

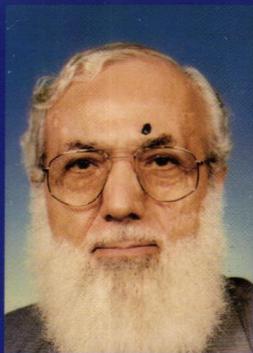
**NATIONALISM
SECULARISM
APOSTASY
AND
USURY IN**

ISLAM

PROF. DR. ALA 'EDDIN KHAROFA



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- 3. Usury and Interest in Islam, Judaism and Christianity and in the opinions of the Philosophers and the Economests, (1962 Baghdad).**
- 4. The contract of Loan in Islamic Jurisprudence and Roman, French and Egyptian Civil Laws, (1982, Beirut, Lebanon).**
- 5. The judgement of Islam on the Crimes of Salman Rushdie (Published in Arabic, English and Bahasa. Jeddah, Cairo, Kuala Lumpur).**
- 6. Hukum Islam Terhadap Jenayah Salman Rushdie, (A.S. Noordeen, Kuala Lumpur).**
- 7. Trial of the opinions of Al-Dawaliby, on Nationalism, Secularism, Apostasy and on the Interest. (Tripoly - Lebanon 1991).**
- 8. Islam, The Practical Religion (in English, 1992, A.S. Noordeen, Kuala Lumpur.**
- 9. Usury "Interest" or Riba (in English, A.S. Noordeen, Kuala Lumpur 1993).**

Prof. Kharofa is very well known as a source of Islamic Shari'ah and we are very pleased to introduce this book to the readers with the hope that will benefit from it.

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Prof. Dr. Ala'Eddin Kharofa

Published By



A.S NOORDEEN

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INTRODUCTION TO THE ENGLISH TRANSLATION

The subjects of Nationalism, Secularism, Apostasy and Usury are of paramount importance. In the following pages, the above topics are discussed based on articles in Arabic by Dr. Dawalibi and myself. Dr. Dawalibi is a very important figure in the Arab countries. He is special advisor of the Custodian of the Holy Mosques and the Chairman of the Islamic Conference in Karachi. He was a Prime Minister of Syria forty years ago. However, in my opinion he was wrong and inaccurate in his views on these subjects.

The above subjects were published in Arabic in a book titled "*The Trail of the Views of Al-Dawalibi on Nationalism, Secularism, Apostasy and Usury.*" Published in Lebanon in 1991, and it gives me a great pleasure to introduce its translation into English with the hope and the prayers that the readers will benefit from it.

Prof. Dr. Ala 'Eddin Kharofa
12 Safar, 1415
12 July, 1994

In the Name of God the Merciful, the Compassionate

INTRODUCTION

Praise be to God, the Lord of the Worlds, and peace be upon our master Muhammad, his family and companions.

A seminar was held in Cairo between 25th and 27th Safar, 1410 AH, corresponding to 25th to 27th September, 1989 under the title "Dialogue Between Nationalism and Religion". The seminar was organised and hosted by the Center of Studies for Arab Unity. A number of well known professors and thinkers took part in the seminar. Summaries of the papers and discussions of the seminar were published serially in the Ash-Sharq al-Awsat daily.

Dr. Muhammad Ma'ruf al-Dawalibi, a counsellor to the King of Saudi Arabia, custodian of the Two Noble Mosques published a lengthy article in comment on the seminar and its published discussions. However, he (may Allah lead him to the right path) missed the point and said strange things which were harmful to the cause of Islam. In reply to his article, I wrote some comments from an Islamic spirit. He wrote an answer to my comments, and then I made another reply to his answer and tried to show where truth lies in the matter under discussion. Many readers from far places like the United States and Malaysia have expressed interest and appreciation of my answers, and some of my respected

brothers expressed their desire that the answers be collected in a book. The present book is a response to this desire and an attempt to discharge a religious duty, to make the answers available for those who did not have the chance to read them on the pages of newspapers. However, I have included in this book a few additions which were not possible to be included in the articles for various reasons.

I would like to make clear that my acquaintance with brother Dawalibi goes back to about a quarter of a century when he was a professor at the Faculty of Law in Damascus University while I was a Qadi (Islamic Judge) in Baghdad. I first met Dr. Dawalibi during my visit to the respected brother Sheikh Mustafa al-Zarqa in the Faculty. Upon my returning to Baghdad I sent him a copy of my book *Usury and Interest in Islamic, Christian and Jewish Laws and as Seen by Philosophers and Economists* which was published (in Arabic) in Baghdad in 1962. He responded by writing to me a letter, which I still keep, saying that the book covers all shades of opinions on the subject.

Then, it was God's will that we met as colleagues at the Supreme International Council for Mosques in Mecca for four years. In a meeting of one of the committees, which was chaired by Sheikh Muhammad Ali al-Harkan (may God have mercy on his soul), Al-Dawalibi gave credit to my works and expressed appreciation of my writings and expressed similar views of the activities of the Director of the League in Paris. From what he said then was : We thank God Almighty for giving to Islamic work such brothers as these two. Among those who attended the meeting and witnessed the discussions and are still alive was brother Sheikh Adnan Basha, the Current deputy general secretary of the Islamic World League.

My intention from citing this incident is to illustrate the extent of friendship and Islamic brotherhood between me and

Dr. Dawalibi which I value greatly. However, right is more proper and more deserving to follow. If my answers have led to my losing his friendship, my excuse is that I aimed at gaining God's pleasure and at performing a religious duty. What people say after that is of lesser importance.

In this book I have cited the articles as they were published, and then wrote the comments which I deemed appropriate. The Middle East region is teeming with tribulation and disasters which are apt to cause confusion, but it is a religious duty to correct misconceptions included in the articles just mentioned.

I pray to God Almighty to accept my works and show us all the right path and grant us good intentions to make all deeds aimed at gaining His pleasure.

Lastly, all praise and thanks be to God the Lord of the Worlds, and peace and blessings be upon our master Muhammad, his family and companions.

Prof. Dr. Ala'Eddin Kharofa
25 February 1991

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ISLAM AND NATIONALISTIC AND SECULARISTIC TRENDS⁽¹⁾

By Dr. Ma'ruf Al-Dawalibi

Al-Riyadh, Ash-Sharq al-Awsat office

Ash-Sharq al-Awsat had published in successive editions some of the papers and discussions which took place at the seminar on Arab affairs which was held in Cairo lately at the invitation of the Center of Studies for Arab Unity under the title of "Dialogue between Nationalism and Religion". In-depth and wide-ranging discussions were held among participating thinkers and University professors which gave rise to great controversy and differences in opinions that prevented the reaching of a common ground among the participants. In view of the importance of the topic, Ash-Sharq al-Awsat asked Dr. Ma'ruf al-Dawalibi, the great Islamic thinker and Chairman of the Islamic World Congress about his views on the papers and discussions of the seminar and about the Islamic point of view with regard to the relationship between religious and nationalistic thought in the Arab world in order to achieve unity and progress. Dr. Ma'ruf Dawalibi's answers were contained in an important study in which he discussed

1 This article was published in edition 4051 of Ash-Sharq al-Awsat daily on 3.6.1410 AH corresponding to 31.12.1989

the role of Islam in nationalistic and secularistic trends as follows:

During my successive travels in September and October, an important seminar on Arab affairs was held in Cairo between the 25th and 27th of September under the title "Dialogue between Nationalism and Religion" at the Ramses Hilton hotel at the invitation of the Center of Studies for Arab Unity. More than fifty thinkers, researchers, professors and former as well as incumbent leaders participated in the seminar which was also attended by twenty observers and journalists. Ten papers were presented in the seminar; and Ash-Sharq al-Awsat daily has published summaries of these papers in successive editions between 21.10.1989 and 6.11.1989. The daily said that the papers had given rise to in-depth and wide-ranging discussions, and that they led to great controversy, differences and agreement among representatives of various nationalistic and Islamic trends. Dr, Muhammad Abed al-Jabiri concluded his paper by saying:

There is a religious and linguistic pluralism in the Arab world. The issue of this pluralism belongs to the question of democracy and not to the question of Arabism or Islamism. The key problem is how to establish a relationship between religious thought and nationalistic thought in the Arab world for the sake of unity and progress.

Cited by Ash-Sharq al-Awsat in its report of the opening of the seminar in its 21.10.1989 issue.

The discussions, thus, took three days without reaching common grounds among the speakers who represented various trends, Islamic, nationalistic and secularistic. The representatives were all personalities who carried great weight from the scholarly, cultural, Islamic and nationalistic points of view. That seminar was the third such meeting organised by the

Center of Studies for Arab Unity. The first seminar was held in Beirut under the title "Arab Nationalism and Islam," and the second was held in Cairo under the title "Heritage and the Challenges of the Age in the Arab World. Traditional conservatism versus modernism." One of the results of these two meetings, as reported by Ash-Sharq al-Awsat in two of its editions on 21.10.1989 and 6.11.1989, was the publication by the Center of Studies of a large volume on "Future Horizons of the Arab Nation for the Coming Thirty Years" which concluded by preferring a sort of federal Arab unity. Numerous researchers and academicians participated in the book whose cost exceeded a million dollars. The book drew three possible alternatives for the future. Unfortunately Islam did not have any important or decisive role in any one of them. This underlines the responsibility of the two parties, the nationalistic and the Islamic, in failing to reach common grounds for Arab unity. In my view, the reason, according to what the director of the Center and the organiser of the seminar, Dr. Kheir al-Din Hasib, stated in his criticism of both nationalistic and Islamic trends, was "insufficient knowledge on the side of the secularists of Arabic Islamic heritage, as they do western culture. The same thing applies to the Islamic trend which has little knowledge of nationalist literature."

Out of my concern for the continuity of this calm dialogue, and especially with the chosen group which met in this seminar from different religions, secularists as well as Islamic leaders, I thought I should say a word on the topic in the hope that this would help reveal the facts and the truths in order to remove the misunderstanding between the two parties so as to make each one of them see itself as a unit of pair wings in whose cooperation lie the prospects of unity and progress. In this I shall not be performing a miracle, but I shall be revealing the truth of the matter. I think that the truth of the matter is not serious enough to give rise to all the

controversy between the nationalists and the Islamicists. So, the need, first, is for the calm dialogue between the two sides to continue in order to show that the universalism, humanism and the care for Progressive Construction in Islamic thought are the things that raised the status of Arabs and Arabism in world history and joined them in a form of national unity for the first time in history in the city of Yathrib, then the capital of the Muslim state in the day of the Prophet of Islam himself with no distinction in the rights for honourable life between individuals from different ethnic or religious groups. I shall not say much; on the contrary, I shall be precise on the following points: nationalism and Islam, secularism and Islam and lastly about Islam and some misunderstandings of the present day.

Nationalism and Islam:

The word "nationalism" signifies the special relationships that tie the individuals of a certain people to one another. It mainly denotes the family ties among these individuals, starting from the small family of parents, children and grandchildren going through the large family of the tribe or tribes which are tied by a single line of ancestry. These ties, as I see them, do not necessarily involve special social values or a "national message" except for the "organic tie" and the sympathy and cooperation among the individuals of this large family. Whoever ignores his duties to the family, his parents or any individual of the family, small or large, has to be reproached.

The "other social values" come along with the progress and growing of the people in number and culture, especially after growing in number of the tribes, something which calls for :

- the unity of all the tribes and subtribes in one nation, for a start, and

- the establishment of a new system in life, universal and human, despite differences in ideologies and religions as the next step.

If this happens, it will be a distinguishing civilised phenomenon which this people can be proud of, as it gives them a message to carry to the whole world, despite differences in the doctrines of the people as long as the human universal concepts of freedom and the right to an honourable life are maintained.

This social, intellectual and scientific development which embrace national unity first and foremost, was not known by the Arabs in their history except under the Islamic message which has undergone distortions at the hands of new anti-Islamic foreign powers in particular. In this, these powers were aided by lack of sufficient information on the side of the nationalistic trend of the Islamic heritage, which is human and universal in nature. At the same time, we find the nationalists well informed of Western culture. The same thing applies to the Islamic trend which has little knowledge of the nationalistic literature, according to the statement of the director of the Center of Studies for Arab Unity Dr. Kheir al-din Hasib in his opening speech of the nationalistic - religious dialogue which we discuss today.

I have to mention here that the nationalist tie in any nation is continually under the threat of division and apathy under the influence of various factors, especially people migrating from their motherland, unless they had a social, universal and human value to unite them in carrying a message to mankind wherever they take residence. This has happened to the Arabs themselves when they migrated outside their peninsula and spread in Iraq and North Africa,² from Egypt

2 See the end of this article.

to Morocco. This was what happened, for example, to the Babylonians, the Assyrians, the Phoenicians and the ancient Egyptians. Add to this the departure from the mother tongue with the passage of years. However, the Islamic message which had reached them through their Arab cousins, was the only thing which united them and reinstated their original Arab identity and brought them back to their mother tongue thanks to the language of the Qur'an. This has taken place despite the great distances which separated them from their mother land. The return of these peoples to their original Arab identity could not have been possible but by the message of the Qur'an and by what it carried to them of a new life system which meant freedom of belief and culture for all and the right of everybody to an honourable life without making any distinctions, and the necessity for cooperation to bring about progress, and the necessity to be good to those who differed from them in faith under a new universal and humanitarian system unique to the message of the Qur'an. This applied as long as the non-Muslims did not fight the Muslims or evacuated them from their lands or help the enemies in doing any of these things.

One thing which should not be forgotten here is the plight of the Algerian people with the French occupation for more than a hundred years, annexing the whole of the Algerian territory to France and abolishing Arabic completely. In addition to these things, the French unjustly converted some of the great mosques to churches. However, with Islam deep in their hearts, and with the language of the Qur'an in their minds, they were able to reverse France's measures and get the occupiers out of their land. Nowadays, Arabic had come back to their schools and the Algerians have returned to their Arab identity.

Lastly, the Arab nationalists who have strong belief in their nationalism should be careful not to drop Islam's essential

role in uniting the Arabs and unifying their language all through the Arab world from Iraq to Morocco. Let them remember the saying of the Messenger of Islam to Salman the Persian, "O Salman, do not hate me, as this would lead you to destruction." Salman asked, "How can I hate you, O Messenger of God, and it was by you that God has guided me?" The Messenger said, "If you hate the Arabs, you will be hating me."

Secularism and Islam :

The word "secular" originally means that authority in the state is derived from the people rather than from God through the clergy. In this it is contrasted with "theocracy" which means deriving authority from God through the Church as was the case with the Kings of Christendom up to the time of the revolutions in Europe in the late eighteenth century. These revolutions gave all authority in the state to the people excluding the Church and the clergy. The idea behind the revolutions was traced back to J.J. Rousseau's book *The Social Contract*. Islam has neither Church nor clergy to stand between the people and God, and the authority of the caliph is derived only from the pledge of the people. In this sense, Islam is secular in nature. The tenets of Islam, according to Qur'anic scriptures, address the intellect and recommends *consultation* (shura) and taking into consideration of legitimate interests in all aspects of life. This concept was summarised by one of the leading scholars of Islam when he said, "Wherever people's interest lies, then there lies the law of God, even if it is not in the revelation, and even if it is not mentioned by the Messenger."

With this I come to the end of my brief statement on secularism and Islam, though I have much to say about the question. Nevertheless, I would like to add one piece of

information which, I am afraid, is liable to be kept hidden in registers. This is related to the French philosopher and writer J.J. Rousseau who died in 1778 in Geneva just before the break of the French Revolution. In his book *The Social Contract*, Rousseau laid down for Europe the principles of the revolution which gave all authority to the people. Social revolution historians in Europe agree that Rousseau's call paved the way for the French masses to revolt and take all authority in their hands. The sources from which Rousseau derived his idea were not known. However, I have some light thrown on this by a piece of information relayed to me by the late Prince Adel Arsalan, the brother of the great author the late Prince Shakib Arsalan. He told me that while he was once going along a street in Geneva, he was surprised to know that the name of the street was "Rue Bouzeid". The presence of the Arabic word "Bouzeid" caught his attention. As he (may God have mercy on his soul) was greatly interested in Arabic/Islamic history, he asked many people about the word, but could not find an explanation. Nobody knew the origin of the word, neither had they given the matter any thought. At last, someone advised him to go to the Geneva municipality office which has a record of the street names and how they were acquired. He went there and was surprised to know that Bouzeid was the name of Rousseau's philosophy master, and that he was the one who established the national library of Geneva. He also knew that whenever Rousseau differed with his colleagues around some philosophical problems, he used to ask them to refer the points of discussion to their master Bouzeid. Thus we see that Rousseau was a student of an Arab philosopher from North Africa. Building on this we can deduce that it was likely that Rousseau's idea about giving all authority to the people was derived from the Arab philosopher Bouzeid. This idea can be traced back to Islamic thought and to consultation

(shura) and to the pledge to the ruler by the people. This ascertains to us and to our secular Arab brethren the influence of Islamic thought on the call to derive authority from people long before this call appeared in the secular West. I have a wish that the people in positions of responsibility in North Africa take interest in the name of that Geneva street before it is forgotten by the passage of years. This is happening now. I asked some old Swiss citizens about the street and they ascertained the existence of the name, but when I went to Geneva lately and asked about the street and looked it up in the street book of Geneva, I could not find it.

Islam and some contemporary misunderstandings:

Here also I will not say much, but I have a few things to say about the Islamic message as it is in the Qur'an. The Qur'an describes its message as a call to life.

I may summarise Islam in two points:

First : Islam is a faith for the whole world based on belief in the Creator of mankind, the heavens and earth, and Islam has no compulsion in it.

Second : Islam is a call to a new life system which is human in nature and meant for the whole world. This system is based on everybody having to work for a pure life for mankind without corruption or distinction.

Islam being a faith for the whole world is based on having belief in God Who created us and created the heavens and earth. It addresses the intellect and urges it to get rid of myths, and addresses us urging us not to set up gods from among us forgetting God. It urges us to call to this faith with wisdom and good preaching in matters which carry good to all involved, unless they fight us over our religion or try

to evacuate us from our land or help our enemies to do that, as explicitly stated in the Qur'an. The new life system is based also on having faith in the Creator Who did not create us in vain but to bear the responsibility of the trust which God has given us from among all His creatures. It is also our responsibility to build earth and establish right and justice. The system is also based on shura (consultation) and cooperation in ease as well as hardship. God has been generous with us and made the earth a suitable place for us to live in and warned us against corruption and evil deeds.

Thus we can see from this summary that Islam in both of its aspects, faith and system, is the key for peace on earth and for living on it within one world family in cooperation among different races and faiths. This is based on the fact that an Arab has no privilege over a non-Arab, neither a white has any privilege over a black except in piety or good deeds. Thus you can see that our work is based on several matters:

- a faith which has no compulsion in it,
- a system which makes it everybody's duty to work in cooperation within the members of the human race. In this there is no difference between Arabs of different beliefs. On the contrary, it carries all good and pride for them and their nation being the nation which carried to the whole world and for the first time in history, the message of Islam which united the Arabs in one nation and gave them the message to carry to the whole world calling it to human unity with freedom of belief and the necessity to work for a good life with cooperation and without distinction between races and religions.

With this the Arabs attained a high status in history. In this place I would like to quote the statement of the scholar

George Sarton in his book *The History of Science* as quoted in the book *The Arabs* by Mahmud Kamel : Muhammad was not only the Prophet of Islam, but also the Prophet of Arabic the Language and culture despite difference among the races and faiths of Arabic speakers. No prophet before Muhammad (PBUH) and no one after him has ever been able to achieve such a victory. The importance of the Arabic language and the need for it for religious purposes have guaranteed it the dominance and the superiority which we can witness today. Were it not for this, Arabic could lose its value, or it might vanish as a working language altogether.

(See Mahmud Kamel, *The Arabs*, Al-Ilmiya Press, 1956, pp. 103-104)

I do not think that any one of the Arab nationalists who participated in the seminar on the dialogue between religion and nationalism would refuse to recognise the essential role played by Islam, as a faith and as practice, in Arab unity. However, in order to demonstrate this essential role, one has to look at some of the misunderstandings around alleged differences between religion and Arab unity. In brief, these misunderstandings center mainly around wrong concepts formed about Islam:

- (a) concerning the concept of "jihad" which is taken by some to mean offering the choice of either Islam or death, and this goes against the principle of freedom of belief,
- (b) the judgement on apostasy in Islam and that this leads to the execution of the apostate, and this, too, goes against freedom of belief,
- (c) concerning the non-Muslims who enjoy Muslim protection from among the Christians and Jews. It is alleged that this concept of protection implies humiliation and compulsion and harms the prospects of Arab unity, and

- (d) concerning compelling non-Muslims to go by Islamic laws (Shari'ah) and that this, in turn, goes against freedom of belief.

Some Current Misunderstandings :

- (a) The concept of "jihad":

"Jihad" in Islam does not mean telling somebody that he will die if he does not accept Islam, "Islam or death", which is a translation of the Christian "holy war". It means calling others to Islam with wisdom and good preaching in order to make them familiar with the facts of Islam, the doctrine which has no compulsion, and with the new life system for a human cooperative existence. To prove this, I would like to mention that the word "jihad" appeared in the Qur'anic discourse during the Meccan era when military struggle was not permitted yet. The Qur'anic revelation addressed the Prophet during that era telling him to go against the wishes of the disbelievers and to wage "jihad" against them with the Qur'an, meaning to do his level best to call them to Islam with good words. (See Chapter al-Furqan : verse 52). The word "jihad" is used in the same sense when the Qur'an describes attempts by disbelieving parents to make their believing children revert to paganism. Here the word is used to mean insistence with great effort. (See chapter al-Ankabut: verse 8). Both verses referred to were revealed during the Meccan era. We can see from all this that the order to wage jihad does not necessarily mean war, fighting and enmity.

When, in the Medinan era, the Muslims were ordered to wage war against the disbelievers, the word "fight" and not "jihad" was employed. (See Chapter al-Hajj: verses 39-40 revealed during the Medinan era). Moreover, the Qur'an makes it clear that Muslims are not to be the beginners in

fighting, but they have to fight in defence of their religion and in defence of freedom of religion. Fighting in Islam is originally meant to protect the right of Muslims to practise their message in calling others to the right path with good words and wisdom.

(b) The verdict on changing one's religion in Islam:

It has been reported in a correct (sahih) hadith narrated by both al-Imam al-Bukhari and al-Imam Muslim that an Arabian man pledged loyalty to the Prophet, being a Muslim, then he backslided, and the Prophet did not kill him. In another hadith narrated by al-Bukhari, we read that a Christian man embraced Islam then reverted to Christianity, but the Prophet did not kill him either. This provides practical proof of what the Qur'an explicitly states that there is no compulsion in Islam. Moreover, it has never been proved that the Messenger of God (PBUH) exacted punishment on apostates by killing them. This was also what the caliph Omar Ibn Abd al-Aziz did. It was reported that a group of people in his reign embraced Islam and backslided. Maimun Mahran wrote to the caliph about this and Omar's reply was to reimpose "jizya" (tax imposed on non-Muslims) on them and leave them. This incident was narrated by al-San'ani in *Al-Muwannaf*. That (not killing an apostate) was also the opinion of Ibrahim al-Nakh'i, one of the eminent persons of the second generation of Islam. It was also the opinion of Sheikh Mahmud Shaltut, rector of al-Azhar in his book *Islam as Doctrine and as Law*. He says that many scholars are of the opinion that hudud punishment cannot be proved by hadiths reported by single individuals. He also says that disbelief in itself is not justification for shedding blood. The real justification would be aggression against Muslims, fighting them and trying to make them leave Islam. This opinion was cited by Dr.

Muhammad Salim al Awwa in his comprehensive study of apostasy in his book *The Principles of Criminal Law in Islam* in its second edition published in Cairo in 1983. In spite of all this we notice that most people refer insistently to the hadith of the Prophet (PBUH), narrated by al-Bukhari, "He who changes his religion should be killed." We can see from the hadith that it, firstly, is not about a Muslim leaving his religion, as is the case with the previous two hadiths. It is, rather, a general statement about people leaving their religion; from Judaism to Christianity for example. It is known that no scholar has accepted this hadith in practice except Ibn Hazm, This understanding of the hadith is not an acceptable.

As a solution to the problem we can resort to what the scholar Ibn Taimiya understood from a different (but related) hadith also narrated by the two imams al-Bukhari and Muslim : "A Muslim person's blood cannot be lawfully shed but by one of three reasons ..." The third reason was changing one's religion and going a different way from the nation or the congregation. Ibn Taimiya understood from this that it meant the one who wages war against the nation and not the mere apostate. In support of this understanding, Ibn Taimiya cited another version of the hadith which speaks about someone declaring war on God and His Messenger. This is the way we would understand the hadith "He who changes his religion should be killed." It means not merely the one who simply leaves Islam but the one who wages war against the Muslim community. As a proof of this, we have what the Messenger of God (PBUH) did in not killing the Arabian and the Christian men who left Islam without waging war against Muslims, and what Omar Ibn Abd al-Aziz did in not killing those who left Islam without waging war against the Muslims. This is also in agreement with the teaching of the Qur'an which urges Muslims to treat kindly those who differ from

them in religion without waging war against Muslims. There are still other proofs which I prefer not to discuss here for fear of being long.

In the following I will attempt a brief discussion of two other misunderstandings: the misunderstanding about the concept of "dhimmi" (a Christian or a Jew under the protection of Muslims), and the allegation that Islamic laws should be imposed on non-Muslims.

(c) the concept of dhimmi

The word "dhimmi" originally means someone, a non-Muslim who has the promise of protection from Muslims, as it is the Muslim community's duty to be good to non-Muslims, give them freedom of religious practice and protect their places of worship. Moreover, they have the freedom to practice things which are permitted to them in their religion and which might be prohibited in Islam. Thus we can see that non-Muslims under the protection of Muslims have privileges on Muslims. The Prophet of Islam said in this regard, "Whoever does harm to a dhimmi person, would be doing harm to me." It is also reported that, one day, the Prophet stood up in respect to a funeral; when he was told that the funeral was for a Jew, he said, "It was for a living soul." Does it stand to reason, then, that the Prophet shows respect to a dhimmi who is dead and does harm to him in his life? Is humiliating non-Muslims considered in agreement with the Qur'anic teaching which urges Muslims to treat non-Muslims well except in case of non-Muslims' waging aggressive war against Muslims. This case is, however, an exception which does not abrogate the original ruling of being kind to dhimmis and considering them equal to Muslims.

As for the jizya tax imposed on dhimmis who are in the fighting age, we say that this tax is not imposed on them

in case they participate in the expenses of war and maintaining security. This is stated explicitly in the Medina declaration in which the Prophet ruled that the Jews be allowed to take part in war expenses and be exempted from *jizya* tax in that case. This shows how Islam protected pluralism in the community and ruled that Muslims and *dhimmi*s have equal rights and obligations, except when individual religious obligations are concerned. The Medina declaration states, "The Jews have their religion and we have ours. They can depend on our help against their enemies, and they should be treated with equality with Muslims. They should not be treated unfairly..." The Jews had sought refuge in Medina when they escaped from the Roman empire some two hundred years prior to the coming of Islam. This happened when the Romans embraced Christianity in Constantin's days and held the Jews responsible for the (alleged) crucifixion of Jesus Christ. Their fears grew stronger from persecution by neighbouring Christians, especially when Yemeni Jews, just before the coming of Islam, incinerated some thirty thousand Christians in ditches which were dug especially for that act, as is known from Christian annals. The Prophet promised them protection in case they were attacked by their enemies. Unfortunately, however, they proceeded to conspire against Islam and the Prophet. It was for this that the Qur'an commanded Muslims to wage war against them at a later stage.

When Yemen entered Islam later, the Prophet also promised the Najran Christian population support and protection. Thus we can see how Islam again protected pluralism in its community for the first time in the history of religions. It guaranteed freedom and safety for all under Muslim protection. All Muslims and Arabs should be proud of that which is an example to be followed.

Knowing all this about the attitude of Islam towards followers of other religions, is it not disturbing to hear

suspicious calls from different quarters against the application of Islamic laws in Muslim lands? Is it not against reason and logic for those who make these calls to claim that Islamic law stand against freedom of religion? Islam was the first religion which granted followers of other religions freedom to practise their beliefs and apply the teachings of their religions. If they go back to the Islamic judicial system they will see that it was that system which protected their religious practices and gave them privileges over Muslims themselves in accordance with the ruling of the protection promise granted to the dhimmis. Nevertheless, the enemies of Islam expose themselves and their injustice nowadays in claiming that Islam is against religious freedom. This puts the Islamic judicial system in a status above the calls which we hear today of human rights, Arab unity or even unity of all mankind in all nations.³

3 This is not to mention six pre-history Arab migrations to Europe where the migrants dissolved in the new environment completely in terms of identity and language. However, they had left some fingerprints in the naming of some places like the Rhine Valley in Germany which carries the name of a valley south of al-Riyadh, and Bonn which points back to the region of the same of Yemen highlands.

NOBODY IS COMPELLED TO EMBRACE ISLAM

My First Reply: A Comment on Dr. Dawlaibi's "Islam and Nationalistic and Secularistic Trends"⁽⁴⁾

By Prof. Dr. Ala'Eddin Kharofa

In the third Jamada II, 1410 AH/ 13th December 1989 AD edition, Ash-Sharq al-Awsat daily published an article by Dr. Ma'ruf al-Dawalibi under the title "Islam and Nationalistic and Secularistic Trends" in which he discussed several important matters. I see it my duty to make comment on some of these matters. I have to say that I read the mentioned article with care, and after I had finished, I remembered the saying by Imam Malik (may God have mercy on his soul) that the opinions and statements of every person are open for acceptance or rejection except the Prophet (PBUH). Building on this understanding, and starting from the principle that what is right is more deserv-

4 published in Ash-Sharq al-Awsat on 2.7.1410
AH/28.1.1990 AD

ing to be followed than other ideas, I have the following comments.

In his article, Dr. Dawalibi says that Islam does not punish apostasy by killing; and in support of this view, he cites two hadiths which he described as correct "sahih". One of the two hadiths, he says, was narrated by al-Bukhari and Muslim and mentions that an Arabian person embraced Islam then backslided and that the Prophet did not kill him. The other hadith, he says, was narrated by al-Bukhari and says that a Christian man embraced Islam and then backslided and that he was not killed either.

Dr. Dawalibi concluded that that actually proved what the Glorious Qur'an ruled, namely that there should be no compulsion in Islam. He added that it had never been proved that the Prophet (PBUH) had punished apostasy by death. Furthermore, he cited an incident wherein the caliph Omar Ibn Abd al-Aziz had allegedly not punished apostates.

I conducted a meticulous search for the hadith about the Arabian who backslided and was not killed, and I have to say that I could not find it. I requested the Center for Serving the Sciences of Sunna and the Prophet's Biography and some lecturers at the Islamic University of Al-Madinah to search for the hadith, and they did not find it either. I ask God to give them reward for their services. Could the respected writer, then, provide us with detailed bibliographical information of the hadith and where to find it, mentioning the edition, volume and page?

As for the second hadith which was reported in the following manner, "A Christian man embraced Islam, then backslided, but he (the Prophet) did not punish him," I say that the hadith was not narrated in this manner. I would like to quote al-Bukhari's version of the hadith which runs as follows:

There was a Christian man who embraced Islam and

read the chapters of Al-Baqara and Al-Imran (from the Glorious Qur'an), and would write for the Prophet (PBUH). This man, then, backslided to Christianity and used to say, "Muhammad does not know but what I wrote for him." He, then, died and was buried. The morning after his burial, he was found to be dug out, and his people said that was the doing of Muhammad and his companions, and that they dug him out because he had left them. They buried him deeper than the first time, but he was found dug out again. They said that again that was the doing of Muhammad and his companions. They, then, dug as deeply as they can and buried him. Still, on the next morning, they found him dug out. They knew after that it was not done by humans, and they left him out.

This is the complete version of the story as can be found in *Fath al-Bari: Sharh Sahih al-Bukhari* by al-hafiz Ibn Hajar Al-asqalani, vol. 6, p. 634, the edition of Darul-Fikr. Al-Asqalani (may God have mercy on his soul) in his commentary on the hadith, says that the man ran away and joined his Christian people after he had backslided. In other versions of the story there are minor changes in details which do not change the message of the hadith.

Thus we see that the reason for the Prophet not killing the man was that he ran away and joined his people. The hadith does not mention how long the man stayed with Muslims after his back-sliding. Thus we see that that apostate who betrayed the trust and left Islam was punished posthumously by the soil rejecting his body. His people had first thought that Muhammad (PBUH) and his companions had dug him out in vengeance, but when they found out that he had not been dug out by humans, they left him out unburied, an outcast.

It is made completely clear in Islamic thought that Islam does not depend on compulsion as it is stated clearly in the

Qur'an that there should be no compulsion in religion. However, it is a different case when someone embraces Islam, and then backslides and betrays the trust. The four imams of the major schools in Islamic thought, besides Ibn Taimiya and his follower, Ibn al-Qayyim (may God have mercy on their souls) all agree that an apostate should be offered the chance to make "tauba", to repent and rethink as he may have some suspicion which can be removed. However, if he insists on disbelief and refuses to accept right and guidance, he should be killed. Moreover, there are certain categories of apostasy wherein repentance cannot be accepted according to al-Imam Malik and Ibn Taimiya as when the apostate insults a prophet. I have cited these views in detail in my book *The Judgement of Islam on Crimes of Apostasy*.

Dr. Dawalibi, then, states that the hadith narrated by al-Bukhari which says, "He who changes his religion should be killed," has gained currency among people and is widespread. Dr. Dawalibi comes up with his own understanding of the hadith saying that the hadith does not specifically mean a Muslim who changes his religion, but that it, rather, speaks about any person who leaves his religion to embrace another, like a Jew leaving Judaism to embrace Christianity, for instance. He adds that only Ibn Hazm interpreted the mentioned hadith in this manner which, according to Dr. Dawalibi, is not acceptable. In reply to this, I say that the statement that the hadith is general in its ruling, is not correct; it is specifically about Muslims. In support of this, I would like to cite the comment by al-Asqalani, the great scholar who wrote the well-known commentary on al-Bukhari's Sahih. Al-Asqalani comments that a superficial understanding of the hadith, and that it is general and not specific, is rejected by agreement among scholars. He adds that the religion meant by the hadith is assuredly Islam and not any other religion : the Qur'an states explicitly that the only true religion is

Islam (Al-Imran: 19)

Al-Asqalani, then, says that the hadith was narrated in another version which mentioned Islam by name (vol. 12, p. 272). A question which should be asked here is : what justification do we have for not punishing someone who leaves Islam in its entirety (on grounds of alleged religious freedom) while we fight someone who rejects only one of the principles of Islam like zakat alms paying? Islamic history recounts how Abu Bakr, with unanimous agreement from the living Prophet's companions, declared war on the apostates who rejected only the principle of zakat. This shows clearly that the study about Omar Ibn Abd Al-Aziz not killing the apostates in his day on which the writer builds much of his thesis, cannot be accepted as decisive evidence in this regard. Moreover, this story is contradicted by innumerable stories which prove a view contrary to the writer's view.

One such story was reported by Mu'mar from Ayyub from Hamid Ibn Hilal from abu Burda: Mu'adh Ibn Jabal came to Abu Musa al-Ash'ari in Yemen, and saw with him a man. Mu'adh asked about the man and he was told that he was a Jew who embraced Islam and subsequently backslided to Judaism. Al-Ash'ari, then informed Mu'adh that they had been keeping the man in custody to offer him the chance to rethink his situation for (as the reporter remembers) two months. When Mu'adh heard that, he said, "I swear by God I shall not sit down till he is killed," and he was killed. Mu'adh, then, said that it was a ruling by God and His Messenger that whoever changes his religion should be killed (*Al-Musannaf*, 10, 168). Add to this what is stated in *Fath al-Bari*, vol 12, p. 268, about misquoting the hadith "He who changes his religion should be killed." Understanding this hadith in a faulty manner, like that we see in the article, is a serious and unjustified mistake as it leads to a dangerous situation wherein potential apostates are

given permission and encouragement to go along that dangerous way. I do not think the respected writer had this in mind.

As for the Qur'anic verse which states that there should be no compulsion in religion, it should not be understood that a Muslim has the freedom to leave Islam without having to face punishment. Rather, it means that people should not be compelled originally to embrace Islam. In his comment on this verse, al-Qurtubi says that there was disagreement among scholars on the interpretation of this verse. He cites six different views on the matter. The first says that the verse was later abrogated, and the second that it was not abrogated and that it was aimed at the people of the Book: Christians and Jews who should not be compelled to embrace Islam, and should be left free to practise their religion provided that they pay jizya tax, .. (vol. 3, p. 280). There should be no doubt that that last view is the one which is in agreement with the teachings of Islam. Moreover, this is what the Muslims have been doing ever since they carried the message of Islam to the whole world. They have never forced anyone to embrace Islam against their wills.

HEAVENLY RELIGIONS ENCOURAGE LEGITIMATE WAR

In Reply to Islam and
Nationalistic and
Secularistic Trends⁽⁵⁾

By Ahmad Naser al-Rajih, Saudi Arabia.

Iwould like to reply to what was published in your newspaper, edition 4051 on 3.6.1410AH/31.12.1989 AD in the religious page under the title "Islam and Nationalistic and Secularistic Trends." In that article, Dr. Dawalibi aired his views on the presentations of the seminar which was held in Cairo about the dialogue between religion and nationalism. I would like to provide counter evidence here to what Dr. Dawalibi cited especially that the topic is related to basic religious rulings. Following are my remarks:

5 This reply was published in the same page as my reply in Ash-Sharq al-Awsat on 2.7.1410AH. This is why I thought it is a good idea to have it here. May God give reward to the writer of this article for his good feelings.

1. One of the first things that are to be criticised about Dr. Dawalibi's article is that it included a host of terms and expressions which are alien to Islamic thought like Arabism, nationalism, secularism, human rights, equality and justice,...
2. Under the title "Secularism and Islam," Dr. Dawalibi says that the authority of the caliph used to be derived from the people's pledge of allegiance only, and that, in that sense, Islam is secular. My reply to this is that Islam cannot be farther from secularism in the sense defined by Dr. Dawalibi, that is, deriving authority from people rather than God.
3. Dr. Dawalibi cites what he terms current misunderstandings about Islam under the terms "jihad-holy war" and Islamic judgement on changing of religion. On the first point I would like to make the following remarks:
 - a. The writer criticises the "Church" definition of jihad based on offering either Islam or death. He should have started with giving definitions of jihad from the points of view of language and jurisprudence. In language, jihad is doing one's level best to reach a certain goal, be in worldly or religious. There are numerous verses and hadiths which make this meaning clear; they are to be referred to for more information.

In Islamic thought, jihad is doing one's best in fighting the disbelievers either directly or by giving help and support to those who do the actual fighting in the way of God and to give prominence to the message of Islam. The Prophet (PBUH) says, "He who fights/struggles to make the word of Islam highest is fighting/struggling in the way of God."

- b. The writer makes an incorrect and inaccurate statement when he says that jihad means calling to God with wisdom and good preaching. In this, he is making an inaccurate association between the concept of jihad and the concept of da'wah (calling to God). The difference between the two concepts is obvious.
- c. The writer differentiates incorrectly between the concepts of jihad and fighting. He mentions that the term jihad was particularly used in Meccan context, and the term fighting in Medinan sequence. This is an incorrect citation as the term jihad was used in many verses which were revealed in the Medinan era. We have an example of this in the verse 95 of Al-Nisa' Chapter of the Qur'an, in which the term jihad was used, as in the hadiths which belong to the same era, to mean fighting, beyond any doubt.
- d. The writer cites a Qur'anic verse which states that the believers against whom war is declared are permitted to fight back. On this verse, the writer comments that fighting was not made legal in Islam except in self defence. This is a strange statement which does not have any support from the sayings of early scholars of Islam as it is not based on any legal justification.
- e. If what the writer says that fighting was not made legal except in self defence, then, how does he explain the sending of missions by the Prophet to the kings of neighbouring states to call them to Islam and to offer them the choice of either paying jizya tax or facing war with Muslims? Furthermore, how does the writer explain the Muslim armies going out to the lands of the Persians and the Greeks during the reign of the caliphs

in spite of the fact that they were secure in the Arabian peninsula after suppressing the rebellion of the apostates?

- f. Islam is a religion which was sent by God to mankind. God does have knowledge of man and how they live and think. it is a fact that wars have always been and will always be a feature of life with mankind until all earth and what is on it will go back to God on the Day of Judgement. Heavenly religions have consistently encourag legitimate war, and this is what we see in the Bible and the Torah.
- g. Islam is distinguished from other religions in that it has certain codes to control practices in times of war. Fighting in the Islamic practice was not conducted with the savagery of past and succeeding nations. The Prophet (PBUH) and the well-guided caliphs always made a point of warning their leaders and warriors against excesses in war and against aggressive acts towards women, old people and children, and even towards animals and plants.

In answer to what the writer said under the title "Judgement on changing religion in Islam."

- 1. In speaking about this subject, the writer would have done better had he used the correct term, that which was used by all scholars to refer to the topic, being the judgement on apostasy or the punishment of the apostate. It was a mistake on the part of the writer, being a scholar in the field of law known for precision in choice of words, to use the term "change of religion". It seems that the writer used the term with the aim of simplifying the subject matter and reducing the level of investigation

from "apostasy" to mere "changing", while the difference between the two concepts is enormous.

2. I searched in al-Bukhari's *Sabib* but could not find the hadith cited by the writer which mentions that an Arabian or a Christian man backslided and was not punished for that. I hope that the writer would provide the number of the volume and the page where we can find the hadith.
3. The writer is also mistaken in commenting on the alleged hadiths by saying that they support what the Qur'an announced concerning prohibition of compulsion in matters of religion. The verse which he cited does not signify that no punishment should be meted to an apostate; it rather means that people should not be compelled to embrace Islam originally. All scholars agree on this understanding of the verse.
4. The writer says that it was not proved that the Prophet had punished apostasy by killing. This evidence does not carry any weight as the sunna (way of the Prophet (PBUH)) concerns not only what the Prophet (PBUH) did, but also what he stated and sanctioned.
5. Supposing the correctness of the story mentioned by the writer, it is to be seen going against the unanimous agreement of the Prophet's companions, scholars and leaders of thought. It also goes against correct proven evidences reported from the Prophet (PBUH); consequently, it has no value. In *Al-Musannaf* by Ibn Abi Shaiba we read that "All those who followed (the Prophet), including Omar, Othman, Ali, Ibn Omar and al-Zuhri, agree that an apostate is to be given three days

in which to perform tauba and repent. If he does not do that, he should be killed.”

6. The writer quotes from al-San’ani’s writings to support his story about Omar Ibn Abd Al-Aziz not killing apostates. The same volume contains numerous evidences on the necessity of killing an apostate after giving him the chance to repent for three days. An example is when Omar (may God be pleased with him) came to the city of Basra and knew about killing an apostate without offering him the chance to rethink his situation and repent. He was extremely angry for this and directed that an apostate should be offered the chance of repentance before killing him.
7. The writer misquoted Ibn Taimiya’s statement in a way which lacked accuracy and contradicted the original meaning of the statement.
8. It appears that Dr. Dawalibi’s adoption of Dr. Muhammad Salim al-Awwa’s viewpoint in his book *The Principles of Criminal Law in Islam* without investigating Dr. al-Awwa’s sources, made Dr. Dawalibi unable to see except through Dr. Al-Awwa’s writings. By doing this, he isolated himself from the obvious evidences coming from the writings of other scholars. Despite his great knowledge, Dr. Dawalibi made a big mistake.
9. It has been made unequivocally clear from unanimous agreement that an apostate should be punished by killing. This should be sufficient reason for a Muslim to believe in this. There should be no need to be pleasant to or keep pace with the current situations of communities.

Lastly, we say that one of our shortcomings as Muslims is that sometimes we get ashamed and apologetic of our religion and that we try to embellish and make amendments in it, not because it is actually deficient but because some of its judgments may not appeal to other people. Many of us try to reveal Islam to others ashamedly and in a manner which they think would not harm Islam's cause, in an attempt to beg for their compassion; but we know from the Qur'an that neither the Christians nor the Jews will be satisfied with us until we follow their religion.

TALKING AGAIN ON ISLAM AND NATIONALISTIC AND SECULARISTIC TRENDS⁽⁶⁾

Dr. Dawalibi's Answer

Ash-Sharq al-Awsat daily had published my answer to their (the daily's) question about my views on the topics and papers which were presented in the seminar on the dialogue between religion and nationalism which was organised by the Center for Arab Studies. The seminar concluded without reaching common grounds among the speakers who came from different trends of thought : Islamic, nationalistic and secularistic. My answer was published on 3.6.1410 AH. Ash-Sharq al-Awsat's correspondent reported, then, that the Center had published a volume on "Future Horizons for the Arab Nation in the Coming Thirty Years" and that the book drew up three possible alternatives for the future of the Arab nation. The correspondent commented, "Unfortunately, Islam had no important and significant role to play in that scholarly pursuit of any of the alternatives." In my answer, then, I said that that underlines the responsibility of both sides, the nationalistic and the Islamic, in failing to reach a common background for Arab unity. In my discussion of some of the

6 Published in Ash-Sharq al-Awsat on 24.8.1410 AH corresponding to 21.3.1990 AD

misunderstandings which some of the speakers raised about the role of Islam in the future of Arab unity, I made clear that Islam was the first religion to call for religious freedom and to prohibit compulsion in religious belief. Besides, Islam was the first religion to order its followers to do good to followers of other religions, to protect them and their sacred places unless they wage war against Muslims or help their enemies evacuate them from their lands. Furthermore, the Medina declaration emphasises that Muslims have their religion, and the others have theirs, and that these have to be helped and treated on equal footing with Muslims.

That was what I wanted to emphasise about the role of Islam in the future of the Arab nation. I wanted to refute the claims of the secularists which show Islam to be a religion which humiliates non-Muslims. These claims are refuted by the scriptures of the Glorious Qur'an which Orders good treatment to all non-Muslims. The Medina declaration makes of the entire medina population, Muslims and non-Muslims, a nation unto themselves, distinguished from other peoples.

After a month from that date, on 28.1.1990, to be exact, Ash-Sharq al-Awsat daily published some hasty comments by some respected readers, especially on my discussion of the hadith, "He who changes his religion should be killed". They also contradicted my quotation of a hadith from al-Bukhari and Muslim about the Arabian who backslided and was not punished by killing. In their haste, they said they had searched for the hadith but did not find it. On the hadith of the Christian who backslided, one of them commented saying that the reason for not killing him was that he escaped, as reported in some versions. Now, after coming back from a travel, I would like to answer these points briefly depending on clear Qur'anic scriptures and on correct hadiths related to the topic which should be treated on equal footing with Qur'anic verses, lest we should be blamed for deserting the

Qur'an. God willing, I shall not be long, as a full discussion of the topic needs a specialised scholarly meeting, something which the pages of this respected newspaper cannot afford. It would be a great pleasure for me to meet the commentators who differed with me, especially Mr. Ahmad Naser al-Rajihî whom I had not had the pleasure of meeting before, and who (may God forgive him) criticised me sharply and unfairly, especially at the end of his commentary where he accused me of being ashamed of exposing Islam to others in its reality, and of trying to give it false embellishment in front of others, not because of any deficiency in it but because some of its judgments may not appeal to other peoples.

Thus, I feel I have to introduce my answer with something I see necessary to say. Firstly, my brother Mr. al-Rajihî would have done better to think well of me, as we both belong to the believers in the same religion. The Qur'an commands the believers to think well of themselves. I say this especially because I had previously had the honour of accompanying a delegation of some of the great scholars from Saudi Arabia including the former minister of justice Sheikh Muhammad Ali al-Harkan (may God have mercy on his soul), his excellency the current deputy minister of justice Sheikh Muhammad Ibn Jubair and the advisor at the royal court Sheikh Rashed Ibn Khunain in International intellectual dialogues and seminars with the greatest intellectuals of Europe in the field of law studies which were held in Riyad, in the council of Western European ministers in Strasbourg, in the ministry of Justice in Paris, in the international council for churches in Geneva, in the two international organisations for labour and the Red Cross in Geneva, and lastly in the Vatican. I wish Mr. Rajihî cared to ask the living members of the delegation about my attitudes in these major international seminars. They would all bear witness to my courage in exposing the facts of Islam and that I did not do that

ashamedly, as Brother al-Rajihī suggested. What caused me to be shy, however, was the great praise which his excellency the head of the delegation Sheikh Muhammad al-Harkan expressed to me, sometimes in my presence, especially just before his passing away. He would praise my attitudes saying that these attitudes should be made known to others. These dialogues were collected in a big volume which was published by the Muslim World League in several editions and in several languages. This volume is still in great demand today.

My discussion of the commentator's views:

After this introduction, I would like to go back to discuss the topic of apostasy in the light of clear Qur'anic verses and correct hadiths as published in *Ash-Sharq al-Awsat* in my first study, and in the light of the remarks made by the respected commentators Dr. A Kharofa, professor at the High Institute for Islamic Call in Medina, and Sheikh Ahmad Naser al-Rajihī in Riyadh. I feel it is my duty first to express my gratitude to all those who wrote in commenting on my first study, those who disagreed with me, those who supported me and those who wrote to enquire. I would like to thank twice those who disagreed with me, because, thanks to their remarks, I now have the opportunity to come back to the discussion of this important matter after coming back from a travel. God willing, I shall be brief, emphasising that a discussion of this topic needs a specialised intellectual seminar, which could be held at the desire of the commentators or at the invitation of *Ash-Sharq al-Awsat's* office in the Kingdom of Saudi Arabia.

My answer to the Remarks:

The remarks of the respected commentators can be stated

in brief as follows :

1. Neither of them could find the hadith about the Arabian who backslided and was not killed in al-Bukahri's *Sahib*, in spite of the meticulous search conducted by Dr. Kharofa.
2. Dr. Kharofa was of the opinion that the hadith about the Christian man who backslided and was not killed cannot be used as evidence because the man escaped as reported in one version of the hadith.

My answers to these remarks are:

1. On the hadith of the Arabian
The hadith was narrated by both imams: al-Bukhari (in al-Asqalani's explanation) and Muslim (in al-Nawawi's explanation). It was also narrated by Malek in *al-Muwata'* as quoted by Dr. al-Awwa. I have seen the text myself in al-Bukhari's book as explained by al-Asqalani, *Fath al-Bari*, vol. 4, pp. 76-97, the edition of al-Salafiya printing press. The exact text is as follows :

Jaber (may God be pleased with him) reported that an Arabian man came to the Prophet (PBUH) and gave him the pledge of Islam (bay'ah). On the next morning, he came with a fever, and asked (the Prophet) to allow him to retract his pledge and the Prophet refused three times, then said, "Medina banishes impurities and honours what is good."

May God forgive brother Sheikh Ahmad Naser al-Rajih for saying that he did not find in al-Bukhari's book the hadith which I quoted about an Arabian or a Christian

who backslided and were not punished; and for his saying that my adoption of Dr. Al-Awwa's views in his book *Principles of Criminal Law in Islam* without going back to other sources has blinded me to other evidences provided by other scholars and has caused me to commit a great mistake despite my abundant knowledge. I have to say that, despite my full trust in Dr. Al-Awwa in what he reported, it is my consistent habit to check all quotations in books available to me. This is what I did when I checked the hadith in Fath al-Bari, and I have provided the exact text from the statement of the Prophet (PBUH) which they doubted. The text is a key evidence in the discussion at hand.

2. On the hadith of the Christian

The hadith about the Christian who backslided was also narrated by al-Bukhari and Muslim and was quoted by al-Awwa in his book. I myself have read the text in al-Bukhari's book explained by Ibn Hajar al-Asqalani (vol 6, pp. 624-625, al-Salafiya printing press). Dr. al-Awwa made a mistake in providing bibliographical data of the hadith, saying that it was vol. 4, p. 246. When I searched for the hadith and could not find it there, I did not hasten to accuse the writer of misquotation but I conducted a careful search till I found the hadith and corrected the misprint. The exact text of the hadith runs as follows :

Anas (may God be pleased with him) reported that a Christian man embraced Islam and read the two chapters of the Qur'an Al-Baqara and Al-Imran, and he wrote for the Prophet (PBUH). He then, returned to Christianity and said that Muhammad did not know except what he wrote for him. Later, he died and was buried.

On the next morning, he was found dug out. His people said that that was the doing of Muhammad and his companions: they dug him out because he escaped from them. They dug deeper and buried him, but next morning he was dug out. They, again, said that that was the doing of Muhammad and his companions. Then they dug as deep as they could and buried him; and still, next morning, they found him dug out; then they knew it was not done by humans and left him out.

Dr. Kharofa comments that the reason for the Prophet (PBUH) not killing the Christian was that he escaped and joined his people. The sequence of events in the hadith indicates that the Christian man's people's homes were within the reach of Muslims. Had the Prophet wanted to kill him, he could have ordered him to be followed and killed. This is what he did with a group of people who backslided in his day, killed a shepherd, stole the camels and ran away. he ordered them to be followed. They were followed and killed for their crimes. The Prophet did not do that with the Christian who backslided and joined his people. This is an indication that the Prophet did not want to kill him for his backsliding, but he did as he did with the Arabian saying that Medina banishes impurities. That was because neither one of them fought Muslims after they had backslided.

Necessity of seeking reconciliation between differing texts:

Thus we can see that the hadiths of the Arabian and Christian men who backslided and were not killed are correct hadiths. On the other hand, the hadith which orders apostates to be

killed is also correct. So, we have at hand two view points which are both derived from the sunna of the Prophet (PBUH) and which are in apparent contradiction. In this case, and in accordance with principles of sunna scholarship, reconciliation between the two viewpoints has to be sought. Reconciliation in this specific case can be found in the hadith of the Arabian apostate wherein the Prophet (PBUH) states that "Medina banishes impurities". The Arabian backslided on account of ill health, as he said. he did not wage war or commit any aggression against Muslims. Subsequently, the Prophet (PBUH) left him alone saying he was a mere impurity from which God had purified Medina. He left his punishment to God. This is in agreement with Qur'anic judgment which says that whoever backslided and died an unbeliever will have his deeds foiled in this world and in the Hereafter (See al-Baqara : 217 and al-Ma'ida : 54). So we see that the Qur'an did not appoint any worldly punishment for this deed. It is also in agreement with the general teaching of the Qur'an that God Almighty had shown ways of guidance to people and encouraged them to follow these ways, and had shown ways of evil and interdicted following them, and that it is up to people to choose (see Yunus: 108).

I see no contradiction between this principle of not punishing an apostate who does not wage war against Muslims and the story which Prof. Dr. A. Kharofa quoted from al-San'ani's *Musannaf* about the Jew who backslided to Judaism after embracing Islam and who was killed at the insistence of Mu'adh Ibn Jabal by Abu Musa al-Ash'ari in Yemen. I say there is no contradiction, first on account of the story being related to the Jewish conspiracy in Medina. Before the coming of Islam to Medina, the Jews were in a lofty position, when the Medinans embraced Islam, the Jews lost this status, and they resented this. Subsequently, they decided to play intriguing tricks on Medinan Muslims

to divert them from Islam by announcing that they embraced Islam one time, and leaving Islam on other times. Their conspiracy was revealed by the Qur'an (see Al-Imran : 72). I am of the opinion that it is in this context that the Hadith "He who changes his religion should be killed" should be seen. It should be set against the background of the Jewish conspiracy. This is supported by the attitude of Mu'adh, a great scholar of hadith, who insisted that the Jew who backslided be killed. He wanted to put an end to the renewed Jewish conspiracy to divert Muslims away from Islam: intrigue is worse than killing. Thus we see that acting by the hadith of killing intriguers, the Muslims had their religion preserved, first in Medina and then in Yemen. It is to be seen that this measure preserved not only Islam but also the lives of the Jews; and the Jews should be grateful for this. It put an end to the Jewish conspiracy and saved their lives. Not a single incident, besides of Mu'adh and the Jew in Yemen, has been reported.

Apostasy in the United Nations:

It gives me pleasure to report to my readers in this respect the historical confrontation about the hadith in a United Nations session in Geneva in 1984 AD between myself and the head of the Israeli delegation under the title "religious tolerance". On that occasion I was honoured by the Custodian of the Two Holy Mosques who appointed me as head of the Saudi delegation in that session. The head of the Israeli delegation surprised us by mounting a severe attack criticising the Kingdom of Saudi Arabia and Islam on account of the statement of the Prophet (PBUH), "He who changes his religion should be killed," saying that this goes against the Human Rights declaration. I had only a quarter of an hour to respond, but all other Muslim delegations relinquished to

me the right to respond. I talked for more than two hours and answered all the points raised by the impudent attack of the Israeli delegation. The Israeli delegate tried to interrupt my speech on the grounds that I had exceeded my time limit, but the Communist Polish Chairman of the session would not allow him to do that, saying that the meeting had to listen to my answers to the points which he had raised against Saudi Arabia and Islam.

However, I shall speak here only about the hadith, "He who changes his religion should be killed." My answer to the accusations concerning that hadith was as follows : The basis of the argument in this respect is what the Qur'an says that there should be no compulsion in religion. Furthermore, it was reported in correct hadiths that an Arabian and a Christian men backslided from Islam and the Prophet (PBUH) did not kill them. As for the hadith of killing the apostate, it has to be said that it concerns the conspirators against Islam, and the Jews were the first people meant by the hadith. The Jews conspired against Muhammad and Islam, as they had done before with Jesus, the Messenger of peace. I, then, related to the audience the story of the Jewish plot which was uncovered by divine revelation, and explained the details of the plot and told the story of the Jews seeking refuge in Medina prior to the coming of Islam after they had fled their lands running away from massacres against them for their plots against Jesus. I said that the Jews should be grateful to Muhammad (PBUH) for decreeing this punishment because it preserved their necks and prevented them from going on with their plots. The hadith also preserved the religion of Islam when it was still young in the hearts of Muslims who might have been liable to fall prey to those plots. I hope that this would put to rest the suspicions which Mr. Rajihi entertained about my exposing Islam, as he said in his comment, may God forgive him.

Following from this, I would like to request the respected brothers who commented on my earlier article, Dr. Kharofa and Mr. Rajihi, to join me in seeing the reality of the battle in which Islam is involved today. I ask them to think well of my words and to keep in mind the incident where Khaled Ibn Al-Walid came back from the battle of Mu'ta with what had remained of the three thousand strong army after their bitter defeat in front of the one hundred thousand strong Roman army. The Medinan masses received him with shouts of "coward" accusing him of weakness and fleeing the battle. The Messenger of God (PBUH) was more generous and understanding when he said that Khaled would fight with strength for the cause of Islam.

I see that recounting the story of Muadh insisting on killing the Jew who backslided in Yemen without putting it in the context of the Jewish conspiracy in Medina which I have related here in brief and in more detail in Geneva, will do harm to the cause of Islam and unleash a great intrigue against the lofty human ideals of Islam on which the call of the Qur'an was based. God addresses people saying that He had created them in tribes and nations so as to meet and know each other. The most noble of people are those who fear God most. The Qur'an also commands Muslims to be good to those who differ from them in religion unless they wage war against Islam.

Let us proclaim to all mankind that the message of Islam is the only way to peace.

ISLAM ENJOINS PROTECTION OF FOLLOWERS OF OTHER RELIGIONS BUT REFUSES APOSTASY FROM A MUSLIM

**My Second Answer to
Dr. Dawalibi in Comment on
“Islam and Nationalistic and
Secularistic Trends”⁽¹⁾**

By Prof. Dr. Ala'Eddin Kharofa

THE respected Prof. Dr. Muhammad Ma'ruf al-Dawalibi published in Ash-Sharq al-Awsat daily on 24.8.1410 AH/21.3.1990 AD an article on the topic of apostasy of a Muslim, in which he responded to my and Sheikh Ahmad Naser al-Rajihi's comments which were published by Ash-Sharq al-Awsat daily on 2.7.1410 AH/28.1.1990 AD. In his last article Dr. Dawalibi suggested holding an intellectual seminar to study

1 Published in Ash-Sharq al-Awsat 14.4.1990 AD

the topic. My response to this suggestion is that I am ready to attend such a seminar in any place provided that fairness is respected in allocating publicity and time among participants, and that well-known specialists in Shariah law are invited and that it should be open to any one who wishes to attend.

I would like in the beginning of this article to underline the fact that Islam is the religion of tolerance and ease which hates bloodshed. The principles of Islam bear witness to this fact. Nobody should be forced to embrace Islam, as faith lies in the heart and cannot be imposed. This is why the Qur'an teaches that there should be no compulsion in religion. The authorities in a Muslim state are bound by religious duty to protect and treat fairly followers of other religions living within their boundaries. Their lives, properties and worship places have to be preserved from harm. These are facts about Islam which are supported by innumerable instances in Islamic history. One could mention countless examples of this, but one has to be brief in an article like this.

I do not disagree with Dr. Dawalibi on the vision of the battle in which Islam is involved today, but being in the middle of a battle like this does not entitle us to hide or misinterpret any of Islam's tenets.

I would like to give an example of the anti-Islam propaganda which is becoming common nowadays; I mention the statement made by the American ex-president Ronald Reagan after winning the presidential elections. In an interview with Time magazine published a few days before assuming his responsibilities, Reagan expressed his views on a host of different affairs, including the Islamic awakening, on which he commented saying that the Muslims in the East are returning nowadays to the principle which says that a Muslim has to kill a Jew or a Christian if he wishes to enter

heaven.

This pained me immensely as it contradicted the teachings of Islam. I wrote an answer to that statement and sent it to the mentioned magazine in my capacity as director of the Muslim World League Bureau in New York. I also wrote to President Reagan himself and explained to him Islam's attitude towards non-Muslims, and how Islam commands its followers to treat non-Muslims fairly, and how non-Muslims (Christians and Jews) are still living in peace in all Arab and Muslim countries. In this letter I also told him that he was gravely misinformed about Islam. President Reagan answered me in a very polite letter in which he apologised for what he said in that interview. In a rare gesture, the President signed the letter personally. The general practice is that the President of the United States does not usually sign such letters himself but authorises his aides to sign them. In President Carter's days we used to receive letters signed by aides in answer to our letters and protests. President Reagan's letter is kept in the files of the Bureau of the League in New York, and a copy of it is in my possession. My point from relating this story is to show that I share Dr. Dawalibi's view about the crisis which faces Islam in the West. However, I differ with him in that the situation does not entitle anybody, whether a Muslim or non-Muslim, to hide or to make any changes in any of Islam's principles. There is nothing to hide in them. Besides, they are widespread and known not only to Muslims but to non-Muslims as well; I have found that many Western orientalist know about Islam's teachings more than many Muslims do.

By coming back to the topic of Muslim apostasy, the question to be asked is: Is it Islamically legally acceptable? Should there be a punishment for it in this world? Or should the apostate be left alone because no punishment for apostasy was assigned in the Qur'an? Under the title "The Judgement

on Changing Religion in Islam”, in his first article, Dr. al-Dawalibi cited two hadiths on the topic in the following way: an Arabian man pledged loyalty to the Prophet, being a Muslim, then he backslided and the Prophet did not kill him; and a Christian man embraced Islam then reverted to Christianity and the Prophet did not kill him either. This is the text which I searched for and could not find. Quoting a single sentence from a hadith is liable to cause great confusion, and could tempt weak hearted people to backslide. The exact text of the hadith is: an Arabian man came to the Prophet (PBUH) and gave the pledge of loyalty to Islam. Next day, he came with a fever, and asked the Prophet to allow him to retract his pledge and the Prophet refused three times, then said, “Medina banishes impurities and honours what is good.” This is the version of the hadith in *Fath al-Bari*, explaining *Sahih* of al-Bukhari. In another version, narrated also by al-Bukhari, we read that Medina “purifies men like fire purifies iron ore from its impurities.” (vol 4, pp 96-97, ed. of Dar al-Fikr)

There is a world of difference between this exact text and between saying that “An Arabian man gave the pledge, then he backslided, but the (Prophet) did not kill him.”

By looking deeper into this hadith we see that it does not serve as a proof that a Muslim who backslides from Islam should not be killed. The Arabian was stricken with fever and could not stay in Medina, and asked to be allowed to leave. In his comment on the hadith, al-Asqalani, says, “what appears from the hadith is that the Arabian man asked to be allowed to retract his pledge of Islam, and this is the understanding of Iyad. Other interpreters say that the Arabian did not ask to be allowed to retract his pledge of Islam, but merely to leave Medina, and not to be with the Muslim community in Medina.” (*Ibid.* vol 4, 9. 47)

In his interpretation of this hadith, al-Imam al-Aini (d.

855 AH) says, "No person who embraces Islam can leave it, neither can someone who migrated to Medina and to the Prophet (PBUH) leave Medina and go to his home. That Arabian had embraced Islam and migrated to Medina, and gave the Prophet the pledge of support and to stay in Medina with the Prophet. Iyad comments that the pledge may have taken place after the Muslims had occupied Mecca and the cause for hijra (migration) was nullified. He had given the pledge of Islam, and asked to be allowed to leave Medina, and the Prophet did not give him permission. Ibn Battal comments that the proof that he did not mean to backslide from Islam is that he asked for permission to leave. If his departure from Medina had been seen as backsliding from Islam, he would have killed him there and then. His departure was an act of disobedience and not backsliding. He might have felt that he was justified in leaving Medina on account of his fever, and he might have been ignorant of the fact that departure to and staying in Medina with the Prophet was a religious duty, as was the case with many Badwins in those days. (See *Umdat al-Qari fi Sharh Sahib al-Bukhari* by al-Imam al-Aini, vol. 10, p. 246, ed. of *Ihya' al-Turath al-Arabi*). Something to the same effect was said by Sheikh Sadiq Hasan al-Qandaji al-Bukhari in vol 3, p. 360, ed. of Qatar. Thus we see that the hadith cannot be used as a proof of what the respected Dr. Dawalibi says: It is clear in its indication and it does not contradict the statement of the Prophet (PBUH), "He who changes his religion should be killed." Not a single scholar from among those who explained and interpreted hadiths holds an opinion similar to that of Dr. Dawalibi's. All books of Islamic Jurisprudence have special chapters on apostasy, judgement on apostates and what to do with them, but not a single book sees any contradiction between the hadiths about that. Nobody can claim that any of the acts of the Prophet (PBUH) has ever

contradicted any of his statements on any of the issues or on any event. The Messenger of God (PBUH) always did what he said. When he (PBUH) said about something that it was lawful or prohibited, he was the first to put his words to actions. There are innumerable instances that prove that. As for the story of the Jew in Yemen who embraced Islam and backslided and I shall not repeat it for the sake of brevity. I say that Dr. al-Dawalibi has made a mistake in understanding the story. He sees a connection between the incident and the Jewish conspiracy in Medina. This implies that the mentioned Jew was made to pay the price of what his people had previously done in Medina. This is absolutely in disagreement with what is known about justice in Islam and its teachings which prescribes that nobody should be punished for the crimes of others. The correct understanding of the story is that the Jew was paying for his own apostasy and leaving Islam and insisting on that in spite of giving him ample time of one (or two) months to rethink his situation. Islam does not impose punishment on someone for what his people had done.

Moreover, the hadith of the Christian was not narrated in al-Bukhari's book or in any other book in the way quoted by Dr. al-Dawalibi namely that a Christian embraced Islam and then backslided and that the Prophet did not kill him. It was, rather, narrated in the way which I quoted in my commentary. It is to be seen that there is a great difference between the two versions. I mentioned that I had sought help from the Center for Serving Sunna in Medina and from some lecturers at the Islamic University to check the version which I knew. We could not find the version which Dr. al-Dawalibi quoted in his first article. In a hadith reported by Muadh, we read that when the Prophet sent him to Yemen, he commanded him that in case a man backslided from Islam, he should give him the chance to come

back and perform tauba and repent; if he did not do that, he should be killed. (See *Baḍhl al-Majbūḍ fi Hal Abu Dawūd*, vol 17, p. 285, ed. of al-Maktaba al-Imdadiya, Mecca).

In summary, I say that whoever accepts Islam as a religion should not be allowed to leave it or backslide from it. This means denying the existence of the Creator and denying the truth of the message of Muhammad (PBUH) after having had faith in them. If a Muslim backslided, he would not be killed instantly, but would be given time to repent : three days or one month (according to different opinions). If he repented, he would be freed, and no harm should be done to him; however, if he did not, he should be killed. On this opinion agreed the companions of the Prophet (PBUH) and those who followed them and all scholars who wrote in explaining and interpreting the hadith and jurisprudence from all schools of Islamic thought. This is in agreement with the hadith "He who changes his religion should be killed." Dr. al-Dawalibi mentions that this hadith was reported by a single person. He, then, admitted the correctness of the hadith but said that it was contradicted by the hadith of the Christian and the hadith of the Arabian, and concluded that in that case, the Qur'anic text should be applied.

In this respect, I say that there is no contradiction between the hadiths: each one of them functions in its own domain and in particular context. Moreover, the sunna (tradition) of the Prophet (PBUH) has the authority to interpret and explain the Glorious Qur'an, and to show specific details where the Qur'an spoke in general terms. It also has the authority to legislate and give laws which were not mentioned in the Qur'an. Numerous are the instances of this in the blessed sunna. This should be too obvious, and I do not say this here to Dr. al-Dawalibi, who is well informed on the subject, but to readers who read his two articles without being armed with proper knowledge of the status of the sunna

in Islamic legislation. This is proved in the Glorious Qur'an which commands the faithful to obey the Messenger in what he commands or interdicts.

In my first commentary, I put forward a plea which Dr. al-Dawalibi did not answer. I would like to repeat it here and add other pleas. I mentioned that Abu Bakr (may God be satisfied with him) fought the apostates who refrained from performing only one of the duties of Islam, namely zakat (alms paying). In this he was supported by Omar Ibn al-Khattab (may God be satisfied with him) and all the other companions of the Prophet. Abu Bakr was also reported to have killed an apostate woman during his reign, and no one of the companions said anything against this. This was narrated by Ibn al-Mundhir. As for the second caliph, Omar Ibn Al-Khattab, it is reported that he learnt about the killing of an apostate. His comment on this was that the apostate should have been given the chance to repent. He said, "You should have detained him for three days, given him provisions while in detention and given him the chance to rethink. Only after you have done this, you can kill him. O God, I have not attended his killing, I have not commanded it and I was not pleased with it." (See *al-Muatta'*, vol. 2, p. 737) Something to the same effect was cited in *Al-Musannaf*, by al-San'ani, vol. 10, p. 164. This proved beyond doubt that an apostate should be given the chance to repent while in detention for three days. During that time, he should be re-exposed to Islam and fed, and no harm should come to him. If he chooses the path of guidance, then he is to be set free, or else, he should be killed.

It was reported also that the third caliph, Othman Ibn Affan (may God be satisfied with him), learnt about the backsliding of a Muslim. He called upon him to come back to Islam three days but the man insisted on disbelief, and was killed. It was reported about the fourth Caliph, Ali Ibn

Abi Taleb, that he knew about a Christian man who embraced Islam and then backslided. Ali said to him, "You may have backslided in order to get some inheritance and you plan to come back to Islam later." The man answered, "No." Ali, then asked him, "You may have asked to marry a woman, and her people refused to marry her to you, so you may have backslided in order to get her in marriage, and you plan to come back to Islam later." The man answered, "No." Then Ali asked him to come back to Islam and the man answered, "I shall not do this till I face Jesus." Ali ordered him to be killed, and his inheritance was distributed among his Muslim children. (See al-Musannaf, vol 10, p. 169). In al-Musannaf, we also read about a Muslim who backslided in the days of Ali. The caliph gave him a month to rethink and repent, and when he insisted on disbelief, he was killed. (vol 10, p. 114)

This is how the companions of the Prophet and the well guided caliphs reacted to apostasy in their days. There is no doubt that they knew that the punishment for apostasy was not determined in the Qur'an but in the blessed sunna. Nobody can ever claim that he understands Islam better than they did (may God be satisfied with them all). May God guide us to what is good in words and deeds, and give us help in serving Islam.

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DISBELIEF IN ITSELF IS NOT LEGAL REASON FOR KILLING⁽¹⁾

By Abd Al-Jabar Tawamah

Ash-Sharq al-Awsat daily, which is the international Arabic newspaper, is accustomed to publishing in its pages, like the "Letters" page, various opinions which may be of clashing nature, thus opening the way for freedom of thought and the struggle of ideas. This shows that the daily has firm belief in the necessity of publishing contradictory opinions, and that publishing only one view no matter how correct it may seem goes against freedom of thought and the Qur'anic teaching of wisdom and consultation. In this context, and in comment on Dr. Kharofa's article, which was in turn, a response to Dr. Ma'ruf al-Dawalibi's article on the topic of apostasy in Islam published in Ash-Sharq al-Awsat's edition No 4155 on 14.4.1990, I have something to say on the topic, and I hope the writer whom I am answering will take the matter in a peaceful and reasonable manner without raising too much noise which is likely to blur the right path.

There is no doubt that the philosophy of legislation in the Qur'an rests on the principle that hudud punishment can only be on crimes which cause harm or damage to people,

1 This answer was published in Ash-Sharq al-Awsat on 16.10.1410 AH corresponding to 11.5.1990 AD. And it has an awful mistake as it can be seen from my response in next article "The Author".

be it physical or moral, direct or indirect. This is made clear from a reading of the verses of the Qur'an. Thus we see that such crimes as theft, adultery, unfair accusation of adultery, murder, corruption and waging war against God and His Messenger (including proclaimed hostility to general and public beliefs) are all crimes for which there are specific assigned punishments in Islamic law, being acts of aggression against people. These punishments are meant to organise life and establish social security. The Qur'an states that in punishment, there is life for people, and this can be seen by people of sound thinking. Following from this, we see why the Qur'an has not assigned a punishment for the apostate in spite of the fact that apostasy was mentioned in the Qur'an more than once. The Qur'an for instance, states that apostates will have their deeds abrogated and will face severe punishment in the coming life. Apostasy is not a crime which touches other people, thus calling for a punishment of the sort I mentioned earlier which aims at organising life or establishing communal peace. The matter is that apostasy is an issue of belief, and in this, its proper domain is between man the creature and God the Creator, Every human being has the freedom of choosing what he wants to believe in, and has the freedom of changing his mind about it. The Qur'an states that whoever wants to believe can do so, and whoever wants to disbelieve can do so also. The freedom of belief is then guaranteed by the Qur'an which is the divine law. The Qur'an says that people can choose to believe or disbelieve and the Prophet is not responsible for that. Furthermore, in the day of the Prophet there were people who embraced Islam only by word, and it did not enter their hearts, these are the hypocrites. The Qur'an spoke about them, and the Prophet (PBUH) knew them and he did not order them to be killed. These people are mentioned in many places in the Qur'an and especially in the Chapter of al-

Munafiqun. The Qur'an makes it clear that God will punish them in the other world; no punishment was assigned for them in this life.

As for the hadith quoted by Dr. A. Kharofa "He who changes his religion should be killed," I say that it is indeed a hadith which was narrated by a single individual. The late Sheikh Mahmud Shaltut was right in his observation on the topic of apostasy and on this hadith in his book *Islam as Doctrine and as law* (p. 281), when he says, "The point of view of looking at the matter may change when we notice that many scholars are of the opinion that hudud punishment cannot be proved by hadiths narrated by single individuals, and that disbelief in itself is not legal justification for killing. What does justify killing is the act of aggression against Muslims and the attempt to divert them from their religion. The Qur'an in many verses state that there should be no compulsion in religion." I would like to add here that hadiths reported by individuals — though these may be described as correct by narrators like al-Bukhari and Muslim — do not amount to more than conjecture, and scholars of fundamentals of religion agree on that. Conjecture cannot be used as a basis in matters of doctrine and hudud punishments. These have to be referred only to the Qur'an.

On the issue of the judgement on apostasy, no weight should be attached to the talk about the clash between the hadiths and interpreting them, on account of, firstly, being hadiths reported by individuals, and are, subsequently, subject to speculation, and secondly, because no judgment was specifically assigned in the Qur'an to the effect of killing the apostate. When a hadith, no matter how correct it is regarded by those who narrate it, contradicts the Qur'an, it is to be disregarded. It is to be considered, furthermore, equivalent to telling falsehoods about the Prophet (PBUH) who conveyed the message of the Qur'an and put its teachings into

practice. I was greatly surprised by what Dr. A. Kharofa said about the sunna having the capacity to give new legislation and laws not mentioned in the Qur'an. This is a mistake which many people make. How can this be true while the Qur'an states categorically that all judgements should be sought in it as it contains all truth and the fundamentals of everything. I would like here to call upon Dr. Kharofa and the likes of him to contemplate the verses of the Qur'an and to remember that the messenger (PBUH) was ordered to convey to people the message of the Qur'an, and to warn people with the Qur'an only, not with the Qur'an and the sunna. The sunna and in particular, the verbal hadiths amounts to statements reported by individuals and is open to conjecture. The hadiths are merely statements attributed to the Prophet, and no value should be attached to them unless they are in agreement with the Qur'an. It does not stand to reason, then, that the sunna can put forward new judgements which were not revealed in the Qur'an. I am afraid that such people are merely following their illusions and conjecture. Some such people quote a verse in the Qur'an, to the effect that Muslims should obey the Messenger in his commands and interdictions. They do this in an attempt to prove their point about the status of the sunna in Islam. In this, they are making a mistake because they are quoting the verse out of context. The verse should be seen in the context of the distribution of spoils, so God is teaching Muslims to accept what the Prophet gives them and stay away from things he prohibited to them from the spoils. This is the way this verse should be understood. In doing this, the Qur'an uses the word "āta -" which is usually used in the Qur'an in speaking about financial benefits. We have other examples of the usage of this word in Chapter al-Tauba : verse 58-59 and al-Nisa': 37.

So, the verse which they cite does not rise to prove their

point about the status of sunna, and even if we want to generalise and take the verse out of its context, we can say that it means the Qur'an as the Prophet relayed to us the message of the Qur'an with its commandments and prohibitions. The Qur'an tells the messenger (PBUH) to teach people with the Qur'an, not with the Qur'an and the sunna.

Coming to Dr. Kharofa's statement about the strong plea Dr. Dawalibi did not answer which is about the unanimity reached by the companions including Abu Bakr and Omar regarding fighting the apostates, and Abu Bakr having an apostate woman killed in his days with the other companions not opposing it, and other stories related about other companions concerning the killing of an apostate, I say :

Abu Bakr was right in waging war against those who refused to pay alms (zakat) to him, but this should not be seen in the context of the judgement on apostasy; it is, rather, to be seen as working towards laying down strong foundations of the authority of the young state which had its treasury's main income from zakat money. This is a legal and justified measure as letting such a rebellion go without punishment especially that it comes from people who still professed Islam would result in the Muslim state losing its reverence and authority which are two of its main pillars and on which it depends in growing and developing. What happened with Musailamah the Liar and his band also goes under fighting those who declare war on God and His Messenger, disclaim the religion of Islam and try to spread vice and corruption on earth. Alternatively, it may be seen in the context of fighting those who break promises and betray pacts. The Qur'an teaches that those who betray their trust should be fought.

Coming to the issue of unanimity on a serious issue which was not dealt with in the Qur'an like that of the judgement on apostasy, I say that there is no judgement in the Qur'an of killing an apostate. On the contrary, the Qur'an has

judgements which contradict such a verdict. Moreover, unanimity of Muslim scholars cannot be considered a strong enough plea and is not binding when it goes against Qur'anic scriptures. Unanimity may be considered a source of legislation when there is no specific text in the Qur'an on a certain issue, wherein general agreement among Muslim scholars of a certain age can be seen as legislation. Even in this, there are differences: some say that the unanimity meant here is general agreement of the companions of the Prophet (PBUH), others say that it is consensus among the scholars of Medina. Still others say that it is agreement of the scholars from the household of the Prophet (PBUH). A fourth opinion is that it is the agreement of the two first caliphs Abu Bakr and Omar. A fifth opinion says that it is agreement of the four leaders, and so on. It was even reported from one leading Muslims scholar, al-Imam Ahmad, that reaching unanimity is an illusion and it can never be reached. He was reported to have said, "He who claims that there can be unanimity is lying," There was even difference on the extent of the authority of unanimity, and whether it was proved with final evidences, and whether the person who rejects unanimity is to be considered a disbeliever. Furthermore, to be legally binding, does unanimity have to be reported by groups of people, or is it enough to have it reported by individuals? At this point I say that true unanimity according to scholars is the general agreement which is above differences and which is legally binding, and which concerns things which are necessarily known from religion. It also has to be reported without any doubt by groups of people. This is unanimity which is legally binding and which cannot be contradicted. No doubt, acting by judgments derived from such consensus is, according to the late Sheikh Shaltut, not merely acting by consensus as such, but acting by teachings reported by all people which can be trusted from the likes of them up

to the supreme legislator. Unanimity, then, is not a source of legislation in itself, but in proving what was reported from the legislator. In this respect, we see that the Qur'an was the only legislation around which there is no doubt. Basing on this, nothing is to be compared with the Qur'an, and going against its verdicts and judgments is never to be allowed. This is the absolute truth, and all other things are subject to verification for certainty of reporting and subject matter. Nothing which has reached us can be said to attain certainty in reporting except the Qur'an.

Those who raise the slogan of unanimity in front of the judgments of the Qur'an usually do so with the aim of drawing up new paths to divert the believers from the straight path of the Qur'an and to break up the consensus of the ummah/nation of the believers. This was how barriers were created between the ummah and its Book.

Abd. al-Jabar Tawamah

A quick observation:

This article has included an obvious denial of the sunna in its entirety. The style and the ideas of the article indicate that the writer was no one but Muhammad Ma'ruf al-Dawalibi.

I have made enquiries with numerous friends, but no one seemed to know this Abd. al-Jabar Tawamah.

I feel justified in asking the question: does this person really exist? Is it a pseudonym which al-Dawalibi used to air his views with anonymity? Or does it belong to a person who was asked by al-Dawalibi to sign what al-Dawalibi had already written?

It is an exposed game in politics where, if you wanted to cover an abominable action, you would do this by committing an even uglier deed.

Al-Dawalibi had rejected the hadith "He who changes

his religion should be killed," and now, this article rejects the whole sunna beyond any doubt. This makes one think that it was most probably al-Dawalibi who wrote the article. Whatever may the case be, my answer to that article follows in the coming article.

“AL-SUNNA” IS A SOURCE OF LEGISLATION

My answer to the last article⁽¹⁾

By Prof. Dr. Ala'Eddin Kharofa

A

Ash-Sharq al-Awsat daily published an article under the title “Disbelief in itself is not legal justification for killing” on 16.10.1410 AH/11.5.1990 AD, signed by Abd al-Jabat Tuama, in reply to my article published in Ash-Sharq al-Awsat on 19th Ramadhan 1410 AH. The article contained several observations which I propose to discuss here.

1. The writer rejected the idea that the sunna has the capacity to bring forth legislation, as I stated in my article. He expressed surprise at this, which he described as a great mistake which many people make. My answer to this is: This is not a mistake, great or small. It is, rather, the opinion of the Muslim community and the people of the Sunna throughout history. We believe in this and consider it a religious duty. In what follows I cite proofs for this from the Glorious Qur'an. In many verses in the Qur'an we read the injunction on Muslims to obey the Prophet's commandments as they do the orders of the Qur'an. See Al-Ma'ida: 92; Al-Nisa': 65; Al-Nisa': 80; al-Ahzab: 36; Al-Nur: 63 and Al-Hashr: 7.

1 Published in Ash-Sharq al-Awsat on 18.1.1410 AH/1.6.1990 AD

The last verse which I had quoted in my last article, apparently signifies having satisfaction with the way the Prophet distributed spoils among Muslims. However, scholars have cited it as proof of the necessity to obey the Prophet (PBUH) in all that he commands or interdicts. So, when I cited it in my article I was not making a mistake, but I was repeating what the scholars had already said. Mr. Tuama used words in his discussion which do not become scholarly discourse.

The verses which I have cited above indicate clearly the necessity to obey the Prophet (PBUH), consequently, the sunna is to be considered a source of legislation. he who rejects the sunna in its entirety should read the story of Mu'adh when the Prophet (PBUH) sent him to Yemen. It was reported that the prophet (PBUH) asked him, "If something happens which calls for you to pass a judgement on, what would you do?" Mu'adh answered, "I judge by the Book of God."

The Prophet asked him, then, "If you do not find it there, what would you do?"

Mu'adh answered, "I go by the sunna of the Messenger of God." The Prophet, then, asked him, "And if you do not find it there, what would you do?"

Mu'adh answered, "I make ijtiḥad, I use my opinion." The companions of the Prophet have all agreed that the sunna of the Prophet (PBUH) should be followed both during his lifetime and after his leaving this world. When he was alive, they obeyed him in all he commanded and kept away from all he prohibited. They did not differentiate between the judgements of the Qur'an and the commandments of the Prophet (PBUH). After he passed away, they used to look in the sunna for guidance whenever they could not find the judgment they were looking for in the Qur'an. In later generations the sunna was always the subject of great reverence among Muslims. Scholars have for generations ac-

cepted the sunna, acknowledged its value and saw the necessity to follow it in all quarters of the earth.

Al-Imam al-Shafi'i (may God have mercy on his soul) stated in his famous epistle, "I do not know anybody from among people of scholarship (to be noticed here is the subtle distinction al-Shafi'i makes in saying 'people of scholarship') who disagrees on the fact that the ways of the Prophet (PBUH) are three: the first is what God Almighty revealed in the Qur'an and the Prophet decreed likewise, the second is what God Almighty revealed in the Qur'an in general statements and the Prophet explained it in detail, and the third is what the Messenger decreed on something which was not mentioned in the Qur'an."

Al-Shafi'i's statement is clear in that the Prophetic sunna has the capacity to ascertain the rules of the Qur'an, give detailed explanation to what is stated in general terms in the Qur'an or to give new legislation which were not mentioned in the Qur'an. This is what I said in my article, and it is taken for granted by scholars of the fundamentals of jurisprudence, old and new. Sheikh Abd al-Wahhab Khallaf (may God have mercy on his soul) says in his book *The Science of the Fundamentals of Religion*, ed. 15, p. 38, "Every legislative tradition of the Prophet (PBUH) has to be obeyed whether it was explaining a judgement in the Qur'an or bringing forth a new judgement, because they all come from the infallible Prophet who was given by God the authority to explain and legislate."

Here, I would like again to refer to the distinction al-Imam al-Shafi'i makes in speaking about "people of scholarship." Moreover, al-Shafi'i (may God have mercy on his soul) says in his book *Al-Umm*, "I have not heard any one who is attached by people — or who attaches himself to scholarship disagree on the fact that God has commanded obeying the orders of the Prophet (PBUH), and that this

has left the Muslims who came later no choice but to follow the Messenger, and that no statement is considered binding except those of the Book of God and the sunna of His messenger, "(vol 7, p. 250) as quoted in Dr. Mustafa al-Siba'i, *The Sunna and its Status in Islamic Legislation*, 2nd ed, p. 149.

This is how people of scholarship saw the position of the sunna. More than that, some scholars are of the opinion that whoever rejects the sunna as a source of legislation is considered an apostate and a disbeliever. Ibn Hazm says that, "If somebody says, 'We shall not accept but what we find in the Qur'an,' will be considered a disbeliever by consensus of the muslim nation.' (*Kitab al-Abkam*), vol 2, p. 80, as cited in the previous book, p. 151).

2. Abd al-Jabar Tuama has refused to accept that the sunna has the capacity to put forward new judgements which were not mentioned in the Qur'an. It seems that he did not have knowledge of the judgements which were proved only in the Prophetic sunna. In what follows, I cite a few examples for his benefit: A grandmother's share in the inheritance was mentioned in the sunna, and no mention of it has been made in the Qur'an. Prohibiting having a woman with her aunt as wives at the same time was also a judgement proved in the sunna. Prohibiting wearing of silk clothes and gold for men was another such judgment. Likewise, the judgement on prohibiting marrying a woman with whom a man had suckled in infancy and all her relatives who would be prohibited to be taken in marriage as blood relatives was a judgement mentioned in the sunna. The Qur'an prohibits eating dead animals, but the sunna made an exception of marine animals in this respect. The Qur'an laid general rules for trade, and the sunna gave detailed instructions on kinds of trade, approved or otherwise. The Qur'an does not assign a pun-

ishment on wine drinking; it was the sunna which assigned that punishment. The Qur'an prescribes prayers (salat), alms paying (zakat) and pilgrimage (hajj) and speaks about them in general terms; it is only in the sunna that we find the manner with which prayers are to be performed, the percentages imposed in alms paying and how to perform pilgrimage. The judgements which were put forward by the sunna cannot really be counted.

3. All the verses which the writer mentioned in his article about the Qur'an being a source of legislation do not contradict the fact that the sunna is also a source of legislation. It is out of the scope of this brief article to discuss each one of the verses individually. I assume that the general discussion above is sufficient.

I do not find much use in discussing the writer's understanding of the judgement concerning killing the apostate as the writer rejects the whole sunna, so it is useless to argue with him over an issue which forms a branch of it. The writer considered that the unanimity reached by the companions of the Prophet was a mistake and said that trying to prove that judgement was a mistake. I have no comment on this as the standards to which we resort are divergent. While the writer depends solely on the Glorious Qur'an, I base my investigation on the Qur'an coupled with the sunna, consensus and syllogism among other things.

4. Abd al-Jabar Tuama asked me to receive his objection coolly and calmly. My response to this is that I am ready to listen with an open mind to any objection to my opinions, but I am not ready to accept any objection to the Prophetic sunna and I shall do my level best to defend it along with the principles of Islam.

Here, I call upon the writer of the article and all who

think like him and all those who stand behind him to repent and seek God's forgiveness and to come to the ranks of the people of sunna and respect the way of the Prophet (PBUH). I remind them of the Qur'anic injunction on all believers to love the Prophet and follow his way and obey his commandments. (Al-Imran : 31-32)

COMING BACK TO THE BEGINNING OF THE DISCUSSION

By: Prof. Dr. Ala'Eddin Kharofa

Iwould like now to come back to the first article published by Dr. Dawalibi on 3.6.1410 AH/ 31.12.1989 AD, to discuss opinions expressed in it on "Nationalism and Islam", "Secularism and Islam" and "Islam and some contemporary misunderstandings" namely "jihad" and "the judgement on changing religion in Islam", and I begin with "Nationalism and Islam."

ISLAM AND NATIONALISM

The abovementioned article says something about "Nationalism and Islam." Dr. Dawalibi's opinion was all too clear that he does not find any difference between nationalism and Islam. For the sake of brevity I shall not quote the writer's statement here; the reader can go back to it if he so wishes.* Is it true that nationalism does not contradict Islam? Is the nationalist call justifiable in Islam, or is there a contradiction between them? Did nationalist leaders discharge their duties when they assumed power in many Arab countries? In the following lines we shall try in brief to recall the origin of the nationalist call, its aims and what nationalists did in some

* See page 1

Arab countries. We seek God's help and guidance in what we say.

The Origin of Arab Nationalism:

The French Revolution, just before the end of the 18th century, gave rise to numerous nationalistic calls. These calls were echoed in some Arab countries. After a while, the call for Arab nationalism came into being and tried to make use of the weakness of the Ottoman empire in an attempt to build its success. That empire was suffering from extreme weakness which made it fall prey to anti-Islamic forces.

The call for Arab nationalism began in Lebanon where the first pioneers of that call were a group of Arab Christians like Elie Smith, Cornelius Van Dyke, Ibrahim al-Yaziji and Butros al-Bustani. These persons were members of the Society for Letters and Sciences in 1847 AD which was later named the Syrian Scientific Society in 1868. Thus, with the beginning of this century we see the nationalistic call taking its way in some Arab countries, first in the form of whispers, then in the form of theorising and then as a loud call.

In some Arab countries, the call met with support and had leaders and followers who published numerous books in promoting it and held conferences to propagate its ideas. One of the most prominent leaders and thinkers of the nationalist call, then, was Sati' al-Husari. The Center for Studies of Arab Unity collected the writings of al-Husari in three volumes with 3118 pages and published it in Beirut in October 1985 AD. I went back to these volumes and went through them in the hope of finding a definition for Arab nationalism and failed. When Sati' al-Husari, the pioneer of Arab nationalism, wants to speak about and define Arab nationalism he moves to Russia and speaks about its ambitions, or travels to Germany and informs his

reader about its history, or describes Poland and the state of affairs in it, or speaks about France and its freedoms and so on.

I bear witness to the man's vast knowledge in history and sociology. His failure, however, and the failure of the likes of him, goes back to the fact that Arab nationalism is not a theory (difficult to understand) or a principle or a religion but its theorists want to give it more than it can take. They want it to replace the religion of Islam, but this is something which they cannot do. When they failed to put forward a definition of the nationalist call, they tried to speak about its foundations and aims.

I have noticed that the most prominent aim of the leaders of Arab nationalism was to unify the Arab countries from the Atlantic ocean to the Arab Gulf! I am whole-heartedly with any unification movement and I support it strongly and I do not feel pleased with divisions between nations. But suppose all Arab countries united and came together, will they not be in need for a religion to give them guidance in life? Is there a better religion than Islam to do this? God Almighty says that he will not accept from anybody any religion except Islam. This is simply the issue.

The Arab League was founded on the basis of pan Arabism and it comprises twenty one countries representing some 200 million Arabs. The Organization of the Islamic Conference (OIC) was founded on the basis of the religion of Islam and constitutes of forty five countries representing about a thousand million Muslims. So, which one of the two organisations is more worthy of support: Arab nationalism or Islam? The poet of Islam, the late Muhammad Iqbal (may God have mercy on his soul) puts the point beautifully when he addresses the Muslims saying, "Do not compare the nations of the West to your nation, The nation of the Hashemite Messenger (PBUH) is unique in its structure. The nations

of the West depend in their coming together on land and heredity while your nation's coming together is ruled by the principle of religious belief."¹ Sati' al-Husari says that the Islamic movement was but a historical event of great importance which caused a serious change in the life of the Arabs. Besides, it has influenced the direction of events in the course of history strongly.

This is a fact which cannot be denied by any researcher, Arab or non-Arab, Muslim or non-Muslim. Nevertheless, the Islamic movement did not keep its ties with Arab nationalism. He proceeds to say that the history of the Arabs entered a new important phase with the appearance of Islam.²

Thus we see that Sati' al-Husari calls the religion of Islam "the Islamic movement". This is the religion which God praised and considered the only religion acceptable with Him. God has saved the Arabs with this religion from woe and destruction. In pre-Islamic times, the Arabs used to look down on women; and many tribes used to bury female infants alive. They used also to drink wine, the mother of all evils, and used to take pride in that. Arabs used to raid their weak neighbours and kill them. The Arabs, who used to commit all these vices and many more, became with the coming of Islam, the best nation that was. They came to interdict evil and command what is good. God praises them for this and for their sound faith. (See Al-Imran : 110)

This is what the religion of Islam did to the Arabs. Despite this, we hear the pioneer of the Arab nationalism describing it as "the Islamic movement," as if he was talking about Lenin,

1 See the paper by Ahmad Bashir, President of the Islamic Society in the city of Murawi, the Philippines, p. 465, published by the University of Imam Muhammad Ibn Saud, titled "Intellectual Invasion."

2 See Sati' al-Husari's Works. part Two; Anti-islamic Trends. p. 465, 205 - 13, 1970.

Mao, Guevara or Castro or other people who stole power from their peoples and are ignored by history.

I wish al-Husari devoted his knowledge and his pen to the Islamic religion instead of the call for Arab nationalism. He would have done better and benefitted more both in his lifetime and after his death. Those who call to the way of God and do good and proclaim Islam are on the right path. The Qur'an states that Islam, which was the religion of Abraham, is the best religion; it advises people to follow the right path and not other paths which mislead, only by this they will be saved. (See al-Nisa': 125 and al-An'am : 153)

Al-Imam Ahmad Ibn Hanbal narrates from what Abd Allah Ibn Mas'ud reported that the Messenger of God (PUBH) drew a straight line with his hand (on sand) and said, "This is the straight path of God." Then he drew lines to the right and to the left of it and said, "These are other paths, on each one of them sits a devil calling people to it." Then he recited the verse from the chapter of al-An'am, advising the believers to follow the right path of God.

This is what we should call people, all people, to; we should be proud of it and defend it. The Messenger of Islam obtained the greatest possible praise from his Lord when He described him as being of a great character. The Prophet attained a status of honour and greatness which no human being attained before, and no human being will be able to attain till the end of time. He who has attained such a status with God Almighty will not look for greatness with creatures. Muslims have poured praise on the character of the Prophet throughout their history, and there is no wonder at that. Nowever, non-Muslims have also praised the character of the Prophet. The latest one of those we can mention is the American writer Michael Hart in his book *The Hundred*. This writer has done research on one hundred personalities of world history from the time of Adam up to the present. He

wrote something to the effect that Muhammad was the greatest person that has ever lived as he had brought about such reform and had such influence that no other human being was able to do. Nevertheless, the pioneer of Arab nationalism, Sati' al-Husari, did not have a single article, a single page, and not even a single sentence to say something good about that great man (PBUH).

There is no harm in that to Islam. Had the man "Al-Husari" done this, he would have added to his own benefit and status. He could add nothing to the honour of the Messenger of God (PBUH). More than that, when al-Husari comes to the mention of the people who propagated and exploited faulty philosophies, he pours praise on them describing them as peaks of thought, while they are promoters of nonsense. I shall give one example of this behaviour, the likes of which are to be found in plenty in the works of al-Husari which reached around three thousand pages. When he speaks about Fichte he says that he belonged to the era of light and that he busied himself with abstract thought, tended to universalism and did not care about narrow national affairs.³ Sati' al-Husari says that the basic essentials in the formation of a nation and nationalism are the unity of language and history, as unity in these two fields leads to unity of culture. This makes people feel they are the children of one nation, distinguished from other nations. It is not religion, state or economic life that make up the basic essentials of the nation.⁴

In comment on this, I say that religion has the greatest influence and the major guide in the life of a nation. It is the single factor which brings people together. It unites Arabs and non-Arabs and makes people feel the brotherhood which

3 See al-Husari's Works, Part Two, op. 49-13-1813

4 Ibid. pp. 210-13-1975

unites them. A Japanese Muslim feels he is a brother to a Russian Muslim, and they both feel what their American brothers suffer and so on.

The last statements which I quoted from al-Husari's writings are liable to make one feel a great distance between Islam and nationalism. A Muslim calls people to worship God alone, and to brotherhood, love and equality among all races, nations and peoples in the way of Islam.

Nationalists call to the unity of the nation and claim that the basic essential factor in the unity of a nation is the unity of language and history. Based on this, someone who is not an Arab or who does not come from Arab origin, does not belong to them. A fair reader, then, can see the difference between Islam and those who call to it, on one hand, and Nationalism and those who call to it, on the other.

In this regard, the famous Muslim leader, al-Maududi (may God have mercy on his soul) says, "It is neither acceptable nor possible to have inside the Muslim ummah (nation) multiple nationalistic trends based on colour, race, language or country, and this is not possible either, in other countries. A Muslim who wishes to stay a Muslim has to suppress in himself the feeling of belonging to any other group on any basis except the basis of Islam. He has to sever all other ties based on colour or land."⁵

Let us remember the brotherhood between the Ansar (helpers and supporters) and the Muhajirin (immigrants) and on what basis it was founded. That was a wonderful example which was never repeated in history. Their brotherhood was based on belief in God and His Messenger (PBUH), not on unity of language and history.

In this life, man is in need of a religion which would show him what to do and what not to do. What use is the

5 Quoted in Ahmad al-Bashir, *op.cit.*, pp. 465-466.

unity of language to man in this respect? Does it guide to good manners and character? Does it lead to the straight path or eradicate crime? And does the unity of history lead to these goals?

This is regarding worldly life.

Every rational being believes that there is another life after death which is eternal and in which man will have his reward or punishment for what he did in this life. The account, then, is with God only. The Qur'an states in numerous verses that God Almighty will mete out reward and punishment in the later life. See for example Al-Najm: 31; Al-Rum: 11, 27; Mariam: 66-67 and Al-Baqara: 4-5.

These verses assert clearly that the other life is a fact not to be denied. What use would unity of language and history have then? Can we present to our Lord on that Day of Judgement the excuse of us having one language and one history and one nation from the Atlantic to the Arabian Gulf?

No rational being can have any doubt that all this would not be of any use on that day. The only things that would help us on that day are our good deeds. It does not make any difference, in this respect, whether we speak Arabic or any other language. The Qur'an also states unequivocally that it is only faith and good deeds that make any difference in the balance of actions of a person on that day. See for example Al-Nisa': 123-4.

The respected Sheikh Muhammad Mustafa al-Maraghi, ex-rector of al-Azhar (may God have mercy on his soul) wrote that "It is clear that religion does not encourage racial segregation and that it does not differentiate between an Arab and a non-Arab; it made the Muslim nation a single nation without any difference among its races." He had said earlier,

"I have nothing to say about Arab nationalism. I am not concerned with it. I am neither one of its supporters nor its enemies." ⁶

The statement of the Sheikh has nothing to add to what Islam had already stated. The Qur'an asserts that God created people so that they come together, and that the most honourable of people are those who fear God the most. (See al-Hujurat:13) It also states that Muslims are one nation and that Muslims should worship God. (See al-Anbiya': 91). The Messenger of God (PBUH) says that "An Arab has no privilege over a non-Arab, neither has a non-Arab over an Arab except with piety and good deeds." Despite that, we see al-Husari attacking Sheikh al-Maraghi's opinion when he says, "If religion does not differentiate between an Arab and non-Arab, is it justifiable to differentiate between an Egyptian, a Syrian and an Iraqi?"⁷

I would like to put forward an answer to al-Husari's statement saying that religion does not see any difference between those you have mentioned. This cannot be taken from Sheikh al-Maraghi's statement. The sheikh, along with other respected scholars of al-Azhar, are above making such differentiations. Those who make such differentiations are the ignorant unscholarly people whose statements cannot be relied upon in the field of religion or scholarship. The divisions which can be seen in some Arab countries are caused by some governments and not by the peoples of these countries. This is because people are sometimes unlucky in having tyrannical rulers disposing their affairs the way they wish. Nevertheless, an Egyptian always feels he is a brother to the Syrian, the Iraqi, the Moroccan, and vice versa.

6 See al-Husari's article "In Reply to Sheikh al-Maraghi's Statements," in al-Husari's *Works*, Part One, pp. 1-105.

7 *Ibid.* 1-106

Although much of what Dr. Louis Awadh writes does not appeal to me, I agree with what he said about the case at hand, "The mistake which Sati' al-Husari and his disciples from among the Arab nationalists made was that they drew a comparison between the state of affairs in the Arab world and the divided Germany before Bismarck who united the German city states, and the divided Italy before Mazzini and Garibaldi and Caphor who united the Italian city states. This has proved to be an illusion as the Arab world to the south and east of the Mediterranean from a veritable continent and not a single state. This area is as large as the European continent to the north and west of the Mediterranean. The Arab world is a cultural and civilisational unity and not a single national unity. Europe, in the same sense, is a cultural and civilisational unity and not a single national unity."⁸ Numerous nationalists have assumed power and leading positions in many Arab countries, and we see these countries moving from bad to worse, and the reason for this is nothing but bad leadership. Are not people, then, justified in having misgivings about nationalist leadership bringing about destruction to people as well as lands? It is a well-known fact that the call to Arab nationalism did not mismatch with frequenting suspicious places, wine drinking and indulgence in all sorts of vice while at the same time raising slogans of Arab nationalism as some propagators of Arab nationalism have been known to do.

On the other hand, the call to Islam requires the one who performs it to set the good example of what he is calling to. He should practise what he says and put to actual practice all the teachings of Islam. He has to perform the command-

8 From an article published in Al-Ahram daily on 25.5.1978, and published again in a book titled *Studies in Civilisation* published by Dar al-Mustaqbal, 1989, p. 36.

ments of Islam and refrain from its prohibitions and keep away from vice. On the opposite side, we see that the call to Arab nationalism does not require but proclaiming the love of the Arabs and singing the praise of Arabism and the feats of the ancestors. The promoter of Arabism can do whatever he wishes after that. I address Arab nationalists saying:

Islam is what is needed and what we have to practise, not Arab nationalism. Those who keep themselves away from Islam will be doing themselves a great wrong and will be going the wrong way. (See al-Nisa': 115 and Al-Imran: 85)

I repeat that God Almighty has commanded us to call to Islam and not to Arab nationalism. There is a great difference between the two. It is no use hiding behind generalisations to gain the satisfaction of one party or the other.

The attempt to bring Islam closer to non-Muslims by distorting its scriptures and misinterpreting them in accordance with personal whims and false interests would not do any good to the person who does it. On the contrary, it will cause him to lose the respect of worthy people in this life.

Moreover, the account in the other life lies with Him who has knowledge of everything and from Whom no secret can be covered.

I have found nothing new in the papers of the seminar which Dr. Al-Dawalibi discussed in his article. It seems clear that what Dr. Al-Dawalibi intended to do from his article was to come nearer to Arab nationalists and to gain their pleasure. There was in the papers something worthy of reading, but the majority of what was said in them was below that level. I came out with the impression that some of the leaders of the nationalistic trends were repenting and retreating from their past positions. To them, I would like to say that Islam does not know hatred. It does not belong to one party or the other. I pray to God Almighty to lead to the straight path all those who have left Islam to embrace other ideolo-

gies, be it nationalism, socialism or communism. They should be welcome to come back to Islam when they repent and ask for forgiveness from God. It is our wish that they come back and work with us for Islam and struggle in its way in obedience to the commandments of God and His Messenger (PBUH). However, no concessions should be made to satisfy anybody. We should not give away any of the principles or tenets of Islam. We should not distort Islam's principles in order to satisfy nationalists. We should not change God's words to satisfy secularists. This is our way, and we only seek God's satisfaction. The Qur'an states that guidance is only in God's hands and it is up to people to choose which path to follow: that of good or that of evil. (See al-Kahf: 17 and 29)

It was not my intention from drawing this comparison to show the advantage of Islam over other trends. This should be clear to all people of reason and sense. Such a comparison would lower the status of Islam. An Arab poet has said that saying that a sword is better than a stick is an insult to the sword. From my lengthy discussion of the ideas of the pioneer of Arab nationalism I meant to show that it is a racial, local and narrow trend, and that it goes against the teachings of Islam. The very writings of Sati' al-Husari condemn him and his followers.

However, when we come back to al-Dawalibi's opinions we find him trying to prove that the nationalistic spirit is not alien to Islam. He uses generalities and vague expressions like universalism, human concepts and caring for constructive contemporary interest in Islamic thought.

From among his generalisations we may also mention the following statement "Islam has a new world life system based on pluralism in beliefs and religions, and that was a new civilisational phenomenon in the history of the nation of the Arabs to be proud of. This had given them a message

to carry to the world in spite of ideological differences among the tribes and peoples of that nation. This did not matter as long as the new life system was stamped by human world concepts of freedom and the right to a decent life."

I would like to put forward a question here : What is meant by these generalisations behind which al-Dawalibi hides? Are not these the same generalisations used by Freemasonry? These things should clarify matters for anybody who has eyes to see. What is meant by "difference in ideologies of tribes?" Is this acceptable in Islam? If there were an Arab tribe which worship idols, and still another tribe which believe in Arabism but worship cows, will it be acceptable in Islam for the Muslim tribe to unite with the other tribes, having the same ancestry, language and history?

What does al-Dawalibi mean by saying, "... in spite of religious differences among their peoples"? This is the level which al-Dawalibi goes down to in slighting Islam. He wants to say to the whole world that religion does not have much importance, that nationalism is Islamic in nature and that ideological and religious differences between tribes do not matter. Is this sound thinking? I declare that I disown this opinion, believe in Islam and that Islam has no alternative and that there is no ideology above Islam and that the tribe which believes in Islam is immeasurably better than the tribe which though speaking Arabic eloquently, disbelieve in God and commit evil deeds. The Qur'an states that the most honourable people to God are those who fear Him most. God tells the truth; Arab nationalists who want to equalise between God-fearing and disbeliever Arabs are in the wrong.

THE OPINION OF SHEIKH ABD AL-AZIZ IBN BAZ ON ARAB NATIONALISM

A

fter quoting the opinions of the pioneer of Arab nationalism Sati' al-Husari and of Dr. al-Dawalibi on the subject, let us have a look at the opinion of Sheikh Abd al-Aziz Ibn Baz regarding the matter. He says:

It is something necessarily known from religious rulings that the call to Arab nationalism or any other nationalism is false from the Islamic point of view, it is an abomination and it runs against the high aims of Islam and the interests of Muslims for four main reasons :

1. It creates divisions among Muslims separating Arab Muslims from their non-Arab brethren. Furthermore, it divides Arabs themselves into parties and factions. In this, it runs against the purpose of Islam which calls for harmony and unity. (See Al-Imran:103)

2. It is a jahili (un-Islamic) call as it calls to something which is outside the nature of Islam. Any call which is outside the nature of Islam and the Qur'an, be it to race, land, way or ideology is un-Islamic. This is the view of Ibn Taimiya (may God have mercy on his soul) in his understanding of the statement of the Prophet (PBUH), "Will you call to Jahilia whilst I am with you?" Texts supporting this fact are

numerous. From them, we may mention what Muslim narrated from the statements of the Prophet (PBUH), "He is not one of us who calls to partisanship; he is not one of us who fights for partisanship; he is not one of us who gets enraged for partisan reasons." He (PBUH) also said, "Be humble, do not wrong each other and do not vie with each other in vainglory." There is no doubt that Arab nationalism calls for vainglory. It is an un-Islamic call to favour one race against others.

Islam is not like this; it calls for modesty, piety and love among people in the way of God. It calls for all true Muslims from whichever race they come to be one nation helping each other and feeling with each other. In a correct hadith we read the statement of the Prophet (PBUH), "The faithfuls are to each other like a building supporting and strengthening each other." On saying this, the Prophet entangled his fingers to give a physical image of the concept of brotherhood. The Prophet also said, "The example of the faithful in their love and compassion is that of the body, if an organ of the body is in pain, the whole body will come to its support in fever and care." The Prophet is also reported to have said, "God has commanded me with five things, and I command you with them: to listen, obey, struggle in the way of God, depart to the community of Muslims and keep the unity of the community. He who departs from the path of the community a handspan will be untying the tie of Islam from around his neck until he returns. He who calls to a jahili (un-Islamic) call will be like one of Hell's stones." The Prophet (PBUH) was asked, "Even if he performs prayers and fast?" He answered, "Even if he performs prayer and fasts and claims to be a Muslim." Call, then, to the way of God Who gave you the name of Muslims and believers. This correct hadith is an obvious demonstration in invalidating the nationalist call and making it an un-Islamic call whose promoters deserve to be stoned in Hell.

3. It leads to supporting and *befriending* Arab disbelievers from among those who belong to the Muslim nation against the true Muslims who are the nationalists' enemies. This is in clear contradiction with the texts of the Qur'an and the sunna which necessitate hating disbelievers and taking them as enemies. The Qur'an prohibits that believers take the Jews and Christians as supporters and pledging loyalty to them. (See al-Ma'ida: 51) The nationalists call to gathering around the concept of Arabism, thus pledging loyalty to everyone who belongs to the Arab nation, and this includes all Jews, Christian, atheists, pagans and fire-worshippers. They say that there is no difference between an Arab and another Arab under the flag of Arabism in spite of religious differences. God Almighty says that Muslims should not take as friends and supporters those who are enemies to God and to Muslims. (See al-Mumtahina: 1) The nationalists say that all Arabs are friends to each other irrespective of their belief or disbelief in God. The Qur'an gives the Muslims the example of the Prophet Abraham and those who were with him when they disowned their disbelieving people. (See al-Mumtahina: 4) The Qur'an also says there will never be true believers who befriend enemies of God and His Messenger, even if they were their relatives or friends. (See al-Mujadila:22)

Nationalist legislators say that religion should be separated from the affairs of the state and kept away from national affairs. They want to come together around the concept of Arabism so as to attain their interests and glory. They make it sound like Islam is a barrier between them and their glory. This is sheer ignorance and falsehood.

Does it stand to reason that people like Abu Jahl, Ukba Ibn Abi Mu'ait and al-Nadr Ibn al-Hareth, the Quraishi disbelievers who fought Islam in the days of the Prophet (PBUH), and their descendants who fight Islam today, are brothers and equal to people like Abu Bakr, Omar, Othman

and Ali and the likes of them up to the present? The nationalist call is a great falsehood resulting from ignorance.

4. The nationalist call is sure to lead the community to refuse the teachings of the Qur'an eventually. This is because non-Muslim nationalists will not accept the ruling of the Qur'an, and subsequently, nationalist leaders will have to put or resort to man-made laws which is not in agreement with the Qur'an so as to create equality between Muslims and non-Muslims in the nationalist oriented community.⁹

Who is right, then? Is it al-Dawalibi who sees the nationalist call as part and parcel of Islam, in order to gain the pleasure of the nationalists or Sheikh abd al-Aziz Ibn Baz who says that nationalism is alien to Islam as it divides Muslims and separates Arab Muslims from their non-Arab brethren, and divides the Arabs themselves into factions?

9 Sheikh Ibn Baz's statement is quoted by Sheikh Ahmad Bashir in his paper referred to earlier, pp.467-469. Sheikh Ibn Baz has published a paper on Arab nationalism which I could not locate.

ISLAM AND SECULARISM

DR. al-Dawalibi then moved to discussing the topic of secularism saying that the word in Arabic "Ilmaniyya" is a translation of a French word which signifies that authority is derived from the people rather than from God through the clergy. It stands opposite to the word theocracy which means deriving authority from God via the Church, as the case was with the kings of Christendom up to the time of the great revolutions of Europe in the 18th century.

Dr. al-Dawalibi then explained his views till he concluded by saying that Islam is secularist in nature, and the Qur'anic scriptures address the mind and the rational aspect in man, and commands consultancy.

In answer to this, I say that this opinion does not have any basis as Islam is not "secular" in the sense understood by known secularists. The definition which he cited of secularism is far from its true nature. The definition is not made according to conventions of logic. The word is in reality derived from the English word "secular" which means areligious. However, its propagators do not dare to use the word areligious openly for fear of alienating the public. This is why they use "secular" aiming at dividing religion and state. Our secularists imported this concept from Europe along with other ideas. It is known that secularism in Europe was brought about by attitudes of the clergy and churchmen towards certain historical events. Discussing these events is outside the scope

of this paper.¹⁰

Are we justified then in following the Europeans along this path? The promoters of secularism claim that it means the call to rely on the fact grasped by the senses, to disregard anything which is not supported by experimentation and to detach themselves from the world of the unseen (ghaib) which they see as a kind of illusion and sentimentality in all its types, national or religious. They claim that these illusions misguide people and prevent them from reaching to objective neutral judgements.¹¹

Anwar al-Jundi, in his worthy book *The Fall of Secularism*, says that the setback which befell Arab forces in 1967 provided the Arab secularists with a justification for their call to "secularise the Arab personality by moving it out of the framework of religion." The call was based on a justification which revealed the plan which began with copying Western civilisation in some of its aspects, and which sees that the time has come to finish the planned steps by adopting the bases of Western thought and its intellectual, mental and psychological frameworks. They see that stopping the process will cause the Arab personality to fall apart. They are of the opinion that the Arab self will not be able to recover what it has lost or find its lost unity except by going all the way in the trip of Westernisation which began more than eighty years ago with the introduction of materialistic theories, man made laws, adoption of foreign educational systems and separating religion from state. That was the first phase of secularism in the Arab world. They see that the time has

10 Intellectual Invasion and anti Islamic Trends by Dr. Ali Jureisha, published by the University of al-Imam Muhammad Ibn Saud, p. 305.

11 Dr Muhammad Husein. *Destructive Trends in Contemporary Thought*, quoting Anwar al-Jundi, *The Fall of Secularism*, p. 39 published by Dar al-Kitab al-Lubnani, Beirut, 2nd ed., 1980.

come to finish the job through what they call "liberating the Arab self from the framework of the unseen world (ghaib)". By this, they mean Islam, and not any other religion, or religion in general.

Accepting the first phase of secularism is an implicit acceptance of its final phase. There is no doubt that raising that serious cry after the June 1967 setback means that "ghaibi" (belief in the unseen) mentality was the cause of the setback. Overcoming the setback necessitates that the Arabs should overcome that ambivalence between Islamic concepts which provided the intellectual background of the nation and the partial secularism which was introduced to its thought and social structure during that period. Thus, the Arabic intellectual life was seen as obliged to throw itself completely in the Western secular thought. Without doing this, there will be no overcoming of the setback and there will be no recovering of the lost Arab self; it would remain torn apart for a long time. In conclusion, it was inevitable that the Arab self surrender itself completely to secular thought and give up for good the Islamic Arab mentality which was described as "ghaibi" (believing in the unseen)¹²

Dr. Ismail al-Faruqi (may God have mercy on his soul) was of the opinion that "secularism" was an essentially Christian concept, as it is the fruit of a religious view which "gives unto Caesar what is Caesar's, and unto God what is God's," and sees that its kingdom is not in this world. He believes that secularism originated from Christian rather than from Jewish experience. Judaism does not envisage economic activity as something outside the scope of religion; it does not, either, envisage political work to be outside religion.¹³

12 *The Fall of Secularism*, pp. 9-10

13 *Ibid*, p. 18, quoting al-Faruqi, *Contemporary Sects in Judaism*, I could not refer to the original.

Secularists cannot announce their enmity to Islam alone, so they put all religions in one basket, and disowned religion in general. Is it a good thing to say to such people that Islam is a secular religion? Is this sound thinking?

There is no doubt that Islam called for science and scholarship and fought ignorance. All its tenets, its Holy Book and the way of its Messenger speak out that it encourages acquiring knowledge. The truth of the matter is that secularists are not after knowledge, they are out to wage war against Islam itself. When some of their leaders assumed power in a number of Muslim countries they excluded true Muslim officials and gave power to their supporters in spite of the fact that these supporters were less knowledgeable and less educated and less suited for authority. However, they proved to be strong in fighting Muslims and Islam. I wish Dr. al-dawalibi read the worthy book by Anwar al-Jundi, *The Fall of Secularism*, in which he says, "It is a grave mistake to think that secularism (ilmaniyya) is derived from science (ilm). It is a serious falsification of truth."¹⁴ Dr. Ali Jureisha says in explaining the meaning of secularism, "One may have the impression that the word 'ilmaniyya' is derived from 'ilm' and that it encourages depending on science and scholarship, and that subsequently it does not contradict Islam which cherishes learning. It seems that this is what they meant in translating the word 'secularism' using a word derived from 'ilm' (ilmaniyya) : to cause the Muslims to fall in confusion. The word 'secularism' is derived from an English word which means 'unreligious'. This throws light on the hidden intentions of some people who speak about establishing a 'secular state', and throws light on the choice of that particular word. It was meant to convey the message without hurting the feelings of Muslims."¹⁵

14 Ibid, p. 42

15 Dr. Ali Jureisha, *Intellectual*, p. 305.

It is up to us to imagine the difference between announcing a 'secular state' and an 'unreligious state.' This shows us the deception involved in using the Arabic word 'ilmaniyya' derived from a root which is attached to the concept of learning 'ilm'. It also shows how cunning those who coined this word in Arabic are. The case being like this, we feel the duty to reveal this deceptive practice and show the truth of the matter."

I fully agree with Dr. Jureisha's explanation of the meaning of the word "ilmaniyya - secularism". He has shown the true intentions of the secularists. They are, in fact, after an unreligious state, an atheistic state which would exclude religion from its system and keep away from life the divine message. They aim at putting a distance between themselves and the religion of Islam so as to have a free reign in life and do whatever they wish without anybody daring to oppose them. If they carried the message of Islam, there would be a great gap between its teachings and their conduct. They were trying to evade this gap and any opposition by raising the slogans of "secularism."

In this respect, I came across a valuable article written by Brother Muhammad al-Hashimi al-Hamidi, published in Ash-Sharq al-Awsat in edition No 4364 on 22. Rabi' II. 1411 corresponding to 9.11.1990. I would like to quote from this article the following passages with due respect and acknowledgement.

SECLARISTS, ISLAM, AND FREEDOM

IMAGINE that you are the driver of a large bus crowded with passengers who had missed an even larger bus or convoy, and are in a hurry to catch up with those who went before. And imagine that it occurred to you to empty the tyre of your bus of air or empty its tank of petrol, to try operating the bus with solar or nuclear energy or any other secret power you have read about in Europe. Do you think that your bus will come forward a single step or that you will be able to catch up with those who went ahead?

Then, imagine that you have been made aware of the mess you have put yourself and your passengers in, would you think that it will do you any good in getting out of it, to disarm all your passengers and brandish in their faces an automatic weapon and shout at them: "What I see is right. I will guide you to the right way." Do you think that your bus will come forward a single step or that you will be able to catch up with those who went ahead?

This is the example of the Arab and Muslim nation in this century. They were lagging behind other nations, and were overtaken by European nations in the fields of learning, political thought and military superiority. When the Muslims were aware of their quandary and felt that it was inevitable to do something towards reform and reconstruction, something very sorrowful happened. There came to power in our countries leaders who belonged to our nation nominally, spoke our languages and shared our aspirations. However, they were

having an inferiority complex towards the European conquerors, were fond of their ways and dazzled by their ways of life and civilisation.

The first thing they did was to waste our greatest credit and potential in making civilisation, and waged war against it. They neutralised Islam, froze it and fought it. They claimed that there would be no progress unless Islam is kept away from actual life. Has anybody ever seen a car driver lost in a desert destroy his car with his own hands, only to die of thirst afterwards with nobody coming to his rescue? This is what happened to us. The secularists wasted the credit which had given us a role in the history of mankind. This credit still had the potential to recover this role for us in a leading position in front of nations not in the back rows. However, the secularists wasted this credit and turned their faces to Europe to copy it in everything: good or bad.

After forty years of experimentation, we reaped nothing but disappointments: Palestine was lost, divisions became deeper, backwardness and subordination were firmly rooted, the state grew stronger against its citizens, all attempts at development failed and the value of man deteriorated to an incredible degree. We could get no good from Arab secularism, liberal secularism or from the alleged wisdom of "inspired" leaders who claimed that they were always right and could not do wrong.

When the truth was uncovered, and when disappointment became too big to be covered by falsification, and when Muslims felt that they had to take their responsibility for salvation in their own hands when all this happened, the secularists levelled their guns in the face of the ummah/nation and built a thousand barriers along the road to freedom in the face of the only remaining chance to repair the damage and introduce the Islamic credit anew in the battle.

They make the constitutions to suit their measurements.

They fight Islam to make of law a toy in their hands, to suppress the nation (in the name of law) and to make their word above every other word and their interests above every consideration. Many of them worship Europe. They studied in it and graduated from its universities, and in their hearts they still kept an overwhelming fondness for it. However, they do not remember from their life there except cheap amusement and petty projects. They do not remember serious and free minded learning., They could not tolerate talents enjoying such mentality; they drive them back to Europe.

ISLAM AND SOME CONTEMPORARY MISUNDERSTANDINGS

DR. la-Dawalibi, then moved to discussing some misunderstandings and suspicions around Islam. In doing this, he, as usual, comes up with generalities on which no two persons would disagree. No one would, for example, argue with his statement that "Islam is a call for life." Nevertheless, he says later, "Islam is world ideology based on faith in the Creator of mankind and earth," and that it is a "call to a new system for a world human life built on cooperation, and that the system is based on the necessity to work for a good human life without corruption and segregation."¹⁶

In answer to these broad but deficient claims and generalities I would like to say that Islam is a call for life, there is no doubt about that. But is that everything?

Then, what does al-Dawalibi mean by saying that Islam is a world ideology? Islam is God's religion which He chose for his creatures; it is meant for all humans. Why does al-Dawalibi attach Islam to the whole world? Facts do not support al-Dawalibi's claim that Islam is a world ideology as not the whole world believe in Islam or follow its teachings; consequently, the expression is not true in the absolute sense. When all humans, with the grace of God, believe in Islam,

16 Refer to his article cited above

then it would be true to say that Islam is a world ideology.

Neither is al-Dawalibi's statement true in the absolute sense when he says that the basis of Islamic faith is "having faith in the Creator of mankind, heavens and earth." If a person believes in the existence of God Almighty the Creator of heavens and earth and does not believe in our master Muhammad (PBUH) the Messenger and Prophet sent by God and that he is the last one of the prophets, he cannot be called a Muslim. Neither can someone be called a Muslim if he believes only in that there is no compulsion in Islam, without having the remaining requirements of faith. Thus we see that al-Dawalibi's basis is annulled for being deficient. Thus we see al-Dawalibi showering his readers with generalities the reality of which is known only by God. The reader can refer to his article to find this there. He tries to gain the pleasure of his readers despite their differences. He should have tried to gain God's pleasure, as gaining people's pleasure is an impossible aim.

It is noticeable that al-Dawalibi keeps repeating the following expressions: single world human cooperative family comprising different races, ethnic groups and religions, based on the concept of equality between Arabs and non-Arab and that there is no advantage for an Arab over a non-Arab except by piety. What does he mean by "world human family"? How does this differ from the message of Freemasonry? He underlines the fact that he does not see any difference between religions in saying, "comprising different races and religions." The respected professor, then, sees no significance in religious differences. All religions are equal to him. This is destroying the very basis of Islam. Does it not imply that Islam is as good as deviant religions and ideologies? Is this justifiable in the balance of Islam? Al-Dawalibi makes an addition to his list: ethnic groups. He sees no significance in racial differences. This abolishes what he had earlier said about

Arab nationalism.

I thank God that I found myself in agreement, for the first time, with al-Dawalibi when he said, "On the basis of equality between Arabs and non-Arabs and that there is no advantage for an Arab over a non-Arab except by piety."

What happens to Arab nationalism, then? Every Muslim should believe that comparison between people should be based on piety. No consideration should be given to language, country, colour or race. This brings people together. This is the call of Islam. With this and I repeat the call to nationalism and racism is abolished while the Islamic call remains high and intact. However, al-Dawalibi returns to contradict his statements by saying, "we do not find any difference among Arabs despite differences in their religions, ..." He contradicts himself when he claims that there should be no difference among Arabs on the basis of religion. Every sensible person knows that Islam does differentiate between a Muslim Arab and an infidel Arab. Al-Dawalibi's claim is then nullified. God honours those who believe in Him and in His messengers when He addresses them saying, "O believers," while He addresses mankind (believers and non-believers) saying, "O people ..." This shows that there is a clear difference between believers and non-believers.

Thus we see al-Dawalibi in clear contradiction continually. He says something which sounds in agreement with Islam, and follows it with a statement which contradicts it and which goes against the teachings of Islam. An example of this is when he says, "It was only with this that the Arabs have made a name for themselves in history despite their doctrinal differences." Did the Arabs before Islam — who used to worship idols, drink wine, gamble and bury their daughters alive, make any name for themselves in history? Is it not the Arabs, who embraced Islam, were kept away from vice and carried the message of Islam to all mankind,

who gave honour to all the Arabs and gained a status in history because they put into practice God's laws? This proves the falsehood of al-Dawalibi's opinion.

When al-Dawalibi wishes to quote from the Qur'an to prove his point, he cites a verse which destroys his argument. He says that the Arabs have made a name for themselves in history, and quotes a verse that signifies that the Qur'an is something with which the Prophet (PBUH) and his people will be mentioned. Al-Dawalibi wants to support the nationalist call by quoting this verse, however, it is a proof against them. The verse means that the Prophet and his people are commanded by God to follow the teachings of the Qur'an and that if they do this, they will be on the right path. The Qur'an is the book of Islam: it has its tenets, moral teachings, manners, besides its commandments and prohibitions. Where, then, is the reference to Arab nationalism in the verse? Ibn Kathir, in his exegesis of the Qur'an says in explaining the meaning of this verse, that the Prophet should follow the commandments of the revelation as it is the absolute right leading people along the right path of guidance and to Paradise. Ibn Kathir also says that this means that doing this will give honour to the Prophet and his people. This interpretation of the verse was made by leading interpreters of the Qur'an including Ibn Abbas, Mujahed and Qatada among others.¹⁷

Thus we see that the nationalist thinkers do not have the right to interpret this verse and quote it in support of their claims, as the verse merely says that the Arabs will gain honour as long as they follow the teachings of the Qur'an. Since the Qur'an was revealed in their language, they should be best suited to understand its subtle references and allusions and act in accordance with its ruling. In many verses

17 Ibn Kathir, *Exegesis of the Magnificent Qur'an*, ed. of Dar al-Ma'rifa, Beirut, Lebanon, vol. 4, p. 128.

of the Qur'an, we read similar directions that the message of Islam and spreading it among people is the responsibility of the Messenger (PBUH) and his people. It has also been the responsibility of previous prophets to call people to the way of God.¹⁸

¹⁸ Ibid. vol 4, p. 129

MUHAMMAD THE MESSENGER OF GOD (PBUH) AND WESTERNERS

AL-DAWALIBI, after that, moves to mention a Western thinker saying, "I would like to quote the statement of the scholar George Sarton in his book *The History of Science* as quoted by Mahmud Kamel in his book *The Arabs*: 'Muhammad was not only the Prophet of Islam, but the Prophet of Arabic language and culture despite difference among the races and faiths of Arabic speakers. No prophet before Muhammad (PBUH) and no one after him has ever been able to achieve such a victory. The importance of the Arabic language and the need for it for religious purposes have guaranteed it the dominance and the superiority which we witness today. Were it not for this, Arabic would lose its value, or it might vanish as a working language altogether."

In answer to this, I say that our master Muhammad (PBUH) is the Messenger and Prophet sent by God Almighty. It is this that gives him honour. Arabic language is honoured by having him among its speakers. We have never heard of a language having a Prophet. The reader will notice that Sarton speaks of Muhammad as the Prophet of Arabic language and culture.

The Arabic word "nabi" (Prophet) is derived from "inba" (informing). The relationship between the two words is that the prophet is characterised by giving information. Another opinion says that the word "nabi" means "way". This signifies

that the Prophet is the way to God. Still another opinion says that it means prominence and honour. These are the possible meanings of the word "nabi" in Arabic. As for idiomatic usage, the word "nabi" has been defined by scholars as the person "to whom inspiration from God has been revealed, and who was ordered to convey God's message." It has also been said that a "nabi" is the person "to whom inspiration from God has been revealed; whether he was ordered to convey the message or not is not a matter of importance."

I would like to put this question to al-Dawalibi; Did Arabic language inspire the Islamic message to Muhammad Ibn Abd Allah and ordered him to convey the message? Or is it God Who inspired the message of Islam to him and commanded him to convey the message to all people, and he is God's Messenger and Prophet? I put this question to Dr. al-Dawalibi, as Sarton will not be able to understand the difference between the words "rasul" (Messenger) and "nabi" (Prophet). This is why he said, "Muhammad is the Prophet of Arabic language." I suppose that Dr. al-Dawalibi was confused and quoted this nonsense from Sarton, describing him as "a scholar."

I would like to remind Brother al-Dawalibi that our master Muhammad Ibn Abd. Allah is the Messenger and Prophet of God to all mankind and the last of the Prophets. I would like to remind him also of the Qur'anic verse which says that it was God Who sent unto the illiterate a Messenger to teach them and that they had been in clear error. (Al-Jumu'a:4) God says that it was He Who sent the Messenger, and Sarton says that Muhammad was the Prophet of the Arabic language, and al-Dawalibi described Sarton as a scholar.

The concept of Jihad (holy war) in Islam and according to al-Dawalibi:

Al-Dawalibi, then, moves to the topic of jihad, and denies that it has any military aspects. Moreover, he defines jihad as being "the call (to Islam) with wisdom and good preaching to explain the facts of Islam in an ideology without compulsion and in a new system for a world cooperative human life." He then quotes the verse which commands the Prophet to make jihad against the disbelievers (al-Furqan:52) interpreting it in his own way to mean doing the best in calling them with wisdom and good preaching. Here, I would like to draw al-Dawalibi's attention to the statement of Ibn Kathir in his *Exegesis* in comment on the order to wage jihad. He says that it means to wage jihad with the Qur'an against the disbelievers.¹⁹ Ibn Kathir, then, associates this with the meaning of jihad in another verse which requires the Prophet to wage jihad with harshness and tells that the disbelievers' ultimate destiny is in Hell. (Al-Tahrim:9)²⁰

Since al-Dawalibi negates any military aspects of jihad and makes it limited to explaining the facts of Islam, he must have been confused about the concept of jihad, and I find myself having to remind him of the linguistic and Islamic idiomatic meanings of the word, and how Muslims understand it without any misrepresentation to gain the pleasure of Westerners. I find it suitable here to quote from what I wrote more than 30 years ago about jihad in my book *Reflections on Islam* published by al-Najah printing press in Baghdad in 1382/1960.

The word "jihad" is derived from an Arabic word which means having to put up with hard work and trouble.²¹ In

19 Ibn Kathir's *Exegesis*, vol 3, p. 231.

20 Ibid v 3 p. 213.

21 *Subul al-Salam: Sharh Bulugh al-Maram*, vol. 4, p. 41

Islamic terminology, it means fighting the disbelievers or the tyrants. A deeper investigation into the meanings of the term shows that it is not limited to actual fighting, but that it is a comprehensive term which refers to all good actions meant to gain God's pleasure. Giving away one's soul for the cause is jihad, and in the same manner, spending from one's money and helping the wounded is also jihad. Fighting off attacks against Muslims with one's tongue or pen is also a kind of jihad. Any serious act, material or mental with which God's pleasure is sought and which brings benefit to Muslims is a kind of jihad. In the Qur'an, God promises those who believe in Him and in His Messenger and give away from their souls and money in the cause of Islam to give them great reward in Paradise as well as victory. (Al-Saff: 10-13)

Proof of Jihad being a religious duty:

Jihad is proved as a religious duty by verses from the Qur'an, traditions of the Prophet and by ijma' (unanimity of scholars). The Qur'an has many verses which order Muslims to make jihad. One such verse is al-Hajj: 78. The sunna of the Prophet (PBUH) also contains many hadiths which speak about jihad as a religious duty. One such tradition is "Jihad will be a religious duty up to the Day of Resurrection."²² Another hadith is: "Wage jihad against the polythesists with your money, your souls and your tongues." These are only two hadiths from many like ones, and I shall cite more later. All Muslim scholars have agreed that jihad is a religious duty.

²² Al-Hidaya, vol 2, p. 100

How fighting was legalised in Islam:

Scholars agree that fighting was not permitted in the early days of Islam; the Prophet was ordered to use wisdom and restraint in calling to Islam. There are numerous verses which command the Prophet to be patient with kindness. Thus the Prophet (PBUH) obeyed these directions from his Lord and faced the harm of the disbelievers with patience and kindness, their evil with good and their injustices with forgiveness.

But the disbelievers went to the extreme in harming the Messenger of God and his companions. When this became too much to be tolerated, the Messenger decided to leave Mecca to Medina. After the hijra, the Muslims were permitted to fight in defence of themselves. (See al-Hajj: 39-41)

Thus, the Prophet and his companions were ordered to defend themselves against the tyranny and injustices of the disbelievers. The Qur'an also encourages the Muslims to fight in defence against disbelievers in another place: al-Shura: 41-42. God Almighty, then, commanded Muslims to fight in His way those who were fighting them, but not to fight in aggression. The Qur'an also carries the command to the Muslims to fight all disbelievers so as they would not be able to plot against them. (See al-Baqara: 190-193 and al-Tauba: 36) Furthermore, the Qur'an makes it clear than even though armed struggle is not something which appeals to the innermost desires of the soul, it carries great benefit and good, and states that there may be great good behind things which man hates, and there may be great evil behind what man loves. (See al-Baqara:216) The Qur'an also warns against fleeing the battlefield as this will bring disgrace and incur God's wrath. (See al-Anfal: 15-16)

That was how the concept of jihad was dealt with in the early days of Islam: the Muslims were commanded to

wage war against those who fought them and prevented them from carrying the message of Islam to mankind. Islamic shariah law determines that God Almighty has prescribed armed struggle for the sake of protecting the message of Islam and to gain superiority for its followers. We are ordered to convey the message of Islam to all mankind so as to reveal the falsehood of disbelief and polytheism and idol worshipping and to spread the true religion. if anybody stands in the face of the call, the Muslims are justified in fighting them to prevent their evil schemes against Islam. (See al-Baqara:193)

However, if no barriers were erected in the face of the call, then there should be no fighting. The proof of this is that when the prophet (PBUH) sent an army or a regiment, he used to order their leader to adhere to God-fearing behaviour and to be good and kind with those under his command.

He also used to order them saying, "Fight in the name of God; do not betray for spoils, do not resort to treacherous behaviour; do not mutilate; do not kill a child. When you meet your enemies, offer them three choices, if they respond positively to any one of which, you should accept it from them: Call them to Islam, if they accept this, then take it from them and call them to leave their homeland of disbelief to the home of Islam; if they refuse to do this, tell them that they would be treated like Muslim and they would have no share in war spoils unless they fight with the Muslims. If they refuse to embrace Islam, tell them to pay jizya tax, if they accept this, take it from them. If they refuse, then ask God for His help and fight them. If you lay siege on a castle, and they ask you to give them God's and God's Prophet's guarantee, do not do this but give them your own guarantee, as it is less serious from you to abrogate your guarantee than to abrogate God's guarantee and the guarantee of His Prophet (if need arises). If they wanted you

to apply God's ruling on them, do not do that. Apply your own judgement and discretion, as you do not know whether you will be right in deducing God's ruling in their case.

Like any nation on earth, the Muslims have to have a form of military might to protect their lands and borders and fight off the evil schemes of their enemies. If they do not have this force, they will be vulnerable to attacks and their enemies will covet their lands and properties. This is the cause of the divine order to Muslims to be always prepared. (See al-Anfal: 60) The ancient Arab poet says that honour will not be spared harm until blood flows in protecting it.

We hear nowadays about the great nations preparing immense military forces under the pretence of self defence. We also witness the armies of other nations attacking Muslims countries causing tremendous bloodshed and destruction and committing all kinds of abominations claiming that they are doing this for the sake of "peace". Is "peace" based on destruction and aggression and tyrannising and terrorising safe countries which seek independence, safety and dignity?

When Islam legalised fighting, it did so as we have seen only to protect the call of Islam and not for the sake of aggression or for war's own sake. Islam prohibits aggression and hates war. It calls for peace. Islam's call has no compulsion in it. Its magnanimous teachings call for freedom and peace. This is demonstrated in numerous verses in the Qur'an.

Jihad in this case, in the case of protecting the call of Islam, is a duty of sufficiency (*fard kifaya*) meaning that if sufficient people undertake it from the umma, the rest do not have to take part in it. However, if nobody undertakes it, the whole umma will be accountable. On the other hand, if the war is defensive, that is in the case of the enemy attacking a land of the Muslims, jihad is a duty imposed on everybody (*fard ain*) meaning that everybody: big or small, man or woman, free or slave will have to take part in defending the

Muslim land, each in accordance with their abilities. We see that Muslims have to offer three choices to the polytheists: embracing Islam, paying "jizya" as tax or war. There are other people against whom war is to be waged; these are the apostates. if a group of Muslims backslide from Islam and take hold of a place, Muslims have to fight them. War has also to be waged against tyrants and oppressors and those who declare war against the authorities.

When Islam legalised fighting in these cases, it prohibited treachery, betrayal and mutilation, it also prohibited killing a mad man, a child, a woman, a blind person, a disabled person and elderly people. The hadith we have discussed shows this. This shows Islam's tolerance and magnanimity as well as superiority over other doctrines.

Islam has prohibited breaking promises and agreements. This goes against high morals preached by Islam. However, if Muslims do this, it will be running against their principles and will harm their cause. In many verses, the Qur'an makes it a religious duty imposed on Muslims to keep promises and respect agreements. (See for example al-Nahl : 91-92) While Islam prohibits breaking promises, it permits it only in one case: when Muslims can be sure without any doubt that the other side is going to break the agreement, judging by clear signals of acts of preparation for aggression on the part of the enemies. In this case, Muslims will have to inform the other side of their intentions and not to resort to treachery.

THE STATUS OF JIHAD IN ISLAM

JIHAD has a lofty status in Islam. Islam emphasises the importance of jihad and encourages Muslims to be prepared for it, and shows the great reward the mujahidin (fighters of a holy war) will have in this life as well as in the Hereafter. In many verses of the Qur'an, we read about jihad and its importance and the necessity to be prepared to defend oppressed people and fight tyrants and aggressors. (See for instance al-Nisa': 74-77, al-Imran: 169-171, al-Tauba: 111 and 24 and 19-22 and al-Nisa': 100) Innumerable hadiths also show the importance of jihad and the reward for mujahidin. From among these hadiths, we may mention the following:

"Every act of a person will stop when he dies except guarding a post in the way of God. This will be developed even after death up to the Day of Resurrection."

"Holding guard in the way of God for a day is better than anything in life. A journey one takes on a morning or an evening in the way of God is better than anything in life."

"He who dies without fighting, or thinking of fighting, in the way of God, will have died a partial hypocrite."

The Messenger of God (PBUH) was asked, "Which act is best?" He answered, "Having faith in God and His Messenger." He was asked, "What follows this in importance?" He answered, "Waging jihad in the way of God." He was then asked, "What comes after that?" And he answered, "Performing pure pilgrimage."

A man came to the Messenger of God (PBUH) and asked him, "Who is the best person?" He answered, "A believer making jihad with his soul and money in the way of God." Then he asked him, "Who comes next?" The Prophet answered, "A believer staying in a far place worshipping God and relieving people from his evils."

The Messenger of God (PBUH) also said that God has guaranteed for someone who leaves his home to fight in the way of God, that He would make him enter Paradise or come back to his home with reward. The Prophet then swore by God that anyone who gets injured in fighting in the way of God will enter Paradise with great reward and in good health. He swore by God also that he would have gone to every battle in the way of God had it not been for the interests of Muslims. A martyr would want to come back to life and fight again and again to be killed again and again to get more of the rewards set for the fighters for the sake of God "Mujahidin".

The Messenger of God (PBUH) was asked, "What would be equal to jihad in the way of God?" He said, "You would not be able to do it." They repeated the question twice or three times and he gave the same answer. Then he said, "A mujahid (fighter in a holy war) is like someone who performs fast and prayers and reads Qur'an without stop till the mujahid comes back." There are other numerous hadiths in this field which would be too many to quote here.

Muslims have regrettably put this religious duty aside and neutralised its rulings. They stood looking at it like one admires a beautiful painting, pouring praise on the painter. Muslims have not reached the sorrowful state they are in today except by leaving this practical religious duty and finding sufficiency in outer rites which can be performed with ease and would cost them very little.

This shows the truth of the statement of the Prophet

(PBUH), "No people leave jihad but would be humiliated." Brother Sheikh Ahmad Naser al-Rajihi did well in his answer to Dr. al-Dawalibi's statement when he said,

- (a) The writer criticises the "Church" definition of jihad based on offering either Islam or death. He should have started with giving definitions of jihad from the points of view of language and jurisprudence. In language, jihad is doing one's level best to reach a certain goal, be it worldly or religious. There are numerous verses and hadiths which make this meaning clear; they are to be referred to for more information.

In Islamic thought, jihad is doing one's best in fighting the disbelievers either directly or by giving help and support to those who do the actual fighting in the way of God and to give prominence to the message of Islam. The Prophet (PBUH) says, "He who fights/struggles to make the word of Islam highest is fighting/struggling in the way of God."

- (b) The writer makes an incorrect and inaccurate statement when he says that jihad means calling to God with wisdom and good preaching only. In this, he is making an inaccurate association between the concept of jihad and the concept of calling to God. The difference between the two concepts is obvious.
- (c) The writer differentiates incorrectly between the concepts of jihad and fighting. He mentions that the term jihad was particularly used in Meccan context, and the term fighting in Medinan sequence. This is an incorrect citation as the term jihad was used in many verses which were revealed in the Medinan era. We have an example of this in the verse 95 of Al-Nisa' Chapter of the Qur'an, in which the term jihad was used, as in the hadiths which belong to the same era, to mean fighting, beyond any doubt.

- (d) The writer cites a Qur'anic verse which states that the believers against whom war is declared are permitted to fight back. On this verse, the writer comments that fighting was not made legal in Islam except in self defence. This is a strange statement which does not have any support from the sayings of early scholars of Islam as it is not based on any legal justification.
- (e) If what the writer says that fighting was not made legal except in self defence, then, how does he explain the sending of missions by the Prophet to the kings of neighbouring states to call them to Islam and to offer them the choice of either paying jizya tax or facing war with Muslims? Furthermore, how does the writer explain the Muslim armies going out to the lands of the Persians and the Greeks during the reign of the caliphs in spite of the fact that they were secure in the Arabian peninsula after suppressing the rebellion of the apostates?
- (f) Islam is a religion which was sent by God to mankind. God does have knowledge of men and how they live and think. It is a fact that wars have always been and will always be a feature of life with mankind until all earth and what is on it will go back to God on the Day of Judgement. Heavenly religions have consistently encouraged legitimate war, and this is what we see in the Bible and the Torah.
- (g) Islam is distinguished from other religions in that it has certain codes to controls practices in times of war. Fighting in the Islamic practice was not conducted with the savagery of past and future nations. The Prophet (PBUH) and well-guided caliphs always made a point of warning their leaders and warriors against excesses in war and against aggressive acts towards women, old people and children, and even towards animals and plants.

THE JUDGEMENT ON CHANGING RELIGION IN ISLAM

AL-DAWALIBI then moves to discuss the topic of apostasy and causes a damage in Islamic thought which can hardly be repaired with a brief statement which he calls a hadith. He says, "It has been reported in a correct (sahih) hadith narrated by both al-Imam al-Bukhari and al-Imam Muslim that an Arabian man "Badwin" pledged loyalty to the Prophet, being a Muslim, then he backslided, and the Prophet did not kill him. In another hadith narrated by al-Bukhari, we read that a Christian man embraced Islam then reverted to Christianity, but the Prophet did not kill him either. This provides practical proof of what the Qur'an explicitly states that there is no compulsion in religion. Moreover, it has never been proved that the Messenger of God (PBUH) exacted punishment on apostates by killing them."

A detailed investigation into the hadith of the Arabian: "The Badwin"

Al-Dawalibi's statement about the Arabian man "Badwin" who pledged loyalty to Islam, then backslided but was not killed, is untrue. The exact text, as it appears in *Fath al-Bari* in explaining *Sahih* of al-Bukhari is as follows:

"An Arabian man "Badwin" came to the Prophet (PBUH) and pledged loyalty to Islam. On the next day, he came with

fever and said, "Allow me to retract my pledge," and the Prophet refused. The Arabian "Badwin" repeated his request three times and was refused three times. The Prophet then said, "Medina banishes impurities and honours what is good."

In another version of al-Bukhari's, the hadith runs, "Medina banishes (impure) men like fire banishes impurities of iron ore." ed. of Dar al-Fikr, vol. 4, pp. 96-97. There is a great difference no doubt between reporting the hadith in its exact text and saying briefly that an Arabian "Badwin" embraced Islam and then backslided but the Prophet (PBUH) did not kill him. The hadith, as narrated by al-Bukhari does not give permission to Muslims to backslide from Islam. The Arabian "Badwin" man was in fever, and found that he could not stay in Medina. He came to the Prophet and asked him to allow him to retract his pledge only in the part of having to stay in Medina; he did not ask to be allowed to retract his pledge to Islam. It may appear to someone who does not have knowledge of Islam's rulings that the man was asking to leave Islam as a religion. But this is not the case. Al-Asqalani says in his explanation of the hadith that the apparent meaning of the hadith that the Arabian "Badwin" man asked to be allowed to leave Islam is not the real meaning. He was asking to be allowed to leave Medina, otherwise he would have been killed as an apostate. (See *Fath al-Bari*, vol. 4, p. 97)

In his interpretation of this hadith, al-Imam al-Aini (d. 855 AH) says, "No person who embraces Islam can leave it, neither can someone who migrated to Medina and to the Prophet (PBUH) leave Medina and go to his home. That Arabian "Badwin" had embraced Islam and migrated to Medina, and gave the Prophet the pledge of support and to stay in Medina with the Prophet. Iyad comments that the pledge may have taken place after the Muslims had occupied Mecca and the cause for hijra (migration) was nullified. He

had given the pledge of Islam, and asked to be allowed to leave Medina, and the Prophet did not give him permission. Ibn Battal comments that the proof that he did not mean to backslide from Islam is that he asked for permission to leave. If his departure from Medina had been seen as backsliding from Islam, he would have killed him there and then. His departure was an act of disobedience and not backsliding. he might have felt he was justified in leaving medina on account of his fever, and he might have been ignorant of the fact that departure to and staying in Medina with the Prophet was a religious duty, as was the case with many bedouins in those days."²³ Then, how can this hadith be seen to contradict the other hadith, "He who changes his religion should be killed?" Dr. al-Dawalibi — as Brother Sheikh Ahmad Naser al-Rajih said — "was influenced by Dr. Salim al-Awwa's book *Principles of Criminal Law in Islam*.". By going back to that book, I found that Dr. al-Awwa depended on Judge Iyad's opinion and did not cite Ibn Battal's opinion, which is the right one. The Arabian "Badwin" did not want to backslide from Islam, or the Prophet would have killed him. He only wanted to leave Medina. Dr. al-Awwa commented on the incident of the Arabian "Badwin" by saying, "This is a clear case of apostasy, and in spite of that, the Messenger of God (PBUH) did not punish him or have him punished. He was left free to leave Medina without opposition."²⁴

Dr. al-Dwwa's argument is not acceptable because the Arabian "Badwin" did not backslide from Islam, he merely

23 *Umdat al-Qari fi Sharh al-Bukhari* by al-Imam al-Aini, vol.10, p. 246, ed. of Ihya' al-Turath al-Arabi. Something like this was said in *Aun al-Bari li Hal Adillat Sabih al-Bukhari* by sheikh Sadiq al-Qunuji al-Bukhari, ed, of Qatar, vol. 3, p. 360.

24 Dr. M.S. al-Awwa, *Criminal Law*, 2nd ed., Cairo, p. 163.

wanted to depart from Medina on account of his sickness. This is the opinion of serious scholars. If he backslided, the Prophet (PBUH) would kill him. Dr. al-Awwa concluded by saying, "I see that the apostate does not have to be killed for apostasy. This is not in agreement with what the majority of scholars see, as they are of the opinion that an apostate has to be killed. I see that the proofs which I have provided support my view. If I were right, I thank God; if I were mistaken, it is my shortcoming, and I ask God for forgiveness."²⁵ Thus we see that Dr. al-Awwa did not express absolute certainty that his opinion was right. He was merely of the opinion that an apostate may be killed in punishment, and he admitted that his opinion was against that of the majority of scholars who say that an apostate has to be killed.

On the other hand, we see that Dr. al-Dawalibi decides with absolute certainty that a Muslim who backslides from Islam is not to be killed. In support of his opinion he says that the hadith "He who changes his religion should be killed," does not necessarily mean apostasy in Islam, and that it is a general statement about all religions, as in a Jew leaving his religion to Christianity, for example. He says that only Ibn Hazm accepted this sense of the hadith, and he considers this understanding unacceptable.²⁶

This saying shows the compound ignorance of the one who said it. I have already mentioned that this hadith is concerned with Muslim apostates. This is supported by what al-Asqalani the great scholar says: the apparent meaning of the hadith is to be disregarded, as all scholars agree. What is really meant by the hadith is the religion of Islam, as it is the true religion accepted by God; and he mentioned other

25 *Mawabeef al-Jalil*, vol. 4, p. 223

26 See his article in the beginning of this book

versions of the hadith.²⁷ This is also supported by al-Imam Malek's interpretation of the hadith. He said that what is meant by the hadith is a person leaving Islam to some other religion, not any person backsliding from any religion to any other religion.²⁸

From the example al-Dawalibi gives — a Jewish person leaving his religion to Christianity — it looks as if al-Dawalibi is trying to raise the Jews against Muslims who execute the commandments of their Prophet (PBUH). It is as if he is saying to them, "Look those people will kill you if you change your religion." His understanding of the hadith is mistaken. It is about Muslims who apostatise and not about people of other religions.

I wish his excellency Dr. al-Dawalibi had read the opinions of scholars on the explanation of the hadith before he wrote his article. After that he makes a wild claim which is nearer to falsehood than to truth saying that the hadith was accepted only by Ibn Hazm, and that Ibn Hazm's understanding of the hadith is unacceptable. In answer to this, I say that all jurisprudence scholars, without any exception, have taken and accepted the hadith in that sense, and are of the opinion that an apostate should be killed. So, how can he make that claim? Open any book on jurisprudence and you will find that ruling based on the hadith. The scholars' understanding of the hadith is acceptable, so is Ibn Hazm's.

A detailed investigation of the hadith of the Christian:

Al-Dawalibi's saying that there is another hadith narrated by al-Bukhari that "A Christian man embraced Islam and

27 Al-Asqalani, *Fath al-Bari*, vol. 12, p. 272. See also my first answer above.

28 *Mawabed al-Jalil* vol. 4, p. 223

subsequently backslided but was not killed by the Prophet (PBUH) is also untrue. Neither in al-Bukhari's nor in other books do we find such a hadith. It escapes me how al-Dawalibi gave himself the permission to claim that this is a hadith as it was never narrated in this form in any book of hadiths. I have cited the hadith as it was narrated by books of hadith earlier, and I repeat it here:

A Christian man embraced Islam and read the chapters of al-Baqara and al-Imran, and used to write for the Prophet (PBUH). He later backslided and said, "Muhammad does not know but what I wrote for him." He, then, died and was buried. On the next morning, he was found to be dug out, and his people said that that was the doing of Muhammad and his companions. They dug him out because he escaped from them. They dug deeper and buried him again. On the next morning, he was found dug out again, and they said it was the doing of Muhammad and his companions: they dug him out because he escaped from them. They dug as deep as they could and buried him again but, on the next morning, they found him dug out and they realised it was not the doing of humans and left him out.

I said in my article that that was the complete version of the hadith as narrated in *Fath al-Bari* in explaining *Sabih* of al-Bukhari by Ibn Hajar al-Asqalani, vol. 6, p. 624, ed. of Dar al-Fikr. In his comment on the hadith, al-Asqalani (may God have mercy on his soul), said, "He returned to Christianity, that is, he returned to his people, the people of the Book (the Bible), and they raised him high omissions."

Thus we see that the reason for the Prophet (PBUH) not killing him was that he escaped to his people. The hadith does not make clear how long the apostate stayed with the Muslims after he had backslided, and how long he had stayed with his people before his death. The narrator, al-Imam al-Bukhari (may God have mercy on his soul) cited the hadith

in the chapter of "Virtues." That apostate had left the religion of truth and betrayed the trust of the Book. When he died and was buried by his people, he was dug out and the earth did not accept his body. His people thought it was the doing of the Prophet (PBUH) and his companions. However, when they found out that it was not done by humans they left him out.²⁹ This is the complete version of the hadith and what scholars said in comment on it and in explaining it. How, then, can al-Dawalibi say that "Al-Bukhari narrates that a Christian man embraced Islam and backslided and was not killed?" What purpose lies behind this distortion of the hadith in picking only fragments from it? I would like to repeat here what I said in my second article that "picking a single statement from such a hadith is apt to cause confusion and tempt the weak-hearted to backslide."

²⁹ See my first article dated 2nd Rajab 1410AH/28.1.1990 AD

AL-DAWALIBI'S LICENCE TO MUSLIMS TO BACKSLIDE

FROM reading al-Dawalibi's article one gets the impression that the writer sounds as if saying to the Muslims. "Look, you can apostasise without fear because Prophet Muhammad (PBUH) did not punish apostasy by death, and because death punishment for apostasy is not proved by texts in the Glorious Qur'an. He also sounds as if he was saying to Westerners. "Look , you do not punish someone for changing religion, neither do we. If a Muslim changes his religion, we do not kill him." It is as if the writer is saying that all scholars and jurists who were of the opinion that an apostate should be killed are wrong, be they from among the companions of the Prophet (PBUH), those who followed them or the later scholars (may God have mercy on their souls). None of them had a good and deep understanding of Islam. Only Dr. al-Dawalibi had that understanding.

I do not think that the learning that Dr. al-Dawalibi obtained at the Sorbonne University in France qualifies him to deal competently with the sciences of the hadith, or gives him the ability to claim that there are contradictions between certain hadiths and volunteer to make compromises between these hadiths. The truth is that there is no contradiction and there is no need for compromises. If Dr. al-Dawalibi claims contradictions between hadiths and makes compromises

between allegedly contradictory hadiths, what was he left for the left for the real leading scholars who spent their lives serving scholarship and Islam and in travels in the way of God? What has he left for the the imams Abu Hanifa, Malek, al-Shafi'i and Ahmad, and al-Bukhari, Muslim, al-Nasa'i, al-Tirmidhi, Ibn Majah, Abu Dawud, al-Dhahabi, Ibn Kathir, al-Zaila'i, al-Aini, al-Khatib al Baghdadi, al-Asqalani, al-Qastalani, al-Shaibani, al-Zarqani, al-Azizi, al-Sana'ani, al-Shaukani, al-Nawawi, al-Qasimi, Sheikh Ahmad Muhammad Shaker, Sheikh Ahmad al-Banna, Sheikh Naser al-Din al-Albani among others from the scholars of hadith.

Those who deny the truth of the hadith "He who changes his religion should be killed," and acknowledge it later, should be ashamed of themselves. Acknowledging the truth of the hadith and claiming that the Prophet (PBUH) did not punish apostasy by killing means that the Messenger of God (PBUH) was saying something and practising something else, and that his actions did not match his speech. This is a gross error and a lie. The Messenger of God (PBUH) was the perfect example and his words always matched his deeds. Whenever he legalised or prohibited something, he would begin with himself. This is how he deserved to be described by his Lord as a perfect sample for the believers who seek the pleasure of God.

As long as the hadith "He who changes his religion should be killed" is a true hadith, no Muslim in his senses could perceive that the Prophet (PBUH) did not put it into practice. The truth is that he did. Jaber reports that a woman by the name of Um Marwan backslided in the days of the Prophet, and when he knew about her, he ordered that she be offered tauba and repentance, if she refused, she should be killed.³⁰ In a sahih "correct hadith," the prophet (PBUH)

30 See *Al-Mubaḍḍab* by al-Shirazi, vol. 2, p. 223, and *Al-Sunan Al-Kubra* by: Al-Bayhaqi v 8 p 203.

said that a person's blood cannot be legally shed but by three (reasons): a married person committing adultery, murder and backsliding and leaving the community. His companions (may God be pleased with them) had this correct understanding and put it into practice. In earlier articles in this book, I have mentioned examples from that, and in particular, the conduct of the well-guided caliphs (may God be pleased with them). I repeat here that nobody understood Islam better than they did.³¹

The scholar Ibn al-Qaiyyim al Jauziyyah put it wonderfully when he talked about the companions of the Prophet (PBUH) saying, "They are the most learned jurists of the Muslim Nation and the most knowledgeable about the goals of Islamic law "Shariah" and its rationales."³² Thus we see that only real scholars can appreciate the status of the respected companions and their privilege.

31 See above the article titled "Islam Enjoins Protection of Followers of other Heavenly Religions but Refuses Apostasy from a Muslim."

32 Ibn al-Qayyim al-Jauziyyah, *Al-Turuq al-Hukmiyyah fi al-Siyasa al-Shar'yya*, ed. by Muhammad Hamed al-Faqi, ed. of Dar al-Kutub al-Ilmiyya, p. 199.

ONE LAST SERIOUS REMARK

TOWARDS the end of his second article "Talking again on Islam and nationalistic and secularistic trends," Dr. al-Dawalibi says, "To give prominence to this shortened 'bad breath' would be like cutting short of a Qur'anic verse "la taqrabu al-salat" which would result in grievous misrepresentation and mean a command to the believers not to perform prayers. It would form a serious intrigue against Islam and its lofty international principles, unique in their nature, and on which the call of the Qur'an was based."

Such a statement should not pass without comment. It is a serious accusation against the honourable companions of the Prophet that their deeds were but a kind of "bakhar" (bad breath). I had thought better of al-Dawalibi, than going down to that level in argument. I expected him to show greater respect towards the respected companions of the Prophet (PBUH). Their deeds were not "bad breath", they were the peak in human conduct, after the example of the Prophet (PBUH). When I gave prominence to the prophetic hadith, I was not cutting short Islamic concepts, like one does in cutting short the Qur'anic verse. This, rather, applies to what al-Dawalibi did when he picked a couple of sentences from two hadiths and claimed that what he said was from the hadiths of the Prophet (PBUH). Any reader with common sense will be able to differentiate between what al-Dawalibi said and what others said.

The Center for Serving Sunna and the Prophet's Biography Ascertains that al-Dawalibi distorted Prophetic Hadiths.

Ash-Sharq al-Awsat daily published in its issue No 4168 on 27.4.1990, the following comment:

Explanation from the Center for Serving Sunna and the Prophet's Biography in comment on "Islam and nationalistic and secularistic trends."

I read what Dr. Ala'Eddin Kharofa wrote in Ash-Sharq al-Awsat daily's issue No 4079 on sunday, 28.1.1990 about the hadith cited by Dr. Ma'ruf al-Dawalibi in his article on "Islam and nationalistic and secularistic trends." The version in question of the hadith was as follows, "An Arabian "BADWIN" man gave the pledge of loyalty to the Messenger of God (PBUH), being a Muslim and he backslided but was not killed," as narrated in al-Bukhari and Muslim's books or hadiths. Then he said that al-Bukhari narrates another hadith about a "Christian man who embraced Islam, then backslided but was not killed." Dr. Kharofa said that he had searched for the versions as given in the article and could not find them, and that he asked the Center for Serving Sunna and the Prophet's Biography, and some lecturers at the Islamic University, and they could not find them either.

What made me write this letter are two things:

1. I would like to express thanks to brother Dr. Kharofa for following what is published about the Prophetic sunna. May God give him reward for this.
2. The hadith as narrated is non existent. The true version as it is in al-Bukhari's *Sahih* and as reported by Jaber is:

“an Arabian “Badwin” man gave the pledge of Islam to the Messenger of God (PBUH). He, later, fell sick, and came to the Prophet and said, ‘Let me retract my pledge,’ and the Prophet refused. He came again and asked to be allowed to retract his pledge again and the Prophet refused for the second time. The Arabian “Badwin” departed, and the Messenger of God (PBUH) said, ‘Medina is like an iron furnace, it keeps away impurities and honours what is good.’ This is the version in Sahih of al-Bukhari with Fath al-Bari, hadith No 7309, and in Muslim’s sahib No 2383, in the chapter of Pilgrimage.

For the second hadith :

There was a Christian man who embraced Islam and read al-Baqara and al-Imran, and used to write for the Prophet (PBUH), then he returned to Christianity and said, “Muhammad does not know but what I wrote for him.”

Then he died and was buried. On the next morning he was found dug out, and his people said, This is the doing of Muhammad and his companions, they dug him out because he escaped from them.” They dug deeper and buried him again. On the next morning, he was found dug out again, and they said, “This is the doing of Muhammad and his companions. They dug him out because he escaped from them.” They dug as deep as they could and buried him, and on the next morning, they found him dug out. They knew it was not the doing of humans and left him out. (See *Fath al-Bari*, on *Sahih* of al-Bukhari, hadith No 3617)

By comparing the texts from the Sahih books “correct” and what Dr. Dawalibi cited, it will appear that Dr. al-Dawalibi has quoted the hadiths freely in a manner which caused confusion. He should have been more careful with his quotation and documented it giving the source mentioning

the volume and page numbers. After doing that, he could have commented in the way he wished on the text. Misquoting the hadiths in that way is not acceptable. This is what I wanted to say to clarify matters.

I would also like to comment on Dr. Kharofa's saying that he asked the Center for Serving Sunna about the hadith. Dr. Kharofa (may God help him to achieve success) did not ask the Center by writing, but asked some of its employees, supposedly by telephone. The answer, then, could not be attributed to the Center unless it was done through formal correspondence which would make the Center responsible for the answer and the information thereof. The answer should be attributed to the one who answered personally, and his name should be mentioned so that he would bear the responsibility for his answer.

I conclude by praising God Almighty.

Dr. Marzuq Ibn Hayyas al-Zahrani
Representative, Center for Serving Sunna and the Prophet's
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MY ANSWER TO THE EXPLANATION

**“Written Correspondence
takes too long”**

By: Prof. Dr. Ala'Eddin Kharofa

In its issue No 4189 on 18.5.1990, Ash-Sharq al-Awsat published the following article: Commenting on “Islam and nationalistic and secularistic trends”

I read the explanation published in Ash-Sharq al-Awsat on 2.10.1410 AH/ 27.4.1990 AD by Brother Dr. Marzuq Hayyas al-Zahrani, representative of the Center for Serving Sunna and the Prophet's Biography about two hadiths which I mentioned in two previous articles in Ash-Sharq al-Awsat. I feel grateful for the nice words Dr. Marzuq had to say about me; I ask God to give him reward for this.

However, he proceeded to say that I had not asked the Centre by writing but “asked an employee of the Center, supposedly by telephone.”

In answer to this, I would like to say that I did not ask just any employee of the Center but I asked the Head of the Center, the respected Brother Sheikh Omar Falata who retired a month after that. On the next morning, he told me on the telephone that he (may God reward him)

had charged a specialised researcher to conduct research on the subject, and what he found out supported what I mentioned in my comment. I did not send a written question as this routine work would take too long to answer. The situation called for quick action to repulse an attack on the Prophetic sunna and the principles of Islam.

I resorted to the sources available in the library of the High Institute for Islamic Call and the library of the Prophetic Mosque in Medina. They are the same books to which the researcher of the Center for Serving Sunna resorted. However, I wished to mention the name of the Center in appreciation and acknowledgement of the efforts of its previous Head. I still feel grateful for the efforts of Brother Sheikh Omar Falata, though he is in retirement now.

AL-DAWALIBI'S OPINION ON USURY

My Answer in 1976

In every age and in every place, there will always be people who love to be different from others so as to make their presence felt. Such people would always stick to abnormal and uncommon opinions and argue vehemently to prove their viewpoints not to arrive at what is right. The Qur'an describes such people as those who argue without having proper knowledge and guidance. (See al-Hajj:8)

In 1951, Dr. al-Dawalibi delivered a lecture at the Conference for Islamic Jurisprudence in Paris in which he legalised usury. He saw that 'It was possible to deal with interest on the basis of the concept of necessity and on the basis of putting public benefit above personal benefit basing on the analogy between this case and the case where enemies use Muslims as instruments or hide behind them.³³ Muslim forces, then, have to kill these Muslims in order to reach the enemies behind them.' This is an irregular analogy and an unsound reasoning. Necessity has its own rules and exceptions. Necessities do legalise prohibited things. But, the question is whether this law is applicable on the case at hand, usury on loans. The answer is clear and does not need explanation.

33 Masader al-Haq by Dr. al-Sanhuri, vol. 3, p. 260.

Furthermore, interest cannot be reasoned on the basis of putting public benefit above personal benefit. We have Qur'anic scriptures and Prophetic hadiths which govern behaviour in this situation. Muslims have to follow their rulings. I have cited them in my lengthy discussion of the topic in my book *Usury and Interest*. I would have cited them here again had it not been for fear of being too long.

Dr. al-Dawalibi draws an analogy between dealing with usurious interest and Muslims having to kill other Muslims to reach their enemies. This analogy is weaker than a cobweb. It is unsound reasoning: there are texts which prohibit usury. Usury has its own judgements and it is not to be compared to other rulings on other activities. I would also like to ask where the analogy lies. Dr. al-Dawalibi wishes to present Islam according to his own wishes, an Islam which does not enjoin amputating a thief's hand, for example. An Islam which does not prohibit usury. He sees that bank interests are not usury. An Islam which calls for nationalism — as he sees that it does not contradict Islam. A secular Islam, because secularism is derived from learning and Islam does not contradict learning. An Islam which permits its followers to apostasise without punishment because the hadith "He who changes his religion should be killed," is untrue according to his excellency's understanding. An Islam which is not different from other religions.

In the abovementioned lecture, al-Dawalibi says "Production loans should have their own ruling in Islamic jurisprudence. This ruling has to match the nature of the loans. These loans are different in nature from consumption loans. There are two alternatives in the situation: either the state provides loans to producers, or loans should be made available to them with reasonable limits and interests. He sees that the second alternative is the correct choice.

After conducting some research I found that the first

to differentiate between production and consumption loans was Charles Gide in his book *Political Economy*. In what follows I quote *verbatim* from my doctoral thesis titled "The Loan Contract in Islamic Law and Man-Made Laws: Roman, French and Egyptian." The viva was held at al-Azhar University on 11.8.1976, and the thesis was subsequently published by Naufal Publication in Beirut in 1982. The following quotation is taken from pages 351-352:

I would like to express great appreciation to what the scholar al-Sanhuri said: "There is no doubt that it is necessary in all ages and all civilisations to consider usury prohibited as a general principle. The Glorious Qur'an and the Prophetic hadith both agree that usury is prohibited, and this is a major Islamic ruling in Islamic law and jurisprudence. There is a lofty aim behind this prohibition." In another place, he says, "If an Arab legislator legalised interest within narrow limits to keep pace with the conditions of capitalistic economic systems in Arab countries, he would be yielding to necessity, and in a measure matching this necessity. If the system changes, and the need for interest is nullified in the new system, then there is no doubt that the proper thing to do is to go back to prohibiting interest. This prohibition is the original state of affairs which is abrogated only temporarily when necessity arises. When the necessity disappears, then prohibition should go back to practice."

Al-Sanhuri also said, "It has to be mentioned here that some researchers try to differentiate between production and consumption loans, and say that 'Production' loans should have their own ruling in Islamic law which should match the nature of these loans and that this nature is different from the nature of consumption laws; and that there are two alternatives in the situation: either the state provides loans to producers or loans should be made available for them within certain limits and with reasonable interests, and that

the second alternative is the correct choice.'

One of these is Dr. Ma'ruf al-Dawalibi who voiced this opinion in a lecture which he delivered at the Conference for Islamic Jurisprudence in Paris in 1951. He expressed his view that "It was possible to deal with interest on the basis of the concept of necessity and on the basis of putting public benefit above personal benefit, basing on the analogy between this case and the case where enemies use Muslims as instruments or hide behind them. Muslim forces, then, have to kill those Muslims in order to reach the enemies behind them."

Dr. al-Sanhuri replied that that opinion has two shortcomings:

It is extremely difficult from the practical point of view to differentiate between production and consumption loans, where reasonable interest is allowed in one and prohibited in the other. It may be clear in certain cases that the loans being agreed upon are those belonging to the category of production where reasonable interest is allowed, as in the case of loans between governments and companies; however, there are other forms of loans, like those between individuals and international companies and banks. Are these loans production loans where reasonable interest is allowed, or are they consumption loans where interest is forbidden? Is it possible here to draw the line to distinguish the category in each case of the nature of the loan? There is no doubt that distinguishing between different categories is impossible in these loans. In this case, we shall have two alternatives open to us: either to allow reasonable interest in all loans regardless of their nature, or prohibit it in all loans. If we grant for argument's sake that it is possible to distinguish between production and consumption laws, dealing with

interest on the basis of necessity cannot be argued for convincingly. Necessity in this case, in the Islamic sense does not exist. The situation can be described as having the element of need, but not absolute necessity, and we have to distinguish between the two concepts.”

I would like to repeat here that the famous writer Charles Gide made this distinction between production and consumption loans before al-Dawalibi. That was in his book *Political Economy*. Al-Dawalibi took the opportunity of suspicions raised about investment bonds and wrote two articles under the title “Shari’a (Islamic Law) and Bank Interests” which he signed with his name and titles:

Advisor to the Custodian of the Two Holy Mosques,
and Chairman of the Islamic Conference in Karachi.

Dr. Muhammad Omar Chapra, Senior economic advisor of the Saudi Arabian Monetary Agency, whom I admire very much rebutted and disproved all the evidences of al-Dawalibi.³⁴

In what follows, I shall cite al-Dawalibi’s article and Dr. Chapra’s rebuttal.

34 Al-Nur magazine, issue No. 10

ON SHARI'A AND BANKS*

By Dr. Ma'ruf Al-Dawalibi
Advisor to the Custodian of the Two Holy
Mosques and Chairman of the Islamic
Conference in Karachi

Judging bank activities according to the rulings of Islamic Shari'a depends on a general survey of rulings taken for granted by the people of learning and the great men of fatwa in Islam. The verdicts are as follows: 1) Usury is decidedly prohibited without any doubt, and 2) the kind of usury which is prohibited by agreement among scholars is, no doubt, that of "al-nasi'a/delay" which was in practice in pre-Islamic times. Al-Imam Ahmad explained this kind of usury when he was asked about usury (about which there can be no doubt). He said that it was taking an increment on money for postponing of payment. When the time of repayment of a loan comes, the creditor would allow the debtor more time in return for an increment on the capital.

On the other hand, another kind of usury, that of al-fadl (merit) was prohibited for suspicion and not in principle. The scholar Ibn al-Qaiyyim says that what has been prohibited for suspicion (sad al-dhara'i') can be legalised when there is benefit to be drawn from it. Rashid Rida says in one of his verdicts that "The first increment on a deferred payment loan is of the kind of al-fadl, even though it may

* Published in The Egypton Newspaper "Al-Ahram" on __/__/1989

be for postponement. Al-nasi'a usury occurs after the coming of the time of repayment.

This means that if agreement on deferment of repayment for an increment on capital is reached when the contract for the loan is finalised, then the interest is of the kind of al-fadl. However, if the debtor asks for postponement after the time of repayment has come in return for an increment he would pay on the capital, then this is the prohibited nasi'a usury. The condition for this kind of usury to occur or realise is that it should happen after the coming of the time of repayment. This kind of usury is prohibited by agreement of all scholars, and it cannot be legalised under any condition.

Ibn al-Qaiyyim (may God have mercy on his soul) says on the subject of people's benefit in his book *Zad al-Ma'ad* under the title "The Prophet's judgement on a person selling something which he does not have," "Heavenly laws care for the benefits of people and do not put undue limits on activities which are necessary for them in life, and which are useful in drawing benefits." He first talked of "necessities/darurat" when he said, "necessary for them in life." Then he talked about "hajat/needs" which are less urgent than necessities for life in saying, "useful in drawing benefits." Anything without which benefit cannot be drawn is to be deemed legal.

Ibn Taimiyya also says about "benefit", "Anything without which living cannot be completed is to be deemed legal, as prohibiting it is apt to cause embarrassment, and should be disregarded from the Islamic point of view. This goes not for necessities but also for needs which are less urgent."

In his book *Al-Mughni*, al-Imam Muwaffaq al-Din al-Maqdisi says, "Anything which contains benefits for someone without doing harm to anybody is legal. Religious law does not prohibit benefits with which no harm is attached; on the contrary, it considers them legal." Ibn Hazm (may God have mercy on his soul) says, "If parrying damage is contradicted

by drawing a greater benefit, then drawing benefit is given more weight, and parrying damage is disregarded." We may also mention here the rule which is common to different schools of Islamic thought, that is when parrying damage is contradicted by drawing great benefit, then the prohibited may be legalised.

The wisdom behind prohibiting usury is removing injustices by acting by the rulings of the Qur'an and preserving the virtue of sympathy and cooperation among community members and to ensure that the rich do not exploit the needs of the poor. This wisdom is made clear in the verses of the Qur'an.

Sheikh Rashid Rida (may God have mercy on his soul) comments on this saying, "It is clear that a transaction from which both giver and taker would draw benefit, and without which, they would both miss the benefit, this kind of transaction does not go under the reason of prohibition which is to remove injustices. Any transaction which is meant for "trade" and not for "need" should go under the title "trade transactions" and not under "exploiting the needs of the poor."

Sheikh Rashid Rida adds, "No injustice or cruelty falls on a needy person even in a Muslim country in obtaining profits from savings funds and from banks."

Banks are modern commercial institutions which were not known in the time of the revealing of the Qur'an which prohibited usury. That is why, in Islamic thought, banks are subjected to Islamic laws through analogy. If they were in total similarity in their practices with the usury prohibited by Islamic law, then, taking part in their activities is to be deemed Islamically illegal. However, if there were differences between them, then, banks are not prohibited. So, we must look into the activities of banks in the light of benefits which may be drawn from using them in life activities. If people's living cannot be completed without bank activities, then they

are permitted without doubt. This view is based on the need to parry embarrassment and damage as stated in Qur'anic scriptures.

In the light of these rulings which are taken for granted by people of learning in Islam, let us look into the characteristics of usury as delineated by the Qur'an and the attributes of bank transactions, to discern points of similarity and difference. The characteristics of usury according to the Qur'an were dealt with by al-Imam Ahmad (may God be pleased with him). The most important are :

Whenever the Qur'an forbids usury, it commands creditors to treat debtors with kindness and charity. This is evident in many verses of the Qur'an. From what the Qur'an says about usury we can deduce the following characteristics :

1. The debtor is in need for charity, judging from the conditions of the loan, thus he is treated unkindly by the creditor who takes interest from him.
2. The creditor takes all the benefit and exploits badly the conditions of the debtor who is in need for help and charity. Thus he is unfair and deserving of God's abuse and threat of war from God and His Messenger, as stated in the Qur'an.
3. The money of the creditor is increased by his illegal profits from the debtors without being involved in trade which would benefit both parties. God Almighty condemned this kind of unfair transaction and declared it forbidden in strong terms. The Qur'an states that trade (from which the two involved parties can draw benefit) is legal, while usury (from which only one party benefits) is prohibited.
4. Usurers say that usury is but like trade, and the Qur'an says that in this they were tempted by Satan. God has made trade legal and usury prohibited. These people

wanted to get quick profits so they attempted a route other than trade which is exploiting the conditions of those who are in need for charity and who can hardly repay their debts and the interests incurred on them. This practice in exploiting the needy and multiplying the interests whenever the time of repayment comes is much like falling under the influence of Satan, and the usurer is likely to get himself in trouble as he would lose not only his profit from that debt but his capital as well due to the inability of the debtor to repay.

5. The increment on the capital in usury prohibited by the Qur'an is not stated in the original agreement; rather, it is added when the time of repayment comes and the debtor is not able to repay. This constitutes a new contract wherein the debtor has to pay in excess of the original capital in return for a delay in repayment. This is decidedly "nasi'a" usury which is prohibited by the Qur'an. The debtor gets no material benefit from it. Only the creditor gets material benefit from this practice and this is a bad case of exploitation where the usurer gets all the benefits without the debtor's willing consent. God Almighty has warned usurers to give back illegal profits they get from usury or they would face severe punishment from Him amounting to the "war" He would declare on them.

Characteristics of bank interests:

After looking into the characteristics of usury prohibited by the Qur'an, let us now look into the characteristics of bank interests and see if they conform to the characteristics of usury. If they do, then they will decidedly be prohibited. If they differ, then we shall have to judge them by different standards and rulings from the Islamic law which does not put undue limits on people in things which are necessary

for them in their living and without which living would not be completed, as Ibn Taimiyya (may God have mercy on his soul) put it. He said, "Anything without which living is not completed should be made legal, and prohibiting it would cause embarrassment to people in their life." God Almighty says that there is nothing which would cause embarrassment and strain in religion. From looking into the characteristics of bank interests we can see the following:

1. In bank transactions we find that the "creditor" is always one who owns a little capital which he cannot invest on his own. On the other hand, the "debtor" is invariably someone who owns large capital but needs liquid money to run his big businesses on account of his investing all his liquid capital in projects. This shows clearly that those who are in need in this kind of transaction are always the rich people who borrow money from those who have little capital. Those rich people do not deserve charity from their creditors. Thus we see that the Qur'anic verse which enjoins creditors to be charitable to debtors do not apply to them. This characteristic is in absolute contrast to the first characteristic of usury which is prohibited by the Qur'an where we find the debtor in need for charity.
2. It is clear here that the creditor, the "small capitalist", does not get all the benefit from the transaction as is the case in usury mentioned in the Qur'an. He does not exploit the conditions of the needy; rather, he shares benefits with wealthy people according to the items of a commercial contract into which both parties enter with complete willing consent and which has no element of exploitation. This second characteristic of bank interest also stands in contrast to usury mentioned in the Qur'an as the debtor in this kind of transaction gets no benefit,

and all benefit goes to the creditor. In banking transactions benefit is shared by the "debtor" who is the big capitalist and the "creditor" who owns a little capital. This takes place in the debtor investing this little capital with benefit going to all parties involved according to a commercial contract which may be called in Islamic terms a contract of "mudaraba" where those who provide financing and those who operate the investment share in getting benefit from the project.

3. A bank transaction does not mean increment to the creditor's wealth only as is the case with usury. It is a new kind of trade introduced recently and called for by universal need. So much so that people's benefits would not be complete without it. In this kind of transaction both parties would be endangered. This is why we see Sheikh Rashid Rida saying that a transaction from which both parties get benefit, and without which the interests of both parties would be in jeopardy, does not go under transactions prohibited by the Qur'an for being unfair. It is a transaction which is meant for trade and not to exploit the conditions of the needy. God has declared trade legal and usury prohibited.

This view is supported by the Islamic legal principle which says that if benefit can be drawn from something without causing any harm to anybody, then it is to be regarded as legal. This is made clear in the statement of al-Imam Muaffaq al-Din Ibn Qudama in his book *Al-Mughni*, "Anything which contains benefit for someone without doing harm to anybody is legal. Religious law does not prohibit benefits with which no harm is attached; on the contrary, it considers them legal." Ibn Taimiyyah also says, "Anything without which living is not completed is to be deemed legal, as prohibiting it is apt to cause embarrassment, and should be disregarded from the

Islamic point of view." To be understood from all this is that "creditors" in banking transactions are capital owners

who are not exploiting "debtors" who are also capital owners. Both parties are trading benefits according to commercial contracts willingly, and neither party is doing injustice to the other party.

Again, this third characteristic of bank interest stands in contrast to usury as prohibited in the Qur'an, which results in increasing the creditor's money only. In banking transactions both parties share benefits willingly.

4. All parties involved in banking transactions feel easy as the bank management acts on their behalf in taking all measures to guarantee the safety of the transaction for the interest of both creditor and debtor. This is in contrast to what happens in usury prohibited in the Qur'an which means that the creditor's money is invested in the debtor's money while the debtor is unable to repay, and there is no external side to guarantee the safety of the transaction. Creditors will be in perpetual fear that their debtors will fail to repay with great jeopardy to their capital. This fourth characteristic of bank interests also stands in contrast to usury. While in banking transactions everybody is at ease concerning the fate of their possessions, in usury neither party can know ease because of the nature of the illegal transaction.
5. The increment on the capital in a bank transaction is stated in the original contract for trade purposes with wealthy debtors who are businessmen. Unlike usurious transactions, the increment is not incidental or contingent upon the debtor's failure to repay at the time of repayment. This is what makes it of a commercial nature, that is it is paid in return for mutual benefits. Again this is in contrast to usurious increment as prohibited

in the Qur'an which becomes due on a needy person when he fails to repay a debt.

Thus we see that this fifth characteristic is also in contrast with usury which is prohibited in Islam. After seeing clearly the contrast between usury and banking transactions, we can deduce that banking transactions are different from prohibited usury and that it is a new kind of trade transactions which should not be subjected to Islamic laws concerning usury. We should, rather, look into them in the light of benefits to be drawn from them to people after the example of the Messenger of God who legalised "delayed selling" despite its having elements of transaction which he had earlier prohibited like selling something which is not in the ownership of the seller.

Banks in their present state and according to the international regulations governing their practices have become an actual necessity for people, and living would not be completed without them. This is why it is not acceptable to hasten in considering their transactions illegal. This would cause undue strain and embarrassment to people on an unprecedented scale. Furthermore, it would jeopardise the very existence of the state and endanger legal economic benefits. Undue strain is prohibited by the scriptures of the Glorious Qur'an.

SHARI'A (ISLAMIC LAW) AND BANK'S INTEREST*

***By Dr. Ma'ruf al-Dawalibi, Councilor to the
Custodian of the two Holy Mosques and
Chairman of the Islamic Conference in Karachi.***

BANKS in their present state and according to the international regulations governing their practices have become an actual necessity for people, and living would not be completed without them. This is why it is not acceptable to hasten in considering their transactions illegal. This would cause undue strain and embarrassment to people on an unprecedented scale. Furthermore, it would jeopardise the very existence of the state and endanger legal economic benefits. Undue strain is prohibited by the scriptures of the Glorious Qur'an. Anyone who thinks of considering them illegal and who does not feel easy with them cannot declare them illegal until he finds the alternatives which would guarantee the needs of people provided by the existing banks and without which living would not be completed.

In this category we may include what industrial banks and similar institutions in the Kingdom of Saudi Arabia do in accordance with their regulations: they put a certain annual percentage on the sums of money they lend to businessmen and men of industry without interest, to cover the expenses

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of studies conducted by the banking institutions through their technical departments to ensure proper operational measures and eventual repayment of capital. These services are costly and their expenses should be covered and the government has the right to determine the compensation.

No weight is to be attached to suspicions about the way of repayment of study expenses in instalments over months or years up to the end of the contract as long as they run according to conventions and traditions and as long as they are stated clearly in the contract as payment for the mentioned expenses and are far from illegal exploitation and gross injustice. To ensure unanimity of people of expertise and opinion and in order to protect people's needs in things which are necessary for them in living, I am of the opinion that banking transactions in both deposits and loans should be governed by the rulings of the Islamic Shariah (legal system) in the cases of *mudaraba* and *qirad* lending. As an example of this, I cite the story of what happened to Omar Ibn al-Khattab with his two sons AbdAllah and Ubaid Allah. Omar's two sons borrowed a sum of forty thousand dinars from the state treasury in Iraq for the purpose of trade. They promised to repay it to Omar in Medina. Their business drew great profits as they sold their merchandise in Medina for 400 thousand dinars. Omar, the caliph was extremely angry for what his two sons did and ordered them to pay the capital as well as the entire profits to the central treasury. His son Abd Allah objected but Omar rejected the objection and reiterated his order to his sons to pay everything to the treasury. Abd Allah said nothing more but Ubaid Allah said, "O Prince of the Believers, suppose that our capital was spoilt, wouldn't we have to repay it? So why can't we have its profits?"

Omar insisted on his opinion. Some of the companions who were present interfered in the discussion and suggested to regard the loan as *qirad*. Omar accepted this solution and

divided the profit between his two sons and the treasury. This incident was reported through a correct chain of reporters in *Al-Muwatta'* of Malek, and by al-Imam al-Shafi'i among others. Thus we see that the transaction was considered under the category of qirad and this solved the problem and kept away all suspicions. The story also implies that actions of Muslims should be considered right and legal whenever there is a chance to do that. Omar's two sons thought it unfair to give all their profits from the business which they had conducted to the treasury, as long as they had guaranteed to repay the loan to the treasury. It would amount to giving the treasury unfair benefits, something very much like usury. Omar retreated and corrected the transaction by turning it into a qirad contract by willing consent so that benefit would go to both parties.

I see that the solution lies in three points:

1. Banks should not be allowed to accept deposits and give loans to companies and businessmen except on the basis of legal mudaraba contracts.
2. Banks as well as loan beneficiaries and debtors should guarantee a certain extent of profits by banks to depositors and by loan beneficiaries to banks.
3. The profit parameter will be subjected in both cases to increase and decrease in amount following the economic situations and anticipated profits.

The authorities have the right to decree legal regulatory limits on transactions by different parties if that was justifiably required by legal interests of people. The authorities have the right to make mandatory or to prohibit what is permitted (mubah) according to the Islamic legal system of Shariah following different contingencies and circumstances like in imposing on car drivers to take the right side of the

road in order to preserve lives. The state has even undertaken to guarantee a minimum of profits in certain projects amounting to 15% in an attempt to encourage private financing of projects of a public nature and general benefit. Otherwise, these capitals would go abroad to take part in foreign investments and this would lead to great damage to the national economy.

Since in providing liquid money to banks is a necessary economic practice above legal needs, the state can impose on banks and loan beneficiaries to guarantee a minimum profit. This is a legally acceptable practice and cannot be considered prohibited. This is likely to encourage investing liquid money in banks and little capitals taking part in big commercial projects with sure results. This would realise legal benefits in which there is no exploitation or injustice to the needy as in the usury which is prohibited in the Qur'an.

In summary, we may say:

1. Banks with different specialisations are today new institutions which have commercial purposes and realise public benefits to both depositors and borrowers of big or small capitals without dealing with the poor who are deserving of charity unlike the usury mentioned in the Qur'an in which benefit goes only to the lender (usuror).
2. In this respect, banks have become major institutions which realise people's everyday needs without which their living would not be completed. Ibn Taimiyya (may God have mercy on his soul) has defined people's needs as things which are necessary for people's living and without which they would be in great embarrassment and strain. He says that prohibiting these needs is legally unacceptable. Ibn al-Qayyim states clearly that the basis of legal systems is realising people's benefits and there should be no strains on them in this and in things which are

necessary for their living.

3. In their views of considering legal people's needs without which living would not be completed, the leaders of Islamic thought have depended on the Messenger of God (PBUH) legalising delayed selling despite that it has the element of selling something which is not existent and which the seller does not possess, something which the Prophet had prohibited. Scholars have unanimously agreed on that legalising delayed selling was for people's need for it. They depended on this to consider legal all needs without which people's living would not be completed.
4. In this category we may include what industrial banks and similar institutions in the kingdom of Saudi Arabia do in accordance with their regulations: They put a certain annual percentage on the sums of money they lend to businessmen and men of industry without interest, to cover the expenses of studies conducted by the banking institutions through their technical departments to ensure proper operational measures and eventual repayment of capital. These services are costly and their expenses should be covered and the government has the right to determine the proper compensation.
5. No weight is to be attached to suspicions about the way of repayment of study expenses in instalments over months or years up to the end of the contract as long as they run according to conventions and traditions and are far from illegal exploitation and gross injustice.
6. Scholars have said much about the point behind prohibition of usury as mentioned in the Qur'an. One of the most prominent thinkers who discussed the topic was Rashid Rida who said in a fatwa (religious verdict), "The wisdom behind prohibiting usury is removing injustice in accordance with Qur'anic teachings and

preserving the virtues of sympathy and cooperation among community members and preventing the wealthy from exploiting the needy. This is the point behind the Qur'anic verse which enjoins on capital owners and lenders to forsake usury and get back only their capitals. In this there would be no injustice done to any party. Rashid Rida goes on to say, "It is clear that any transaction in which benefit goes to both giver and taker, and without which both parties' benefits would suffer, does not go under that category, aiming to remove injustice. Any transaction whose aim is to conduct trade, and not to exploit the needs of someone is of the kind of selling and commerce and not of exploitation." Rashid Rida adds, "In taking profits from savings funds and from banks there is no injustice to anybody, neither is there in it any cruelty on a needy person, even in an Islamic country,"

7. It is clear from the above discussion that the usury mentioned in the Qur'an was prohibited for the exploitation it carries on the side of the wealthy to the needs of his poor brother in a usurious (not commercial) practice. On the other hand, bank transaction in their different categories are commercial transactions attached to selling as a non-usurious commercial contract. We also have to keep in mind that banks do not deal with the charity deserving poor.

ON DR. MA'RUF DAWALIBI'S ARGUMENTS FOR JUSTIFYING INTEREST*

**“Contemporary interest carries
more exploitation to the poor
than ancient usury”**

**By Dr. M. Umar Chapra
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DR. Dawalibi has been crusading from the early 1950s in favour of legalising commercial bank interest by arguing that it is different from the *riba* prevailing in the days of the Prophet. His logic is however seriously flawed and none of the serious scholars in the Muslim world, either among the ulama or the economists, has found significant weight in his arguments. Since *riba* has been defined by an ijma of the whole *ummah* from the earliest days to the present as a predetermined positive rate of return on loans, irrespective of whether this rate is small or big, only an ijma of the *ummah* can change the

* Published in Al-Nur Magazine “In Arabic” v 10 p 18-23 and I obtained the English text from the Author himself ... Dr. Chapra is an Economist, his opinions have great values. His latest publication is “Islam and The Economic Challenge” published by Islamic Foundation, London. MayAllah Almighty Reward him for his scientific arguments.

definition. Hence, the views of the Mufti of Misr (Egypt) or of Dr. Dawalibi are not sufficient to change the status quo. Nevertheless, it would be useful to examine three of the major arguments on which his whole thesis rests and to show why they do not carry much weight.

1. An Economy is not workable without interest?

He has made an a priori assumption that an economy is not workable without interest. Hence he argues that *maslahah* requires the making of *riba* permissible. He, however, wrongly uses for this purpose Ibn Taymiyyah's legal maxim that "anything without which an economy is not workable and causes hardship for the people becomes permissible in the light of the *Shariah*." From the point of view of both *Shariah* and economics his argument is flawed.

All serious scholars of the *Shariah* would undoubtedly find his *fiqhi* position to be untenable. It is the belief of all Muslims that whatever has been specifically stipulated by the *Shari'ah* would necessarily serve the *maslahah* of *ummah* if implemented sincerely. Therefore, all *fuqaha* are unanimously agreed that the *maslahah* of the *ummah* lies in following the teachings of the *Shariah* and not in violating them. Hence, any argument to make permissible on the basis of *maslahah* what has been specifically prohibited by the *Shari'ah* is a nonstarter. Moreover, there is a consensus of the *fuqaha* that legal maxims cannot be used to legalise what is *haram* or to prohibit what is *halal*. Ibn Taymiyyah's legal maxim can thus be applied only to matters for which no specific ruling is available in the Qur'an or the *Sunnah*. Dr. Dawalibi's use of Ibn Taymiyyah's maxim to justify interest is hence highly regrettable. Even the mutual consent of the two parties to a contract cannot make permissible what has been prohibited by the Qur'an and the *Sunnah*. If his argument about *maslahah*

and mutual consent were followed through to its logical end, everything prohibited by the *Shari'ah* could be made permissible.

Even on purely economic grounds his argument is seriously flawed. It has been logically proved by Western as well as Muslim economists that an equity-based economy is not only viable, but would in fact work better than an interest-based economy. It would lead to a more efficient allocation of resources, higher savings and investment, greater economic stability and faster rate of economic growth.³⁵ A long list of Western economists may be cited for the purpose. However, some of the most prominent of these economists are: Henry Simons, Joan Robinson, Hyman Minsky and Ingo Karsten.

The worst economic effect of the interest-based financial system is that it has enabled the public as well as the private sectors to live beyond their means. Credit is available to the well-to-do and the governments for any purpose, including wasteful and unnecessary consumption, speculation, burdensome defence spending and white elephant projects for which financing in a profit-and-loss sharing system would just not be available. Hence, there is excessive monetary expansion accompanied by external borrowing. This has led to high

35 See E. Malinvaud, "Interest Rates in the Allocation of Resources," in F.H. Hahn and F.D.R. Brechling, *The Theory of Interest Rates* (New York: St. Martin's Press, 1963), p. 215; Ralph Turvey, "Does the Rate of interest Rule the Roost," in *ibid.*, pp. 172 and 329; Henry Simons, *Economic Policy for a Free Society* (Chicago: University of Chicago Press, 1948). p. 320. Joan Robinson "What are the Questions?" *Journal of Economic Literature*. December, 1977, p. 1333; Ingo Karsten, "Islam and Financial Intermediation," *IMF Staff Papers*, March 1982; and Mohsin S. Khan, "Islamic Interest-Free Banking: A Theoretical Analysis," *IMF Staff Papers*, March 1986, pp. 1-27. See also M.Umer Chapra *Towards a Just Monetary System* (Leicester, U.K.: The Islamic Foundation, 1985), pp. 107-25.

rates of inflation and excruciating debt-servicing burden, which have together jeopardised the health of the economies of most industrial and developing countries and of the international financial system. The only solution to these problems lies in making the public and private sectors live within their means in such a way that unnecessary consumption is reduced and capital formation is encouraged. The Islamic profit-and-loss sharing system can help greatly in the realisation of this goal. It would make financing available for productive purposes. Unproductive uses would be starved of credit. Hence, excessive credit expansion would not take place, the pressure on resources would decline and the macroeconomic and external imbalances prevailing in most countries would be minimised.

Thus, while Dr. Dawalibi's views could have been understandable in the fifties and the sixties when high growth rates prevailed in many countries without macroeconomic and external imbalances, they appear to be naive in the eighties when rates of growth are low, rates of inflation are high, imbalances are excessive, and debt-servicing burden is back-breaking. At a time like this the Islamic ban on interest-based borrowing should be highly attractive not only for him but also for all Muslims because it would help discourage wasteful consumption, promote investment, reduce imbalances and accelerate development.

2. Borrowing in the Prophet's days was mainly for consumption purposes?

He argues that during the Prophet's day borrowing was mainly by the poor for consumption purposes. Riba in this case caused hardship. In modern times, however, borrowing from banks is mainly by businessmen for running their businesses and is thus not the same *riba* that the Qur'an talks about.

This is also a weak argument not supported by facts.

Shaykh Abu Zahrah, a prominent and respected Muslim scholar, rightly pointed out:

"There is absolutely no evidence to support the contention that the riba of al-Jabiliyyah was on consumption and not on development loans. In fact the loans for which a research scholar finds support in history are production loans. The circumstances of the Arabs, the position of Makkah and the trade of Quraysh, all lend support to the assertion that the loans were for production and not consumption purposes." ³⁶

Even a prominent American economist at Princeton University, Abraham Udovich, reached the conclusion that:

"Any assertion that the medieval credit was for consumption only and not for production is untenable with reference to the medieval Near East." ³⁷

The whole argument that interest causes hardship only for the one who borrows for consumption needs is misfounded. It is the obligation of a Muslim society to meet the dire consumption needs of the poor. Borrowing for other consumption purposes needs to be reduced. Borrowing in a Muslim society would hence be largely for business purposes.

It is only in this context that one may be able to understand the argument of the *Jabiliyyah* that trade is like interest and the distinction that the *Qur'an* draws between

36 See M. Abu Zahrah, *Buhuth fi al-Riba* (Kuwait: Dar al-Buhuth al-Islamiyyah, 1970), pp. 53-54

37 Abraham Udovich, *Partnership and Profit in Medieval Islam* (Princeton, N.J.: Princeton University Press, 1970), p. 86

trade and interest. While in trade an entrepreneur has the prospect of making a profit, he also faces the risk of incurring a loss. In contrast with this, interest is predetermined to be positive irrespective of the ultimate outcome of business, which may be positive or negative depending to a great extent on factors beyond the control of the entrepreneur. Imam Razi himself posed the question of what was wrong in charging interest when the borrower was going to employ the funds so borrowed in his business and thereby earn a profit. His well-considered reply to the question was: "While the earning of profit is uncertain, the payment of interest is predetermined and certain. The profit may or may not be realised. Hence there can be no doubt that the payment of something definite in return for something uncertain inflicts a harm."³⁸

Accordingly, interest is essentially in conflict with the clear and unequivocal Islamic emphasis on socio-economic justice, which requires that the financiers share the risk of business with the entrepreneurs. Financiers who do not wish to share in the risk are entitled to only the principal and no more. Those who insist on charging interest in spite of its prohibition are declared by the *Qur'an* to be at war with God and His Prophet, may peace and blessings of God be on him.

On the occasion of his Farewell Pilgrimage, the Prophet announced the remission of interest accumulated in favour of his uncle 'Abbas Ibn Abd al-Muttalib. This was interest on business loans extended to the Banu Tha'qif tribe. This tribe had not taken the loan from 'Abbas and others for fulfilling consumption needs but for expanding their business.³⁹ This was not an isolated case but a prevalent form

38 Fakhruddin al-Razi, *Tafsir al-Kabir* (Tehran: Dar al-Kutub al-'Ilmiyyah, 2nd. ed., n.d.), vol. 7, p. 87.

39 Abu Zahrah, *op. cit.*, p. 54.

of business financing in those days. Several tribe members having skill in trading acted essentially like large partnerships, borrowing finance from members of their own tribe or from other friendly tribes, to carry on large-scale business, which their own resources would not permit. This is because they could not undertake too many business trips abroad from east to west. The slow means of communication, the difficult terrain and the harsh climate confined them to mainly two caravan trips during the year, one in summer and one in winter (*al-Qur'an*, 106:2). Accordingly they collected all the finance they could muster to purchase the local produce, sell it abroad and to buy with the proceeds what was necessary to satisfy the entire needs of their society for imports during a specific period. Most of the interest-based transactions mentioned in the classical commentaries of the *Qur'an* in relation to the prohibition of *riba* are loans taken by tribes from each other, each tribe acting like a large partnership company.⁴⁰ Islam abolished the interest-based nature of these relationships but reorganised them on a profit-and-loss sharing basis. The financier got a just share and the entrepreneur did not get crushed under adverse conditions, one of which was the caravan being way-laid on the way.

3. There is no exploitation in modern days?

He argues that lenders in modern days are the small depositors who provide a bulk of the deposits of banks. The borrowers, are in contrast, big businesses. Hence, according to him, the position has reversed from what it was during

40 For an excellent factual presentation on the subject with numerous solid references from primary sources, see Mufti Muhammad Shafi', *Mas'alah-e-Sud* (Urdu) (Karachi: Idarah al-Ma'arif, 1374 A.H.), pp. 18-23. See also Abu Zahrah, *op. cit.*, pp. 54-55

the Prophet's days. The small man is now not being exploited.

The fact, however, is that the small man continues to be exploited, more so now than in the Prophet's days. The small depositor gets a paltry rate of return compared with what the borrowers earn. In profit-and-loss sharing system, the depositor would stand a chance of receiving a much better reward. The poor man's resources are used by the rich to become richer. Hence the system contributes to concentration of wealth.

As Dr. Dawalibi has himself acknowledged, bank lending is mainly to big businesses. Financing is a powerful political, social and economic weapon and plays a predominant role in determining the power base, social status and economic condition of a person in the modern world. Small businessmen are starved of credit. According to Arne Bigsten, "the banking system tends to reinforce the unequal distribution of capital."⁴¹ Even the Morgan Guarantee Trust Company, the sixth largest bank in the U.S., has admitted that the banking system has failed to "finance either maturing smaller companies or venture capitalists," and "though awash with funds, is not encouraged to deliver competitively priced financing to any but the largest, cash-rich companies."⁴²

Since, as Dr. Dawalibi has asserted himself, the bulk of commercial bank deposits come from a wide cross-section of the population, it would be rational to expect them to be used for providing financing to a wide cross-section of the population and not for the further enrichment of the wealthy and the powerful. This is, however, not possible within

41 Arne Bigsten, "Poverty, Inequality and Development," in Norman Gemmill, *Surveys in Development Economics* (Oxford: Basil Blackwell, 1987), p. 156.

42 Morgan Guarantee Trust Company of New York, *World Financial Markets*, January 1987, p. 7.

the framework of the conventional interest-based system where the financier does not share in the risk of business. Financing in such a system is bound to go mainly to the rich. Why? Mishan has pointed out the right reason by saying: "Given that differences in wealth are substantial, it would be irrational for the lender to be willing to lend as much to the impecunious as to the richer members of society, or to lend the same amounts on the same terms to each."⁴³ Lester Thurow has also observed that credit is granted mainly "to those firms with large internal savings, regardless of whether they are earning above average rates of return on their capital investment." The result is that "the winners are, as in lottery, lucky rather than smart or meritocratic."⁴⁴ The most telling lesson about the conventional banking system comes from Catherine Shaw, a researcher at the London school of Economics Business History Unit. She says: "The recruitment of business leaders from one social class or a narrow social strata is an ominous symptom. It suggests that society is failing to utilise its total reservoir of ability."⁴⁵ The inability of small businesses to get credit from the banks thus perpetuates and enhances the concentration of wealth.

Hence, Dr. Dawalibi probably does not realise that the interest-based system leads to a more serious exploitation of the poor. It receives its resources from a broad cross-section of society but does not provide financing to them, neither for consumption purposes nor for productive purposes. The financing goes mainly to the rich. Even if the small businesses get credit, it is in small amounts withdrawn with the slightest

43 E.S. Mishan, *Cost Benefit Analysis: An Introduction* (New York: Praeger, 1971), p. 205.

44 Lester Thurow, *Zero-Sum Society* (New York: Basic Books, 1980) p. 175

45 Quoted by Charles Leadbearer, "Rags to Riches - Fact or Fiction," *Financial Times*, 30 December 1986, p. 5.

sign of business showdown. If Dr. Dawalibi has examined the thousands and thousands of small farms and businesses in the U.S. and other countries which have become bankrupt and the owner-proprietors have lost their homes and all their belongings because of the Shylock-like behaviour of banks, he would have clearly realised whether the small man suffers or not. In an interest-based economy banks and other lenders are bound to behave in this manner. However, within the Islamic profit-and-loss sharing system, the financing would be on the basis of the strength of the project and its productivity. Hence, everyone, including the poor, would stand a fair chance if they have a sound project. Small businessmen would not lose their skin if the project goes sour because the banks would share in the evaluation and the risk and would not withdraw the amount with the first sign of trouble. May we ask Dr. Dawalibi whether concentration of wealth, which the interest-based system invariably leads to, is the ideal of Islam? If his answer is in the negative, then it would be desirable of him as a good Muslim to accept ungrudgingly the ijma of the Muslim ummah against interest.

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