, their supplication has happened and occurred from them, so when the responding person responds with 'and upon you', there is a hidden subtlety in the mentioning of the 'and'. That being: 'what you sought for us and supplicated for, is itself returned upon you. There is no other greeting for you then it'. The meaning is, 'we say in your favour precisely what you said [for us]'.

This is akin to when one responds to the verbal abuse of 'upon you be this and that' with 'and upon you'; meaning, 'and I say that to you too'. The meaning is not that 'this has [indeed] happened to me, and it happened to you too'. Ponder over this. Likewise, if one says '[May] God forgive you' and I say [responding] 'and you'. The meaning is not that

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forgiveness has occurred for us both, for that would be knowledge of the unseen. The meaning is only that you and I have shared in making the [same] supplication. If one says '[may] God forgive you' and I say [responding] 'and you', there is no indication to that [forgiveness materialising]. Based on this, the correct position is including the 'and'; most narrations have come with it, and the reliable and trustworthy narrators have mentioned it. And God knows best.

Chapter

The above applies when one determines that they have said 'death be upon you' (*al-sām ʿalaykum*) or one doubts what they said. If the listener ascertains that the protected person said '*salām ʿalaykum*', and there is no doubt in what is said, does one respond with 'and peace be upon you' (*wa ʿalayka al-salām*) or does one suffice with 'and upon you' (*wa ʿalayk*)? The evidence and legal maxims of the Sharia demand that he responds with 'and peace be upon you' (*wa ʿalayka al-salām*) for this is a matter of justice, and God commands justice and goodness.

God has said: 'if someone sends salutations upon you, salute them [in return] with a better salutation or repeat it'. Thus, He encourages excess and necessitates justice, and this does not, at all, negate any of the narrations mentioned in this chapter. This is because the Prophet only

commanded to suffice with 'and upon you' in response to the aforementioned cause [the wording 'death be upon you'] that they employed in their salutations. He indicated to this in the narration of 'Ā'isha: 'He [the Prophet] said, "did you not see me? I said, "and upon you" when they said, "death be upon you".' Then he said: 'if the People of the Book send salutations upon you, respond with "and upon you".' Although consideration is made to the general nature of the wording, its generality is only considered in a similar scenario to the above, not in a dissimilar situation.

God says: 'when they come to you and greet you with a greeting which God does not greet you with, and they say to themselves, "why does God not punish us for what we say".' Therefore, if this cause is not found, and a member of the People of the Book says 'peace be upon you, and God's mercy' (*salām 'alaykum wa raḥmat Allāh*), then justice in salutations demands that one responds with the same greeting. And divine enablement is from God.

On Visiting the People of the Book when they are sick

Al-Marrūdhī [241] reports: 'it reached me that Abū 'Abd Allāh [242] was asked about a man who has a Christian relative, that can he visit him when they are sick. He responded, "yes".' Al-Athram [243] reports: 'I heard Abū 'Abd Allāh being asked about a man who has a Christian relative, that can he visit him when they are sick. He responded, "yes". It was said to him "a Christian?" He [Ibn Ḥanbal] responded, "I have hope that visiting is not disallowed".' Al-Athram continues, 'I said to him again, "can a man visit Christians and Jews when they are sick?" He responded, "did the Prophet not visit a sick Jew and call him to Islam?".' Abū Mas'ūd al-Aṣbahānī [244] reports: 'I asked Aḥmad b. Ḥanbal about visiting Christian kin and neighbours when they are sick, he said, "yes".'

Faḍl b. Ziyād [245] states: 'I heard Aḥmad being asked about a Muslim man who visits a polytheist when he is sick. He [Ibn Ḥanbal] said, "he should visit him [the polytheist] if he believes that he will accept Islam

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[241] Abū Bakr Aḥmad b. Muḥammad al-Marrūdhī (d. 275/888) is a major student of Ibn Ḥanbal. For biographical details, see: al-Baghdādī, *Tārikh al-Baghḍād*, 5:188-90; al-Dhahabī, *Siyar*, 13:173-7.

[242] This refers to Ibn Ḥanbal.

[243] Abū Bakr Aḥmad b. Muḥammad b. Hānī' al-Athram (d. 262/885) is another major transmitter of the Ibn Ḥanbal's narrations. For biographical details, see: al-Dhahabī, *Siyar*, 12:623-8.

[244] Abū Mas'ūd Aḥmad b. al-Furāt al-Asbahānī (d. 258/872) is a direct transmitter from Ibn Ḥanbal. For biographical details, see: Ibn Abī Ya'la, Muḥammad b. Muḥammad, *Ṭabaqāt al-Ḥanābila,* ed. Muḥammad Ḥāmid al-Fiqhī, 2 vols. (Beirut, Dār al-Ma'rifa, n.d.): 1:53-55; al-Dhahabī, *Siyar*, 12:480-88.

[245] Faḍl b. Ziyād al-Qaṭṭān (d. ?) is a major transmitter of Ibn Ḥanbal's narrations. His year of death appears to be unknown, but he is said to be an early student of Ibn Ḥanbal. For biographical details, see: al-Baghdādī, *Tārikh al-Baghḍād,* 14:330; Ibn Abī Ya'la, *Ṭabaqāt*, 1:251-3;

when he visits and presents it to him; just as the Prophet visited a Jewish

boy and presented Islam to him".'

Isḥāq b. Ibrāhīm[246] states: 'I asked Abū ʿAbd Allāh about a man

who has a Christian neighbour; if he falls sick, can that person visit him?

He responded, "he can greet him, and stand at the door and leave him no

excuse [by presenting every reason for him to accept Islam]".'

Muhanna'[247] reports: 'I asked Abū ʿAbd Allāh about a man who visits a

disbeliever when he is sick. He responded, "if he has hope for him

[accepting Islam] then no problem. He should present Islam to him". I

said to him, "do you opine that if he visits him, he should invite him to

Islam?". He responded, "yes".' Abū Dāwūd[248] states: 'I heard Aḥmad being

asked about visiting Jews and Christians when they are sick. He said, "yes

[it is permissible], if you intend to invite them towards Islam".' Jaʿfar b.

Muḥammad[249] reports: 'I asked Abū ʿAbd Allāh about a man who visits his

Jewish or Christian business partner when he falls sick. He responded:

"no, there is no dignity in this".'

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[246] Ismāʿīl b. Ibrāhīm b. Hāni' al-Naysābūrī (d. 275/888-9) is another direct transmitter of Ibn Ḥanbal. For biographical details, see: al-Baghdādī, *Tārikh al-Baghḍād*, 7:404; Ibn Abī Yaʿla, *Ṭabaqāt*, 1:108-9.

[247] Muhanna' b. Yaḥya al-Shāmī (d. 241/855-6) is a student of Ibn Ḥanbal. For biographical details, see: Ibn Abī Yaʿla, *Ṭabaqāt*, 1:345-8.

[248] Abū Dāwūd Sulaymān b. al-Ashʿath al-Azdī al-Sijistānī (d. 275/889), famously known as the compiler of the *Sunan*, is a contemporary and transmitter of Ibn Ḥanbal's narrations. For biographical details, see: al-Baghdādī, *Tārikh al-Baghḍād*, 6:550-3; Ibn Abī Yaʿla, *Ṭabaqāt*, 1:59-62.

[249] Abū Muḥammad Jaʿfar b. Muḥammad al-Nasāʿī (d.?) is major transmitter of Ibn Ḥanbal's tradition. His year of death appears to be unknown. For biographical details, see: Ibn Abī Yaʿla, *Ṭabaqāt*, 1:124.

So, we have three [types of] reported narrations from Aḥmad: prohibition, permission, and elaboration, that if a person can invite them towards Islam and has hope in this [the acceptance of Islam], then he shall visit. It is established in *Ṣaḥīḥ Bukhārī*, through a narration from Anas b. Mālik who reports: 'a Jewish boy would serve the Prophet, and he became ill. The Prophet visited him and sat by his head and said to him, "accept Islam". He looked towards his father who was with him who said, "obey Abū l-Qāsim [i.e. the Prophet]." The Prophet left saying, "all praise is due to God, who has saved him from the fire through me".'

In the *Ṣaḥīḥayn*, it is reported on the authority of Saʿīd b. Mussayab that his father [al-Mussayab] informed him: 'when Abū Ṭālib's death approached, the Prophet went to him and found Abū Jahl b. Hishām and ʿAbd Allāh b. Abī Umayya b. al-Mughīra present with him. The Prophet said, "O uncle, say: 'there is none worthy of worship but God' so that I may testify your case with it before God." Abū Jahl and ʿAbd Allāh b. Abī Umayya said, "O Abū Ṭālib! Do you want to renounce the religion of ʿAbd al-Muṭṭalib?" The Prophet kept inviting him to say it. In contrast, they [Abū Jahl and Ibn Abī Umayya] kept on repeating their statement [regarding the religion of ʿAbd al-Muṭṭalib] until Abū Ṭālib said as his final words that he is on the religion of ʿAbd al-Muṭṭalib and he refused to say 'there is none worthy of worship but God'. The Messenger of God said,

"by God, I will indeed continue seeking forgiveness for you unless I am forbidden to do so." Hence, God revealed: 'it is not fitting for the Prophet and the believers to ask forgiveness for the idolaters– even if they are related to them– after having been shown that they are the inhabitants of the Blaze".'

It is also established from the Prophet that he visited ‘Abd Allāh b. Ubay b. Salūl, the leader of the hypocrites. Al-Athram states that Muṣṣarᵉf b. ‘Amr al-Hamdānī narrated that Yūnus b. Bukayr narrated from Sa‘īd b. Maysara, who said: 'I heard Anas b. Mālik saying, "when the Prophet would visit a non-Muslim man, he would not sit with him. Instead, he would say, "how are you, O Jew, O Christian?".'

On Attending their Funerals

Muḥammad b. Mūsa[250] states: 'I asked Abū ‘Abd Allāh, "can a Muslim attend the funeral of a polytheist?" He said, "yes".' Muḥammad b. al-Ḥasan b. Hārun[251] states: 'it was said to Abū ‘Abd Allāh: "can he be present at his funeral?" He responded, "yes, as Ḥārith b. Abī Rabī‘a did;

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[250] Muḥammad b. Mūsa b. Mashīsh al-Baghdādī (d. 289/901-2) is a direct student of Ibn Ḥanbal. For biographical details, see: Ibn Abī Ya‘la, *Ṭabaqāt*, 1:323.

[251] Abū Ja‘far Muḥammad b. Ḥasan b. Hārūn b. Budayna (d. 303/916) is direct student of Ibn Ḥanbal. For biographical details, see: Ibn Abī Ya‘la, *Ṭabaqāt*, 1:288-90.

he saw the funeral of his mother and remained on the side. He did not [physically] attend it as it is cursed".'

Abū Ṭālib[252] said: 'I asked Abū 'Abd Allāh about a Jewish man who had passed away and left behind a Muslim son, "what should he [the son] do?". He responded, "he should ride his animal in front of the funeral processions and not behind it. When the people intend to bury the deceased, he should return, as is the opinion of 'Umar".' I [Ibn al-Qayyim] say: he means that which has been reported by Saʻīd b. Manṣūr who said: 'Īsa b. Yūnus narrated that Muḥammad b. Abī Ismā'īl narrated from 'Āmir b. Shaqīq on the authority of Abū Wā'il, who said: "my mother who was a Christian passed away, and I came to 'Umar and asked him. He responded: 'ride at her funeral, but ride in front of the funeral procession".'

Al-Khallāl[253] reports: 'Alī b. Sahl b. al-Mughīra narrated that my father Sahl b. al-Mughīra narrated from Abū Maʻshar who narrates that Muḥammad b. Kaʻb al-Qurazī narrated from 'Abd Allāh b. Kaʻb b. Mālik on the authority of his father, who said: 'Qays b. Shammās came to the Prophet and enquired, "my mother passed away, and she was a Christian", and he wanted to attend her funeral. The Prophet responded

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[252] Abū Ṭālib Aḥmad b. Aḥmad al-Mushkānī (d. 244/858-9) is a major transmitter of Ibn Ḥanbal's narrations. For biographical details, see: al-Baghdādī, *Tārikh al-Baghḍād*, 5:198; Ibn Abī Yaʻla, *Ṭabaqāt*, 1:39-40.
[253] Abū Bakr Aḥmad b. Muḥammad al-Khallāl al-Baghdādī (d. 311/938) is well-regarded for compiling the early Ḥanbalī tradition. For biographical details, see: al-Dhahabī, *al-Siyar*, 14:297-8. Some have credited al-Khallāl as the real founder of the Ḥanbalī school, see: Melchert, "The Formation of the Sunni Schools of Law," 137-56.

to him, "ride your animal and travel in front of the procession, for if you ride in front it, you will not be with it".' 'Alī b. Sahl says: I saw Aḥmad b. Ḥanbal asking my father about this narration, and my father narrated it to him.

Ḥanbal[254] said: 'I asked Abū 'Abd Allāh about a Muslim whose Christian mother, father, brother or relative passed away [saying] "do you deem it appropriate that he takes on any responsibility of his [i.e. the washing, shrouding of the deceased non-Muslim relative] until they bury him". He responded, "if it is a father, mother, brother or close relative and he attends, there is no problem in this. Indeed, the Prophet instructed 'Alī b. Abī Ṭālib to bury Abū Ṭālib". I said, "do you deem it appropriate that he does this [i.e. burying]". He responded, "the people of his religion should take care of it whilst he is present together with them until they leave with it [the body]. He should then leave it [body] with them to take care of".'

Ḥanbal reports: 'Affān narrates that Ḥammād b. Salama narrated from 'Alī b. Zayd on the authority of Yūsuf b. Mihrān who said: 'Abd Allāh b. Rabī'a spoke to 'Abd Allāh b. 'Umar saying: "my mother has passed away, and as you know, she was a Christian". He responded, "do properly

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[254] Ḥanbal b. Isḥāq b. Ḥanbal al-Shaybānī (d. 273/886) is the nephew of Ibn Ḥanbal and a major transmitter of his tradition. For biographical details, see: Ibn Abī Ya'la, *Ṭabaqāt*, 1:144-5.

in your guardianship over her and shroud her. However, do not stand over her grave".' Yusuf [b. Mihrān] comments, 'we were with him [b. Rabī'a] on the side while the Christians teemed around his mother'.

Isḥāq b. Manṣūr[255] states: 'I asked Abū 'Abd Allāh, "a man has a Muslim neighbour whose Christian mother passed away – can he follow her funeral procession?". He responded, "he should not follow it but remain on its periphery.' Al-Athram states: 'I heard Abū 'Abd Allāh being asked about attending the funeral of a Christian neighbour. He responded, "do as Ḥārith b. Rabī'a did. He watched the funeral procession of his mother standing on the sides. He did not [physically] attend it as it [the funeral] is cursed".' Ṣāliḥ b. Aḥmad[256] reports: 'I asked my father about a Muslim man whose Christian mother had passed away, "can he follow her funeral procession". He responded, "he should remain on the side of it".' Sa'īd b. Manṣūr states that Sufyān b. Abī Sinān narrated on the authority of Sa'īd b. Jubayr, who said: 'I asked Ibn 'Abbās about a man whose Christian father had passed away. He responded, "he can attend his funeral and bury him".' Al-Khallāl states: "it is as if Abū 'Abd Allāh was [at first] not pleased with this. He then narrated from the aforementioned

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[255] Isḥāq b. Manṣūr al-Kawsaj al-Marwadhī (d. 251/865) is a prominent student of Ibn Ḥanbal. For biographical details, see: Ibn Abī Ya'la, *Ṭabaqāt*, 1:113-15.

[256] Abū l-Faḍl Ṣāliḥ b. Aḥmad (d. 265/878) is the son of Ibn Ḥanbal and a major transmitter of his tradition. For biographical details, see: Ibn Abī Ya'la, *Ṭabaqāt*, 1:173-6.

group that there is no issue with it, taking evidence from prophetic narrations." Meaning that he retracted to this opinion, and God knows best.

On Offering them Condolences

Ḥamdān al-Warrāq[257] states that Abū ‘Abd Allāh was asked about offering condolences to the protected people. He responded, "I do not know, I will inform you about what I have heard about it". Al-Athram states: ‘Abū ‘Abd Allāh was asked, "should condolences be offered to the protected people?" He responded, "I do not know". Then Al-Athram said that Abū Sa‘īd b. Ashajj narrated that Isḥāq b. Manṣūr al-Salūlī narrated from Huraym, who said: ‘I heard that al-Ajlaḥ sent condolences to a Christian; he said, "be God-fearing and have patience".’ Al-Athram reports: Minjāb b. al-Ḥārith narrated that Sharīk narrated from Manṣūr on the authority of Ibrāhīm, who said: ‘if you wish to send condolences to a man from the People of the Book, say "may God increase your wealth and children, and lengthen your life or age".’

Faḍl b. Ziyād states: ‘I asked Abū ‘Abd Allāh how condolences should be given to a Christian. He responded, "I do not know, and why

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[257] Muḥammad b. 'Alī b. 'Abd Allāh Ḥamdān al-Warrāq was a senior student of Ibn Ḥanbal. For biographical details see, al-Dhahabī, *al-Siyar,* 13:49-50.

would one offer condolences to him?".' Ḥarb states that Isḥāq narrated

that Muslim b. Qutayba narrated from Kathīr b. Abān on the authority of

Ghālib, who said: al-Ḥasan stated: 'when you offer condolences to a

protected person, say "may nothing but goodness reach you".'

'Abbās b. Muḥammad al-Dūrī[258] reports: 'I asked Aḥmad b. Ḥanbal

[a question], I said to him, "Jews and Christians offer condolences to me,

what should I respond to them with?" He bowed his head in silence for a

moment, then said, "I do not remember anything regarding this". Ḥarb

states: 'I asked Isḥāq, "how should one offer condolences to a polytheist?"

He responded: "he should say, may God increase your wealth and

children".'

On Congratulating them

This relates to congratulating them for a wife, a new-born, the

arrival of an absent person (ghā'ib), or recovery or safety from an

affliction etc. The narrations from Aḥmad regarding this issue differ; he

permitted it once and prohibited it another time. The discussion on this

issue is similar to the discussion relating to offering condolences and

visiting them when ill; there is no difference between these issues.

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[258] Abū l-Faḍl 'Abbās b. Muḥammad b. Ḥātim al-Dūrī is a major early traditionalist who met and transmitted traditions from Ibn Ḥanbal. For biographical details see, see: Ibn Abī Ya'la, *Ṭabaqāt*, 1:236-9; al-Dhahabī, *al-Siyar,* 12:522-4.

Nevertheless, one should take care to not fall into the traps that ignorant people fall into by using words which suggest their pleasure for the other's religion. As one of them [ignorant people] may say, 'may God grant you enjoyment through your religion', 'grant you peace in it', 'may God strengthen you' or 'may God honour you'. Instead, one should say 'may God honour you with Islam and strengthen you with it', and so on. This relates to congratulating someone in common matters.

As for congratulating someone for rituals of disbelief specific to it [the festival], this is unlawful (ḥarām) unanimously. For example, congratulating [the protected people] for their religious festivals or fasting rituals, saying, 'may you have a blessed religious festival' or 'enjoy this religious festival' and so forth. Here, if the congratulator does not fall into disbelief, the act is [still] prohibited. This is akin to congratulating someone for prostrating to a cross. Rather, according to God, this is a greater sin than congratulating someone for drinking alcohol, killing a soul or fornicating. Many of those who do not value their religion fall into this [act]; such people do not know the repugnance of their actions. Those who congratulate another for disobedience, innovation or disbelief has exposed themselves to God's abhorrence and anger.

The God-fearing individuals from the knowledgeable have avoided congratulating oppressive leaders, and ignorant people who

have gained positions as judges, teachers and jurisconsults in fear of

God's abhorrence and falling [in grace] from his eyes. If a [God-fearing]

person is tested with this, he should engage with them [the ignorant

leaders] to ward off the evil that he expects from them. Thus, he walks to

them, speaks only good, and prays for their divine enablement and

guidance. There is no harm in this, and divine enablement is from God.

2.4.   Conclusion

In this chapter, the translation of the *Aḥkām*'s 'On Social Interactions with the Protected

People' was foreshadowed with several insights into the author's theological world-view and political

context. I describe Ibn al-Qayyim as a sincere scholar who wrote various epistles aimed as dispelling

the falsehoods he saw in his society. His positions routinely challenged the Mamluk scholarly

consensus, and thus, his activism led to a prison sentence in the Damascus Citadel, and an enduring

back and forth with al-Subkī, the Shāfiʿī chief judge of Damascus.

In his characterisation and thoughts on non-Muslims, I have demonstrated that Ibn al-

Qayyim viewed the protected people with apprehension and distrust for two main reasons. Firstly,

God commanded the faithful not to take non-Muslims as allies and informed them about Christian

and Jewish belief that it is permissible to deceive and steal from Muslims. Secondly, there were

various examples of historical precedent where Muslims suffered due to Christian betrayal and

deceit. Despite his apprehension, Ibn al-Qayyim deemed it virtuous and divinely injunctive to be

equitable and just to non-combatant non-Muslims. Far from being an original position, his position

reflected mainstream Muslim thought at the time as it was instructed in the Qur'ān.

Thereafter, I proceeded to present a translation of the *Aḥkām*'s 'On Social Interactions with

the Protected People' in full. In the following chapter, Ibn al-Qayyim's juridical arguments will be

analysed and compared against the discursive traditions of the Ḥanbalī and Ḥanafī schools of Islamic

law. Herein, I will advance a hypothesis, firmly based on the traditional hermeneutics of interpreting

Islamic law, which validates religious civility in secular spaces.

3.0 AN ARGUMENT FOR RELIGIOUS CIVILITY: ANALYSIS OF IBN AL-QAYYIM'S AḤKĀM

3.1.   Introduction

In discussing religious civility, Islam is accused of promoting hostility and incivility with members of other faiths. Anti-Islamic discourse has spread across Europe and America, vilifying Muslims and Islam as an existential threat to the West.[259] Islam is indicted as a cause of conflict in society. By engaging with Ibn al-Qayyim in this chapter, I will advance a theory of religious civility in secular spaces, justified and validated by precedents in the Islamic legal tradition. I describe religious civility as a "moral virtue because it implies consideration of other's feelings, engaging in tolerant restraint, gratitude and politeness".[260] I argue that not only can Islam and civility in secular society coexist, but they exist co-dependently; precedents in the Islamic legal tradition encourage civil relations with other faiths groups, and civility can act as a pragmatic tool in safeguarding Islamic practice and furthering Muslim interests.

This theory of religious civility does not suggest that Muslims accept the truth claims of those of other faiths. On the contrary, the Islamic message preaches universal truth, where one believes that the believers have exclusive access to objective truth claims from the word of God, and the speech of Prophet Muḥammad. However, this belief does not obligate hate or hostility. As God

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[259] For concrete examples of popular anti-Muslim speakers, see: Cesari, *Why the West Fears Islam*, 84-86.
[260] Frydenlund, "Religion, Civility and Conflict: Towards a Concept of Critical Civility".

instructs in Q. 60:8, one is permitted to form kind and equitable relations with non-combatant non-Muslims.[261] Critically, by remaining faithful to the demands of the religious tradition, this theory of religious civility promotes *tolerant restraint* when interacting with non-Muslim colleagues, neighbours and relatives. This is when one enacts restraint with tolerance when they encounter a religious or theological prohibition in a social interaction.

The following chapter analyses the themes discussed by Ibn al-Qayyim's 'On Social Interactions with the Protected People'. This chapter, split into two sections, discusses the merits of Ibn al-Qayyim's thought in contrast to the broader Ḥanbalī discursive tradition, while simultaneously re-reading these case studies from the Ḥanafī discursive tradition. This exercise aims to advance a hypothesis for religious civility in secular spaces using traditional hermeneutics in interpreting Islamic law, thereby disqualifying a need for original *ijtihād* from the revelatory texts.

I do not suggest that the modern concept of religious civility exists within the Islamic legal tradition. Instead, I propose looking at cases of social interaction that the legal manuals have considered, to construct an argument for religious civility defined as courteous and respectful relations with other faith groups. While the degrees of kindness and courteousness between Muslims and non-Muslims may vary within these three methodological strands, there is at least one significant similarity between these variant methodologies of jurisprudence. In the Ḥanbalī-discursive, Ḥanbalī-fundamentalist and Ḥanafī discursive traditions, I observe an effort to sacralise and protect religious obligations and prohibitions. Consequently, when there is a religious injunction relating to a specific case, it is seldom negotiated. Similarly, if an action or statement necessitates a

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[261] An analysis of this verse will feature in Chapter 4.

theological paradox, such as being pleased with the religion of another, it is deemed forbidden and impermissible. This is the basis of restraint, which is counterbalanced with forms of courtesy and tolerance; thus, tolerant restraint.

In evidencing civility, my analysis will display that the Ḥanafī discursive tradition, and at some level, Ibn al-Qayyim's Ḥanbalī-fundamentalism demonstrates various sentiments of kindness and equity to those of different faith, while simultaneously upholding religious and divine mandates. The Ḥanafī tradition, in particular, prescribes compassion and goodness, while concurrently drawing lines for religious injunctions which cannot be trespassed. In cases where we enter this 'gridlock', there are permissible alternatives which continue to foster positive relations. This, arguably, is the fundamental basis of 'agreeing to disagree'. Moreover, I argue that this is the foundation for advancing an argument for religious civility in secular spaces as its very definition entails the ability to agree to disagree, underpinned by respectful relations and attitudes by people of different faiths. In contrast to the Ḥanafī school, the default setting of kindness is not as developed in Ibn al-Qayyim's juridical writing. For Ibn al-Qayyim, equity and kindness are used for the pragmatic means of presenting Islam to others.

This chapter is separated into two sections. The first section analyses Ibn al-Qayyim's juridical thought in contrast to the broader Ḥanbalī tradition. Herein, I will analyse and interpret Ibn al-Qayyim's work. I demonstrate that in opposition to Ibn al-Qayyim's Ḥanbalī-fundamentalism, the discursive tradition of the Ḥanbalī school appears to be in a deadlock in almost every case-study presented by Ibn al-Qayyim. The majority position of the school dictates that one is not allowed to initiate any form of greeting to non-Muslims, visit them when they are sick, console them when their

loved ones die, congratulate them for their achievements nor follow their funerals. While equity is considered in the case of responding to the *salām* of a non-Muslim, it does not feature in other subsequent rulings.

Notably, the case for prohibition has not always been so prevalent. In the early Ḥanbalī epoch (*mutaqaddimūn*), Ḥanbalīs transmitted conflicting narrations from Ibn Ḥanbal regarding the key case-studies of this chapter. For example, some narrations permitted visitation, offering condolences and congratulations, while others prohibited them. Similarly, the scholars of the early-middle Ḥanbalī epoch (*mutawaṣṣiṭūn*) carried on this trend, thereby transmitting these conflicting narrations and taking a non-committal position. However, Ḥanbalīs of the late Ḥanbalī epoch (*muta'akhkhirūn*) opined the position of prohibition, almost wholesale. While some Ḥanbalīs have challenged the majority narrative of prohibition, these figures tend to be the outliers.

The significant exception to this trend of prohibition is Ibn Taymiyya and his immediate students, Ibn al-Qayyim and Shams al-Dīn Ibn Mufliḥ (d. 763/1362). Ibn Taymiyya permitted visitation, offering congratulations, wishing condolences, and initiating any form of greeting with the exception of *salām,* due to the preponderate benefit (*maṣlaḥa rājiḥa*) it provided the Muslim community; for example, presenting Islam to others and enticing their hearts towards it through positive social relations. Noticeably, Ibn Taymiyya and Ibn al-Qayyim appear to share a similar opinion. While this position is in stark contrast to the later *muta'akhkhirūn* references works, I demonstrate that some still transmit Ibn Taymiyya's view as a respected isolated opinion of the school. Interestingly, while some may view Islam and civility with non-Muslims as paradoxical, the Taymiyyan view of preponderate benefit forces us to acknowledge their co-dependence: winning

hearts of non-Muslims through civility can be argued to safeguard the Islamic practice of its adherents. In the European context where Muslims of the past and present are viewed as the barbarian 'other', the need to appear equitable, sophisticated, and human cannot be overemphasised as anti-Islamic discourse plagues the continent. I thereby argue that Ibn al-Qayyim and Ibn Taymiyya's minority position in the school allows Ḥanbalīs to formulate concepts such as religious civility for secular spaces.

The second section will develop these same case-studies from the Ḥanafī school. As mentioned previously, the school maintains boundaries on traditions and theological paradoxes that cannot be circumvented; nonetheless, as we shall demonstrate, there is almost a default position of kindness and courtesy. The Ḥanafīs consider the feelings of the non-Muslims routinely, such as in the case of responding to the *salām* of a non-Muslim, and in the prohibition of calling out to them as "O infidel". Moreover, I shall demonstrate that in cases where we enter a 'gridlock' due to an unsurpassable religious obligation or prohibition, there are still permissible and religiously-sound alternatives which continue to foster positive relations. For example, while the Ḥanafī school prohibits a Muslim from saying *salām 'alaykum* to a non-Muslim due to the authoritative prophetic tradition, they are still permitted to say "hello", "good morning" and so on. These courteous alternatives to religious prohibitions promote tolerant restraint and consider the feelings of non-Muslims, thereby allowing one to construct a hypothesis for religious civility using traditional hermeneutics of interpreting Islamic law.

This chapter will thereby conclude that an analysis of these case studies demonstrate that religious civility is not alien to the Islamic legal tradition. Such that even outliers like Ibn Taymiyya and Ibn al-Qayyim have considered principles and rulings which promote and validate it.

3.2.   Ibn al-Qayyim and the Ḥanbalī tradition

3.2.1.   Greeting non-Muslims with *Salām*

Ibn al-Qayyim begins by using textual evidence from the Sunna to prohibit being the first one in initiating *salām* with non-Muslims. He quotes various statements of the Prophet, which prohibit initiation. Ibn al-Qayyim limits his discussion to the reports of the Prophet and does not transmit any opinions from Ibn Ḥanbal or his students. It appears that Ibn al-Qayyim feels that Prophetic reports are sufficient in building a case for this particular issue, but in the ambiguous positions of visitation, congratulations and so on, the direct statements of Ibn Ḥanbal are needed. In the following sub-chapter, Ibn al-Qayyim offers five possible reasons for the prohibition of initiating *salām* with non-Muslims:

1) God is the faultless being who rendered the quality of faultlessness as the greeting of his chosen servants on earth and in the afterlife.

2) It is a statement of safety regarding the trickery and affliction the other Muslim will be safe from.

3) It is a reminder to the other Muslim that God has saved him from affliction.

4) It is a glad tiding from God, placed on the tongue of Muslims regarding their acquisition of mercy, safety and blessing.

5) It is a greeting which entails wishing safety on the other person which God has legislated for Muslims only.

Most notably, Ibn al-Qayyim examines the subtleties behind this particular prayer-like greeting and the reason why it necessitates Muslim-exclusivism. Ibn al-Qayyim argues further that if a non-Muslim greets one with *salām*, they should respond with "and upon you" only, due to the prophetic guidance that suggests they might have wished death upon you. Nonetheless, if sincerity is ascertained in their greeting, i.e., they said "*salām alaykum*", Ibn al-Qayyim writes:

> The evidences and legal maxims of the Sharia demand that he responds with 'and peace be upon you' (*wa 'alayka al-salām*), for this is a matter of justice, and God commands justice and goodness.[262]

Nonetheless, most Ḥanbalīs, including Ibn al-Qayyim, have prohibited initiating *salām.* Key figures in this list of scholars include Muwaffaq al-Dīn Ibn Qudāma[263] (d. 620/1223) Majd al-Dīn Ibn Taymiyya (d. 652/1254), Shams al-Dīn Ibn Mufliḥ, Burhān al-Dīn Ibn Mufliḥ[264] (d. 884/1479), al-Mardāwī (d. 885/1480), al-Ḥajāwī (d. 968/1560), Ibn Najjār (d. 972/1564), Marʿī al-Karmī (d. 1033/1624) and al-Buhūtī (d. 1051/1641).[265] Some have extended this prohibition to any initial greeting, such as "how

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[262] Ibn al-Qayyim, *Aḥkām*, 1:199.

[263] Henceforth in this thesis, whenever 'Ibn Qudāma' is mentioned on its own without an epithet, it will refer to Muwaffaq al-Dīn. This is in order to avoid confusion between Muwaffaq al-Dīn and his nephew Shams al-Dīn Ibn Qudāma, another prominent Ḥanbalī known as the famous commentator on his uncle's *al-Muqniʿ.*

[264] To differentiate between the two Ibn Mufliḥs, their respective epithets will be mentioned whenever they appear in this thesis.

[265] Ibn Qudāma, Muwaffaq al-Dīn ʿAbd Allāh b. Aḥmad, *al-Mughnī*, 10 vols. (Cairo: Dār al-Qāhira, 1968): 9:363; Ibn Taymiyya, Majd al-Dīn ʿAbd al-Salām b. ʿAbd Allāh, *al-Muḥarrar fī l-Fiqh ʿalā Madhhab l-Imām Aḥmad*, 2 vols. (Riyadh: Maktabat al-Maʿārif. 1984): 2:185; Ibn Mufliḥ, Shams al-Dīn Muḥammad, *Kitāb al-Furūʿ* ed. ʿAbd Allāh al-Turkī, 11 vols. (Beirut: Muʾassasat al-Risāla, 2003): 10:336; Ibn Mufliḥ, Burhān al-Dīn Ibrāhīm b. Muḥammad, *al-Mubdiʿ fī Sharḥ al-Muqniʿ*, 8 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1997): 3:376; al-Mardāwī, ʿAlī b. Sulaymān, a*l-Inṣāf fī Maʿrifat al-Rājiḥ Min Khilāf,* 12 vols. (Beirut: Dār al-Iḥyāʾ al-Turāth al-ʿArabī, n.d.): 4:233; al-Ḥajāwī, Mūsa b. Aḥmad, *al-Iqnāʿ*, 4 vols. (Beirut: Dār al-Maʿrifa, n.d.): 2:48; Ibn Najjār, Muḥammad b. Aḥmad al-Futūḥī, *Muntaha al-Irādāt*, ed. ʿAbd Allāh al-Turkī, 5 vols. (Beirut: Muʾassasat al-Risāla, 1999): 2:244; al-Karmī, Marʿī b. Yūsuf, *Ghāyat al-Muntaha fī Jamʿ al-Iqnāʿ wa l-Muntaha*, ed. Yāsir al-Mazrūʿī and Rāʾid al-Rūmī, 2 vols. (Kuwait: Muʾassasat Gharās li l-Nashr, 2007): 1: 488-9; idem*, Dalīl al-Ṭālib li Nayl al-Maṭālib* (Riyadh: Dār al-Ṭayyiba, 2004): 122; al-Buhūtī, Manṣūr b. Yūnus, *al-Rawḍ al-Murabbiʿ Sharḥ Zād al-Mustaqniʿ* (Beirut: Dār al-Iḥyāʾ al-Turāth al-ʿArabī, n.d.)

are you?" "how has your morning been?". This opinion is reinforced by explicit text from Ibn Ḥanbal: "yes, I prohibit it [saying "How are you etc.], and in my opinion, it is more severe [in offence] than initiating *salām*.[266] In Ḥanbalī nomenclature, a position backed by an explicit text from Ibn Ḥanbal is known as the *naṣṣ*[an] view. In this case, the *naṣṣ*[an] position has been deemed the most reliable opinion of the school.[267]

Ibn Taymiyya is a notable exception to this *naṣṣ*[an] position, permitting initiating with "hello" (*ahlan wa sahlan).*[268] According to my research, Ibn al-Qayyim has not affirmed nor denied the opinion of his teacher, not in the *Aḥkām* nor anywhere else in his literary oeuvre. One can speculate that Ibn al-Qayyim's great effort in delineating the different interpretations of *salām ʿalaykum* and why it necessitates Muslim-exclusivism indicates that Ibn al-Qayyim believed that prohibition of initiation is restricted to this greeting alone. This is further supported by the fact that Ibn al-Qayyim decides not to transmit the *naṣṣ*[an] transmission from Ibn Ḥanbal, despite this narration appearing in al-Khallāl's (d. 311/923) *Aḥkām Ahl al-Milal*.[269] In my translated section, the majority of narrations transmitted by Ibn al-Qayyim are taken *verbatim* from al-Khallāl's work. Therefore, the omission of this *naṣṣ*[an] transmission from Ibn Ḥanbal is particularly significant as it implies that Ibn al-Qayyim may not have agreed with this view.

301; idem, *Sharḥ Muntaha al-Irādāt,* 3 vols. (Beirut: ʿĀlam al-Kutub, 1993): 1:664; idem, *Kashshāf al-Qināʿ ʿan Matn al-Iqnāʿ,* 6 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, n.d.): 3:129-30.

[266] al-Khallāl, Abū Bakr Aḥmad b. Muḥammad, *Aḥkām Ahl al-Milal*, ed. Sayyid Kusrawī Ḥasan (Beirut: Dār al-Kutub al-ʿIlmiyya, 1994): 388.

[267] Ibn Qudāma, *al-Mughnī*, 9:363; Shams Ibn Muflīḥ, *Kitāb al-Furūʿ,* 10:336; Burhān Ibn Mufliḥ*, al-Mubdīʿ,* 3:376-7; al-Mardāwī, *al-Inṣāf*, 4:233, al-Buhūtī, *al-Kashshāf,* 3:129-30.

[268] Ibn Taymiyya, Taqī al-Dīn Aḥmad b. ʿAbd al-Ḥalīm, *al-Fatāwā al-Kubrā*, 6 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1987): 5:544.

[269] al-Khallāl, *Aḥkām Ahl al-Milal*, 388.

Critically, Ibn al-Qayyim's ruling on returning the *salām* is in stark contrast to the broader Ḥanbalī tradition. Ibn al-Qayyim ruled that if one ascertains sincerity in the *salām* of the non-Muslim, one must respond with *wa 'alayk al-salām*, as God commands justice and goodness. This ruling is particularly powerful as it entails an independent and original reading of the *ḥadīth* literature. For Ibn al-Qayyim, the context of restricting responses to "and upon you" is when the Jews wished death upon the Prophet. Thus, this ruling should only apply in a similar situation, thereby rendering it inapplicable when a person ascertains that the non-Muslim wished *salām* and not *sām* (death). This reinterpretation cannot be found in any of the reliable Ḥanbalī texts. Instead, heavyweights like Ibn Qudāma, Majd al-Dīn Ibn Taymiyya, Shams al-Dīn Ibn Mufliḥ, Burhān Ibn Mufliḥ, al-Mardāwī, al-Ḥajāwī, Ibn Najjār, al-Marʿī and al-Buhūtī transmit that the responder should not exceed the words, "and upon you" (*wa 'alaykum*).[270] Ibn Taymiyya also reaffirms this majority position, even when a person knows that the non-Muslim said *salām* and not *sām*.[271] Critically, both opinions – the one which restricts the response to "and upon you" and the one which does not – are formulated around ideas of justice. As Ibn Taymiyya writes:

> One is obligated to respond to the *salām* even if the person one responds to is a disbeliever as this is a form of necessary justice/equity.[272]

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[270] Ibn Qudāma, Muwaffaq al-Dīn, *al-Mughnī*, 9:363; Ibn Taymiyya, Majd al-Dīn, *al-Muḥarrar,* 2:185; Ibn Mufliḥ, Shams al-Dīn, *Kitāb al-Furūʾ*, 10:336; Ibn Mufliḥ, Burhān al-Dīn, *al-Mubdiʿ*, 3:376; al-Mardāwī, a*l-Inṣāf*, 4:233; al-Ḥajāwī, *al-Iqnāʿ*, 2:48; Ibn Najjār, *Muntaha al-Irādāt*, 2:244; al-Karmī, *Ghāyat al-Muntaha*, 1: 488-9; idem*, Dalīl al-Ṭālib,* 122; al-Buhūtī, *al-Rawḍ al-Murabbiʿ,* 301; idem, *Sharḥ Muntaha al-Irādāt,*1:664; idem, *Kashshāf al-Qināʿ*, 3:129-30.

[271] Ibn Taymiyya, Taqī al-Dīn, *al-Ilkhāniyyat*, ed. al-Dānī b. Munīr Āl Zuhwī (Beirut: al-Maktabat al-ʿAṣriyya, 2002): 121.

[272] Ibid., 101.

Thus, while the manner in which one responds to the *salām* differs in these two positions, there is an underlying cause of justice and fairness which obliges one to reply to the *salām* of another, even if that person is a non-Muslim.[273] While Ibn al-Qayyim's positions in this chapter are mostly agreeable to the broader Ḥanbalī school, his opinion in responding to the ascertained *salām* of the non-Muslim is profoundly original. Here, Ibn al-Qayyim applies the divine instruction of justice and kindness, which demands a response in kind. Additionally, I argue that Ibn al-Qayyim affirms the opinion of Ibn Taymiyya which restricts the prohibition of initiating the greeting to *salām ʿalaykum* only, thereby permitting one to say "how are you", "how was your morning?" "how was your evening?" to a non-Muslim.

Nonetheless, in analysing Ibn al-Qayyim's thought against the Ḥanbalī tradition, one uncovers a default attitude of justice and equity manifested in an obligation to respond to the greeter, which is off-set by the tradition-based prohibition of initiation.

3.2.2. Offering Congratulations, Condolences or Visitation of non-Muslims

While Ibn al-Qayyim separated congratulating non-Muslims for their achievements (*tahni'a*), offering condolences for their deceased (*ta'ziya*) and visiting them when they are sick (*ʿiyāda)* into three separate sub-chapters, these rulings appear together in the Ḥanbalī works. As I demonstrate, most Ḥanbalīs, including Ibn al-Qayyim, have seen these rulings in conjunction with one another.

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[273] The necessity to respond is also transmitted by: Shams Ibn Mufliḥ, *Kitāb al-Furūʿ*, 10:336; al-Mardāwī, *al-Inṣāf,* 4:234; al-Ḥajāwī, *al-Iqnāʿ*, 2:48-9; Ibn Najjār, *al-Muntaha,* 2:244; al-Karmī, *Dalīl al-Ṭālib*, 122; al-Buhūtī, *al-Kashshāf,* 1:129-30; al-Khalūtī, Muḥammad b. ʿAlī al-Buhūtī, *Ḥāshiyat al-Khalūtī,* ed. Samīʿ b. Muḥammad al-Ṣaqīr and Muḥammad b. ʿAbd Allāh b. Ṣāliḥ al-Luḥaydān, 7 vols. (Damascus, Dār al-Nawādir, 2011): 2:535.

In visiting sick non-Muslims and offering prayers and motivation, Ibn al-Qayyim relates three different positions from Ibn Ḥanbal; absolute permission, absolute prohibition and permission conditional upon the intention of inviting the other towards Islam. As Ibn Ḥanbal's narrations present a stalemate in these issues, Ibn al-Qayyim transmits various prophetic traditions which relate that the Prophet visited sick non-Muslims to present Islam to them. Therefore, it appears that Ibn al-Qayyim agrees with the third position, using the Sunna as the final adjudicator.

In the second sub-chapter, Ibn al-Qayyim does not appear to state a clear view regarding the permissibility of offering condolences to non-Muslims for deceased family members. Instead, Ibn al-Qayyim narrates traditions from early Ḥanbalī authorities who have permitted it, and three narrations from Ibn Ḥanbal where he does not clarify his position, instead remarking "I do not know". Nonetheless, his comments in the section on congratulations offer insight into his preferred opinion. Ibn al-Qayyim writes:

> The discussion on this issue [i.e. congratulating non-Muslims for non-religious events] is similar to the discussion on offering condolences and visiting them when they are sick. [In essence], there is no difference between these issues. Nevertheless, one should take care of falling into the traps that ignorant people fall into by using words which suggest their pleasure for the other's religion. [274]

In visitation, Ibn al-Qayyim preferred the position of permissibility based on the clause that a person intends to invite and attract others to Islam. His passage here indicates that the lawfulness of offering condolences and congratulations should also be based on the same clause. Thus, Ibn al-Qayyim appears to permit offering condolences and congratulations to non-Muslims as a form of invitation

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[274] Ibn al-Qayyim, *Aḥkām,* 1:205.

towards Islam. Civil relations are enacted to entice their hearts towards Islam. Nonetheless, Ibn al-Qayyim clarifies that one should not use statements when offering condolences or congratulations that create theological paradoxes, such as expressing delight in the religion of others. Such statements present a theological paradox as it involves affirming the truth of another creed, which problematises or questions their own convictions in Islam. For Ibn al-Qayyim, this is an unsurpassable religious prohibition. Ibn al-Qayyim's boundaries promote caution in congratulating non-religious celebrations and acts to avoid wording which problematises one's belief. Thus, saying "may God grant you enjoyment or peace through your religion" is problematic; instead, one should say "may God honour you with Islam".

One could summarise this sub-chapter into a few positions. Firstly, one is not permitted to congratulate non-Muslims for specific religious acts or religious celebrations. Secondly, in non-religious events, one should avoid using wording which may indicate satisfaction or validation towards their religion. Thirdly, in non-religious activities and celebrations, one may offer generic prayers for guidance to Islam.

Ibn al-Qayyim deliberates over the conflicting narrations of Ibn Ḥanbal and attempts to use the Sunna, as in the case of visitation, or theology, as in the case of offering congratulations, as adjudicators to authenticate a ruling. Interestingly, Ibn Taymiyya takes similar positions without much deliberation, stating "it is permitted to visit sick protected people, to congratulate them, offer condolences [for their deceased kin], and for them to enter to mosques due to preponderate benefit (*maṣlaḥa rājiḥa*) such as the hope they will accept Islam".[275] In another place, Ibn Taymiyya states,

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[275] Ibn Taymiyya, Taqī al-Dīn, *al-Fatāwā al-Kubrā*, 5:544-5.

"definitely, there is preponderate benefit in it [i.e. visitation] as it involves enticing hearts towards Islam".[276] In Taymiyyan thought, preponderate benefit is the result of a utilitarian benefit-detriment analysis of two possible options; the one which advances religious practice and the aims of the Muslim community is preponderated. Here, the possible benefit of visitation outweighs any potential harm.[277] As we shall see, these positions of Ibn Taymiyya have had a strong influence on the broader Ḥanbalī tradition.[278]

In preponderating and authenticating a position for these three cases, the Ḥanbalī school has gone through a few significant shifts. References of the earlier *mutawaṣṣiṭūn* era opted for a non-committal stance, transmitting that there are two positions in the tradition regarding these three cases. Some noteworthy references who have elected this position include, Qāḍī Abū Yaʿla (d. 458/1066), Ibn Qudāma and Majd al-Dīn Ibn Taymiyya.[279] Abū Yaʿla states that the difference of opinion in offering condolences is based on the contradictory positions of visitation.[280] The stance of prohibition is backed by the prophetic tradition, which prohibits initiating the *salām.* Therefore, if initiating a greeting is prohibited; visitation, offering condolences and congratulations should be outlawed too. The position of permissibility is based on prophetic traditions where the Prophet

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[276] Ibn Taymiyya, Taqī al-Dīn, *Majmūʿ al-Fatāwā,* ed. ʿAbd al-Raḥmān b. Muḥammad, 35 vols. (Medina: Majmaʿ al-Malik Fahd, 1995): 24:265.

[277] See footnoted discussion in section 1.5.

[278] For a study on the interaction between Ibn Taymiyya's and the Ḥanbalī school, and in particular, Ibn Taymiyya's influence over his Ḥanbalī successors, see: Al-Matroudi, Abdul Hakim, *The Ḥanbalī School of Law ad Ibn Taymiyya: Conflict and Conciliation* (London: Routledge, 2006).

[279] Abū Yaʿla, Muḥammad b. al-Ḥusayn, *al-Masāʾil al-Fiqhiyya min Kitāb al-Riwāyatayn wa l-Wajhayn*, ed. ʿAbd al-Karīm al-Lāḥim, 3 vols. (Riyadh: Maktabat al-Maʿārif, 1985): 1:199; Ibn Qudāma, Muwaffaq al-Dīn, *al-Mughnī,* 2:404; idem, *al-Muqniʿ,* ed. Maḥmūd al-Arnaʿūṭ. (Jedda: Maktabat al-Sawādī, 2000): 148; Ibn Taymiyya, Majd al-Dīn, *al-Muḥarrar*, 2:185; Ibn al-Munajja, Munajja b. ʿUthmān b. Asʿad, *al-Mumtiʿ fī Sharḥ al-Muqniʿ,* ed. ʿAbd al-Malik Ibn Dahaysh, 4 vols. (Mecca: Maktabat al-Asadī, 2003): 1:658-60.

[280] Abū Yaʿla, *al-Masāʾil al-Fiqhiyya,* 1:199.

visited sick non-Muslims and presented Islam to them. Ibn Qudāma, his nephew Shams al-Dīn (d. 682/1283) and Ibn al-Munajja (d. 695/1296) repeat these two arguments.[281]

In the late *mutawaṣṣiṭūn* era, the scholars began to take sides. The position of Ibn Taymiyya attracts the attention of some scholars. For example, Ibn Taymiyya's student, Shams al-Dīn Ibn Mufliḥ states:

> it is permissible [i.e. visitation, offering congratulations and condolences] due to preponderate benefit such as hoping they will accept Islam. Our teacher [Ibn Taymiyya] opted for this position. A similar opinion was chosen by al-Ājurrī.[282]

al-Mardāwī also comments that the view of permissibility based on the hope of their acceptance of Islam is the correct one (*qultu: hadhā huwa l-ṣawāb*).[283]

Nonetheless, these scholars are the outliers; most major Ḥanbalīs of the late *mutawaṣṣiṭūn* and *muta'akhkhirūn* epoch ruled for the prohibition of visitation and offering condolences and congratulations to non-Muslims. According to my research, al-Dujaylī (d. 732/1331) appears to be the first to take the firm stance on prohibition, stating, "It is not permitted (*lā tajūz*) to offer congratulations, visit them when they are sick and offer condolences to them".[284] This opinion is followed up by al-Ḥajāwī, Ibn Najjār, al-Karmī, al-Buhūtī and al-Khalūtī, each of whom uses words of

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[281] Ibn Qudāma, Muwaffaq al-Dīn, *al-Mughnī,* 2:404; Ibn Qudāma, Shams al-Dīn 'Abd al-Raḥmān b. Muḥammad, *al-Sharḥ al-Kabīr 'alā l-Muqni',* 12 vols. (s.l.: Dār al-Kutub al-'Arabī, n.d.): 2:424. Ibn al-Munajja makes an addition that the view of permissibility is focused around attracting hearts towards Islam, as a form of upstanding mannerisms, which can cause others to accept Islam. see: Ibn al-Munajja, *al-Mumti',* 1:659-60.

[282] Ibn Mufliḥ, Shams al-Dīn, *Kitāb al-Furū',* 10:334. Abū Bakr al-Ājurrī (d. 360/970) is a respected early traditionalist who is quoted repeatedly in several Ḥanbalī reference works. For biographical details on al-Ājurrī, see: al-Dhahabī, *Siyar,* 16:133-6.

[283] al-Mardāwī, *al-Inṣāf,* 3:235-6.

[284] al-Dujaylī, al-Ḥusayn b. Yūsuf, *al-Wajīz fī l-Fiqh.* ed. Markaz al-Baḥth al-'Ilmī. (Riyadh: Maktabat al-Rushd Nāshirūn, 2004): 167.

unlawful (*ḥarām*) in describing these actions.[285] Burhān al-Dīn Ibn Mufliḥ describes this position as

the most famous position of the school (*al-ashhar*),[286] while al-Mardāwī states it is the opinion of the

madhhab (*huwa l-madhhab).*[287]

Despite this majority, al-Ḥajāwī, al-Karmī and al-Buhūtī mention Ibn Taymiyya's position

subordinately, stating that it is permissible if one hopes that they will accept Islam, as it expresses

elite levels of mannerisms. The motivation to reference Ibn Taymyya's non-conformist view stands

testament to the influence Ibn Taymiyya had on Ḥanbalī jurisprudence. This is in stark contrast to

Ibn al-Qayyim whose specialised book in Muslim and non-Muslim relations (i.e. the *Aḥkām*) rarely

features in such discussions. This demonstrates that while prohibition appears to be the most popular

and regarded opinion of the *madhhab*, Ibn Taymiyya's position was still considered and valued within

the *madhhab* tradition.

To conclude, the most well-regarded and accepted opinion of the Ḥanbalī tradition in these

matters is the position of prohibition. Critically, the Taymiyyan view which permits visitation,

offering condolences and congratulations based on its preponderate benefit is valued in the school,

despite being a minority opinion. The rationale behind this public benefit is clear: a Muslim will

reveal good relations to the non-Muslim through these actions to entice their hearts and minds

towards the beauty of Islam. Kindness has a humanising effect on the doer, and this process of

humanisation is necessary when one lives in a hostile environment.

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[285] al-Ḥajāwī, al-*Iqnā'*, 2:49; Ibn Najjār, *al-Muntaha,* 2:244; al-Karmī, *Ghāyat al-Muntaha*, 1:489; idem, *Dalīl al-Ṭālib,* 122; al-Buhūtī, *Sharḥ al-Muntaha*, 1:644; idem, *al-Kashshāf*, 3:131; al-Khalūtī, *Ḥāshiyat al-Khalūtī*, 2:533.
[286] Ibn Mufliḥ, Burhān al-Dīn, *al-Mubdi'*, 3:376.
[287] al-Mardāwī, *al-Inṣāf,* 3:235-6.

As far as religious civility is concerned, we remain at a standstill. Scholars of the early and middle period abstained from making a judgement and relayed two variant opinions. The majority of the Ḥanbalī tradition, thereafter, deemed these rudimentary forms of social interaction as prohibited. Ibn Taymiyya and Ibn al-Qayyim offer a Ḥanbalī alternative; they theorize these actions pragmatically, as tools to display the moral supremacy and beauty of Islam. If "conversion" is the aim, these acts of kindness and courtesy are vital as it serves to humanise and sophisticate Muslims as ethical and social subjects. In contexts where Muslims are marginalised and othered, an attempt to appear human is essential; the conclusion of this section will expand on this line of reasoning as it appears a common theme in this chapter.

This non-conformist position envisions a level of social courtesy to those of other faith, which, crucially, is still underpinned by religious rulings and prohibitions. Thus, while a person may not be able to initiate with *salām* or congratulate or pray for non-Muslims in a method which problematises their faith, those actions which do not fall within these religious parameters are permissible. While this second position may not promote religious civility per se, it is not opposed to it if it benefits the Muslim community.

3.2.3. Attending the Funerals of non-Muslims

There are conflicting positions in the Ḥanbalī school in attending the funerals of non-Muslims. Ibn al-Qayyim opts for the position of permissibility so long as one remains on the sides and is not directly among the masses. Ibn al-Qayyim transmits various narrations from the *Salaf* who permitted following the funeral processions from afar "as did Ḥārith b. Abī Rabīʿa". Ibn al-Qayyim

also conveys numerous responses from Ibn Ḥanbal that one should follow from the sides, and not directly take part.[288] One such response Ibn Ḥanbal offers includes:

> Yes, do as Ḥārith b. Abī Rabīʿa did, who saw the funeral of his mother and remained on the side. He did not [physically] attend it as it is cursed.[289]

In another place in the chapter, Ibn Ḥanbal responds to a similar question with, "do not follow it [i.e. the funeral procession] but remain on the sides".[290] Al-Khallāl plays a central role in this chapter, as Ibn al-Qayyim quotes his *Aḥkām Ahl al-Milal* almost exclusively when transmitting these different narrations. Ibn al-Qayyim closes off by quoting al-Khallāl:

> Abū ʿAbd Allāh (Ibn Ḥanbal) did not like this [at first] as in the case of Muḥammad b. Mūsa[291] then this group of people narrated from him that there are no issues with it. He extrapolated this from the prophetic narrations, and there are no issues with it.[292]

Ibn al-Qayyim interjects that al-Khallāl is explaining that Ibn Ḥanbal recanted his previous opinion and took up this position of permissibility.[293]

Nevertheless, this case is transmitted by the Ḥanbalīs without differentiating between following directly and following from the sides. For example, Ibn Taymiyya outlawed following the funeral processions of Christians and Jews,[294] making no distinction between following directly and following from afar. Shams al-Dīn Ibn Mufliḥ writes that there are three positions regarding washing,

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[288] Ibn al-Qayyim. *Aḥkām*, 1:202-4.

[289] Ibid., 1:202.

[290] Ibid., 1:204.

[291] Muḥammad b. Mūsa reports that Ibn Ḥanbal was asked about visiting sick non-Muslims, to which he responded: "no, and there is no dignity in this". See, al-Khallāl, *Aḥkām Ahl al-Milal,* 1:213. See pages 72-3 of this thesis for the translation of this full report. See also: Ibn al-Qayyim, *Aḥkām*, 1:201.

[292] al-Khallāl, *Aḥkām Ahl al-Milal,* 220.

[293] Ibn al-Qayyim, *Aḥkām*, 1:204.

[294] Ibn Taymiyya, Taqī al-Dīn, *Majmūʿ al-Fatāwā,* 24:265.

enshrouding and following the funeral of a non-Muslim relative: prohibition, permissibility, and permissibility of all except washing.[295] Ibn Mufliḥ quotes Qāḍī Abū Yaʿla, stating that the stance of prohibition is the *madhhab* position, and this prohibition falls in line with the general prohibition of allying with non-Muslims.[296] Additionally, al-Mardāwī comments that the majority of Ḥanbalites are of this view, and this position represents the school.[297]

The third position – permissibility of all except for washing – is a valid position in the school and has been opined by Majd al-Dīn Ibn Taymiyya, and Ibn Ḥamdān who calls this the clearer position (*aẓhar*) as ʿAlī b. Abī Ṭālib conducted all these actions on behalf of his father, save washing.[298] Nonetheless, those that permit following the funeral declare that there must be a form of distancing. As Ibn Mufliḥ states:

> Ibn ʿAqīl and the group of scholars have said: 'if one wishes to follow it, he should ride ahead of the processions.' They [Ibn ʿAqīl et al.] mention the opinion of Ibn ʿUmar that if one rides in front of them, they are not with them, and this has been narrated from the Prophet (*ruwiya marfūʿan*).[299]

Burhān al-Dīn Ibn Mufliḥ and al-Ḥajāwī deliver similar verdicts that one who wishes to follow the funeral of a non-Muslim should ride ahead, as they will not be counted as among the non-Muslim masses. The emphasis on distancing is understood from Ibn Ḥanbal's statement "as it is cursed".[300] Here, a theological statement is being made that the non-Muslim masses during the funeral

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[295] Ibn Mufliḥ, Shams al-Dīn, *al-Furūʿ*, 3:283
[296] Ibid.
[297] al-Mardāwī, *al-Inṣāf*, 2:483.
[298] Ibn Mufliḥ, Shams al-Dīn, *al-Furūʿ*, 3:283; For the attribution of Ibn Ḥamdān's opinion, see: Ibn Mufliḥ, Burhān al-Dīn, *al-Mubdiʿ*, 2:228; al-Mardāwī, *al-Inṣāf*, 2:484.
[299] Ibn Mufliḥ, Shams al-Dīn, *al-Furūʿ*, 3:283. Repeated *verbatim* by al-Mardāwī in: *al-Inṣāf*, 2:484.
[300] Ibn al-Qayyim, *Aḥkām*, 1:202.

procession are cursed. In explaining the prohibition of following the funeral processions, Ibn Taymiyya elaborates that once a non-Muslim dies, the fire of Hell is obligated for them.[301] Thus, it is likely that due to this, they incur God's curse which Muslims are ordered to avoid.

In comparing Ibn al-Qayyim's juridical thoughts against the broader Ḥanbalī tradition, it appears that while Ibn al-Qayyim's view is established in the early *madhhab* tradition and remnants of his position can be found in the stance of others, it remains a minor position. I have found no evidence to suggest that Ibn al-Qayyim was noted for his opinion in the Ḥanbalī references works. Instead, Shams al-Dīn and Burhān al-Dīn Ibn Mufliḥ, and al-Mardāwī note Majd al-Dīn Ibn Taymiyya and Ibn Ḥamdān as having allowed enshrouding the deceased and following the funeral processions,[302] as these actions are established from the Prophet's cousin, 'Alī.

As far as promoting religious civility, the subordinate position of permissibility offers a good insight into balancing social and religious responsibilities. One may feel socially obliged to attend or follow the funeral processions of a non-Muslim but is then bound by religious beliefs that God's curse is incurred on the nonbelieving deceased. Thus, a person may follow or attend but must do so from the periphery; to take a significant and central role in the procession is to put oneself in the central position of God's anger. Thus, if a non-Muslim passes away, a Muslim may attend from afar to extend their respects to the family of the deceased. Here, the lines of religious practice and belief are safeguarded and promoted, though extending one's respects are not being forbidden outright.

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[301] Ibn Taymiyya, Taqī al-Dīn, *Majmū' al-Fatāwā,* 24:265.

[302] Ibn Mufliḥ, Shams al-Dīn, *al-Furū',* 3:283; Ibn Mufliḥ, Burhān al-Dīn, *al-Mubdi',* 2:228; al-Mardāwī, *al-Inṣāf,* 2:484.

3.2.4.   Conclusion

While there is flexibility in the Ḥanbalī school, this is usually through the position of non-conformists like Ibn Taymiyya and Ibn al-Qayyim. In most of these case studies, the views which are declared to represent the *madhhab* are almost always prohibition. It is through the juridical rulings of outlier Ḥanbalīs that one can construct practical jurisprudence for theorising religious civility in secular spaces. This is surprising as these scholars are usually the ones that are credited to inspire Islamic fundamentalism. One should note that while the Ḥanbalī references almost entirely disregard Ibn al-Qayyim's views, Ibn Taymiyya plays a vital role as a respected outlier providing an alternative opinion to the mainstream Ḥanbalī tradition.

A focus on the difference between Ibn Taymiyya and Ibn al-Qayyim's juridical decisions are warranted. In the *Aḥkām*, Ibn al-Qayyim focusses on the early Ḥanbalī tradition from Ibn Ḥanbal. In the section I analysed for this thesis, Ibn al-Qayyim pays close attention in producing juridical arguments thoroughly based on narrations from Ibn Ḥanbal. When these traditions came to a stalemate due to conflicting narrations, Ibn al-Qayyim adjudicated through other references. In the case of initiating *salām*, Ibn al-Qayyim remained faithful to the Sunna which prohibited it. While Ibn al-Qayyim prohibited initiating the *salām*, he spent considerable effort in detailing the hidden subtleties of the greeting *salām ʿalaykum*, and why a non-Muslim must not be initiated with it. Based on his detailed description, it seems plausible to argue that Ibn al-Qayyim sought to restrict this prohibition to *salām* only, and not to general greetings.

In this section, Ibn al-Qayyim also offered an original interpretation of the prophetic instruction of not exceeding the response to "and upon you", arguing that this will not apply to the ascertained *salām* of the non-Muslim. Instead, Ibn al-Qayyim contends that this rule is only applicable

to similar situations, i.e. when the non-Muslim greets with *sām* (death be upon you). Therefore, when a non-Muslim states "*salām*", the Muslim must respond with "*alayk al-salām*".

In his section on visitation, offering condolences and attending non-Muslim funerals, Ibn al-Qayyim extrapolates a position from direct traditions from Ibn Ḥanbal. Finally, in his sub-chapter on congratulating non-Muslims, Ibn al-Qayyim used theological reasoning to outlaw prayers and statements which problematise one's faith.

Ibn al-Qayyim's deliberation and reasoning appears in stark contrast to Ibn Taymiyya whose juridical writing includes minimal deliberation. This speaks to the legend of Ibn Taymiyya in the Ḥanbalī school that his one statement, "and it is permissible to say, hello" is so significant that it is referenced by various Ḥanbalīs, such as Burhān and Shams al-Dīn Ibn Mufliḥ, al-Mardāwī, al-Hajāwī and al-Buhūtī. Similarly, his verdict on the permissibility of visitation, offering condolences and congratulations based on the preponderate benefit it provides the Muslim community is expounded in a simple statement. Yet, it is still transmitted by the likes of Shams al-Dīn and Burhān al-Dīn Ibn Mufliḥ, and al-Mardāwī.

To relate this back to religious civility, the Ḥanbalī tradition appears to be in a stalemate once one takes Ibn Taymiyya and Ibn al-Qayyim out of the equation. As we have discovered, the discursive tradition of the school outlaws any form of initiation of greeting to non-Muslims, even if that is 'hello'. While the *mutaqaddimūn* and *mutawaṣṣitūn* relay two positions concerning visiting sick non-Muslim, consoling them for their deceased and congratulating them for their achievements, the *muta'akhkhirūn* take on the position of prohibition as the favourable and stronger position of the school. This comparison can also be made for the early tradition on following funeral processions,

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and the view of later jurists. Critically, this thesis does not suggest that the Ḥanbalī tradition outlaws all form of goodness to non-Muslims; they permit praying for non-Muslims. For example, they may say "may God honour you" or "may God guide you" with Islam.[303] The tradition obligates offering non-Muslim wayfarers and travellers a place to stay for one night and day (ḍiyāfa),[304] permits accepting their invitations for food,[305] and even allows making bequests[306] and charitable donations to non-Muslims.[307] Nonetheless, in the acts of social interaction which this chapter has focussed on, the tradition's most authoritative position is almost always prohibition.

Ibn Taymiyya, the outlier, offers an alternative which is based on the communal interests of the Muslims. If there is preponderate benefit for the Muslim community in visitation, offering congratulations or condolences, one is permitted to do it; thus, allowing one to envision a world where Muslims and non-Muslims interact civilly and harmoniously to further a greater good. As Ibn Taymiyya states, this greater good is enticing hearts towards Islam (al-ta'līf 'ala l-Islam).[308] Ibn al-Qayyim's conclusions can offer a similar world-view, though with the bonus of permitting attending funerals so long as one remains on the periphery. Crucially, Ibn al-Qayyim ringfences the religiously offensive – such as attending a funeral as a part of the central masses.

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[303] Ibn Mufliḥ, Shams al-Dīn, *al-Furū'*, 10:336; Ibn Mufliḥ, Burhān al-Dīn, *al-Mubdi'*, 3:376; al-Mardāwī, *al-Inṣāf*, 4:233; al-Ḥajāwī, *al-Iqnā'*, 2:48-9; al-Karmī, *Ghāyat al-Muntaha*, 1:489; al-Buhūtī, *al-Kashshāf,* 3:130,

[304] Ibn Qudāma, Muwaffaq al-Dīn, *al-Mughnī*, 9:431; Ibn Qudāma, Shams al-Dīn, *al-Sharḥ al-Kabīr,* 11:118-9; Ibn Munajja, *al-Mumti'*, 2:352-3, 4:377; Ibn Mufliḥ, Burhān al-Dīn, *al-Mubdi',* 3:372, 8:20.

[305] Ibn Qudāma, Muwaffaq al-Dīn, *al-Kāfī,* 4 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1994): 3:78; idem, *al-Mughnī,* 7:277; Ibn Qudāma, Shams al-Dīn, *al-Sharḥ al-Kabīr,* 8:107.

[306] Ibn Qudāma, Muwaffaq al-Dīn, *al-Mughnī*, 6:218; Ibn Qudāma, Shams al-Dīn, *al-Sharḥ al-Kabīr,* 6:192; al-Buhūtī, *al-Kashshāf*, 4:353.

[307] Ibn Qudāma, Shams al-Dīn, *al-Sharḥ al-Kabīr,* 6:192.

[308] Ibn Taymiyya, Taqī al-Dīn, *Majmū' al-Fatāwā,* 24:265.

By adopting the minority position of Ibn Taymiyya and Ibn al-Qayyim, religious civility expressed through courteous social interactions and respectful relations can be furthered as a pragmatic tool to entice hearts towards Islam. If conversion is not on the agenda, enticing hearts towards Islam is still a valid strategic goal as it serves to humanise an otherwise 'othered' minority. A common theme in this section has been the need for Muslims to appear 'human' in the eyes of their non-Muslim counterparts. In the European context, one cannot overstate this need. The first time Europeans defined themselves as 'Europeans' was in contrast to the Saracenic and Turkic Other. Thus, Muslims have been considered as the 'Dark Other' since the very conception of the idea of Europe.[309] This is not ancient history, but remnants of Muslim othering can be evidenced in the rise of xenophobic and Islamophobic sentiments across Europe. Some of the largest parties in Europe are outwardly Islamophobic, such as the National Front in France, and the Freedom Party in the Netherlands.[310] In a continent which witnessed the Srebrenica genocide only a few decades ago, the need to entice hearts towards Islam and appear human cannot be exaggerated as we observe an increase in the language of dehumanisation which once made such a Muslim genocide possible. Positive engagement in civil society is both strategic and necessary to ensure Muslims flourish in Europe. It is the first step to leave a perceived "alien" status behind, into personhood.

In the next section, I will describe how the Ḥanafīs offer favourable alternatives to these case studies. I shall demonstrate that while the Ḥanbalīs were engaged in gridlock, the Ḥanafī school

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[309] Murad, *Travelling Home,* 20-21.
[310] For the rise of anti-Muslim populism across Europe, see: Ibid., 41-56.

provides a plethora of opinions and arguments that form a conducive and heuristic elaboration of religious civility.

3.3.   The Ḥanafī tradition

3.3.1.   Greeting non-Muslims with *salām*

The Ḥanafī position, in this case, resembles the position of the broader Ḥanbalī school. Like the Ḥanbalīs, the Ḥanafīs rely on the Sunna to restrict responses to "and upon you" if a non-Muslim greets them with *salām*. Equally, they do not allow being the first in offering *salām*. The earliest mention I have found of this ruling is from Muḥammad al-Shaybānī (d. 189/804), one of the two most prominent students of Abū Ḥanifa and the primary transmitter of his tradition. Al-Shaybānī writes, "we deem it prohibitively disliked to initiate a polytheist (*mushrik*) with *salām*, though there is no issue in responding to it and this is the opinion of Abū Ḥanīfa".[311] Al-Ṭaḥāwī (d. 321/933) expands further, stating, "though we do not see an issue in responding to it so long as one does not exceed the words 'and upon you'."[312] The scholars who succeed these two early references do not challenge them; instead, the scholars extrapolate and interpret these clauses further, adding layers of discussion and development to it.

Al-Jaṣṣāṣ (d. 370/981) comments on al-Ṭaḥāwī's ruling, narrating a tradition that the companion Ibn Masʿūd had initiated non-Muslim chieftains with *salām*. When asked, "isn't this

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[311] al-Shaybānī, Muḥammad b. Ḥasan, *Kitāb al-Āthār*, ed. Khālid al-ʿAwwād. (Beirut: Dār al-Nawādir, 2008): 780.

[312] al-Ṭaḥāwī, Abū Jaʿfar Aḥmad b. Muḥammad, *Mukhtaṣar al-Ṭaḥāwī,* 2 vols. (Beirut: Dār al-Mālikiyya, 2016): 2:982.

impermissible?" Ibn Mas'ūd responded, "this is a right of companionship (*ḥaqq al-ṣuḥba*)".[313] Al-Jaṣṣāṣ

also recounts a discussion between al-A'mash (d. 146-8/763-65)[314] and Ibrāhīm al-Nakhaʿī (d. 95/717)

regarding the possibility of greeting a Christian doctor with *salām*. Al-Nakhaʿī responds, "yes, if there

is a need for it, he may offer *salām* to him".[315] Despite hailing from the period of the Ḥanafī school

characterised as rulings which lack explanations and developed thought,[316] al-Jaṣṣāṣ' commentary

adds a layer of discussion and thought behind a mere rule.

In the following centuries, the rationale behind this ruling is expanded, constituting themes

of kindness and reverence. For example. 'Alā' al-Dīn al-Samarqandī[317] (c. 540/1145) explains that one

is not allowed to exceed the words "and upon you" as non-Muslims might wish death upon the

Muslim as they did to the Prophet. 'Alā' al-Dīn al-Samarqandī writes:

> As for responding to the *salām*, there are no issues in it as abstaining from it is to distress them
> and it is encouraged to be kind to them. However, one should not exceed beyond 'and upon
> you' for it is said that they say, 'may death be upon you'. So, we respond to them with 'and
> upon you' in response.[318]

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[313] al-Jaṣṣāṣ, Abū Bakr Aḥmad b. 'Alī, *Sharḥ Mukhtaṣar al-Ṭaḥāwī*, ed. Sā'id Bakdāsh et al., 8 vols. (Beirut: Dār al-Bashā'ir al-Islāmiyya, 2010): 8:559.

[314] There is no clear consensus on the year of death. Al-Dhahabī chronicles it as 146 AH, while others had chronicled it as 147 AH or 148 AH. al-Mizzī notes that the majority is on the side of 148 AH, with some adding that al-A'mash passing away in Rabīʿ al-Awwal. See: al-Dhahabī, *al-Siyar,* 6:249; al-Mizzī, Yūsuf b. 'Abd al-Raḥmān, *Tahdhīb al-Kamāl fī Asmā' al-Rijāl,* ed. Bashshār Awād Ma'rūf, 35 vols. (Beirut: Mu'assasat al-Risāla, 1980): 12:90.

[315] al-Jaṣṣāṣ, *Sharḥ Mukhtaṣar al-Ṭaḥāwī,* 8:559.

[316] Ya'kaov characterises the ancient period in this manner. See: Meron, Ya'akov, "The development of legal thought in Hanafi texts" *Studia Islamica* 30 (1969): 73-118.

[317] This al-Samarqandī is not to be confused with Abū l-Layth al-Samarqandī (d. 373/984) an early Ḥanafī jurist and exegete. To differentiate between the two, their respective epithets will be mentioned whenever they appear in this thesis.

[318] al-Samarqandī, 'Alā' al-Dīn Muḥammad b. Aḥmad, *Tuḥfat al-Fuqahā',* 3 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1994): 3:344.

There is a paradoxical nature to this explanation. Muslims are encouraged to respond to them out of kindness and to avoid distressing the non-Muslim greeter, which will be accepted as a good deed. Nonetheless, the person is instructed not to exceed beyond "and upon you", in case they wish death upon you. 'Alā' al-Dīn al-Samarqandī's explanation is both tradition-based and pragmatic; if the non-Muslim has said "*salām alaykum*", one should respond with "and upon you" to return the blessings in the greeting and avoid hurting their feelings. In such a case, kindness is actively prescribed. If "death be upon you" was said, "and upon you" is sufficient to respond in kind.

Why do the Ḥanafī jurisprudents prevent initiating the *salām*? al-Kasānī (d. 583) offers a theological explanation, writing that '*al-salām*' is a prayer for all forms of righteousness and goodness, and it is not permitted to make such a prayer for a non-Muslim.[319] Others, like Ibn Māza (d. 616/1219), al-Mawṣilī (d. 683/1284), al-Zaylaʿī (d. 741/1342) and al-ʿAynī (d. 855/1453), repeat this explanation, arguing that such a prayer is a form of reverence, thus impermissible.[320] Nonetheless, the jurisprudents rule that if there is a need for initiating the *salām*, there is no issue in it. Ibn ʿĀbidīn (d. 1252/1836) writes further that if there is a need, one may even shake hands with non-Muslims as abstaining from it might distress his counterpart.[321] However, there is no exact qualification as to what a legitimate reason is. Al-Jaṣṣāṣ mentions that Ibn Masʿūd initiated the *salām* with a non-Muslim

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[319] al-Kāsānī, Abū Bakr b. Masʿūd, *al-Badāiʿ al-Ṣanāiʿ fī Tartīb al-Sharāiʿ*, 7 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1986): 2:128.

[320] Ibn Māzā, Burhān al-Dīn Maḥmūd b. Aḥmad, *Muḥiṭ al-Burhānī fī al-Fiqh al-Nuʿmānī,* ed. ʿAbd al-Karīm al-Jundī, 9 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 2004): 5:327; al-Mawṣilī, ʿAbd Allāh b. Maḥmūd, *al-Ikhtiyār li-Taʿlīl al-Mukhtār*, 5 vols. (Cairo: Maṭbaʿāt al-Ḥalabī, 1937): 4:165; al-Zaylaʿī, Fakhr al-Dīn ʿUthmān b. ʿAlī, *Tabyīn al-Haqāʾiq fī Sharḥ Kanz al-Daqāʾiq*, 6 vols. (Cairo: Maṭbaʿāt al-Kubrā al-Amīra, n.d.,): 6:30; al-ʿAynī, Badr al-Dīn Maḥmūd b. Aḥmad, *Minḥat al-Sulūk fī Tuḥfat al-Mulūk.* (Qatar: Wazārat al-Awqāf wa l-Shuʾūn al-Islāmiyya, 2007): 354.

[321] Ibn ʿĀbidīn, Muḥammad Amīn b. ʿUmar, *Radd al-Muḥtār ʿalā al-Durr al-Mukhtār,* 6 vols. (Beirut: Dār al-FIkr, 1992): 6:412.

chieftain and al-Nakhaʿī permitted wishing *salām* when visiting a Christian doctor. Ibn ʿĀbidīn

mentions the example of a Christian who has returned after a long absence and abstaining from

shaking their hands will hurt his feelings.[322] Thus, social pragmatism, i.e. requiring a service and

avoiding hurt feelings, have been considered by the jurisprudents as valid excuses to absolve the

default prohibition.

In conclusion, the Ḥanafī school encourages responding to the non-Muslim's *salām*, as a

matter of kindness and to avoid hurting their feelings; though, theological and tradition-based

motivations are offered for the reprehensibility of initiating it. If there is a legitimate reason for

offering the *salām*, one may initiate the greeting. This is the authoritative and most authentic opinion

of the school.[323] Critically, initiating this particular greeting is outlawed due to its content and

connotated meanings. Therefore, "good morning", "hello" and beyond are not reprehensible as they

are devoid of the prayer-like connotations of *salām.*

In contrast to Ḥanbalī tradition, the Ḥanafīs seem to offer more flexibility and even consider

the feelings of non-Muslims routinely in these social interactions. As seen in the writing of ʿAlāʾ al-

Dīn al-Samarqandī and Ibn ʿĀbidīn, distressing non-Muslims is clearly documented in their juridical

considerations for the Christian doctor and the Christian colleague who has been away for a long

time. Considering the emotional state of one's non-Muslim counterpart is significant in promoting

religious civility as it recognises their innate human dignity. The theological reasons for not making

a specific prayer-like greeting for a non-Muslim and the prophetic tradition are the boundaries of

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[322] Ibid.

[323] Qāḍīkhān, Ḥasan b. Manṣūr, "Fatāwā Qāḍīkhān" in: al-Burhānfūrī, Niẓām al-Dīn et al., *al-Fatāwā Hindiyya*, 6 vols. (Beirut: Dār al-Nawādir, 2013): 3:423.

interaction in this circumstance. Beyond this, Ḥanafī jurisprudents have considered social

pragmatism, courtesy and the emotions of the non-Muslims in their jurisprudence. These sentiments

are conducive elements in advancing a doctrine which promotes religious civility in secular states.

3.3.2.   Visiting non-Muslims when they are sick

The Ḥanafīs are uniform in the permissibility of visiting sick (*ʿiyāda*) Christians and Jews, and

this can be traced from some of the earliest sources in the Ḥanafī school. Al-Shaybānī writes in *al-*

Jāmiʿ al-Saghīr, "there are no issues in visiting a Jew and Christian when they are sick".[324] *Al-Jāmiʿ al-*

Saghīr is among the highest sources of law in the Ḥanafī tradition, known as *ẓāhir al-riwāya*. These are

mass-transmitted traditions of Abū Ḥanīfa, which are reported by al-Shaybānī.[325] The major

references in the school do not seem to challenge this opinion, instead adding further explanations

and evidence. In fact, almost all texts use al-Shaybānī's wording *verbatim* as a rule to expand on

further.

For example, al-Kasānī mentions the above rule *verbatim*, substantiating it with the prophetic

tradition where the Prophet visited a sick Jewish boy and presented Islam to him. Al-Kasānī

comments that through visitation, one has the opportunity to present Islam to them, hoping that

they accept it, "therefore, how can it be disliked?".[326] Al-Marghīnānī (d. 593/1197) humanises this

issue stating, "it is a form of kindness to them, and we have not been prohibited from it as it has been

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[324] al-Shaybānī, Muḥammad b. Ḥasan, *al-Jāmiʿ al-Saghir*, ed. ʿAbd al-Ḥayy al-Laknawī. (Beirut: ʿĀlam al-Kutub, 1985): 482.

[325] Ibn ʿĀbidīn, *Sharḥ ʿUqūd Rasm al-Muftī* (Karachi; Maktabat al-Bushra, 2009): 19.

[326] al-Kasānī, *al-Badāʾiʿ*, 5:127-8.

established that the Prophet visited a sick Jewish neighbour".[327] Ibn Māza imitates this statement almost *verbatim*, adding that, "visiting them is a form of kindness and maintaining relations with them".[328] Furthermore, al-Zaylaʿī quotes Q. 60:8 as the justification for this ruling. At the same time, Damād Efendī (d. 1078/1667) writes that this position represents the opinion of all three major scholars of the school – Abū Ḥanīfa, Abū Yūsuf and Muḥammad al-Shaybānī[329] – and it involves manifesting the beauty of Islam to others.[330] One notes how these scholars are actively advocating for kindness.

However, Ḥanafīs have disagreed on visiting sick polytheists (*majūs,* specifically referring to Zoroastrians). Permissibility appears to be the strongest opinion, which is relayed by various scholars. Most notably, al-Zaylaʿī writes, "He should visit him [the sick *majūs*] as this expresses the beauty of Islam and will entice and reconcile his heart towards it [i.e. Islam]. Verily, we have been encouraged to do this".[331] Al-Shilbī (d. 1021/1612-3) supports this position in the marginalia of al-Zaylaʿī's *al-Tabyīn* stating, "Muḥammad [al-Shaybānī] said: 'and this is the opinion we take (*wa bihī na'khudh*) that we do not see an issue in visiting the sick Jew, Christian or polytheist'."[332] The

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[327] al-Marghīnānī, ʿAlī b. Abī Bakr, *al-Hidāyā fī Sharḥ Bidāyat al-Mubtadī*, ed. Ṭalāl Yūsuf, 4 vols. (Beirut: Dār Iḥyāʾ al-Turāth al-ʿArabī, n.d.): 4:380.

[328] Ibn Māza, *al-Muḥīṭ,* 5:366

[329] Henceforth, referred to as the three scholars.

[330] Dāmād Efendī, Shaykhī Zāda ʿAbd al-Raḥman b. Muḥammad, *Majmaʿ al-Anhur fī Sharḥ Multaqa al-Abḥur,* (Beirut: Dār Iḥyāʾ al-Turāth al-ʿArabī, n.d.): 2:554.

[331] al-Zaylaʿī, *al-Tabyīn,* 6:30. This rule is also repeated *verbatim* by Mullā Khusru (d. 885/1480) and Ibn Nujaym (d. 970/1563), see: Mullā Khusrū, Muḥammad b. Farāmirz, *Durar al-Ḥukkām Sharḥ Ghurar al-Aḥkām,* 2 vols. (Beirut: Dār Iḥyāʾ al-Kutub al-ʿArabiyya, n.d,): 1:319; Ibn Nujaym, Zayn al-Dīn b. Ibrāhīm, *al-Baḥr al-Rāʾiq Sharḥ Kanz al-Daqāʾiq*, 8 vols. (Beirut: Dār al-Kitāb al-Islāmī, n.d.): 8:232.

[332] al-Shilbī, Aḥmad b. Muḥammad, "Ḥāshiyat al-Shilbī" in: al-Zaylaʿī, *al-Tabyīn*, 6:30.

statement "this is the opinion we take (*wa bihī na'khudh*)" is significant as the *rasm* proposes that such wording indicates the highest levels of preponderance in the school.[333]

This Ḥanafī uniformity starkly contrasts the Ḥanbalī school which is locked in a gridlock of permissibility and impermissibility, with the latter being the favoured position. A similar fate is found in the cases of congratulating and consoling. In this particular case, Ibn al-Qayyim bases its permissibility on inviting the non-Muslim counterpart to Islam. Ibn Taymiyya also promotes a similar position, based on the preponderate benefit visitation provides the Muslim community. Notably, some of the sentiments of this Ḥanafī position can be found in Ibn al-Qayyim's work, but more famously, is relayed by and attributed to Ibn Taymiyya as an isolated position in later Ḥanbalī reference works.

In conclusion, the Ḥanafīs permit and encourage visiting sick non-Muslim neighbours and colleagues, considering it an act of kindness and maintaining relations with others. The Ḥanafīs also stress that this act involves manifesting the beauty of Islam and calling upon the sick to accept it. The permissibility of this action is founded in sentiments of kindness, social responsibility, and representing the superior ethical order of Islam to others. Concerning religious civility, these sentiments very much advance an idea of courtesy and respect among Muslims and those of different faith.

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[333] Ibn ʿĀbidīn, *Sharḥ ʿUqūd Rasm al-Muftī*, 62.

3.3.3   Offering condolences to non-Muslims for a deceased family member

If the family member of a non-Muslim associate passes away, the Ḥanafī tradition permits offering condolences to the family, even if that entails visiting their homes. Once more, this is in stark contrast to the Ḥanbalī school, which is gridlocked between permissibility and impermissibility, the latter being the most transmitted and authoritative position in the school. Al-Zaylaʿī writes:

> When a non-Muslim passes away, one should console his father or his relative with, 'may God replace him with someone better, improve your condition, i.e. with Islam, and [may God] give you a Muslim son' as goodness is expressed therein.[334]

Critically, the kindness of Muslims is expressed through such actions. Therefore, Muslims are encouraged to offer the following prayers when consoling their non-Muslim associates for their losses, and such a prayer communicates the goodness and decency of the Muslim. Al-ʿAynī relates this prayer *verbatim*, describing a situation where a Jew or polytheist (*majūs*) passes away, the deceased's Muslim neighbours and family members are permitted to console the family with the above prayer.[335] Importantly, al-ʿAynī claims that this ruling is mentioned in the *nawādir*. The *nawādir* document the opinions of the three major scholars, which are not recorded in the mass transmitted books.[336] Therefore, they are the second most authoritative source of early Ḥanafī juridical literature. Evidently, this opinion reflects social responsibility, civility and amity among Muslim and non-Muslims.

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[334] al-Zaylaʿī, *al-Tabyīn*, 6:30-1. This rule is repeated *verbatim* by Ibn Nujaym and the *Fatāwā Hindiyya*, see: Ibn Nujaym, *al-Baḥr al-Rāʾiq,* 8:232; al-Burhānfūrī et al., *al-Fatāwā al-Hindiyya*, 5:348.

[335] al-ʿAynī, *al-Bināya Sharḥ al-Hidāya,* 13 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 2000): 12:244. This statement is repeated *verbatim* by Ibn ʿĀbidīn, see: *Radd al-Muḥtār*, 6:388.

[336] Ibn ʿĀbidīn, *Sharḥ ʿUqūd Rasm al-Muftī*, 19-20; esp. 19.

3.3.4.   Attending the Funerals of a deceased non-Muslim

The Ḥanafī position in this case-study almost entirely resembles Ibn al-Qayyim's position: permissibility so long as one remains on the periphery and does not opt for a central role in the funeral processions. Al-Shaybānī states in *al-Jāmiʿ al-Saghīr*, "a non-Muslim who has a Muslim guardian had passed away. He [Muslim guardian] can wash him, follow his funeral processions and bury him".[337] Here, al-Shaybānī indicates that only the immediate guardian of the non-Muslim deceased can take part in the funeral rites and procession. In other *ẓāhir al-riwāya* sources, al-Shaybānī rules that the Muslim guardian of a non-Muslim deceased should hand over the funeral affairs to other non-Muslims if they are present. Thereafter, he comments:

> However, he can follow the funeral processions if he wishes based on the narration that Ḥārith b. Abī Rabīʿa's Christian mother had passed away, and he followed the funeral processions with a group of Companions of the Prophet. However, if members of her religion are present at the funeral processions, it is appropriate for the Muslim to walk on the sides of it, and not mix with them as to become a part of the non-Muslim masses. [Alternatively], he may walk in front of the funeral processions to remain separated from them.[338]

It seems plausible that not all the companions who followed the cited example were family members of Ibn Abī Rabīʿa. Al-Shaybānī notes in another *nawādir* source that Abū Ḥanifa approved of the permissibility of following a funeral procession so long as one withdraws to the sides.[339] In this source, namely *Kitāb al-Āthār*, al-Shaybānī makes no mention of relations or guardianship over the deceased; instead, making a general verdict. The earliest sources of the school rule for the permissibility of attending non-Muslim funerals, so long as one remains on the sides of the procession. Ibn Māza

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[337] al-Shaybānī, *al-Jāmiʿ al-Saghīr,* 118.

[338] al-Shaybānī, "al-Siyar al-Kabīr" in: al-Sarakhsī, Muḥammad b. Aḥmad, *Sharḥ al-Siyar al-Kabīr*, 5 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, n.d.): 108-9.

[339] al-Shaybānī, *Kitāb al-Āthār*, 265.

recounts al-Shaybānī's rulings almost *verbatim*,[340] while al-Zaylaʿī, Ibn Humām (d. 861/1456), Mullā Khusrū (d. 885/1480) and Ibn Nujaym (d. 970/1563) comment that "one may follow [the funeral processions] from afar".[341]

Why must one follow from the sides, and why is one not permitted to be in the thick of the funeral rites? Al-Sarakhsī mentions a related case which may be of relevance. He writes that a non-Muslim is not permitted to enter the grave of his Muslim son, as non-Muslims incur God's anger.[342] As the non-Muslim has rejected the religion of God, Muslim jurists have ruled that God's wrath and curse descends upon them. Thus, joining among the masses during a funeral procession may involve inheriting some of that anger. Here, a possible theological reasoning underpins the prohibition of following the funerals as a member of the non-Muslim masses. Nonetheless, the Ḥanafī texts from the earliest sources permit Muslims to follow and attend funerals from the sides or afar. This explanation is akin to the explanation offered by Ibn al-Qayyim.

Nonetheless, an important point of clarification is that the texts discuss following a funeral procession; this does not usually take place in a religious place of worship. Instead, the funeral processions usually transport the deceased from one place to another, commonly the graveyard. This is not an issue for Muslims as this takes place on neutral ground. Based on the principles mentioned by the jurists above, one may even attend the burying service at the cemetery, so long as the Muslim remains afar. As for attending funeral services at a religious place of worship – a church, synagogue

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[340] Ibn Māza, *al-Muḥīṭ*, 2:194.

[341] al-Zaylaʿī, *al-Tabyīn,* 1:244; Ibn Humām, Kamāl al-Dīn Muḥammad b. ʿAbd al-Wāḥid, *Fatḥ al-Qadīr,* 10 vols. (Beirut: Dār al-Fikr, n.d.): 2:132; Mullā Khusrū, *al-Durar,* 1:166; Ibn Nujaym, *al-Baḥr*, 2:205.

[342] al-Sarakhsī, *al-Mabsūṭ,* 30 vols. (Beirut: Dār al-Maʾrifa, 1993): 2:56.

or temple – Ḥanafī principles cannot permit this as they disallow Muslims from entering such sites.[343]

Ibn Nujaym states, quoting Indarpatī (d. 786/1381) that this prohibition is based on the idea that devils gather at places where gods beside Allah are worshipped.[344] If a funeral is taking place at a place of worship, the Ḥanafī tradition would state that a Muslim cannot attend it. Nonetheless, their principles still permit extending one's respects by visiting the family of the deceased at their homes.

This case study uncovers an interesting dilemma between balancing kindness and good relations with theological demands. While engaging in the actual procession is theologically and religiously reprehensible, compassion and decency dictates that one may follow the processions from afar. One may even attend services if they take place in cemeteries and other such neutral grounds, but not if the ceremony takes place in their spaces of worship. As described previously, the balancing of religious demands with social demands leads to tolerant restraint. Thus, Ḥanafīs are to restrain themselves from attending funeral prayers in a way which compromises the demands of their faith; yet, can remain faithful to compassion and courtesy by the possibility of following, attending or paying their respects in permissible methods. Notably, this position does not disqualify religious civility among people of different faiths, and remnants of this position can be found in the Ḥanbalī tradition.

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[343] Ibn Nujaym, *al-Baḥr*, 7:214; Ibn ʿĀbidīn, *Radd al-Muḥtār*, 1:380; al-Burhānfūrī et al., *al-Fatāwā al-Hindiyya*, 5:346.
[344] Ibn Nujaym, *al-Baḥr*, 7:214

3.3.5   Congratulating non-Muslims for their religious and non-religious festivals and celebrations

I have not been able to find any specific legal edict from classical Ḥanafī sources which address congratulating non-Muslims for their religious or non-religious celebrations. I have discovered secondary rulings which allow the inference of certain principles. Ḥanafī sources discuss gifting non-Muslims and Muslims on non-Muslim religious festivals. The Ḥanafīs engage with the Persian/Zoroastrian festival of Nayrouz and describe various rulings that relate to its celebration. The earliest source I have found in this respect is Qāḍīkhān of the sixth-century who rules that:

1) If one buys something on the day of Nayrouz that can only be purchased on Nayrouz, intending to venerate the day, this will amount to disbelief (*kufr*). If a person buys that item for extravagance or enjoyment, it will not amount to disbelief.

2) If one gifts another with something on the day of Nayrouz, based on the societal customs and not to venerate the day, this action will not amount to disbelief. Nonetheless, it is better to abstain from something which is only done on this day to avoid imitating non-Muslims.

3) Qāḍīkhān quotes a case from Abū Ḥafṣ al-Kabir[345] (d. 217/832) about a man who has worshipped God for fifty years. Even if such a person gifts a polytheist with an egg on Nayrouz, intending to venerate the day, he has committed disbelief with God, and all his good deeds have been wiped away.

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[345] In the uncritical printed edition, it states Abū Jaʿfar al-Kabīr. This is a misattribution which is repeated in the Dār al-Nawādir and Dār al-Kutub al-ʿIlmiyya prints. See: Qāḍīkhān, "al-Fatāwā al-Qāḍīkhān," 3:577-8; idem, *Fatāwā Qāḍīkhān,* ed. Sālim Muṣṭafa al-Badrī, 3 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, n.d.): 3:519. In contrast, al-Zaylaʿī, Ibn Nujaym and al-Ḥaṣkafī attribute this opinion to Abū Ḥafṣ al-Kabīr, a close companion of al-Shaybānī. Moreover, this position is further strengthened by Ibn Quṭlūbughā (d. 879/1474) who mentions this exact rule in the biographical notes on Abū Ḥafṣ al-Kabīr in his biographical encyclopaedia. This forced me to look at an original manuscript which confirmed the attribution to Abū Ḥafṣ; see: Qāḍīkhān, *Fatāwā Qāḍīkhān* [No year] Unpublished Manuscript. In: Istanbul Muftuluk Kutukhanesi MS. 59 297/511. pp 554. See also: al-Zaylaʿī, *al-Tabyīn,* 6:228; Ibn Nujaym, *al-Baḥr,* 5:133, al-Ḥaṣkafī, "Durr al-Mukhtār" in: Ibn ʿĀbidīn, *Radd al-Muḥtār,* 6:754. Ibn Quṭlūbughā, Qāsim, *Tāj al-Tarājim,* ed. Muḥammad Khayr Ramaḍān Yūsuf. (Damascus: Dār al-Qalam, 1992): 94.

4) If a Muslim has been invited to attend the head-shaving ceremony of a Zoroastrian, and he attends, this will not amount to disbelief, though he should abstain from attending.[346]

Al-Zayla'ī, Indarpatī, and Ibn Nujaym attribute the first rule to Zāhid al-Samarqandī's (c. 450/1058-9)[347] *al-Jāmi' al-Asghar.*[348] Zāhid al-Samarqandī makes the addition that if a custom of gifting or buying on a specific religious festival exists, one should not participate on that particular day. Instead, they can gift or purchase these items before or after the religious event. By doing this, one avoids imitating the religious and cultural practices of others.[349]

Ibn 'Ābidīn makes a noteworthy addition to the fourth rule. While he reiterates the position of Qāḍīkhān, he retells the story which took place in the lifetime of Alī al-Sa'dī (d. 461/1068-9) regarding the hair shaving ceremony of a new-born son of an influential Zoroastrian. Some scholars found this problematic, even disparaging the Muslim attendees as apostates and wrote to al-Sa'dī. Al-Sa'dī responded:

> Responding to the invitation of the protected peoples (*ahl al-dhimma*) is unrestrictedly [permissible] in the Sharia and responding to them with kindness is chivalrous. Moreover, shaving the head is not a salient feature of the people of misguidance so discharging Muslims with apostasy because of this is impossible.[350]

From all these rulings, three points can be inferred. Firstly, to buy or gift something – and to extend the analogy, to congratulate someone – in veneration of another's religious festival amounts to

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[346] Qāḍīkhān, "al-Fatāwā al-Qāḍīkhān," 3:577-8.

[347] al-Bābānī al-Baghdādī, Ismā'īl b. Muḥammad, *Hadiyyat al-'Ārifīn Asmā' al-Mu'allifīn wa Āthār al-Muṣannifīn*, 2 vols. (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, n.d.): 2:71.

[348] al-Zayla'ī, *al-Tabyīn,* 6:228; Ibn Nujaym, *al-Baḥr*, 5:133.

[349] al-Zayla'ī, *al-Tabyīn,* 6:228; Ibn Nujaym, *al-Baḥr*, 5:133.

[350] Ibn 'Ābidīn, *Radd al-Muḥtār*, 6:755.

disbelief. To do so for any other reason will not amount to disbelief but must be avoided. Secondly, the scholars advise against imitating the salient religious and cultural features of others; instead, this should be avoided as far as possible, as this has also been considered reprehensible. Thus, when gifting another on Nayrouz, it should be done the day before or after to avoid imitation. Therefore, taking part in the religious or culturally significant acts and festivities of another non-Muslim group must be avoided. Thirdly, it is not impermissible to take part in an action which is not a salient feature of non-Muslims; though, it is better to abstain.

These inferences can help one extrapolate a verdict for congratulating non-Muslims on their religious celebrations. If it is done in veneration of the day, this will be amount to disbelief. If it is a greeting of religious significance, it should also be avoided. Nonetheless, one can offer general congratulations that are not religious; this last case is akin to the permissibility of prayers of condolence. Thus, while saying "Merry Christmas" may be problematic as it involves the implicit reverence of the day, to respond with "Happy New year" will be religiously valid and could be seen akin to a prayer. In stating "have a great year" or "Happy New Year", one intends, "may you accept Islam so that this year is a joyous year for you".

To conclude then, this case-study also provides relevant insight into how the Muslim tradition may view religious civility in secular countries where specific actions or statements demand religious and theological paradoxes. They must not traverse these theological boundaries but are nonetheless permitted to offer congratulations through lawful means.

3.3.   Conclusion

In these case studies, the Ḥanafīs exemplify balancing decent social conduct with religious and theological demands. It is fair to say that the Ḥanafīs have thoroughly considered compassion and equity in their relations with non-Muslims, which is nonetheless underpinned by certain religious restrictions. Consequently, while a person may not be able to initiate a non-Muslim with *salām ʿalaykum*, attend their religious places, take a central position in their funerals, or even congratulate them for their religious festivals, plenty of religiously-sound alternatives are available which uphold kindness, equity and compassion. Therefore, one should respond to a non-Muslim who has said *salām* as it may offend them; one is permitted to visit them when they are sick, offer condolences and congratulations during their achievements and losses. Moreover, in various juridical precedents, the Ḥanafīs have ruled to avoid hurting the feelings of non-Muslims in their interactions. Therefore, as a principle, this can be extrapolated to other situations so long as one abides by the religious and theological demands which may restrict specific actions and statements. Critically, Ḥanafī sources do not view non-Muslims with contempt, but as valued human beings whose feelings are considered. This is supported by the fact that the Ḥanafī school views the worth and value of all humans as intrinsic and innate by virtue of their humanity, irrespective of faith.[351] The case studies of this chapter reify this metaphysical claim.

These case studies depict a framework when approaching religious civility in secular spaces. Theologically and religiously, there are unsurpassable actions which a Muslim will have to abstain

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[351] For a survey and summary of the Ḥanafī position on the inviolability of human dignity irrespective of religion, see: Senturk, Recep, "Ādamiyya and ʿIṣma: The contested relationship between humanity and human rights in classical Islamic law" *Islami Arastirmalar Dergisi*, 8 (2002): 50-66.

from, respectfully. Though, the default setting of kindness permits alternatives which permeate the gridlock. This, I argue, is the foundational concept for tolerant restraint in social interactions.

I could even be so bold as to say that as the default setting is kindness, there is always a respectful and courteous alternative when Muslims encounter a theological or religious gridlock. In the Ḥanafī school, when one is forbidden to greet with *salām*, they can still say "hello". When they are prohibited from following or attending funerals as a part of the non-Muslim masses, they are still permitted to participate from afar or pay their respects at the home of the deceased. When they are not allowed to wish another "Merry Christmas", they are permitted to offer prayers for a good year.

These case studies are also not exhaustive; there are numerous other rulings within the Ḥanafī tradition which promote good social relations and civility with non-Muslims. Ḥanafīs allow non-Muslims to enter all mosques, even the Holy Mosques of Mecca and Medina, a ruling exclusive to the Ḥanafī school.[352] 'Alā' al-Dīn al-Samarqandī mentions that the Holy Prophet would allow Meccan polytheists to enter the Holy Mosque to present Islam to them;[353] therefore, there is prophetic precedent to allow non-Muslims to enter all mosques.

Moreover, as indicated by al-Saʿdī, Muslims are allowed to visit the homes of non-Muslims for food invitations. Qāḍīkhān writes,

> A Christian invites a Muslim to his house as a guest, and apart from business, there is no friendship or relationship between them. Some have said that it is permissible for him to

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[352] al-Qudūrī (d. 427/1037) very clearly elucidates the legal reasoning behind the Ḥanafī position, while also responding to the evidences of the other schools, in: al-Qudūrī, Aḥmad b. Muḥammad, *al-Tajrīd*, ed. Muḥammad Aḥmad Sirāj et al., 12 vols. (Cairo: Dār al-Salām, 2006): 2:772-4.

[353] al-Samarqandī, 'Alā' al-Dīn, *Tuḥfat al-Fuqahā'*, 3:344.

attend as a guest of a Christian as this is a form of kindness. This is not unlawful but instead encouraged (*mandūb*).[354]

Al-Fatāwā al-Hindiyya conveys a more extensive qualification that there does not need to be any formal relationship between the Muslim and non-Muslim other than mere acquaintance.[355] This is a manifestation of kindness and civility. Ibn Māzā quotes Q. 60:8 in his tract, stating that, "we have been encouraged to be kind to those that do not fight us in our faith".[356] In another place, Ibn Māza writes, "there is nothing wrong with going to the house of the protected people as a guest as this is a form of goodness".[357] This phrase is repeated *verbatim* in *al-Fatāwā al-Hindiyya*, which declares that this phrase has been mentioned by al-Shaybānī.[358]

Ḥanafīs also permit prayers of guidance for non-Muslims. This judgement is reinforced by a prophetic narration, as al-Zaylaʻī writes, "If a person prays for their guidance, it is permissible as the Prophet said 'O God, guide my people as they do not know'."[359] Ibn Nujaym and Mullā Khusrū repeat this ruling, and it can also be found repeated in *al-Fatāwā al-Hindiyya*.[360] One is also permitted to pray

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[354] Qāḍīkhān, "al-Fatāwā al-Qāḍīkhān," 3:401.

[355] al-Burhānfūrī, et al., *al-Fatāwā al-Hindiyya,* 5:347.

[356] Ibn Māzā, *al-Muḥīṭ*, 5:366.

[357] Ibid., 5:362.

[358] al-Burhānfūrī et al., *al-Fatāwā al-Hindiyya,* 5:347. Importantly, these rulings do not contradict the opinions of other Ḥanafīs. For example, Ibn Nujaym states in *al-Baḥr*, 8:232, "if a Zoroastrian or Christian invites one for food, it is prohibitively disliked to accept this invitation even if he says that he bought the meat from the market. If the host is a Jew, then there is no issue [in accepting]". This is not a contradiction to the precedents mentioned above as Ibn Nujaym's concern, herein, is the legal position of their meat. Ibn Nujaym makes a social observation that Zoroastrians and Christians usually are not careful in their meat, even if they purchase the meat from the Muslim markets; therefore, their food is unlikely to be Halal. In contrast, a Jew is more diligent in ensuring their food is either Kosher or Halal. This statement is clarified in *al-Baḥr,* 3:226, where Ibn Nujaym expands on this ruling, explicitly contrasting the dietary habits of Zoroastrians and Christians with the Jews. This interpretation is clear once one contextualises both of Ibn Nujaym's statements and posits these statements within the wider school which does not problematise accepting the food invitations of the protected people.

[359] al-Zaylaʻī, *al-Tabyīn*, 6:30.

[360] Ibn Nujaym, *al-Baḥr,* 8:232; Mullā Khusrū, *Durar,* 1:319; al-Burhānfūrī et al., *al-Fatāwā al-Hindiyya*, 5:348.

for a non-Muslim, saying "may God lengthen your lifespan" intending that this lengthier lifespan leads to accepting Islam.[361]

Finally, an essential aspect of social relations and religious civility is abstaining from verbal abuse and hurting one another, which is prohibited. In the chapters of judicial discretionary punishments (*ta'zīr*), the Ḥanafī texts state that a Muslim is not allowed to verbally insult anyone, including the protected people.[362] For example, Ibn Nujaym writes that Ibn Humām deemed it sinful to call out to a non-Muslim with "O infidel", as it offends them. Ibn Nujaym extrapolates from this that such a person should receive a discretionary punishment also as punishments are ordered when a sin is committed.[363] In sum, the discursive tradition of the Ḥanafī school is full of examples which promote good relations with non-Muslims as a good deed in and of itself, and religiously-sound alternatives to actions which are prohibited by religious traditions or theological beliefs. Herein, lies the difference between the Ḥanafī school and the Ḥanbalī-fundamentalist contribution of Ibn al-Qayyim and Ibn Taymiyya. While the Ḥanafīs view kindness with non-Muslims as a good deed in and of itself, the Taymiyyan duo view it as a pragmatic tool to actualise loftier goals: *da'wa*, conversion and, in our context, humanisation.

To conclude this chapter, I asked, what does the Islamic legal tradition have to say regarding respectful and courteous relationships between Muslims and non-Muslim? Can it view religious civility in secular spaces as a permissible, valid and justifiable concept? Looking at the Islamic legal

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[361] Ibn Māza, *al-Muḥīṭ*, 5:366; al-Zaylaʿī, *al-Tabyīn*, 6:30; al-ʿAynī, *Minhat al-Sulūk*, 354; al-Burhānfūrī et al., *al-Fatāwā al-Hindiyya*, 5:348.

[362] al-Sarakhsī, *al-Mabsūṭ,* 24:36; Ibn Humām, *Fatḥ al-Qadīr*, 5:351; Ibn ʿĀbidīn, *Radd al-Muhtār*, 4:77.

[363] Ibn Nujaym, *al-Baḥr,* 5:47.

tradition in its entirety would have undoubtedly provided a valuable contribution to knowledge. Regrettably, a task of this nature is immense and requires a separate and comprehensive monograph to enact a sustained analysis of the vast juridical literature within the schools of law, to represent them accurately. For this thesis, I have narrowed the scope of research to explore these questions from three epistemologically different legal schools which are particularly relevant for the British context: Ibn al-Qayyim's Ḥanbalī-fundamentalism, and the Ḥanbalī and Ḥanafī discursive traditions.

This study used Ibn al-Qayyim as the linchpin and focussed his case-studies on reading these two other epistemologically different schools. We have uncovered that not only have jurisprudents permitted forms of courtesy and kindness between Muslims and non-Muslims, but it has also been encouraged. In this study, we have found that the discursive Ḥanafī tradition is exceptionally relevant for this discussion as it promotes principles and *ratio-legis'* which consider the feelings of non-Muslims and make an effort to avoid hurting them. They also deem positive social relations and compassion as a means of enticing hearts and propagating its faith. We have demonstrated that even in the writings of the so-called inspirers of Wahhabism – Ibn Taymiyya and Ibn al-Qayyim – positive social interaction, equity and kindness are encouraged to propagate the faith as it strategically benefits the Muslim community. It is self-evident that civility has the strategic benefit of safeguarding Islamic practice as civility becomes a means for their majority non-Muslim counterparts to accept and humanise an othered minority. In contrast to the mainstream Ḥanafī view where civility is actively encouraged, civility for Ibn Taymiyya and Ibn al-Qayyim is a pragmatic tool in search of the higher objective of enticing others to Islam. While in the previous centuries enticing

hearts to Islam might have been purely religiously or ethically motived, its strategic benefit in contemporary Europe cannot be overstated as anti-Islamic populism extends across the continent.

A repetitive theme in this chapter is the idea of tolerant restraint in social interactions. In occupying a minority position in the West, Muslims do not dictate the dominant discourse and culture. Inadvertently, they find themselves in situations where prevailing practices may oppose their faith, and they are faced with a paradox: does one follow the custom which opposes their faith or oppose the custom? For faithful Muslims, the latter is the only option. As discovered in our Ḥanafī reading, when one is faced with such a gridlock, the permissible option should be taken respectfully; one should practice tolerant restraint, and I have demonstrated numerous precedents of such a concept. To relate this discussion to the dialogical nature of integration, the courteous and respectful alternatives offered by the Islamic legal tradition should enable enrichment, progress and development of the host nation's culture.

4 AL-WALĀʾ WA L-BARĀʾ IN THE EXEGETICAL TRADITION

4.1 Introduction

Having advanced an argument for religious civility validated through traditional hermeneutics of Islamic law, we shall now focus on the second most prominent question of this thesis: does the theological doctrine *al-walāʾ wa l-barāʾ* contradict and nullify religious civility in secular spaces? *Al-walāʾ wa l-barāʾ* is an Islamic doctrine accepted by consensus, which necessitates that Muslims side with God, the Messenger and the Muslim community, and exonerate themselves from disbelief. While theologically, it is manifested in keeping faith unadulterated from non-Islamic influences, scholars of different persuasions disagree on how it is manifested socially and politically. In extreme cases, certain Salafi scholars interpret this doctrine to obligate migration to Muslim lands and wage holy war against non-Muslims. Courtesy and mutual respect is a far-cry when one is so intolerant to difference that they are obliged to leave the land or fight it.

In the introduction, I discussed variant Salafi interpretations of this doctrine. From these interpretations, two groups appear to have a foothold in Britain. Purists like al-Fawzān are championed by SPUBs' leader Abu Khadeeja, viewing the doctrine as a purifying force from un-Islamic influences. This interpretation advocates migrating to Muslim majority lands to escape the immense un-Islamic influences in the West. The second strand I identified which have traction in Britain is the jihadist interpretation employed by Mizanur Rahman and his associates from the al-Muhajiroun network. In their respective lectures on *al-walāʾ wa l-barāʾ',* Rahman and associate Shahid

Janjua openly call for hostility, fighting and the establishment of a caliphate in the West as forms of disavowing disbelief.

Critically, all the authors that I have referenced in my introduction – be they the writings of al-Qaḥṭānī, al-Ẓawāhirī, al-Fawzān or lectures of Rahman and Janjua – base their understanding of this doctrine on several Qur'ānic verses. This includes:

> The believers should not make the disbelievers their allies rather than other believers– anyone who does such a thing will isolate himself completely from God– except when you need to protect yourselves from them (Q. 3:28).
>
> Do those who ally themselves with the disbelievers rather than the believers seek power through them? In reality, all power is God's to give (Q. 4:139).
>
> You who believe, do not take the disbelievers as allies and protectors instead of the believers: do you want to offer God clear proof against you? (Q. 4:144).
>
> You who believe, do not take the Jews and Christians as allies they are allies only to each other. Anyone who takes them as an ally becomes one of them– God does not guide such wrongdoers (Q. 5:51).
>
> Believers, do not take your fathers and brothers as allies if they prefer disbelief to faith: those of you who do so are doing wrong (Q. 9:23).

In these passages, God instructs the believers to not take disbelievers, Christians and Jews as '*awliyā*', which has been translated as allies. These verses are used to problematise courteous social interactions with non-Muslims, as some postulate that God's instruction is not to befriend non-Muslims. One such individual is the critic of Islam, Raymond Ibrahim, whose interpretations of these verses ironically resemble the views of Rahman, Janjua and other Islamists.

In this chapter, I present an exegesis of these verses by restricting myself to the exegetical works of classical Sunni authorities. The objective of this exercise is clear: to unearth how Sunni

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exegetical authorities understood these verses, and whether its injunctions nullify civility with non-Muslims. My findings will show that the majority of exegetes have understood God's instruction in these verses as a prohibition of taking nonbelievers as political allies and helpers against the collective interests, needs and desires of the Muslim community.

Importantly, the Companion Ibn 'Abbās interpreted one of these verses to prohibit Muslims from taking non-Muslims as close confidants and intimates (*walīja*). Therefore, while there is a foundation for the view that a social relationship is forbidden, this chapter will demonstrate that these verses do not prohibit or even problematise civility and courteous relations between Muslims and non-Muslims. Instead, these verses – explicitly in the case of Q. 60:8 – promote and preach sentiments of equity and compassion.

I begin by describing the meaning of the word *awliyā'* from the genre of Qur'ānic idiom. This genre focusses on the philology of the Qur'ān, providing meanings of the words in the Qur'ān based on contextualised examples of its usage. Once the philological and lexical meaning of this word is uncovered, I will then look at the exegesis of commonly quoted verses which feature the word *awliyā'* with respect to nonbelievers. This, I present, without the need for interpretive charities, by restricting myself to citing Sunni exegetical authorities.

4.2 Wilāya/muwālāt in the Qur'ānic philological sources

Lexically, *awliyā'* originates from the Arabic root letters w-l-y, and its verbal noun (*maṣdar*) as *walā', wilāya or walāya*.[364] Al-Rāgib al-Aṣbahānī (d. 502/1108), author of the famous work in Qur'ānic usage and idiom, argues that these verbal nouns all relate to the meeting of two or more separate things, and its real meaning refers to the governing and control of affairs. He comments:

> The words *'walā'* and *tawālī* refers to the attainment of such two or more things which are not from each other [i.e. totally separate]. It [*walā'*] is used for closeness with respect to space, attribution, religion, friendship, assistance and belief. *'Al-wilāya'* is assistance and help (*nuṣra*), while *al-walāya'* refers to the governing of affairs (*tawallī l-amr*). It has been said that the words *walāya* and *wilāya* are like the words *al-dilāla* (the work and trade of the middleman) and *al-dalāla* (guidance, pointing), and its real meaning is the governing of affairs.[365]

The last sentence is of central importance. The administering of affairs (*walāya*) is the authentic meaning, and as such, help, assistance and closeness stem as a by-product and trade of that governance (*wilāya*). These two words follow the form of the word *dalāla*, the act of guidance and indication, and *dilāla*, the trade of the middleman. In this passage, al-Rāgib argues that closeness is a by-product of *walāya*, as the words *walā'/walāya* are borrowed to mean closeness in relation to space, friendship and such. Thus, rendering governance as the central meaning, and proximity, friendship, patronage as secondary meanings.

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[364] Ibn Manẓūr, quoting Sibawayh, posits the verbal noun as *walāya*. Al-'Awnī adds *walā'* and *wilāya* as other possible verbal nouns. See: Ibn Manẓūr, Muḥammad b. Mukarram, *Lisān al-'Arab*, 15 vols. (Beirut: Dār Ṣādir, 1992/3): 15:407; al-'Awnī, *al-Walā' wa l-Barā,* 13-14.

[365] al-Rāghib al-Aṣbahānī, al-Ḥusayn b. Muḥammad, *al-Mufradāt fī Gharīb al-Qur'ān*, ed. Ṣafwān 'Adnān al-Dawādī (Damascus: Dār al-Qalam, 1991/2): 855.

Concerning these verses, a *walī* (sing. of *awliyā'*) is one who governs the affairs of another; thus, their patron, protector, ally and friend.[366] While friendship is an aspect of *walāya,* it is not the most significant feature of it as the word *walī* is used in various places in the Qur'ān to relate to these different meanings. How does one discern the intended meaning? One such method involves looking at the lexicography of a word as understood by the classical works, in conjunction with its context of Qur'ānic usage and exegetical literary commentary of authoritative Sunni exegetes. This method is used by *The Arabic to English Dictionary of Quranic Usage*,[367] which relates six Quranic usages of the word *walī*, depending on the context: protector, patron and ally depending on one usage; follower; ally, friend; legal guardian; next of kin and descendant.[368]

To conclude, the word *walī* can encapsulate different meanings depending on the context in which it is used in the Qur'ān, and one discerns its intended use through a study of the exegetical commentaries. In the next part of this chapter, we will look at three commonly cited verses in *al-walā' wa l-barā'* polemics which command the Muslim community not to take the non-Muslims as *awliyā'*.

4.3 Wilāya/muwālāt in exegetical sources

4.3.1 Chapter of the Family of 'Imrān, Q. 3:28

God states:

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[366] Incidentally, Ibn al-Qayyim's chapter which prohibits non-Muslims from undertaking any official work on behalf of the state is validated from these verses also, as the authentic meaning of *wilāyā* is governance. See: Ibn al-Qayyim, *Aḥkām*, 1:207-244.

[367] Badawi, El Said and Abdel Haleem, Muhammad, *Arabic-English Dictionary of Qur'anic Usage* (Leiden: Brill, 2008): xvi-xvii.

[368] Ibid., 1048.

> The believers should not make the disbelievers their allies (*awliyāʾ*) rather than other believers– anyone who does such a thing will isolate himself completely from God– except when you need to protect yourselves from them (Q. 3:28).

Like most verses, the context of the revelation (*asbāb al-nuzūl*) of this verse is contested. Ibn Abbās reports that a group of Jews, including al-Ḥajjāj b. ʿAmr and others kept close company with a group of Medinan Muslims, aiming to test their faith. A group of companions such as Rifāʿā b. Mundhir, Qays b. Zayd and Saʿīd b. Khaythama advised them against keeping company with these individuals, lest they cause them to stray from their faith; they refused, and God revealed this verse. Al-Ṭabarī (d. 303/923) adds that al-Ḥajjāj was an ally of Kaʿb b. al-Ashraf, a known Jewish enemy of Muḥammad and his companions.[369] Abū l-Layth al-Samarqandī (d. 373/984) relates that according to the narration of Abū Ṣāliḥ, Ibn Abbās reports that this verse was revealed regarding ʿAbd ʿAllāh b. Ubay b. Salūl and his hypocrite brethren who displayed faith outwardly but allied with the Jews for help and assistance, informing them about believers and hoping that they would get the upper hand over the Prophet and his companions.[370]

Contexts of revelation are significant in understanding what the verse meant for its first listeners, and the practices these verses came to correct. While these historical reports differ in content, they share a message. They suggest that the Muslims were engaged in forms of alliance with non-Muslims, which they were advised against. In the case of the second report, a political alliance is the precise context of revelation, as Ibn Salūl allied with the nonbelievers politically, informing

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[369] al-Ṭabarī, Muḥammad b. Jarīr, *Jāmiʿ al-Bayān fī Taʾwīl al-Qurʾān*, ed. Aḥmad Muḥammad Shākir, 24 vols. (Beirut: Muʾassasat al-Risāla, 2000): 6:314.

[370] al-Samarqandī, Abū l-Layth Naṣr b. Muḥammad, *Baḥr al-ʿUlūm*, ed. Alī Muḥammad Muʿawwaḍ et al., 3 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1993): 1:258.

them about the secrets of the Muslims, and even wishing that they would gain the upper hand over them. Similarly, in both cases, the prohibited alliance was upheld with nonbelievers whom the believing party had a previous friendship and relationship. These circumstances create the basis for prohibition: taking nonbelievers as political allies due to friendship, relations and love one has for them.

Numerous evidences support this argument. Firstly, a large group of exegetical authorities have understood the word *awliyā'* in this context, politically, i.e. taking the disbelievers as allies against the common interests of the believers. Al-Ṭabarī comments that this verse prohibits the Muslims from taking nonbelievers as aides, supporters and patrons.[371] This is reinforced by statements of other fourth-century exegetes who have understood the word *awliyā'* as helpers, patrons and even spies who reveal the secrets of the Muslims. This list includes Ibn Abī Ḥātim (d. 327/938),[372] al-Jaṣṣāṣ (d. 370/981),[373] and Abū l-Layth al-Samarqandī.[374] As the Muslims were one nation and their non-Muslim counterparts represented another nation, alliance in this context is akin to international relations. While the explanations of *walī* as a patron, helper, aide, or spy can describe relations between nations, it can also refer to political ties within a nation. Furthermore, a large number of exegetes transmit that the reason for this alliance is a previously held friendship,

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[371] al- Ṭabarī, *Jāmi' al-Bayān,* 6:313.

[372] Ibn Abī Ḥātim, 'Abd al-Raḥmān b. Muḥammad b. Idrīs, *Tafsīr al-Qur'ān al-'Aẓīm li Ibn Abī Ḥātim,* ed. As'ad Muḥammad al-Ṭayyib, 13 vols. (Mecca: Maktabat Nizār Muṣṭafa al-Bāz, 1998/9): 2:628, report 3376. In 3376, Ibn Abī Ḥātim states "that you ally with them in their faith and expose the secrets of the Muslims to them".

[373] al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, ed. Muḥammad Ṣādiq al-Qamḥāwī, 3 vols. (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1985/6): 2:289. The words used herein are *nuṣra* (help) and *ma'ūna* (aid).

[374] al-Samarqandī, Abū l-Layth, *Baḥr al-'Ulūm,* 1:258. Herein, the words *nuṣra* (help) and *'awn* (aid) are used.

relations or love that a person holds for the other.[375] This infers that one would usually not ally with them. However, as they have an attachment to a specific member or a group of non-Muslims as friends and family members, this alliance may compromise their loyalty to the Muslim side.

An important point to note here is the clause, "other than the believers". This verse puts the well-being and collective interests of the entire Muslim community before individual and specific interests. Fakhr al-Dīn al-Rāzī (d. 606/1210) writes: "if there is a conflict between one religious public benefit and all the needs of the world, it is obligatory on the Muslim to give preference to the religious public benefit over the worldly benefit".[376] Al-Zuhaylī further argues that one is not permitted to take nonbelievers as allies, telling them the secrets of the believers and prioritising their interests over the interests of the believers, even if this priority has a specific benefit.[377] Herein, one considers the collective interests of the believers before any other particular or individual benefit.

Others have posited this prohibition as allying with nonbelievers in such a way which negates their alliance and loyalty to the Muslim community and causes them harm.[378] Does this mean that one can ally with nonbelievers against a common enemy? The exegetes disagree on this. Most

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[375] al-Zamakhsharī, Maḥmūd b. 'Amr, *al-Kashshāf 'an Haqā'iq Ghawāmiḍ al-Tanzīl,* 4 vols. (Beirut: Dār al-Kitāb al-'Arabī, 1987): 1:351; al-Rāzī, Fakhr al-Dīn Muḥammad b. 'Umar, *Mafātīḥ al-Ghayb,* 32 vols. (Beirut: Dār Iḥya' al-Turāth al-'Arabī, 2000): 8:192; al-Bayḍāwī, 'Abd Allāh b. 'Umar, *Anwār al-Tanzīl wa Asrār al-Ta'wīl,* ed. 'Abd al-Raḥmān al-Mar'ashlī, 5 vols. (Beirut: Dār Iḥya' al-Turāth al-'Arabī, 1998): 2:12; al-Nasafī, Abū l-Barakāt 'Abd Allāh b. Aḥmad, *Madārik al-Tanzīl wa Ḥaqā'iq al-Ta'wīl.* ed. Yūsuf Ali Budaywī, 3 vols. (Beirut: Dār al-Kalām al-Ṭayyib, 1998): 1:247; Abū Sa'ūd, Muḥammad b. Muḥammad b. Muṣṭafa, *Irshād al-'Aql al-Salīm ilā Mazāyā al-Kitāb al-Karīm,* (Beirut: Dār Iḥya' al-Turāth al-'Arabī, n.d.): 2:23; al-Ālūsī, Maḥmūd b. 'Abd Allāh, *Rūḥ al-Ma'ānī fī Tafsīr al-Qur'ān al-'Aẓīm wa l-Sab' al-Mathānī,* ed. Alī 'Abd al-Raḥmān al-Bārī 'Aṭiyya, 16 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1994): 2:116; Ibn 'Āshūr, Muḥammad Ṭāhir b. Muḥammad, *al-Taḥrīr wa l-Tanwīr,* 30 vols. (s.l.: Dār al-Tūnusiyya li l-Nashr, 1984): 3:218; al-Zuhaylī, Wahba b. Muṣṭafa, *al-Tafsīr al-Munīr fī l-'Aqīda wa l-Sharī'a wa l-Manhaj,* 30 vols. (Damascus: Dār al-Fikr, 1997/8): 3:199-200.

[376] al-Rāzī, *Mafātīḥ al-Ghayb,* 16:17.

[377] al-Zuhaylī, *al-Tafsīr al-Munīr,* 3: 199-200.

[378] Ibn 'Āshūr, *al-Taḥrīr,*3:216.

notably, al-Rāzī disagrees with this qualification, commenting that if one looks at the verses in this genre together, some appear without stipulation, thus nullifying any qualification.[379]

On the other hand, some have argued that one may ally with nonbelievers under certain conditions; the unifying requirement being that it must be in the interest of the entire Muslim community. For example, al-Ālūsī (d. 1270/1854) argued that one is not accountable for the love and friendship they held for nonbelievers before they embraced Islam. Nonetheless, an alliance in battles – the genuine meaning of *muwalāt* according to al-Ālūsī – is only permitted in battling with other nonbelievers, but not in battling rebels.[380] This example is vital as it shows that one can ally with nonbelievers if it is in the interests of the Muslim community. Thus, one may fight against a common nonbelieving enemy. Nevertheless, one is not permitted to fight against rebels as they are still Muslim, thereby one falls in the problem of allying with the nonbelievers against the interest of a faction of the Muslim community. Al-Ālūsī further qualifies this matter, restricting it to cases where Muslims are in a position of power and ally with the nonbelievers who require help.[381] Al-Rāghib, a predecessor to al-Ālūsī, transmits a similar opinion, permitting alliances from a place of strength, but not from a place of weakness.[382]

Ibn ʿĀshūr (d. 1393/1973) summarises the scholarly disagreement in allying with non-Muslims for the collective interests of Muslims. He comments that some Mālikī scholars have allowed it, other Mālikīs have not, while Abū Ḥanīfa and al-Shāfiʿī have allowed seeking help from the People

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[379] al-Rāzī, *Mafātīḥ al-Ghayb*, 8: 192.
[380] al-Ālūsī, *Rūḥ al-Maʿānī*, 2:116.
[381] Ibid.
[382] al-Rāghib, *Tafsīr al-Rāghib al-Asbahānī vol. II & III*, ed. ʿĀdil b. ʿAlī al-Shidī, (Riyadh: Dār al-Waṭn, 2003): 2:504-5.

of the Book against a common enemy, but not from other disbelievers.[383] In present times, a political

alliance may not take the shape of battles and wars, but as political and economic sanctions. These

qualifications imply that a Muslim nation has the scope to ally with a non-Muslim country if it is in

the common interests of the Muslim community in its entirety.

Interestingly, this qualification means that there are forms of alliances which are permitted

and others which are prohibited. As such, various exegetes have classified allying with nonbelievers

into different levels of permissibility and prohibition. From these classifications, one recognises that

while political affiliations are disallowed save from a few exceptions according to some, the scholars

do not prohibit social relations and ethical conduct with nonbelievers. For example, al-Rāzī classified

alliances into three levels:

1) An alliance with the nonbelievers as one is pleased with their disbelief and allies with
   them because of it. This is prohibited and amounts to disbelief (*kufr)* as pleasure in
   disbelief is disbelief.
2) A social alliance which involves good social relations; this is not prohibited.
3) A political alliance of assistance, patronage and help due to relations or love one
   retains for that group while maintaining that their religious beliefs are invalid. This
   does not necessitate disbelief but is prohibited due to this verse. Al-Rāzī argues that
   this is because allying with them will lead to slowly being tempted to approve of their
   methods and faith.[384]

While al-Rāzī permits positive social relations, politically he argues that one is not allowed to ally

with the nonbelievers, even in the interests of the Muslims due to the number of verses that appear

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[383] Ibn ʿĀshūr, *al-Taḥrīr*, 3:219.
[384] al-Rāzī, *Mafātīḥ al-Ghayb*, 8:192.

in this genre, without qualification.[385] Working with al-Rāzī's framework, Ibn 'Āshūr expands alliance

into a broader eight categories. They are:

1) Allying oneself with the nonbelievers or a faction of nonbelievers as allies in faith and religion. This is an alliance where one is attracted to their disbelief, which amounts to disbelief.

2) Entrusting a group of nonbelievers and assisting them due to relations and love one holds for them, not because one is drawn to their faith. These nonbelievers are openly hostile in their enmity and humiliation of Muslims. This type of alliance is prohibited, but it does not amount to disbelief.

3) Entrusting a group of nonbelievers and assisting them due to relations and love one holds for them, not because one is drawn to their faith. This group of nonbelievers are not openly hostile, but it is impermissible as it may tempt the other to start approving to their methods and beliefs. Ibn 'Āshūr bases this position on al-Rāzī's argumentation.

4) Allying oneself with a group of nonbelievers to cause hurt and affliction to a specific group of Muslims. This is just as impermissible as allying with them against the entire Muslim community.

5) Taking nonbelievers as allies to help the believers against a common enemy. Ibn 'Āshūr relates the aforementioned difference of opinion in this matter.

6) Taking on an individual nonbeliever as a friend and dealing with them with good social relations and kindness. This is permitted so long as this particular social relation does not affect the Muslims.

7) Engaging in ordinary transactions, like business, pacts of security etc. Ibn 'Āshūr states that these rules are governed by the books of jurisprudence.

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[385] Ibid.

8) Allying oneself with the nonbelievers politically in a situation which would usually be prohibited, as one fears for life or limb. This is permitted and known as *taqiyya*.[386]

Ibn ʿĀshūr's break-down of an alliance into these eight categories is significant as it seeks to situate all forms of alliances – the political, social and routine daily activities – within a framework of permissibility and prohibition. Tellingly, social relations, kindness, and dealing well with nonbelievers is not prohibited. This argument will lend further support when discussing Q.60:1-6.

What remains is a clarification on the reasoning for prohibiting political alliances with nonbelieving relatives and loved ones. As mentioned by al-Rāzī, a popularly transmitted explanation is that an alliance with such people may tempt the Muslim to start approving their methods and beliefs. This is because when one embraces Islam, loving and hating specific values because of one's love of God is a significant principle of faith.[387] True love of God entails displeasure of values and practices which displease God, such as the transgressions and vice God has warned one against. Thus, to comprehend this prohibition, it is vital to understand accountability in Islam. As al-Ālūsī mentions, one is not accountable for loving a relative or loved one, as one has little control over their emotions.[388] However, one is responsible for how that emotion materialises; in this case, allying with one's nonbelieving loved ones. If one already has a sense of familiarity and love for a nonbeliever, a close alliance could lead to obscuring their love for God and his believers. Such an alliance may put one in the perilous position of weighing up one's alliance with their nonbelieving kin and the Muslim community. One is not accountable for the love they hold for their kinsman, but this love may

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[386] Ibn ʿĀshūr, *al-Taḥrīr,* 3:217-20.

[387] al-Zamakhsharī, *al-Kashshāf*, 1:351; al-Nasafī, *Madārik al-Tanzīl*, 1:247.

[388] al-Ālūsī, *Rūḥ al-Maʿānī,* 2:116.

materialise into compromising the safety of the Muslim community. Akin to the philosophical preventative principle, this prohibition has been set to preserve one's faith and the Muslim community from this potential harm.

In conclusion, this verse prohibits believers from taking nonbelievers as political allies due to previous friendship and relations. The primary reason given for this was the preservation of one's faith and maintaining one's loyalty to the collective interests of the Muslim community. I have also discussed that exegetical authorities have differed over the permissibility of allying with nonbelievers for the wellbeing of the entire Muslim community. Finally, I have discussed the reasons the scholars of the tradition have given for this prohibition. The next verse heavily features themes of loving God, and partisanship with the Muslims against non-Muslims.

4.3.2 Chapter of the Tablespread, Q. 5:51.

God states:

> Believers, do not take the Jews and Christians as allies they are allies only to each other.
> Anyone who takes them as an ally becomes one of them– God does not guide such
> wrongdoer (Q. 5:51).

This verse was revealed when ʻUbāda b. Ṣāmit declared to the Prophet that he had many Jewish patrons and guardians but exonerated himself from them and turned his patronage to God and his Messenger. Upon hearing this, Ibn Salūl took the opposite route: he refused to exonerate himself from his Jewish support and guardianship as he feared how events would transpire.[389] As the first

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[389] al-Ṭabarī, *Jāmiʻ al-Bayān*, 10:395-6.

Muslim community were at war with the pagan Arabs,[390] Ibn Salūl felt that he might need their patronage should he be left in a compromised position amongst this turmoil.

The majority of exegetes have also understood *awliyā'* in this verse as confederate allies (*ḥulafā'*),[391] patrons (*anṣār/naṣīr*),[392] supporters (*ẓahīr*)[393] and sponsors (*mu'īn*).[394] A frequent theme in this verse is partisanship; one should ally with the believers as the Jews and Christians are allied to one another, indicated in the second part of the verse: "they are allies only to each other". Within the same passage, the Qur'ān states: "those who turn for protection to God, His Messenger, and the believers [are God's party]: God's party is sure to triumph" (Q. 5:56). This verse, its broader passage and its context of revelation demarcate the lines of partisanship in political affairs. There is the party of God and the believers, and the party of others. This verse consoled the Muslims in times of political turmoil and war that they should ally with God's party; God's party have God's alliance, patronage, support and sponsorship. Therefore, God's party, i.e. the Muslims, should work in favour of their shared and collective interests, and through God's help, they will be victorious.

These verses are speaking to a set of values, where one takes God as the final arbitrator of their affairs; whose love for God entails displeasure towards all those things that offend God. One

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[390] al-Zamakhsharī, *al-Kashshāf,* 1:643.

[391] al-Ṭabarī, *Jāmi' al-Bayān*, 10:398.

[392] al-Ṭabarī, *Jāmi' al-Bayān*, 10:424; al-Jaṣṣāṣ, *Aḥkām al-Qur'ān*, 4:99; al-Samarqandī, Abū l-Layth, *Baḥr al-'Ulūm*, 1:397; al-Zamakhsharī, *al-Kashshāf,* 1:642; Ibn al-Jawzī, Abū l-Faraj 'Abd al-Raḥmān b. 'Alī, *Zād al-Masīr fī 'Ilm al-Tafsīr,* ed. 'Abd al-Razzāq al-Mahdī, 4 vols. (Beirut: Dār al-Kitāb al-'Arabī, 2002): 1:558; al-Rāzī, *Mafātīḥ al-Ghayb,* 12:375; al-Qurṭubī, Muḥammad b. Aḥmad, *al-Jāmi' li Aḥkām al-Qur'ān,* ed. Aḥmad Bardūnī and Ibrāhīm Aṭfaysh, 20 vols. (Cairo: Dār al-Kutub al-Miṣriyya, 1964): 6:217; al-Bayḍāwī, *Anwār al-Tanzīl,* 2:130; al-Nasafī, *Madārik al-Tanzīl,* 1:453; 'Abd al-Karīm al-Khaṭīb, *al-Tafsīr al-Qur'ānī li l-Qur'ān,* 5 vols. (Beirut: Dār al-Fikr, 1970): 1:1113.

[393] 'Abd al-Karīm al-Khaṭīb, *al-Tafsīr al-Qur'ānī li l-Qur'ān,* 1:1113.

[394] al-Samarqandī, Abū l-Layth, *Baḥr al-'Ulūm*, 1:397; Ibn al-Jawzī, *Zād al-Masīr,* 1:558, 'Abd al-Karīm al-Khaṭīb, *al-Tafsīr al-Qur'ānī li l-Qur'ān,* 1:1113.

does this as a matter of faith and actively chooses this disposition. This is the very nature of *al-walā'*

wa l-barā'; one places God's commands at the fore before everything else. As such, In Q. 9:23, God

prohibits Muslims from taking their non-Muslim brothers and fathers as allies. In discussing love for

God and love for one's family, al-Khalūtī (d. 1127/1715) states:

> [The love of God and his Messenger is described] as an actively chosen love which seeks rewards,
> through strict adherence [to God] and not departing from it. This is not the natural love which is always
> present in a human and thus does not fall under one's religio-legal responsibility.[395]

Herein, al-Khalūtī stresses that love for God is unlike natural love one has for another, which is

beyond one's religio-legal (*shar'ī*) responsibility to effectuate. One's emotion is beyond the scope of

the Sharia. However, love for God is acquired through an active choice, done as a matter of faith. It

does not necessarily have to be a natural disposition. Similar statements are reaffirmed by Pānīpatī

(d. 1255/1810) and al-'Ālūsī, who also demarcate the difference between natural love and an actively

chosen love.[396]

In support of a value-centred argument, al-Ṭabarī explains the problem of allying with the

nonbelievers as a conflict of values and religion. Al-Ṭabarī argued that one person could not hold two

conflicting beliefs. Contradictory beliefs are such that should a person hold them, each side would

not be happy until the other is shunned and their party is embraced wholeheartedly.[397] To secularise

this issue, one cannot be both for taxation of the rich, and for tax breaks for the rich; these stances

are inherently contradictory. Hence, al-Ṭabarī argues that one should refrain from trying to please

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[395] al-Khalūtī, Ismā'īl Haqqī b. Muṣṭafa al-Istanbūlī, *Rūh al-Bayān,* 10 vols. (Beirut: Dār al-Fikr, n.d.): 3:403.
[396] Pānīpatī, Mūhammad Thanā' Allāh, *al-Tafsīr al-Maẓharī.* ed. Ghulām Nabī al-Tūnusī, 10 vols. (Karachi: Maktabat al-Rashīdiyya, 1991-2): 4:153; Ālūsī, *Rūh al-Ma'ānī*, 5:265
[397] al-Ṭabarī, *Jāmi' al-Bayān,* 2:562-3.

and appease the other sides.[398] For political or social discourse in the West, if two positions are intrinsically conflicting, one should embrace the difference, and it should be the starting point in political and social relations.

For Muslims, Islam teaches a sense of unity surrounding core principles: the belief of one God, Muḥammad the Messenger, upholding God's commandments and refraining from his prohibitions. Hence, when one forms political alliances, one is to keep the interests of the entire party, i.e. the Muslim community, in mind. If the interests of the community are in favour of allying with nonbelievers, we have discussed previously that some scholars and exegetes have permitted it. If a particular alliance is against the interests of the party, it is prohibited. This verse gives insight into the partisanship encouraged by the Qur'ān; one should support and politically ally with the Muslims due to their shared values, thus forming the party of God. Therefore, one should put the interest of the party of God, i.e. the believers as a collective, at the forefront of their political action and decision-making.

The focus of this thesis has been social relations between Muslims and non-Muslims. We have discussed that the verses under study forbid Muslims from forming political alliances with non-Muslims. Nonetheless, these verses do not prohibit cordial and equitable relations, as related by al-Rāzī, Ibn ʿĀshūr and others.[399] In the next set of verses, the emphasis of revelation prohibits political relations with combatant non-Muslims, while also discussing the permissibility of friendly and equitable relationships with non-combatant non-Muslims.

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[398] Ibid., 2:562.

[399] al-Rāghib, *Tafsīr al-Rāghib*, 2:509-10; al-Rāzī, *Mafātīḥ al-Ghayb*, 8:192; Ibn ʿĀshūr, *al-Taḥrīr,* 3:220.

4.3.3　　　　Chapter of the Woman Tested, Q. 60:1-2; 8-9

God states:

> You who believe, do not take My enemies and yours as your allies, showing them friendship when they have rejected the truth you have received, and have driven you and the Messenger out simply because you believe in God, your Lord – not if you truly emigrated in order to strive for My cause and seek My good pleasure. You secretly show them friendship––I know all you conceal and all you reveal – but any of you who do this are straying from the right path. If they gain the upper hand over you, they will revert to being your enemies and stretch out their hands and tongues to harm you; it is their dearest wish that you may renounce your faith (Q. 60:1-2).

> And He does not forbid you to deal kindly and justly with anyone who has not fought you for your faith or driven you out of your homes: God loves the just. But God forbids you to take as allies those who have fought against you for your faith, driven you out of your homes, and helped others to drive you out: any of you who take them as allies will truly be wrongdoer (Q. 60:8-9)

Al-walā' wa l-barā' plays a significant theme in all thirteen verses of the sixtieth chapter. The opening verses prohibit believers from taking God's enemies as allies. The context of revelation for the first verses surrounds an incident when Ḥātib b. Abī Balṭaʿā – a Muslim living in Medina – sent a written warning to the pagans of Mecca that the Prophet was preparing to attack the city. Ḥātib was originally from Yemen and had no kin to protect his family and property in Mecca, and thus sent a message with a woman to reach the polytheists. The Prophet was told about this letter through revelation and instructed two of his companions to ride and retrieve the letter, which they did so successfully.[400] The polytheists of Mecca drove the Muslims away from Mecca and were open combatant enemies of the

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[400] al-Ṭabarī, *Jāmiʿ al-Bayān,* 3:311-13.

Muslims. Ḥātib emigrated from Mecca to Medina and fought in the Battle of Badr. Thus, God states that if one genuinely emigrated and strove in his path for God's pleasure, they would not ally themselves with the enemy. Allying with them, seeking their help and patronage while spreading the secrets of the Muslims would lead to clear harm for Muslims. Such actions break one's partisanship and loyalty to God and his believers. These verses and its context of revelation serve as an example for the rest of the believers, conveying the themes of partisanship and political alliance which heavily feature in the verses discussed previously.

The second set of verses are seminal. Asmā' Bint Abī Bakr, asked the Prophet that her mother had come to Medina hoping to reconcile their relationship; should she rekindle it? The Prophet responded with: "yes, renew the relationship with your mother".[401] The second set of verses were revealed regarding this occasion, that God does not prohibit Muslims from treating non-combatants non-Muslims with kindness and justice. This prohibition is reserved for the combatant non-Muslims who have directly or indirectly driven the Muslims out of their homes in Mecca. Some have disputed whether this verse is abrogated; al-Ṭabarī clarifies:

> What is meant by this is that God does not prohibit you from being kind, building relations and being just to those who do not fight you in religion, irrespective of the religion and creed they follow. Indeed, God is general is his speech, "with anyone who has not fought you for your faith nor driven you out of your homes". [This is instruction is for] all those who fulfil these characteristics as God did not specify some and not others. The opinion of those who argue that this verse is abrogated does not make sense as a believer is not prohibited from being kind to a non-Muslim inhabitant of an abode of war (*dār al-ḥarb*) – who may or may not

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[401] Ibn Kathīr, *al-Tafsīr*, 8:90.

be a relative – so long as it does not entail the exposure of any secrets of the Muslims to him or [other] non-Muslims, nor strengthening them with horses or weapons".[402]

Al-Qurṭubī (d. 671/1273) clarifies further that the majority of exegetes opine that this verse has not been abrogated.[403] Al-Ṭabarī's further elaboration is significant in understanding these verses. He claims that not only is the ruling of this verse still intact, but with exception to acts of political significance – such as exposing Muslim secrets or selling arms – a person can maintain good relations with a nonbeliever. Al-Nasafī (d. 710/1310), the Ḥanafī, states that one can be polite and kind to them in speech and action.[404] The words *"tabarrūhum"* in Q. 60:8 refer to equitable social conduct and respect,[405] with the verse ending with "God loves those who are just".

These verses define the object of prohibition. According to Ibn ʿĀshūr, the object of prohibition shares several characteristics. They are people who disbelieve in God, reject the Prophet's message, fight Muslims in their religion and drive them out of their homes. One does not ally with them, nor display good conduct towards them. The second set of verses reinforces this, but more importantly, spells out the object of prohibition explicitly. You do not ally with a nonbeliever, but if they are not hostile combatants, one is free to treat them justly, kindly and with mutual respect.[406]

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[402] al-Ṭabarī, *Jāmiʿ al-Bayān*, 23:323.

[403] al-Qurṭubī, *al-Jāmiʿ*, 18:59.

[404] al-Nasafī, *Madārik al-Tanzīl*, 3:469.

[405] Ibn ʿĀshūr, *al-Taḥrīr*, 28:153.

[406] al-Rāzī, *Mafātīḥ al-Ghayb*, 29:521; see also, Ibn Kathīr, al-*Tafsīr*, 8:85-90.

4.4 Conclusion: *al-Walā' wa l-Barā'* defined through demarcating the social from the political, the natural from the acquired

What do these verses tell us about *wilāya'* in Islam? We can break it down to a few statements. Firstly, I have demonstrated that these verses inform the believers about alliance and partisanship. One should align with God's party, thereby acting in the common interests of the entire Muslim community. From a values perspective, the people of God share the same values where God's instructions and commands are put first; one should maintain their loyalty, alliance and partisanship with them. Partisanship and loyalty to the believers demands that the interests of the Muslim community as a collective are put before individual or specific interests.

Secondly, once one allies with the believers, they are prohibited from taking nonbelievers as their allies over the interests of the Muslim community. Here, I have shown that the word *awliyā'* has been understood by the majority of exegetes politically. By this I mean, as confederate allies (*ḥulafā'*), patrons (*anṣār/naṣīr*), supporters (*ẓahīr*) and sponsors (*mu'īn*). In all three verses, I have cited numerous exegetes that have explained the word *awliyā'* through one or two of these words or their derivatives. Finally, Q. 60:8 clarifies that there is no restriction on dealing with non-combatant nonbelievers with equitable and courteous social conduct. I have demonstrated that these verses, their contexts and their explanations legitimise good conduct and peaceful coexistence between Muslims and non-combatant non-Muslims. While politically, one's moral compass should put the needs of the Muslim community first, socially, there are no barriers to inhibit peaceful coexistence with others. Therefore, these verses do not prohibit civility in secular spaces.

Nonetheless, this does not preclude that some have not seen the word *awliyā'* socially. The primary source of this explanation seems to emanate from the description of the Prophet's companion, Ibn Abbās (d. 68/687). Regarding Q. 3:28, Ibn Abbās is reported to have said that:

> God, Glorified be He, prevented believers from being civil to disbelievers and taking them as intimate friends rather than the believers. Except for when the disbelievers are dominant over you, [in which case] display civility to them, but oppose them in faith.[407]

This explanation is radically different to the exegetes I have cited in my study. Even exegetes of the generation immediately following Ibn 'Abbās – such as Qatāda (d. 118[408]/ 735/6) and al-Suddī (d. 125/745) – have not repeated this explanation. Importantly, al-Suddī interprets this verse as to "sympathise with them in their religion and expose the secrets of the believers to them".[409] A political angle is described by al-Suddī who also interacts with a concept which is at the core of *al-walā' wa l-barā'*. To sympathise with them in their religion has creedal implications – it assumes that one commiserates with disbelief and other concepts which God has deemed unlawful; thus, compromising one's affirmation in Islam. This is not exclusive to Islam, but all metanarratives. For example, should a person believe in God but also sympathise with the creed of another, it compromises the strength of their faith as it involves affirming two contradictory realities: the truth of Islam and the truth of another religion. Therefore, true belief in God and Islam would render it inconceivable to confirm these two contradictory realities.

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[407] al-Ṭabarī, *Jāmi' al-Bayān*, 6:313; Ibn Abī Ḥātim, *al-Tafsīr*, 2:628.

[408] al-Dhahabī has recorded 118 as Qatāda's year of death in: *al-Siyar* 5:283. Ibn Ḥibbān has recorded the year of death as 117, in: Ibn Ḥibbān, Muḥammad, *al-Thiqāt*, ed. Muḥammad 'Abd al-Mu'īd Khān, 9 vols. (Hyderabad: Dā'ira al-Ma'ārif al-Uthmāniyya, 1973): 5:322.

[409] al-Ṭabarī, *Jāmi' al-Bayān*, 6:314.

A superior way of looking at this entire issue is through the concept of *taklīf* (religio-legal responsibility). This is a concept in Islamic legal theory which presupposes that one's religio-legal responsibility to carry out a religious injunction is based on one's capacity to complete that action and validity of the *ratio decidendi* (*sabab al-ḥukm*).[410] In application, a person will not be held accountable for harbouring love for a non-Muslim parent, family member or even a stranger that treats them well as emotions are beyond the control of any individual. Nonetheless, they are accountable for how they express their love; they must not ally with them. In juxtaposition, one is told to harbour love for God and his Prophet, and displeasure for vice and sin, which includes disbelief. Nonetheless, one does not actualise this displeasure. One's love for their non-Muslim kin or displeasure for disbelief is purely creedal and is not manifested in practice. One does not act upon the love for their family members by allying with them, nor does one act upon their displeasure by being harsh and unkind to non-Muslims. As Q. 60:8-9 states, one may enact justice, equity and compassion with non-combatant non-Muslims.

This is the basis of *al-walā' wa l-barā';* one allies, loves and sides with the party of God, the Messenger and the Muslims. This alliance, love and siding is not necessarily natural, but one is obliged to acquire it. On the other hand, one exonerates and dissociates themselves from the things that offend God, such as disbelief and sin. Notwithstanding, a person is still permitted, and even encouraged to be equitable, kind and courteous to non-Muslims. *Al-walā' wa l-barā'* does not legitimise violence, hatred or hostility towards non-Muslims. Instead, it encourages Muslims to put one's

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[410] For a clear exposition of this concept, see: al-Sarakhsī, *Uṣūl al-Sarakhsī.* 2 vols. (Beirut: Dār al-Maʿrifa, n.d.): 1:65-73; al-Bukhārī, ʿAlāʾ al-Dīn ʿAbd al-ʿAzīz b. Aḥmad, *Kashf al-Asrār Sharḥ Uṣūl al-Bazdawī.* 4 vols. (Beirut: Dār al-Kitāb al-Islāmī, n.d.): 191-213.

religious practice and theology, i.e., the demands of God's party, at the forefront of their social and political behaviour. To quote al-'Awnī, as *al-walā' wa l-barā'* originates from the very roots of Islam, it necessitates that "it is painted with the greatest colour of Islam: moderation, leniency and mercy".[411]

To conclude, it is wise to return to the central theme of religious civility. In our study of various exegetical authorities and their interpretation of these selected verses, we have found a near consensus which legitimates and permits equitable, just and kind relations with non-Muslims. With specific reference to Q. 60:8, God explicitly permits it so long that they are not combatants. This, I have demonstrated by limiting myself to the statements of classical authorities in Qur'ānic exegesis, and without undertaking charitable interpretations. This chapter further strengthens our study and comparison of the *Aḥkām,* from which an argument for religious civility was advanced using traditional hermeneutics of interpreting Islamic law.

Finally, I end by reiterating my awareness of the narrow focus of this study into the broader issues of civility in secular contexts. While this thesis has focused on matters of social courtesy and equity with non-Muslims, I recognise that there are more contentious issues that need to be deliberated over by Muslim scholars, such as interactions with the opposite gender and members of the LGBT community. However, in the specific focus of social interactions between Muslims and non-Muslims, this thesis has advanced a legitimate hypothesis for its permissibility.

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[411] al-'Awnī, *al-Walā' wa l-Barā'*, 48.

5.0   CONCLUSION

Al-Alwani's 'revolution' rendered 'inherited *fiqh*' redundant for the modern age, writing:

> Though varied and rich, the volume of theoretical fiqh bequeathed to us dealing with relations between Muslims and non-Muslims is part of its own time and space, and none of it can be applied to other substantially different situations.[412]

Al-Alwani posited that one is to infer the principles that jurists of the 'inherited *fiqh*' are attempting to establish to compare against the underlying objectives of the Sharia. This thesis asked, has there been a sustained effort in researching through 'inherited *fiqh*' before this claim was advanced? As Amjad Mohammed's study demonstrated, the Islamic legal tradition is ideally suited, flexible and sufficient in dealing with the contemporary challenges of the modern age. Herein, Mohammed used the traditional method in progressing solutions to various contemporary juridical issues, vis-à-vis governance and politics, international trade, and bioethics. Similarly, this thesis has asserted another defence of the traditional method, using Muslim and non-Muslim social interaction as the point of inquiry.

This thesis asked, can traditional hermeneutics of Islamic law justify religious civility in secular spaces. Here, I argue that civility among Muslims and others of different faiths are justified, validated and even encouraged by two particular strands of Islamic law. To prove this point, I used the juridical writing of one of the most notorious scholars of the Islamic tradition: Ibn Qayyim al-Jawziyya, whose books are noted for influencing and shaping Salafi and Wahhabi discourse. Due to

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[412] Al-Alwani, *Towards a Fiqh for Minorities,* 8.

his position as one of the intellectual forefathers of all manifestations of the Salafi movement, one would assume that Ibn al-Qayyim promotes an antagonistic and hostile social relationship between Muslims and non-Muslims. On the contrary, when discussing the plight of the protected people in the *Aḥkām*, Ibn al-Qayyim discusses equitable relations and kindness as a form of inviting others to Islam. One could postulate this theory as a *da'wa*-orientated method of social interaction where the pragmatic and virtuous action of enticing hearts and minds towards Islam is the objective in kind and equitable social interaction. In another place in the *Aḥkām*, Ibn al-Qayyim writes, "inviting others to God and his Messenger is the jihad of the heart and tongue, and it is superior to jihad with the hands [i.e. war]".[413] From this perspective, civility may not be the purpose it and of itself, but a means to a higher purpose as one enacts civility for a broader spiritual objective.

Ibn al-Qayyim, thereby, permitted visiting sick non-Muslims, congratulating and consoling them for their achievements and losses, so long as the wording used in these prayers do not create theological paradoxes. Ibn al-Qayyim permitted Muslims to visit and attend non-Muslim funerals, so long as one took a peripheral role. He obliged Muslims to return the *salām* of a non-Muslim as God obligated equity in all matters, and according to my interpretation, Ibn al-Qayyim permits Muslims to offer general greetings to non-Muslims.

Using the *Aḥkām* as the primary text, the discursive traditions of the Ḥanbalī and Ḥanafī school were engaged, compared and juxtaposed with the *Aḥkām*'s purport. The Ḥanafī school was noted for its significant compatibility with religious civility, particularly in its consideration of the

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[413] Ibn al-Qayyim, *Aḥkām Ahl al-Dhimma,* ed. Yūsuf al-Bakrī and Shākir al-Ārūrī, 3 vols. (Dammam: Ramādī li l-Nashr, 1997): 3:1254.

feelings of others, allowing one to engage in tolerant restraint and politeness. I noted several examples where the Ḥanafīs rule to avoid hurting the feelings of non-Muslims. The Ḥanafīs consider it sinful to call a non-Muslim "O infidel (*kāfir*)" as this hurts them; one must also respond to the *salām* of a non-Muslim with *wa 'alaykum* as not doing so may offend them. Another precedent in the Ḥanafī school rules that a person may shake the hands of a non-Muslim who has returned from a long absence as abstaining may hurt their feelings. These examples demonstrate that the Ḥanafīs have made juridical considerations of the emotional well-being of non-Muslims when discussing social interactions. Therefore, it should be avoided in other activity, so long as one avoids religious and theological restrictions.

The Ḥanafīs permit and encourage attending and inviting non-Muslims to their houses for food, even if there is no familial relationship between them. They permit visiting non-Muslims when they are sick as this is a form of kindness. Similarly, they permit offering non-Muslims condolences for their deceased family members as one expresses goodness through these actions and manifests the beauty of Islam.

However, an important concept advanced in this thesis is the argument of tolerant restraint in social interactions when one is presented with a religious prohibition or theological paradox. There are numerous examples where the religious tradition or matters of theology prevent a particular action from taking place; these are red-lines that are not to be traversed. For example, the Prophet prohibited Muslims from initiating a non-Muslim with *salām 'alaykum*, though the Ḥanafīs permit saying "hello". One is prohibited from taking a significant role in following and attending a funeral but is permitted to stand from afar and take a peripheral role. Similarly, while saying "Merry

Christmas" may demand a theological paradox as it entails legitimating a non-Muslim belief, responding with "have a happy new year" is permitted.

In these examples, a religious prohibition or theological paradox presents itself in a particular form of social interaction. Despite this, one practises restraint and tolerance by responding with an equitable, kind and religiously-sound alternative. This I argue is the very foundation of agreeing to disagree, and religious civility: accepting the demands of one's religious tradition with tolerance, courtesy and equity, and expecting the same treatment from others of a different faith. In fact, Muslims in Britain have been enacting tolerant restraint in the question of Halal and Haram meat for generations. British Muslims have a thriving Halal meat industry, with numerous certifying committees and a plethora of restaurants in even some of the country's most remote locations. How did we get to this stage? One can only speculate, but a plausible theory would suggest that the uncompromising nature of early immigrants in refusing to eat meat that was not Halal and establishing their own meat industries had certain ripple effects. One could assume that these same uncompromising individuals or others like them might have respectfully refused to partake in certain foods in work-places, schools and social gatherings. Similarly, it seems plausible that this initial or recurring refusal might lead to companies and social groups to reconsider what they feed others. Fast forward this theory to 2020, and we have Halal meat thoroughly integrated into the British fabric – from corporate lunches to community barbeques. If we wish to discuss integration as a dialogical process, we can appreciate how tolerant restraint in this example might have been vital. One consistently upholds their religious tradition, and over time as the process of civil relations leads to

humanisation and genuine affection, that host culture develops. Rather than serving only pork sausages at community barbeques, vegetarian and Halal options make their way to the menu.

In analysing the Ḥanbalī school, we entered a gridlock of prohibition. Most major references of the later Ḥanbalī epoch ruled that one is not permitted to initiate any form of greeting to a non-Muslim, nor are they allowed to visit them when they are sick, attend their funerals, congratulate or console them for their achievements and losses. In these case studies, it is only through opting the positions of Ḥanbalī outliers, namely Taqī al-Dīn Ibn Taymiyya and his grandfather Majd al-Dīn in the case of following funerals, that one is able to envision positive relations with non-Muslims. Importantly, Taqī al-Dīn ruled that the above cases were permissible due to the strategic and preponderate benefit (*maṣlaḥa rājiḥa*) they provide the Muslim community. Herein, Ibn Taymiyya comments that visiting non-Muslims, or congratulating and consoling them has the possibility of reconciling their hearts towards Islam and is a form of invitation to Islam.

The pragmatic use of civility is undeniable; Muslims show kindness and courtesy to non-Muslims, and through their kindness, the hearts of these non-Muslims are reconciled towards Islam. I have argued that religious practice and civility exist co-dependently: a religious argument validates civil relations, and in turn, civil relations act to humanise Muslims to their non-Muslim counterparts, thereby allowing the non-Muslim majority to recognise the place of Muslims in society, thus, voting, mobilising or agreeing to safeguard their religious practice. The need to appear human to their non-Muslim counterparts, particularly in the European context, is an ever-present necessity. Living in Europe as a Muslim entails living in a continent which has historically defined itself in contrast to the Muslim Other. This rhetoric exists now just as it existed when the word "European" was first

used. Hence, Muslims need to consider how a hostile or apathetic relationship with their non-Muslim counterparts reifies these abstract fears and threatens their freedoms, and possibly even existence in Europe. As the historical example of the uncivilised and barbaric 'Other', the need to be seen human and decent cannot be overstated as hostility and apathy will only fuel the anti-Islamic populism prevalent throughout Europe. It has only been three decades since the Srebrenica Genocide, which saw an othered Muslim community massacred. One cannot overstress how something as simple as being friendly to non-Muslims serves the collective interests of the Muslim community, as it positions Muslims as friendly community members, not the barbarians anti-Islamic rhetoric will have the public believe.

We observe that while Ibn Taymiyya and Ibn al-Qayyim's method looks at civility as a practical tool, the Ḥanafīs view civility as a virtue. In our last chapter, we discussed *al-walā' wa l-barā'* as a Qur'ānic doctrine, exploring how Sunni exegetical authorities have operationalised these terms in relation to key Qur'ānic verses. As noted, almost all contributors to *al-walā' wa l-barā'* as a doctrine, irrespective of their strand of Salafi persuasion, quote verses in which God prohibits taking non-Muslims as *awliyā'*. I have argued that the majority of exegetes have understood this word to refer to confederate allies (*ḥulafā'*), patrons (*anṣār/naṣīr*), supporters (*ẓahīr*) and sponsors (*mu'īn*), thereby acknowledging this term across political lines. Moreover, while some have considered *awliyā'* to refer to a social relationship, civil relations and courtesy were precluded as permissible actions. I, therefore, argued that there is a near consensus of scholars which legitimates and permits equitable and kind relations with non-Muslims, and with specific reference to Q. 60:8, God explicitly permits it

so long that they are not combatants. *Al-walā' wa l-barā'* as a doctrine does not promote hostile relations with those of different faith.

To quote al-'Awnī, as *al-walā' wa l-barā'* originates from the very roots of Islam, it necessitates that "it is painted with the greatest colours of Islam: moderation, leniency and mercy".[414] This statement is significant, as it applies to the traditional method also. As the discursive traditions of Islamic law emanate from Islam, it is thereby necessary that it is dyed with the greatest colours of Islam also: moderation, leniency and mercy. In surveying the discursive traditions of the Sunni schools, one will uncover relevant material to solve contemporary juridical issues. With specific reference to the Ḥanafī school, we have found a plethora of juridical rulings, precedents and judgements which seek to avoid hurting the feelings of non-Muslims, and promote equity and kindness as a matter of good and manifesting the beauty of Islam to others. Even in the writing of Ibn al-Qayyim and Ibn Taymiyya, there is existing material which postulates kindness, equity and courtesy as a form of enticing hearts towards Islam. While I acknowledge that this thesis presents a narrow entry into the vast literature on civility in secular states, it furthers an argument which justifies positive social interactions between people of different faiths. For the specific case of religious civility, there serves no need to produce original juristic insight (*ijtihād*) for secular contexts. Instead, a survey through the classical manuals of Islamic law has advanced a hypothesis which justifies, validates and promotes civil relations with non-Muslims, applicable for European and Western contexts.

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[414] al-'Awnī, *al-Walā' wa l-Barā'*, 48.

While this thesis is a stepping stone in exploring civility in secular spaces from an Islamic legal perspective, one acknowledges that the scope of its research is limited. This study of three distinct legal epistemologies provides a nuanced and relevant study of social interactions with non-Muslims in the Islamic legal tradition. Though, thorough engagement with Mālikī, Shafi'ī and even Ja'farī Shia legal considerations to this debate would contribute further to this field of knowledge. Moreover, additional research questions include civility among Muslims with those of the opposite gender in a professional, educational and social setting, as well as interactions with members of the LGBT community. I should hope that these areas can be explored at a later point in a doctoral dissertation or monograph. We conclude with the fundamental flaw of the *fiqh al-aqalliyāt* and other liberal approaches: it presupposes that the traditional hermeneutical approach is not suited to deal with the changing exigencies. I should hope that this thesis has demonstrated that the traditional approach should be exhausted before one comes to this conclusion. One might be surprised by what they find.

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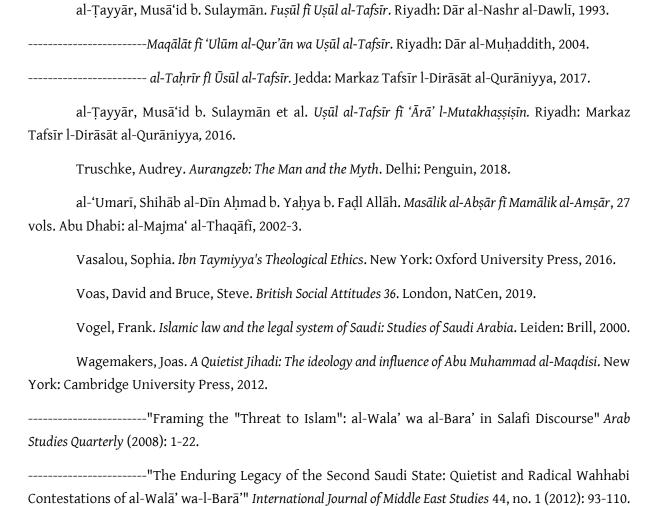
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