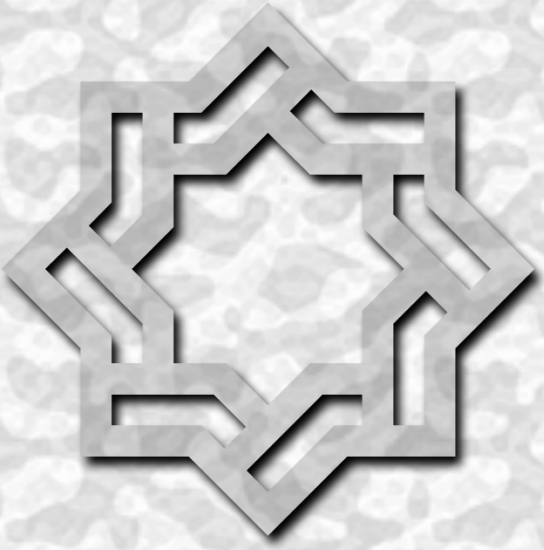
Islam's Strict Prohibitions

Against Killing Women, Children and Other Defenceless People

A Research on the Basis of Ḥadīth Science

Abu Hamzah ibnu Musafir



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About this Paper

A number of people have accused Islam of being a religion which glorifies violence. The main points of critique have been attacks on women, children and other defenceless people, for which Islam has been rendered responsible.

In the past, numerous groups, which effectively achieved to receive massive media attention, have claimed such attacks for themselves, have tried to legitimise their actions Islamically, and have, above all, exalted their so-called jihād to be the supposedly highest principle of Islam.

The key question to inquire is: Does their conduct comply with the foundational texts of Islam?

The paper at hand should contribute to an investigation of this question by analysing the early Islamic foundational texts.

This paper is written in easy-to-understand language and can be coherently read without prior knowledge about Islam or Islamic studies. It is not only intended for an academic readership but engages anyone interested in the topic.

About the Author

Abu Hamzah ibnu Musafir has been studying Islamic theology since the mid-nineties, spending several years in the Arab world for that purpose. He enrolled in various faculties in Cairo as well as in Damascus.

During his studies, he memorized the Quran and other Arabic foundational texts, as well as Arabic poems. He published numerous writings in Arabic and other languages on different disciplines of Islamic theology.

His studies specialize in the foundations of Islam, the analysis and comparative study of various religious movements, theoretical and applied ḥadīth studies, the fundamentals of narration and comparative religion studies.

بسم الله الرحمن الرحيم

Islam's Strict Prohibitions Against Killing Women, Children and Other Defenceless People

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Written by[1]

Abu Hamzah ibnu Musafir

2. Edition

[1] **Note:** The English translated edition "Islam's Strict Prohibitions Against Killing Women, Children and Other Defenceless People" was not translated by the author, Abu Hamzah ibnu Musafir.

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Transcription Table

Transcription	Arabic letter	Name	Pronunciation guide
ā	ا	Alif	long *a* (similar to British light *a* in ***a**sh*, but as a long *a*, and after some consonants dark like English *a* in *c**a**r*)
b	ب	Bāʾ	like English *b* in ***b**arn*
d	د	Dāl	like English *d* in ***d**ear*
ḍ	ض	Ḍād	no equivalent (similar to *d* in ***d**awn*, but emphatic or rather said pharyngealized)
dh	ذ	Dhāl	like English voiced *th* in ***th**at*
f	ف	Fāʾ	like English *f* in ***f**ar*
j	ج	Jīm	like English *j* in ***j**am*
gh	غ	Ghayn	no equivalent (similar to French *r*, but softer i.e. not uvular but velar)
h	ه	Hāʾ	like English *h* in ***h**at*
ḥ	ح	Ḥāʾ	no equivalent (voiceless pharyngeal *h*, as in Arabic *A**ḥ**mad*)
kh	خ	Khāʾ	like Scottish *ch* in *lo**ch***
k	ك	Kāf	like English *c* in ***c**ap*
l	ل	Lām	like English light *l* in ***l**amp*
ḷ	ل	Lām mufakhamah	like English dark *l* in *we**ll***
m	م	Mīm	like English *m* in ***m**e*
n	ن	Nūn	like English *n* in ***n**o*

Transcription	Arabic letter	Name	Pronunciation guide
q	ق	Qāf	no equivalent (similar to ***c**aught* but uvular, i.e. produced further back in the mouth)
r	ر	Rāʾ	no equivalent (Spanish *r* as in *pe**r**o*)
s	س	Sīn	like English *s* in ***s**ight*
sh	ش	Shīn	like English *sh* in ***sh**ine*
ṣ	ص	Ṣād	no equivalent (similar to *s* in ***s**auce*, but emphatic or rather said pharyngealized)
t	ت	Tāʾ	like English *t* in *s**t**ick*
ṭ	ط	Ṭāʾ	no equivalent (similar to *t* in *s**t**all*, but emphatic or rather said pharyngealized)
th	ث	Thāʾ	like English voiceless *th* in ***th**ink*
w / ū	و	Wāw	like English *w* in ***w**ater* / long *u* like English *oo* in *p**oo**l*
y / ī	ي	Yāʾ	like English *y* in ***y**es* / long *i* like English *ee* in *m**ee**t*
z	ز	Zāy	like English *z* in ***z**ebra*
ẓ	ظ	Ẓāʾ	no equivalent (similar *th* in *fa**th**er*, but emphatic or rather said pharyngealized)
ʾ	ء	Hamzah	glottal stop like the stop sound in English *uh-oh!*
ʿ	ع	ʿAyn	no equivalent (voiced pharyngeal fricative as the ʿ in Arabic *kaʿbah*)

• Short vowels: a, i, u; long vowels: ā, ī, ū; Diphthongs: aw, ay

Further information can be found at the end of this document.

Introduction

The prohibitions within Islamic law against killing women, children and other defenceless people were well-known among early Muslims and their scholars. Throughout the centuries, Muslims, at large, have maintained this notion in both their beliefs and their actions.

The text at hand examines how this prohibition establishes throughout the primary scriptures of Islam. Doing so will reveal how these commandments reappear throughout the scriptures and how, correspondingly, the early scholars, regents and commanders adhered to them.

Another inducement to write this paper is the common assumption these days that Islam would be an inhumane religion which glorifies violence. This perception has lately been fuelled by contemporary groups, with the so-called "IS" leading the way. The analysis provided below, however, clearly objects to the misconceptions and beliefs of such groups.

This paper aims to counter the actions of the so-called "IS" and al-Qāʿidah and highlight that these are contradictory to the teachings of Islam. Islam denounces killing the defenceless, and those who commit these acts, Islam denounces as criminals.

The reader should clearly and unequivocally note that the transgressions of these groups are not only restricted to this one prohibition at hand. The fact that this paper focuses on a selected subject and does not touch upon others, should not allow the reader to come to the false conclusion, that these groups, their ideology or their actions are in any way or form legitimate.

The assumption that I, the author of this paper, were only rejecting the named actions and otherwise endorsing these groups would be highly absurd. In advance, I hereby clarify that I vehemently object to such distorted readings of my writings.

Evaluating the Traditions Mentioned Below

This paper cites a variety of traditions from the works of early Islamic ḥadīth[2] scholars. In principle, and according to the guidelines of the Islamic ḥadīth science, the analysis of the respective transmission-chains is necessary.

However, since this paper aims to outline the multiplicity of traditions regarding the topic at hand, the reader is spared a prolonged discussion around the individual chains.

An abundance of narrations shows that the overall implication of a verdict must be authentic, even if the wording of individual narrations may vary, and in cases, some narrations may turn out to be deficiently reported. Ḥadīth science also considers abundance to be a decisive factor in rating a ḥadīth's authenticity.

Obvious deficiencies in transmission-chains are pointed out.

Sources of Cited Traditions.

This paper simplifies the sources of ḥadīths by only referencing the respective ḥadīth-book titles.

Anyone accustomed to the scientific analysis of ḥadīths, and who wants to see into the respective sources with the original texts, could apply and access these references with ease.

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[2] A ḥadīth is a narration by or about the Prophet Muḥammad ﷺ. The sum of such narratives is called Sunnah and is, besides the Quran, the second primary source of Islamic law.

It should be noted that in the early Islamic period, narrations by the first successive generation used to be classified as ḥadīth as well. It was only in later periods, that only prophetic narrations established to be called ḥadīth distinctively, while other narrations were called *athar* (pl. *āthār*). These distinctive terms were not adopted by all scholars of ḥadīth. In this regard, the terms ḥadīth and ḥadīth studies (or rather, works on the study of ḥadīth) may also convey narrations from the first generation.

To further simplify retracing the origins of citations, this paper also cites the Arabic text passages from the sources. Almost all citations are taken from “al-Maktabatu sh-Shāmilah”, a digital library containing thousands of books. All extracts below are identically paraphrased as published in the library; except for a few, which were slightly corrected after comparing them with the wording of other editions of the same books.

It is effortlessly possible to retrace the original passages in the sources by using the texts or parts of texts below.

It should be noted that for the sake of brevity - apart from the last narrator - narration-chains are not further depicted. In some cases, however, peculiarities in transmission-chains are pointed out and other persons, in addition to the last narrator, are named.

Acknowledgements

First and foremost, I would like to thank our Creator ﷻ[3] for all His extensive blessings and particularly for enabling me to write this paper. After that I would like to thank my family for their support and everyone, who proofread the manuscript and contributed to the realisation of this paper.

[3] This Arabic symbol approximately means “the most glorified, the most high”. Muslims honour their Creator with this and similar expressions. In English, the capitalisation of names and pronouns referring to Allah has been deemed appropriate by Muslims and is in widespread use.

Verse 2:190 - Fighting as a Reaction of Being Fought Against

وَقَاتِلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يُقَاتِلُونَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ

And fight in the way of Allah the ones who fight you,
but do not transgress; surely Allah does not love the transgressors.[4]

This verse clearly defines combat as a response to an enemy's aggression[5].

Some people believe that this verse has been completely abrogated or annulled (the concept of *naskh*) because they happen to find some statements by the early scholars suggesting that. This presumption is however false, as the early scholars did not argue that the word "*naskh*" meant a total annulment of the verse and its meaning. However, to provide more details on *naskh*, this topic must be addressed in a separate paper.

Construing the Killing of Women, Children and Other Defenceless People as Acts of Transgression

The preceding verse is read as a broad instruction and applies on a societal scale. It does however also apply to the individual and their actions. In terms of the individual, this directive instructs them to exclusively fight those who are indeed fighting against them. Defenceless and non-combatant persons are fundamentally excluded from this.

It is for this reason that the verse, and the prohibition against transgression formulated therein, is construed to pertain specifically to women,

[4] **Note:** Unlike in the original edition, the translation of the Quran into the English language was not put together by the author.

[5] This verse directly precedes the verse which some non-Muslims like to take out of context: "And kill them wherever you catch them, and drive them out from where they drove you out..."; not or barely considering the wording nor message of the verse, even less the context of the verse.

children and all other defenceless people, according to a number of scholars.

In correspondence, Ibnu Abī Ḥātim ar-Rāzī's[6] رَحِمَهُ ٱللَّهُ[7] Quran exegeses relates the following narration from Ibnu ʿAbbās رَضِيَ ٱللَّهُ عَنْهُمَا[8], a Companion of the Prophet ﷺ, as an explanation of this verse:

> عَنِ ابْنِ عَبَّاسٍ، قَوْلُهُ: وَلا تَعْتَدُوا يَقُولُ: لَا تَقْتُلُوا النِّسَاءَ وَالصِّبْيَانَ وَالشَّيْخَ الْكَبِيرَ وَلا مَنْ أَلْقَى السَّلَمَ، وَكَفَّ يَدَهُ، فَإِنْ فَعَلْتُمْ هَذَا فَقَدِ اعْتَدَيْتُمْ. وَرُوِيَ، عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ وَمُقَاتِلِ بْنِ حَيَّانَ، نَحْوُ ذَلِكَ ...

> *About the word of Allah "but do not transgress", Ibnu ʿAbbās is reported[9] to have said:*
>
> *"Do not kill women, children, the elderly and those who offer you peace and have withdrawn their hands. <u>If you are to do so, you will have transgressed!"</u>*
>
> *The same has also been narrated from ʿUmar ibnu ʿAbdi l-ʿAzīz, Muqātil ibnu Ḥayyān and others [...]*

In identical wording, the same narration from Ibnu ʿAbbās رَضِيَ ٱللَّهُ عَنْهُمَا can be found in aṭ-Ṭabarī's (died 310 AH/923 CE رَحِمَهُ ٱللَّهُ) tafsīr, as an annotation to the

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[6] Ibnu Abī Ḥātim ar-Rāzī (died 327 AH) was an exceptional scholar of ḥadīth. His name is highly esteemed in the field of the biographical evaluation of narrators (al-Jarḥu wa-Taʿdīl).

He mainly distinguishes himself with his comprehensive exegesis (in Arabic tafsīr) of the Quran. He confined himself to exclusively explaining the verses of the Quran by traditions, without adding his own annotations.

Along with the work of Ibnu Jarīr aṭ-Ṭabarī, his work belongs to the earliest extant tafsīrs.

[7] The approximate meaning of this Arabic symbol is: "May Allah have mercy on him."

[8] Approximately meaning: "May Allah be pleased with him."

[9] As set out in the introduction, narration-chains have been simplified. Accordingly, Ibnu Abī Ḥātim did trace this narration back to the Prophet's Companion Ibnu ʿAbbās, even if the transmission-chain is not further depicted in this paper.

named verse and then followed by aṭ-Ṭabarī's exegesis of the last part of the verse:

> {إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِينَ} الَّذِينَ يُجَاوِزُونَ حُدُودَهُ، فَيَسْتَحِلُّونَ مَا حَرَّمَهُ اللَّهُ عَلَيْهِمْ مِنْ قَتْلِ هَؤُلَاءِ الَّذِينَ حَرَّمَ قَتْلَهُمْ مِنْ نِسَاءِ الْمُشْرِكِينَ وَذَرَارِيِّهِمْ ...

> *"Surely Allah does not love the transgressors": Those who transgress His boundaries by legitimising the killing of those people, whom Allah has forbidden to kill.*

Letters by the Umayyad Caliph ʿUmar ibnu ʿAbdi l-ʿAzīz

ʿUmar ibnu ʿAbdi l-ʿAzīz رَحِمَهُ ٱللَّهُ (died 101 AH/720 CE) is commonly referred to as "the fifth rightly guided Caliph" amongst Muslims. In the above exegesis, the exegete Ibnu Abī Ḥātim indicates that ʿUmar ibnu ʿAbdi l-ʿAzīz was one of those who narrated the exposition of this verse.

In this regard, aṭ-Ṭabarī reports the following:

> عن يحيى بن يحيى الغساني، قال: كتبتُ إلى عمر بن عبد العزيز أسألهُ عن قوله: "وقاتلوا في سَبيل الله الذين يُقاتلونكم ولا تعتدوا إنّ الله لا يُحب المعتدين"، قال: فكتب إليّ: "إنّ ذلك في النساء والذريّة ومن لم يَنصِبْ لك الحرَب منهم"

> *On the authority of Yaḥyā ibnu Yaḥyā al-Ghassānī, who said: "I wrote a letter to ʿUmar ibnu ʿAbdi l-ʿAzīz and asked him about the statement of Allah: "And fight in the way of Allah the ones who fight you, but do not transgress; surely Allah does not love the transgressors."*
>
> *He replied: "This verse refers to the women and the offspring and to those, who are not engaging in battle against you."*

This letter illustrates Caliph ʿUmar ibnu ʿAbdi l-ʿAzīz's exegesis of the said verse. Notably, he classifies all non-combatant parts of the populace as people, against who must not be fought.

Considering that there was no word to describe the concept of a "civilian" – today the Arabs use the word *madaniyyūn* – this definition does

substantially coincide with the understanding of the term civilian. Islamic legal scholars paraphrased people of this category as non-combatants or as people, who are not part of a fighting troop (*min ghairi l-muqātilah*).

The said tradition was also recorded in *al-Muṣannaf* written by the scholar of ḥadīth Ibnu Abī Shaybah رَحِمَهُ ٱللَّهُ (died 235 AH/850 CE), in identical wording.

Taken into consideration the vast territory ʿUmar ibnu ʿAbdi l-ʿAzīz reigned as a caliph, one can suggest that he used his authority to cultivate these principles amongst the Muslims.

Accordingly, aṭ-Ṭabarī, in his annotations on the named verse (2:190), narrates another letter by ʿUmar ibnu ʿAbdi l-ʿAzīz, of the same tenor:

> عن سعيد بن عبد العزيز، قال: كتب عمر بن عبد العزيز إلى عديّ بن أرطاة: "إني وَجَدتُ آية في كتاب الله: "وقاتلوا في سبيل الله الذين يُقاتلونكم ولا تعتدوا إنّ الله لا يحب المعتدين" أي: لا تقاتل من لا يقاتلك، يعني: النساء والصبيان والرُّهبان."

> *On the authority of Saʿīd ibnu ʿAbdi l-ʿAzīz, that he said: "'ʿUmar ibnu ʿAbdi l-ʿAzīz wrote a letter to ʿAdī ibnu Arṭāh[10]: 'I found the following verse in the book of Allah [...] Its meaning is: Do not fight those who are not fighting you. Namely: women, children and monks.'"*

In his letters, ʿUmar defines the concept of transgression and its prohibition, as laid out by this verse. Whoever fought the defenceless, is thereby guilty of transgression.

ʿUmar ibnu ʿAbdi l-ʿAzīz lays out that the grounds for this ban, against fighting the defenceless, are their non-aggression. Islamic jurists, in accord, defined this prohibition to include all people who share the same justification (in Islamic jurisprudence this is called *ʿillah*).

[10] ʿAdī ibnu Arṭāh (died 102 AH/720 CE) was the Amir of Kufa and Basrah in Iraq, under the caliph ʿUmar ibnu ʿAbdi l-ʿAzīz. For his biography see *Tahdhību l-Kamāl fī Asmāʾi r-Rijāl* by Abū l-Ḥajjāj al-Mizzī.

Another group of people, the monks, is also exemplified in this statement and is later touched upon in a chapter of their own.

Ḥadīth About a Woman Who was Killed

Al-Bukhārī and Muslim[11] رَحِمَهُمَا ٱللَّهُ, in their respective *Ṣaḥīḥ*-collections separately, but almost identical in wording, narrate[12] the following incident:

> ... عَبْدَ اللَّهِ رَضِيَ اللَّهُ عَنْهُ، أَخْبَرَهُ: أَنَّ امْرَأَةً وُجِدَتْ فِي بَعْضِ مَغَازِي النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ مَقْتُولَةً، «فَأَنْكَرَ رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ قَتْلَ النِّسَاءِ وَالصِّبْيَانِ»

> *ʿAbduḷḷāh [ibnu ʿUmar] رَضِيَ ٱللَّهُ عَنْهُ reported,*
>
> *that a killed woman was found during an expedition of the Prophet ﷺ[13] whereupon the Prophet ﷺ rejected the killing of women and children.*

> عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا، قَالَ: وُجِدَتِ امْرَأَةٌ مَقْتُولَةً فِي بَعْضِ مَغَازِي رَسُولِ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، «فَنَهَى رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ»

> *On the authority of Ibnu ʿUmar, that he said: "A killed woman was found during an expedition of the Prophet ﷺ whereupon the Prophet ﷺ forbade the killing of women and children.*

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[11] The *Ṣaḥīḥ* of al-Bukhārī (died 256 AH/870 CE) is probably the most famous work of ḥadīth. (Sunni) Muslims consider traditions collected in the *Ṣaḥīḥ* of al-Bukhārī to be the most authentic. The *Ṣaḥīḥ* by the ḥadīth scholar Muslim (died 262 AH/ 875 CE) is of similar standing.

[12] Similar to other ḥadīth scholars, Al-Bukhārī recorded this ḥadīth in a chapter about the topic of jihād ("*kitābu l-jihādi wa-s-siyar*"). Narrations from the works of said scholars will also be cited successively.

[13] This symbol approximately means: "Peace and blessings from Allah be upon him." Muslims honour all Prophets, like Abraham, Moses, Jesus and many others, with this invocation and other phrases.

Ḥadīths collected by al-Bukhārī and Muslim are considered authentic. The authenticity is all more confirmed, when a ḥadīth, as is the case in these two traditions, appears in both works. It is not uncommon that accounts which are narrated in both works have often been widely reported and likely reappear in other ḥadīth collections. This, in turn, affirms their authenticity.

The ḥadīths, as suggested earlier, can hence be found in the following ḥadīth collections:

Al-Muwaṭṭa' by Mālik ibnu Anas[14], *al-Musnad* by Aḥmad ibnu Ḥanbal[15], *as-Sunan* by Abū Dāwūd, *as-Sunan* by at-Tirmidhī, *as-Sunan* by ibnu Mājah, *as-Sunanu l-kubrā* by An-Nasā'ī, *al-Mustakhraj* by Abū ʿAwānah, *al-Muʿjamu l-kabīr* and *al-Muʿjamu l-awsaṭ* by aṭ-Ṭabarānī, *al-Muṣannaf* by Ibnu Abī Shaybah, *as-Sunan* by ad-Dārimī رَحِمَهُمُ ٱللَّهُ.

[14] Mālik ibnu Anas (died 179 AH/796 CE) was the famous scholar, whose teachings successively developed the Māliki school of thought.

[15] Aḥmad ibnu Ḥanbal (died 241 AH/856 CE) was the famous scholar, whose teachings successively developed the Ḥanbali school of thought.

Defencelessness is Expressly Mentioned as a Reason for the Prohibition

More Reports About the Woman Who was Killed

The sources highlight that Caliph ʿUmar ibnu ʿAbdi l-ʿAzīz included all non-combatant people into the purport of this ban. It is only active engagement in combat, which legitimised fighting a person. The following narration supports this.

In his *as-Sunan*, Abū Dāwūd narrates from Riyāḥ[16] ibnu Rabīʿ ﵁ the following narration:

> عن رِياحِ بن ربيعٍ، قال: كُنا مع رسولِ الله –صلَّى الله عليه وسلم– في غزوةٍ، فرأى الناسَ مجتمعين على شيءٍ، فبعثَ رجلاً، فقال: "انظُر عَلامَ اجتمعَ هؤلاء" فجاءَ، فقال: على امرأةٍ قَتيلٍ. فقال: "ما كانتْ هذهِ لتقاتلَ"، قال: وعلى المُقدِّمة خالدُ بن الوليدِ، فبعث رجلاً، فقال: "قُل لخالد: لا يقتُلَنَّ امرأةً ولا عَسِيفاً"

> *We were on an expedition with the Prophet ﷺ when he saw people gathering around something. He summoned a man: "Go and see what the people have gathered around." After a while, the man returned and reported: "Around a killed woman." Upon which the Prophet ﷺ said: "But this woman did not even use to fight at all!"*
>
> *All this took place under the vanguard of Khālid ibnu l-Walīd. Subsequently the Prophet ﷺ sent out a man with the following instructions: "Tell Khālid, that he should by no means kill a woman or a worker!"*

[16] Also known by the name Rabāḥ. There is a difference of opinions concerning the two versions of his name.

His brother, Ḥanẓalah ibnu Rabīʿ also narrated this ḥadīth; he was one of the Prophet's scribes. Other accounts of this ḥadīth that are mentioned in the following have also been reported on his authority.

This ḥadīth reappears in numerous works of ḥadīth, such as Aḥmad, the *Sunan* of Saʿīd ibnu Manṣūr, *Muṣannaf* and *Musnad* by Ibnu Abī Shaybah, *as-Sunan* by Ibnu Mājah[17], *as-Sunanu-l-kubrā* by An-Nasāʾī and *al-Amwāl* by Ibnu Zanjawayh.

The expression "*mā kānat tuqātil*", translated as: "did not use to fight", linguistically shows that this person was not part of a fighting troop and therefore had not engaged in any form of fighting.

In some narrations, similar to the one by Abū Dāwūd, this is also stressed by the particle "*li*" (*mā kānat hādhihi li-tuqātil*); meaning: "But this woman was not even fighting!"

In the *Muṣannaf* of Ibnu Abī Shaybah, it is explained: "But this woman was not fighting amongst those who were fighting!" (*mā kānat hādhihi tuqātilu fī-man yuqātil)* meaning that she was not part of any fighting party.

In the *Musnad* of Ibnu Abī Shaybah, the Prophet ﷺ directly addresses this oration to Khālid ibnu l-Walīd ﷺ in front of a gathering. It is reported that he looked into the faces of the people and said - reinforcing his speech with the so-called "Nun of strong emphasis" (نَّ) and additionally, starting his address with the particle of emphasis "*inna*" -:

> انْطَلِقْ إِلَى خَالِدِ بْنِ الْوَلِيدِ فَقُلْ لَهُ: إِنَّ رَسُولَ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ يَأْمُرُكَ يَقُولُ: «لَا تَقْتُلَنَّ ذُرِّيَّةً وَلَا عَسِيفًا»

> *Head out to Khālid ibnu l-Walīd and inform him: "The Prophet ﷺ solemnly commands you: 'You shall not kill progeny nor workers!"*

... linguistically women are included in the word "progeny" in this context, in terms of family and kindred.

[17] Ibnu Mājah transmitted this ḥadīth from Ibnu Abī Shaybah and accordingly, also cites the same transmission-chain as him.

References to the Elderly

Saʿīd ibnu Manṣūr, in his *Sunan*, reports an account by Ḍamrah ibnu Ḥabīb ﵁,

عَنْ ضَمْرَةَ بْنِ حَبِيبٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ «نَهَى عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ وَالشُّيُوخِ، وَعَقْرِ الْبَهِيمَةِ إِذَا قَامَتْ فِي سَبِيلِ اللَّهِ»

> *that the Prophet ﷺ forbade killing women, children and the elderly, as well as slaughtering livestock, which one could happen to encounter on the way of Allah.*

This statement is another account which illustrates that the Prophet ﷺ himself pronounced said prohibitions, and in this case, himself included the elderly. Moreover, this report is the first in this paper to mention a ban on killing animals.

Ibnu Abī Shaybah furthermore relates a narration by the Prophet's Companion Anas ibnu Mālik ﵁. He reported that the Prophet ﷺ instructed him, ibnu Mālik, and the Muslims in general:

لَا تَقْتُلُوا شَيْخًا فَانِيًا وَلَا طِفْلًا صَغِيرًا وَلَا امْرَأَةً وَلَا تَغُلُّوا

> *You shall not kill an elderly, nor a young child, nor a woman, nor shall you defraud.*

Here too, a ban by Islamic martial law not yet mentioned in this paper is formulated; namely the prohibition against committing fraud, in other words to illegally profit off war booty. This takes mention in addition to the elderly and other groups of people, against whom violence is declared forbidden.

In this case, fraud (or the evasion, embezzlement and profit off funds and goods; in Arabic: *al-ghulūl*) primarily means illegal enrichment off war booty.

References to Monks

On the authority of the Prophet's Companion Ibnu ʿAbbās, Aḥmad in his *Musnad* narrates that the Prophet ﷺ, whenever he would send out an army, would generally instruct them with the following words:

> لَا تَغْدِرُوا، وَلا تَغُلُّوا، وَلا تُمَثِّلُوا، وَلا تَقْتُلُوا الْوِلْدَانَ، وَلا أَصْحَابَ الصَّوَامِعِ

> *Do not breach trusts and do not defraud. Do not desecrate any corpses, nor kill any children, nor the kill the monk-hut's inhabitants [i.e. the monks].*

Besides readdressing the treatment of monks, the Prophet ﷺ specifies further regulations. He prohibits the desecration of corpses, as well as the breaching of trusts or defrauding of an enemy.

Deducing that the breach of trust or fraudulence is forbidden, even if carried out against an enemy in times of war. However, Islam does not altogether forbid stratagem in war. Without having to elaborate the precise forms of stratagem defined in Islam, it is apparent that plain betrayal of an enemy, for example by breaching treaties or contracts, is not lawful and that Islamic law distinguishes cunning manoeuvre from treachery.

On the subject of monks, it is once again laid out by Ibnu Abī Shaybah:

> عَنِ ابْنِ عَبَّاسٍ أَنَّ النَّبِيَّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ كَانَ إِذَا بَعَثَ جُيُوشَهُ قَالَ: «لَا تَقْتُلُوا أَصْحَابَ الصَّوَامِعِ»

> *On the authority of Ibnu ʿAbbās, that, whenever the Prophet ﷺ sent out an army, he used to instruct them: "Do not kill the inhabitants of monk-huts [i.e. monks]"*

Muslims, undoubtedly, are bound to adhere to these commandments. Accordingly, Saʿīd ibnu Manṣūr reports the following observations in his *Sunan*:

> عَنْ بَكْرِ بْنِ سَوَادَةَ، أَنَّهُ قَالَ: «لَمْ نَرَ الْجُيُوشَ يُهَيِّجُونَ الرُّهْبَانَ الَّذِينَ عَلَى الْأَعْمِدَةِ، وَلَمْ نَزَلْ نُنْهَى عَنْ قَتْلِهِمْ إِلَّا أَنْ يُقَاتِلُوا»

> *On the authority of Bakr ibnu Sawādah, who said: "Not once did we witness the armies unsettling the monks on the columns. We were prohibited from killing them, except if they were fighting."*

"On the columns" possibly refers to the monk's huts, which were often situated on top of columns. This term could also refer to the pillars of temples.

Multiple Examples of Defenceless People – Instructions by the First Caliph Abū Bakr aṣ-Ṣiddīq

In *al-Muwaṭṭa'*, in the chapter about jihād, under the subheading **"The prohibition against killing women and children during a military campaign"**, Mālik رَحِمَهُ ٱللَّهُ – on the authority of Yaḥyā ibnu Sa'īd – narrates about an instruction by the first Caliph Abū Bakr aṣ-Ṣiddīq رَضِيَ ٱللَّهُ عَنْهُ (died 13 AH/634 CE):

> عَنْ يَحْيَى بْنِ سَعِيدٍ، أَنَّ أَبَا بَكْرٍ الصِّدِّيقَ بَعَثَ جُيُوشًا إِلَى الشَّامِ. فَخَرَجَ يَمْشِي مَعَ يَزِيدَ بْنِ أَبِي سُفْيَانَ وَكَانَ أَمِيرَ رُبْعٍ مِنْ تِلْكَ الْأَرْبَاعِ. فَزَعَمُوا أَنَّ يَزِيدَ قَالَ لِأَبِي بَكْرٍ: إِمَّا أَنْ تَرْكَبَ، وَإِمَّا أَنْ أَنْزِلَ. فَقَالَ أَبُو بَكْرٍ «مَا أَنْتَ بِنَازِلٍ، وَمَا أَنَا بِرَاكِبٍ. إِنِّي أَحْتَسِبُ خُطَايَ هَذِهِ فِي سَبِيلِ اللَّهِ». ثُمَّ قَالَ لَهُ: «إِنَّكَ سَتَجِدُ قَوْمًا زَعَمُوا أَنَّهُمْ حَبَّسُوا أَنْفُسَهُمْ لِلَّهِ. فَذَرْهُمْ وَمَا زَعَمُوا أَنَّهُمْ حَبَّسُوا أَنْفُسَهُمْ لَهُ. ... ». وَإِنِّي مُوصِيكَ بِعَشْرٍ: «لَا تَقْتُلَنَّ امْرَأَةً، وَلَا صَبِيًّا، وَلَا كَبِيرًا هَرِمًا، وَلَا تَقْطَعَنَّ شَجَرًا مُثْمِرًا، وَلَا تُخَرِّبَنَّ عَامِرًا، وَلَا تَعْقِرَنَّ شَاةً، وَلَا بَعِيرًا، إِلَّا لِمَأْكَلَةٍ. وَلَا تُحْرِقَنَّ نَخْلًا، وَلَا تُغَرِّقَنَّهُ، وَلَا تَغْلُلْ وَلَا تَجْبُنْ»

> *that Abū Bakr aṣ-Ṣiddīq sent out (four) armies to Syria. He went out to walk with Yazīd ibnu Abī Sufyān, who was the commander of one of the four armies. It is reported, that Yazīd said to Abū Bakr: "Either you join me on my animal or I will get off it". Abū Bakr replied:*
>
> *"Neither will you get off it, nor will I ride it. I am counting these footsteps of mine on the way of Allah."*

> *Then Abū Bakr continued: "You will meet people that claim to have secluded themselves for Allah's sake. So leave them and that, what they have secluded themselves to. […]*
>
> *And I enjoin upon you ten things:*
>
> *'Do not kill any woman, nor child, nor elderly person and do not cut down any fruit-bearing tree nor destroy any settlement. Do not slaughter any sheep, nor camel; except for consumption. Do not burn any palm tree, nor drown it. Do not defraud and do not act cowardly!"*

There are two narrations of this conversation that have also been recorded by Ibnu Abī Shaybah. One of them is phrased:

> ثُمَّ إِنَّكُمْ تَأْتُونَ قَوْمًا فِي صَوَامِعَ لَهُمْ، فَدَعُوهُمْ وَمَا أَعْمَلُوا أَنْفُسَهُمْ لَهُ
>
> *You will meet people (secluded) in their monk-huts. So leave them and that, in what they are engaging in.*

The act, with which the monks were engaging and for which they withdrew themselves from people, was worship. Abū Bakr expressly forbade fighting them while, most notably, acknowledging their practices and doings (namely worship). The armies and their commanders were to keep away from them and their affairs.

As a matter of fact, he **did not** say something along the lines of: "Don't kill the monks, but at least destroy their huts, their temples, their belongings, their religious artefacts, et cetera."

The narration, like the other ones already listed, instead illustrates that Muslims were instructed not to unsettle the monks in the first place, and to let them go about their day-to-day practices and worship.

An Address by the First Caliph Abū Bakr aṣ-Ṣiddīq

Besides addressing armies, Abū Bakr aṣ-Ṣiddīq also admonished and instructed the general public of the Muslims.

As is recorded by Ibnu Abī Shaybah, on the authority of Thābit ibnu l-Hajjāj al-Kilābī, who narrated the following account:

> ثنا ثَابِتُ بْنُ الْحَجَّاجِ الْكِلَابِيُّ، قَالَ: قَامَ أَبُو بَكْرٍ فِي النَّاسِ فَحَمِدَ اللَّهَ وَأَثْنَى عَلَيْهِ، ثُمَّ قَالَ: «أَلَا لَا يُقْتَلُ الرَّاهِبُ فِي الصَّوْمَعَةِ»

> *Abū Bakr arose in front of a crowd to hold a sermon. He began by glorifying and praising Allah. Then he went on by saying: "Hark![18] The monk in his hut[19] must not be killed!"*

References to Farmers in Letters from the Second Caliph ʿUmar ibnu l-Khaṭṭāb

Ibnu Abī Shaybah narrates an account by ʿAbduḷlāh Ibnu ʿUmar, about his father, ʿUmar ibnu l-Khaṭṭāb:

> عَنِ ابْنِ عُمَرَ، قَالَ: كَتَبَ عُمَرُ إِلَى أُمَرَاءِ الْأَجْنَادِ أَنْ لَا تَقْتُلُوا امْرَأَةً وَلَا صَبِيًّا ...

> *In letters addressed to commanders of the troops, Umar wrote: "Do not kill women or children [...]"*

ʿUmar ibnu l-Khaṭṭāb ﵁ (died 23 AH/644 CE) was the second Caliph of the Muslims. His instructions to the troops are likewise to those of the Prophet ﷺ and Abū Bakr before him.

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[18] Or "Indeed!"

[19] It would also be absurd and inadmissible to, in turn, reverse the argument; that the monk could then be fought outside his hut. Besides that, it would contradict all other narrations! This expression is much more a rhetorical device of the Arabic language, common in speeches.

In another narration found in the *Sunan* of Saʿīd ibnu Manṣūr, it is reported: When ʿUmar ibnu l-Khaṭṭāb called upon the Muslims to march to Persia under the command of Salamah ibnu Qais al-Ashjaʿī ﵁, he said:

> لَا تَغُلُّوا، وَلَا تَغْدِرُوا، وَلَا تُمَثِّلُوا، وَلَا تَقْتُلُوا امْرَأَةً، وَلَا صَبِيًّا، وَلَا شَيْخًا هِمًّا ...

> *Do not defraud, nor breach trusts. And do not kill women, nor children, nor the elderly [...]*

In the same book, a different narration on the authority of the Tābiʿī[20] Zaid ibnu Wahb ﵀ (died 83 AH/702 CE) is referenced. This narration can also be found in the *Muṣannaf* of Ibnu Abī Shaybah. The Tābiʿī recounts that he was present when a letter from ʿUmar ibnu l-Khaṭṭāb arrived. The letter goes as follows:

> عَنْ زَيْدِ بْنِ وَهْبٍ، قَالَ: كَتَبَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ [وعند ابن أبي شيبة: أَتَانَا كِتَابُ عُمَرَ] «لَا تَغُلُّوا، وَلَا تَغْدِرُوا، وَلَا تُمَثِّلُوا، وَلَا تَقْتُلُوا وَلِيدًا، وَاتَّقُوا اللَّهَ فِي الْفَلَّاحِينَ الَّذِينَ لَا يَنْصُبُونَ لَكُمُ الْحَرْبَ»

> *Do not defraud, nor breach trusts, nor kill a child. Do not desecrate corpses and fear Allah concerning the farmers (and workers in the fields), who are themselves not fighting you.* [21]

[20] The tābiʿīn are the second generation that succeeded the Prophet ﷺ. They lived to see his Companions, but not him.

[21] The *Sunan* of Saʿīd ibnu Manṣūr conveys this wording. Ibnu Abī Shaybah reports a slightly shorter version.

Orders from the Prophet ﷺ with References to Labourers and Servants

The following report by an unnamed narrator[22] - about the Prophet ﷺ - is transmitted by Saʿīd ibnu Manṣūr:

> عَنْ أَيُّوبَ، عَنْ رَجُلٍ، عَنْ أَبِيهِ، قَالَ: «نَهَى رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ عَنْ قَتْلِ الْعُسَفَاءِ وَالْوُصَفَاءِ»

> *The Prophet ﷺ prohibited killing labourers and servants.*

The same narration reappears in the *Muṣannaf* and the *Musnad* of Ibnu Abī Shaybah. Here, the narrator is reported to have said:

> بَعَثَ رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، سَرِيَّةً كُنْتُ فِيهَا، قَالَ: فَنَهَانَا أَنْ نَقْتُلَ الْعُسَفَاءَ وَالْوُصَفَاءَ

> *A troop, which I was in, was being sent out by the Prophet ﷺ. He forbade us killing labourers and servants.*

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[22] One of the narrators of this ḥadīth is "a man, who narrated from his father". Apart from all other narrators in this transmission-chain, these two individuals are not mentioned by name. This tradition is clearly weak and as such, was not considered authentic (*ṣaḥīḥ*) by the scholars of ḥadīth.

Weak traditions were transmitted, however, if they were supported by e.g. other narrations.

A "weak" (*ḍaʿīf*) narration was not definitely classified as disinformation or falsehood. To do so would have to be substantiated by attesting "significant weakness" (*shadīdu d-ḍaʿf*).

Assessing that a narration is "weak" only indicates that it cannot be safely attributed to the Prophet ﷺ or any other person, respectively. However, it cannot be falsified with certainty either. Therefore, it was thought possible that such a narration could be truthful.

Based on this possibility and also, as prefaced, on the abundance of narrations that convey the same message, it can be appropriate to cite a few weak narrations.

References to Merchants

Ibnu Abī Shaybah, on the authority of the Companion of the Prophet ﷺ Jābir ibnu ʿAbdillāh ﵁, narrates:

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ قَالَ: «كَانُوا لَا يَقْتُلُونَ تُجَّارَ الْمُشْرِكِينَ»

> *Merchants of the polytheists would not be killed (i.e. as a general rule).*

A Ḥadīth About the Prophet's ﷺ Firm Rejection of Killing Offspring

Ibnu Abī Shaybah, on the authority of al-Aswad ibnu Sarīʿ ﵁, narrates the following:

عَنِ الْأَسْوَدِ بْنِ سَرِيعٍ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «مَا بَالُ أَقْوَامٍ بَلَغُوا فِي الْقَتْلِ حَتَّى قَتَلُوا الْوِلْدَانَ» قَالَ: فَقَالَ رَجُلٌ مِنَ الْقَوْمِ: إِنَّمَا هُمْ أَوْلَادُ الْمُشْرِكِينَ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «أَوَلَيْسَ أَخْيَارُكُمْ إِنَّمَا هُمْ أَوْلَادُ الْمُشْرِكِينَ، ...»

> *The Prophet ﷺ said: "What is wrong with people[23], who go so far as to killing children?!"*
>
> *A man replied: "Those are but children of polytheists."*
>
> *The Prophet ﷺ responded: "Are not the best amongst you children of polytheists? [...]"*

Another narration of this ḥadīth, recorded in *al-Amwāl* by Ibnu Zanjawayh, goes on to say:

فَخَطَبَ، يُعْرَفُ الْغَضَبُ فِي وَجْهِهِ، قَالَ: فَقَالَ: «مَا بَالُ أَقْوَامٍ جَاوَزَ بِهِمُ الْقَتْلُ إِلَى الذُّرِّيَّةِ؟» ...

[23] Or: "What comes to people's minds ..."

> *Thereupon the Prophet ﷺ turned to the people (from the pulpit i.e. in an address), his face darkened with anger, saying: "What is wrong with people, whose killing has reached the extent, that they would even kill children?!"*

The same source also narrates another version of this speech:

> مَا بَالُ أَقْوَامٍ أَسْرَفُوا فِي الْقَتْلِ حَتَّى قَتَلُوا الْوِلْدَانَ

> *"What is wrong with people, who exaggerate to such an extent, that they would even kill children?!"*

In his *Sunan*, Ad-Dārimī narrates this ḥadīth in a chapter called **"About the Prohibition against killing women and children"**. There it is reported:

> مَا بَالُ أَقْوَامٍ ذَهَبَ بِهِمُ الْقَتْلُ حَتَّى قَتَلُوا الذُّرِّيَّةَ؟ أَلَا لَا تُقْتَلَنَّ ذُرِّيَّةٌ ثَلَاثًا

> *"What is wrong with people, whose killing has driven them so far as to kill offspring!? Hark! The offspring must not be killed." He said this three times.*

Ḥadīth: A Prophet's Companion Does not Kill Children

Al-Bukhārī narrates the following incident about the Prophet's Companion Khubayb ﷺ:

> فَابْتَاعَ خُبَيْبًا بَنُو الحَارِثِ بْنِ عَامِرِ بْنِ نَوْفَلِ بْنِ عَبْدِ مَنَافٍ، وَكَانَ خُبَيْبٌ هُوَ قَتَلَ الحَارِثَ بْنَ عَامِرٍ يَوْمَ بَدْرٍ، فَلَبِثَ خُبَيْبٌ عِنْدَهُمْ أَسِيرًا، فَأَخْبَرَنِي عُبَيْدُ اللَّهِ بْنُ عِيَاضٍ، أَنَّ بِنْتَ الحَارِثِ أَخْبَرَتْهُ: أَنَّهُمْ حِينَ اجْتَمَعُوا اسْتَعَارَ مِنْهَا مُوسَى يَسْتَحِدُّ بِهَا، فَأَعَارَتْهُ، فَأَخَذَ ابْنًا لِي وَأَنَا غَافِلَةٌ حِينَ أَتَاهُ قَالَتْ: فَوَجَدْتُهُ مُجْلِسَهُ عَلَى فَخِذِهِ وَالمُوسَى بِيَدِهِ، فَفَزِعْتُ فَزْعَةً عَرَفَهَا خُبَيْبٌ فِي وَجْهِي، فَقَالَ: تَخْشَيْنَ أَنْ أَقْتُلَهُ؟ مَا كُنْتُ لِأَفْعَلَ ذَلِكَ، وَاللَّهِ مَا رَأَيْتُ أَسِيرًا قَطُّ خَيْرًا مِنْ خُبَيْبٍ

Al-Hārith ibnu ʿĀmir's tribe […] finally purchased Khubayb. It was Khubayb, who had killed al-Hārith ibnu ʿĀmir on the day of (the battle of) Badr. He had to stay with them as a prisoner of war.

(Regarding that) ʿUbaiduḷḷāh ibnu ʿIyāḍ told me, what the daughter of al-Hārith had told him about Khubayb. […] He [Khubayb] had wanted to use one of her axes to sharpen[24] something. She lent him her axe and narrated:

"Khubayb took one of my sons along, who had run to him while I was not paying attention. Then I found them and I saw how Khubayb had let him sit on his thigh while the axe was in Khubayb's hand. I was horrified. Khubayb could clearly notice the dismay on my face and responded:

'Are you afraid that I would kill him? I would certainly not do that!'

By Allah, I have never seen a better prisoner than Khubayb!"

[24] The Arabic word in use here, "*yastaḥiddu*", also has other meanings, cf. *Lisānu l-ʿArab* by ibnu Mandhūr.

Statements by Other Scholars and Personalities of Early Islam

The established abundance of narrations about this topic signals that Muslims, in succession, must have passed on these prohibitions similarly.

The scholar of tafsīr by the name of aḍ-Ḍaḥḥāk ibnu Muzāḥim رَحِمَهُ ٱللَّهُ is an example of the first-century scholars who transmitted the Prophet's prohibition concerning women and children (see also traditions recorded in *al-Muṣannaf* by ʿAbdu r-Razzāq and in the *Sunan* of Saʿīd ibnu Manṣūr).

Another example of this is the ḥadīth scholar Mujāhid رَحِمَهُ ٱللَّهُ, whose statement is recorded by Ibnu Abī Shaybah:

> عَنْ مُجَاهِدٍ، قَالَ: «لَا يُقْتَلُ فِي الْحَرْبِ الصَّبِيُّ وَلَا امْرَأَةٌ وَلَا الشَّيْخُ الْفَانِي، وَلَا يُحْرَقُ الطَّعَامُ وَلَا النَّخْلُ وَلَا تُخَرَّبُ الْبُيُوتُ، وَلَا يُقْطَعُ الشَّجَرُ الْمُثْمِرُ»

> *Children, women and the elderly must not be killed in battle. Likewise, nourishment and palm trees must not be burned down, houses must not be destroyed, and fruit-bearing trees must not be felled.*

Ibnu Abī Shaybah additionally narrates the following from al-Ḥasan:

> ابن أبي شيبة: عَنِ الْحَسَنِ، قَالَ: «كَانَ يكْرَهُ أَنْ يُقْتَلَ فِي دَارِ الْحَرْبِ الشَّيْخُ الْكَبِيرُ وَالصَّغِيرُ وَالْمَرْأَةُ، وَكَانَ يكْرَهُ لِلرَّجُلِ إِنْ حَمَلَ مِنْ هَؤُلَاءِ شَيْئًا مَعَهُ فَثَقُلَ عَلَيْهِ أَنْ يُلْقِيَهُ فِي الطَّرِيقِ»

> *It was considered forbidden*[25] *to kill the elderly, children or women in a war zone. It was also considered forbidden for*

[25] Depending on the vocalization, it can also be read as: "He considered it forbidden, to …"

Narrators can convey a norm regarding a particular time by using constructions like "It was considered" and similar phrasings. The intention is to express that said norms were prevalent and persistently predominant.

...--

> *someone, who was transporting*[26] *one of these people, to abandon them on the way, had they become too burdensome for them.*

The Unanimous Announcement of this Prohibition by the Early Scholars of Ḥadīth

Chapter headings found in the works of the early ḥadīth scholars unanimously exhibit that the prohibitions outlined in this paper were commonplace in early Islamic legislative texts.

Two examples of such headings are cited in this paper; namely from the *Muwaṭṭaʾ* of Mālik ibnu Anas and from the *Sunan* of ad-Dārimī.

Some being more outspoken in the names of their chapters than others, all works of the early ḥadīth scholars integrally dealt with this topic in a similar fashion. The following famous works named this prohibition explicitly:

The word in use "*yakrahu*" or "*yukrahu*" (which literally means "abominate") was, by early scholars, also commonly used to convey a prohibition. In the case of this ruling, pertaining to the said group of people, it is already evident that it should be read as a prohibition, due to the numerous traditions earlier mentioned.

[26] In a linguistic sense, this expression can be understood as the transportation of goods and objects belonging to said groups of people (i.e. the elderly, children or women) and that the ruling referred to their belongings. However, this is probably not the meaning intended and the expression may instead refer to the people themselves, as they are specifically being referred to in the beginning. Although the word in use is not associated to refer to people, to convey a particular meaning, this style of speech can be used and is fairly common in the Arabic language. The word in use, "something" or "a thing" (*shayʾan*), in this case means to convey that they are a "segment" or "part" of a group. And Allah knows best.

Al-Muwaṭṭa' by Imam Mālik, *as-Sunan* by at-Tirmidhī, *as-Sunan* by ad-Dārimī, *al-Muṣannaf* by Ibnu Abī Shaybah, *as Sunanu-l-kubrā* by an-Nasā'ī and *al-Mustakhraj* by Abū 'Awānah رَحِمَهُمُ ٱللَّهُ.[27]

[27] Chapter headings in reference:

- الموطأ لمالك بن أنس: كِتَابُ الْجِهَادِ، النَّهْيُ عَنْ قَتْلِ النِّسَاءِ، وَالوِلْدانِ [وفي نسخة: الْصِّبْيَانِ] فِي الْغَزْوِ
- المصنف لابن أبي شيبة: مَنْ يُنْهَى عَنْ قَتْلِهِ فِي دَارِ الْحَرْبِ
- السنن للدارمي: بَاب فِي النَّهْيِ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ
- السنن للترمذي: بَاب مَا جَاءَ فِي النَّهْيِ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ
- السنن الكبرى للنسائي: النَّهْيُ عَنْ قَتْلِ النِّسَاءِ
- المستخرج لأبي عوانة: بَيَانُ حَظْرِ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ فِي دَارِ الْحَرْبِ وَالْغَزْوِ

Concluding Statements

Based on the numerous narrations mentioned in this paper, it is evident that violence against people, who are either not fighting or not able to fight, is strictly prohibited.

The very circumstance that a person is not fighting is the legal foundation of this ban, as has been laid out earlier. Subsequently, it comes as no surprise that various parts of the populace have been mentioned in relation to this ban. This too has been highlighted in this paper on several occasions.

Islamic jurists consider this prohibition to be valid for all people to whom these justifications apply, even if the traditions do not expressly name them. Examples of such are the blind, the frail and the chronically ill (in Arabic *az-zamin*, pl.: *az-zamnā*).

This prohibition transcended Islamic literature since the early beginnings and remained over the centuries, to this day. Besides the narrations from the Prophet ﷺ, this is illustrated in statements from the first two caliphs who preceded him and the later Umayyad-Caliph ʿUmar ibnu ʿAbdi l-ʿAzīz. In addition, the named prohibition was abundantly recorded and transmitted by exegetes, narrators and scholars of ḥadīth of the first century.

Islamic societies could by no means contradict this. Individual violations must have been certain on the basis of human nature. However, I would not know, and it seems to be very outlandish, that Muslim societies would have systemically practiced such misconduct.

An infringement of this ruling, given the clarity of its prohibition, would never find societal acceptance in an Islamic society. Provided that the people at hand generally adhere to Islamic laws.

Anyone who considers the subject discussed here will have to pass the sober judgment that – especially during those times – such precise formulations of guidelines, laws and restrictions are truly remarkable.

Those people, who on preconceived notion blame Islam for the violent and inhumane crimes committed by a faction of its followers, and defame it as a religion which endorses or even glorifies such actions, should consider reassessing their opinions, in the light of the narrations above.

In terms of the use of force, a comparative look in the Bible, especially in the Old Testament, reveals extreme discrepancies to Islamic traditions. A neutral observer will have to cast the question how many statements in the Quran even approximate those of the Old Testament. Closer research into this question might uncover surprising results. However, this is not the ambition of this short paper.

In present warfare, practices that contradict the guidelines Islam has outlined, are very often to be found.

This aspect calls those specific groups which assertively claim to adhere to Islam's laws and prohibitions into play. After all, it is expected of them to strictly comply with the teachings of Islam as they have persistently emphasized their affiliation and devotion to the religion. It is therefore not unusual that one might question precisely them in this regard and how their actions do not seem to represent Islamic guidelines.

For this reason, I have been sharply criticising these groups in my written and verbal publications since 2010.

Practices Forbidden by Islam, Practiced by Militant Groups Attributed to Islam

In recent decades, there have been numerous crimes and gross violations of the reappraised prohibitions defined by Islamic martial law. Of these, the most important are briefly mentioned below:

The so-called "Islamic State's" un-Islamic appeal: to attack civilians

One of the most famous cases is the so-called "IS". Its transgressions in this regard have reached the extent, that Abū Muḥammad al-ʿAdnānī – who was one of the leading figures of the "IS" till his death – in his now-famous speech, called upon his supporters to carry out attacks in every way possible worldwide and especially in the West. He explicitly drafted the utterly perverse scenario that supporters of the group should refashion their cars into weapons, with which they should target and kill women and children.

Preposterous arguments by al-Qāʿidah's leadership to legitimise attacks on civilians

Prior to that, Abū Qatādah al-Filasṭīnī, whose ideology can be attributed to al-Qāʿidah and who is yet another visionary authority of this strand of thought, raised a furore by issuing a fatwa which likewise dealt with attacks on women and children.

Aiman aẓ-Ẓawāhirī, the successive leader of al-Qāʿidah following Usāmah ibn Lādin, also justified attacks against the general public of Western countries. He argues, aberrantly, that the general public had voted for their leaders and therefore should be held responsible for the actions of their governments.

In 2010 I already commented on that:

> *"Al-Qāʿidah claims – as already mentioned – that all citizens of democracies had approved of the war against them. They say this, even though they know very well that many millions, and maybe even a majority of the people, do not share this stance.*

There have been large demonstrations against the war. It is an utter fallacy to generalize in this case, and to state that every citizen would support the war through their vote or their taxes.

Based on such reasoning, al-Qāʿidah allows itself to carry out attacks, in which women and children would potentially be killed. Moreover, many people whom al-Qāʿidah itself considers to be proper Muslims, are also bound to be killed.

This is, in both cases, very problematic. ***The killing of women and children is, in principle, completely forbidden. The same applies to those who are unable to fight, like the elderly, but also to priests and others****. People, for example women, who are directly involved in warfare are excluded from this ruling. Keeping in mind that the premise is direct participation in combat.*

Otherwise, this entire ban makes no sense at all. For, whether democracy or kingship, in any case, the combatant parts of society are in some way (always) supported by their families. If that were reason enough to lift the ban, this ban could never materialise.

It is conspicuous how, in this issue and also in the issue of killing Muslims, al-Qāʿidah's leaders simply just argue in their own favour.

Even in legitimate, conventional military operations, Muslims are required to beware of harming the innocent. Scholars stress that if this commandment were to be ignored it would mean a severe liability and major detriment from an Islamic perspective, which had to be avoided at all costs.

In this light, how are operations to be judged in which a group – from their point of view – kills 20 innocent Muslim civilians, among them women and children, in a bombing, for the purpose of attaining a "great" victory over one or two Americans?

Aiman aẓ-Ẓawāhirī, for example, is someone who consistently promotes and presents these views. Yet it is precisely him, who

> *excuses Shiite scholars for their extreme kufr-, and shirk-beliefs[28], with their ignorance.*
>
> *It is strange how he then, on the other hand, tries to find justifications for bombing 50 Shiites or even Sunnis, under this directive.*

As stated in the excerpt, al-Qāʿidah's line of argumentation is utterly unreasonable because e.g. every wife is bound to support her husband in some way or another, in times of peace and war alike. The question to ask is, where does she directly engage in combat, as the narrations have explicitly named a condition? How to reconcile the grotesque reasoning of al-Qāʿidah's leadership with the cited words of the Prophet ﷺ "But this woman was not even fighting!"?!

The answer is: both cannot be reconciled. Combatant groups, for their part, suffer from a core problem; a problem of first drawing conclusions based on their personal views and assessments and then trying to legitimise these conclusions through arbitrary Islamic texts.

Muslims are no Machiavellians. The end does not justify the means

Muslims are, however, no Machiavellians. Said methods of deduction are, from an Islamic perspective, unacceptable. In 2010, I wrote about this too:

> ***"The Main Goals of Many of These Groups are not Derived from Islamic Sources***
>
> *Many organisations, groups and even individuals do not base their actions on the Quranic texts nor the Sunnah. Their*

[28] The Arabic word *shirk* means evident polytheism. *Kufr* describes an act or a statement, that opposes Islam to the extent, that the Islam of a person is considered invalid; given that the act or statement cannot be excused. It should be noted that e.g. inner convictions, feelings and intentions are regarded "internal acts or statements" according to Islamic theology.

> *beginnings are rather that they witness a certain reality and discover the strong will to change it.*
>
> *Looking into the history of al-Qāʿidah and similar groups, this initial point will consistently reappear to have played a greater role. They are people who have faced oppression from tyrannical regents. They witnessed the daily injustices against themselves and their people. Many of them have also been incarcerated at some point in their life.*
>
> *Under these circumstances, the fixed idea developed, that one must eliminate injustice by all means. After a period of intellectual debate and numerous discussions, one party concludes that violence is the only way to avert the violence of the unjust. That is how the phrase – which is widely used in these movements – "al-jihādu huwa-l-ḥall"[29] came into being.*
>
> *The goal was now clearly defined. It can be summarised easily: To do the utmost to eliminate injustice.*
>
> *Anyone who defines such a goal and attributes themselves to Islam will undoubtedly try to justify it Islamically. For that purpose, one could certainly consult many Islamic core-principles. One of them being, to help the maẓlūm[30] and to counter the ẓālim[31].*

It further reads:

> *The problem arises when, based on an improper and un-Islamic deduction, a judgement is rendered. Muslims must not pass judgements based on but their own observations of reality. Rather they must derive a course of action for their particular situation from the Islamic texts.*
>
> *First, one has to ask whether the said goal is Islamically justifiable. Secondly, it must be resolved whether the sharīʿah designates the means. However the outcome, Machiavellianism is a*

[29] "jihād is the solution."

[30] The oppressed

[31] The unjust or the oppressor

> *concept alien to Islam. The end does not justify the means; the end and the means are prescribed by the creator of humankind.*
>
> *Whenever a Muslim is confronted with any situation they must, from the very beginning, derive their specific approach from the Quran and the Sunnah. They are not allowed to form their own concepts and then use Islamic texts to vindicate them.*
>
> *Thus, many groups elevated jihād to their highest principle. It became the solution to all problems, the best answer to any conflict. Fighting became the most important orientation among these groups, clearly directing all their actions and views. Whoever fought, was a good and courageous Muslim, and whoever did not fight, was a bad and cowardly munāfiq[32]. Whoever fights, is a friend and whoever does not fight, is a foe.*
>
> *The idea formed that everyone who fights is of exceptional rank. Whatever they, and especially the leadership, said, was the law. It was not to be questioned nor critically assessed. Blind obedience to a leading figure is indeed common to many other movements, and is always demanded under the same pretext: "Do not question him for he is better than us, he is more knowledgeable, et cetera…"*

In 2010, I also commented on the main arguments with which the combatant groups try to legitimise attacks:

> *Whenever al-Qāʿidah is faced with criticism for their attacks in the West, their leaders often respond with the following arguments:*
>
> - *The principle of retaliation (i.e. an eye for an eye)[33].*
> - *The argument, that the entire population would ratify the military campaigns of their governments, as they had voted for those governments in democratic elections.*

[32] Hypocrite

[33] in Arabic: *al-muʿāmalatu bi-l-mithl*

> *Here it is to be noted:*
>
> *While the earlier-mentioned principle is often readily pointed out, it is not universally applicable. Reading the commentary by esteemed scholars of tafsīr to the respective āyāt, one comes to know that the Muslim is not allowed to retaliate every deed exactly the same way as it was done onto him. Whenever an action itself is forbidden, it is in principle also not allowed to be carried out in retaliation.*
>
> *The subject of differences of opinions or favouring one opinion over the other is not to be dealt with here. The goal is only to remark that it is not all that easy as it is propagated by the leaders of those groups. This argument cannot be used indiscriminately, to justify everything.*

Grotesque claims by Abū Musʿab as-Sūrī

Abū Musʿab as-Sūrī, who by writing a 1600-page paper with the title *Daʿwatu l-Muqāwamati l-islāmiyyati l-ʿālamiyyah* was hailed one of the leading visionaries of various militant groups, also argues in the way of Aiman aẓ-Ẓawāhirī and the leadership of al-Qāʿidah, to legitimise attacks on the populace.

In his book, his justifications for such attacks follow the pattern of reasoning common to this movement. His arguments – which he believes are Islamically sound – to justify such attacks are as follows:

• The principle of retaliation (i.e. “an eye for an eye”).

•The people’s collective burden of guilt, as they had been the ones voting their leaders into power or had not, at least, overthrown them.

• The understanding that such attacks could serve as strategic advantages and could be an expedient way to reach some of their goals.

In his book he summarises his fallacious argumentation[34]:

[34] As-Sūrī, *Daʿwatu l-Muqāwamati l-islāmiyyati l-ʿālamiyyah*, p. 1390.

وذلك مثلا .. رداً على عمل وحشي قامت به أمريكا وقواتها الحليفة. فالهدف الذي يردع الدول ويسقط الحكومات هو المجازر البشرية الجماعية. وذلك باستهداف التجمعات البشرية لإحداث أكبر كمية ممكنة من الخسائر البشرية. وهذا سهل جداً لكثرة الأهداف كالملاعب الرياضية الحاشدة والحفلات السنوية الجماعية والمعارض الدولية الكبرى. والأسواق المزدحمة وناطحات السحاب والعمارات المزدحمة...الخ

Hence, this, for example, … as a response to a gruesome deed (perpetrated) by the USA and their allies. Because deadly attacks on communities (are the thing, that) will deter states (from doing that) and that will overthrow governments. This is done by targeting crowds of people to cause a maximum of loss of human life.

And this is especially easy to carry out due to the many possible targets, like e.g. sports arenas, annual community festivals, large international conventions, packed markets, skyscrapers, buildings with great numbers of people, etc.

Here again it becomes apparent how as-Sūrī tries to justify all of these actions by arguing with the principle of retaliation and the gaining of strategic benefits!

Attacks on mosques and places of worship of other religions

Attacks against places of worship are just as unsettling as attacks targeting women, children and other defenceless people. Targets of such attacks are often Shiite mosques, but also Sunni mosques, which represent different theological positions or hold different opinions.

This practice, not uncommon to groups earlier mentioned, i.e. the so-called “IS”, the al-Qāʿidah, the Taliban and others, clearly contradicts Islam’s elaborate ban against killing monks.

Monks and their housings are to be refrained from and they are not to be bothered in their endeavours. As is the confirmatory tenor of various narrations.

Other deliberate attacks

As some of these group's leaders legitimise targeting women and children, it comes as no surprise when supporters, far more ignorant than their leaders, pick up these ideas and start planning attacks on nurseries, schools and school buses.

Often deeply unaware of the grave transgressions they are committing against Islamic teachings!

Over the years, plans as such have consistently gained media coverage. While it would be naive to form a view based on one reporting in the media, the multiplicity of such incidents as well as the information gathered in this paper, draw to the conclusion that these leader's appeals are indeed being heard by their ignorant supporters.

Yet it is not only the so-called “IS” which is known for such acts. In recent years, the Pakistani Taliban have repeatedly made headlines because of attacks on schools. Even though the Afghani Taliban have, in turn, repeatedly distanced themselves from these acts, attacks like these happen in Afghanistan too.

War Crimes in General

It should be noted that war crimes and atrocities, contrary to the Islamic guidelines of the old, are not solely found in people who attribute themselves to Islam.

War crimes targeting civilians, among them women and children, have frequently been reported in the last decades. The perpetrator often being the United States[35].

The massacre of My Lai on March 16, 1968, which was carried out during the Vietnam War, remains a collective memory. It became public that US soldiers raped women and murdered 504 people, virtually all civilians of the village; including women, children and elderly people. All animals were also killed.

In recent American wars, wiping out entire villages comprising of only women, children and other civilians, was a repetitive practice. These atrocities are a common theme in the media and film industry of the US itself.

As a rule, the US Army initially tries to cover up such incidents, as was first attempted with the incident of My Lai. It is safe to assume a much higher number of unreported cases, i.e. multiple incidents that will never find their way into reporting or the film industry.

The case of US Special Forces in Afghanistan, which were given a free hand in executing orders to eliminate numerous individuals, is worth mentioning. In these operations, countless civilians, women and children were killed during raids on houses, and this without condemnation over a long time. Such malpractice too contradicts the above-mentioned guidelines of Islam.

[35] This does not mean that war crimes were exclusively perpetrated by Americans in the last decades. Furthermore, this should not be read as an overgeneralization of the people of the United States. This needs to be put into perspective, as not to give the impression that I have a blanket aversion against North America and everything that is somehow associated with it. That is not the case.

I consider these things worth mentioning for the following reason: I believe that such incidents could only occur this often because the leadership, but more so the lower management and the soldiers of the army, as well as in the United States Special Forces, have a certain contempt for moral values and lack a certain sense of conscientiousness.

A statement which is attributed to Eleanor Roosevelt, the wife of US President Franklin D. Roosevelt, puts the aforementioned problems in a nutshell. She is supposed to have described the US Marines with following words:

> *The Marines I have seen around the world have the cleanest bodies, the filthiest minds, the highest morale, and the lowest morals of any group of animals I have ever seen. Thank God for the United States Marine Corps!*

This statement sums up many of the problems in the conduct and the values of the US troops. Yet some members of the troops, if not all of them, pride themselves with such descriptions. Under these questionable circumstances, derailments and gross misconduct come as no surprise.

Another reason to mention this is to illustrate that malpractices, as they are presently being carried out in warfare around the world, are indeed prohibited by Islam’s teachings. No matter who the perpetrator is.

For whenever monstrosity and bloodlust spread in an army, something has massively spun out of hand, regardless whether it is the so-called “IS”, the US Army or any other army.

Islam's commandments will not be able to restrain a person, even if they attribute themselves to Islam, as long as they:

1) do not know the commandments, or

2) follow their own inclinations and deliberately distort Islamic texts.

Closing Remarks

I hope that this paper has been able to represent the Islamic sources well, in terms of the topic discussed here, and in this way can serve to dispel numerous misunderstandings and misconceptions about Islam.

To counteract the damage that is repeatedly being caused by incorrect applications and misuses of texts, more certainly needs to be done than discussing only this one section of Islamic martial law.

Nonetheless, I hope that this script can make a meaningful contribution and that there will be future possibilities to deal with other relevant topics in a similar way.

... and to everything, I have said I want to conclude:

… Allāh knows best.

والله أعلم

ورحم الله علماء المسلمين

وصلّى الله على نبيّنا محمّد وآله وصحبه ومن والاه

والحمد لله ربّ العالمين

Notes on the Transcription

• *Hamzah* is only represented inside and at the end of an Arabic word, but is omitted at the beginning of a word (i.e. Ishāq, but Qurʾān, ʿulamāʾ).

• The emphasis (*shaddah*) of double consonants is usually illustrated by writing a consonant twice, as is the case in the word *shaddah* itself.

An exception to this rule are the digraphs dh, kh, sh and th, which are only written once rather than twice. Digraphs will instead be underlined strong (e.g. *shādh)* in order to avoid an accumulation of consonants (e.g. *shādhdh).*

Another exception is the masculine suffix *(nisbah* suffix) which is simplified with *-ī* in pausal form and only written as *-iyy* in full form.

• If two letters that do not form a digraph follow each other (like the th in *akramathā*) and could be mistaken for a digraph, they are separated from each other with an apostrophe (in this case: *akramat'hā*) in order to indicate the correct pronunciation. In common names, this is not used (e.g. Ishāq).

• The *Tāʾ marbūṭah* (bound tāʾ) is denoted by h in pausal form and by t in full form.

• Ẓāʾ (ظ), according to the established use, is transcribed with ẕ. However, a transcription with ḏ would be more correct and clearer from a linguistic point of view, because the ẓāʾ is the emphatic variant of the ḏāl and not the zāy.

• As far as it is possible, attempts are made to connect the words according to the Arabic flow of speech in order to approximate the correct Arabic pronunciation.

• Grammatical cases are only taken into account in exceptional cases - especially with frequently occurring words - in order to do justice to the flow of Arabic speech, e.g. “the tābiʿūn”, “from the tābiʿīn” and “he said to the tābiʿīn”.

• The dual is indicated by the word “both”, whereby the word that follows remains in plural, as it would in English (e.g. “the two *āyāt*”).

• Proper names conjoined with the name “Allah” are written together, such as ʿAbduḷḷāh. Other compositions are written separately, e.g. ʿAbdu r-Razzāq, ʿAbdu l-ʿAzīz.

• The word ibn “son” is capitalized at the beginning of a name and is lowercased between names, e.g. Ibnu Abī Shaybah, Mālik ibnu Anas.

Notes on the Formatting and Capitalization of Transcribed Words

This paper generally follows the formal guidelines for academic publications. The most important aspects are summarised below:

• Transcribed Arabic words are lowercased and italicized.

• This does not include proper names of people, places, institutions and the like. These are capitalized and not italicized. Literary works are capitalized and italicized in order to achieve a distinction and to contrast them from the author's names.

• Excluded are also terms which have been adopted into English language or by the English-speaking world. These terms are transcribed according to the transcription system but not italicized. E.g. ḥadīth, sharīʿah, jihād.

This is also the case with terms, which are not familiar to the English language but commonly used in Islamic and Islamic theologic parlance and are also used repeatedly in this treatise. These terms will also be transcribed but not italicized e.g. tābiʿūn, tafsīr.

With regard to readability, such terms are used sparingly and will always be defined upon first mention.

• Transcribed quotes in their language of origin are always written in lowercase and italics.

Chronological Index of Early Islamic Authors

• The names are organized by dates of death. The Common Era date is provided after the *hijri* date.

• First, the most famous appellation is stated, followed by other well-known names after the comma.

179/796	**Mālik ibnu Anas,** Abū ʿAbdillāh
211/827	ʿ**Abdu r-Razzāq,** ibnu Hammām aṣ-Ṣanʿānī
227/842	**Saʿīd ibnu Manṣūr,** Abū ʿUthmān
235/850	**Ibnu Abī Shaybah,** Abū Bakr
241/856	**Aḥmad ibnu Ḥanbal,** Abū ʿAbdillāh
251/865	**Ibnu Zanjawayh,** Ḥumayd ibnu Makhlad ibni Qutaybah
255/869	**ad-Dārimī,** Abū Muḥammad ʿAbduḷḷāh ibnu ʿAbdi r-Raḥmān
256/870	**al-Bukhārī,** Muḥammad ibnu Ismāʿīl
261/875	**Muslim,** ibnu l-Ḥajjāj an-Naysābūrī
273/887	**Ibnu Mājah,** Abū ʿAbdillāh Muḥammad
275/889	**Abū Dāwūd as-Sijistānī,** Sulaymān ibnu l-Ashʿath
279/893	**at-Tirmiḏī,** Abū ʿĪsā Muḥammad ibnu ʿĪsā
303/916	**an-Nasāʾī,** Abū ʿAbdi r-Raḥmān Aḥmad
310/923	**aṭ-Ṭabarī,** Muḥammad ibnu Jarīr
316/928	**Abū** ʿ**Awānah,** Yaʿqūb al-Isfirāyīnī
327/939	**Ibnu Abī Ḥātim ar-Rāzī,** ʿAbdu r-Raḥmān
360/971	**aṭ-Ṭabarānī,** Abū l-Qāsim

References

• As mentioned in the introduction, citations are unaltered excerpts from the specific editions provided by the digital library al-Maktabatu sh-Shāmilah. It should be noted that this library frequently revises editions (e.g. by adding vowel marks to texts).

• The here given information about the works and their authors is also provided by al-Maktabatu sh-Shāmilah and has been supplemented in places.

• Arabic names are transcribed in pausal form and not in full form in the references, in order to comply with the established standard.

• In each section entries are arranged alphabetically, whereby the most common name is always taken into account and is written in small caps.

• The specification of dates (death dates or dates of publication) is given in the following sequence: first the *hijri* date (AH) and then the Common Era (CE) date.

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AṬ-ṬABARĪ, Muḥammad ibn Jarīr (died 310/923): *Jāmiʿ al-bayān ʿan taʾwīl āy al-Qurʾān (= Tafsīr aṭ-Ṭabarī)*. 26 vols. Cairo 1422/2001: Dār Hajar li-ṭ-Ṭibāʿah wa-n-Nashr wa-t-Tauzīʿ wa-l-Iʿlān.

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