

## THE ATTITUDE OF SUNNĪ ISLAM TOWARD JEWS AND CHRISTIANS AS REFLECTED IN SOME LEGAL ISSUES \*

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Islamic law plays a crucial role in creating lines of demarcation between Islam and other religions. The laws that define contact between Muslims and non-Muslims are among the most important factors fashioning the nature of Islam. They determine whether it will be a closed religion, prescribing restrictive measures and limitations that constitute a barrier between it and other religions, or an open religion that, by virtue of its recognition of the value of other monotheistic religions, allows its adherents to maintain far-reaching ties with other monotheists. The Qur'ān, by its very nature, provides a textual foundation that enabled Muslim scholars to base either approach on it. They generally opted for the latter, more open approach. The rulings discussed below, concerning the acceptability of ritual slaughter performed by *ahl al-kitāb* and marital ties with them, attest that the general orientation of medieval Sunnī law was one of openness toward and toleration of non-Muslim monotheists.

### 1. Ritual Slaughter

#### I. *The Question of tasmiya*

Islamic law requires the utterance of the name of Allāh (*tasmiya*) during ritual slaughter.<sup>1</sup> This obligation, which, as will be seen below, has its basis in the Qur'ān, is fulfilled by reciting one of several

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<sup>1</sup> With the exception of Shāfi'ī law, which does not require *tasmiya* (see p. 319, below).

formulas, the main one being *Bismillāh wa-Allāh akbar* (in the name of Allāh and Allāh is great).<sup>2</sup> Legal scholars have discussed the obligation of *tasmiya* during ritual slaughter extensively. The Ḥanafī author Abū al-Layth al-Samarqandī (d. 373/983), for example, lists in his *Fatāwā al-nawāzil* two conditions for the permissibility of ritual slaughter: *dhakāt* (the slaughter of the animal in accordance with the physical procedure prescribed by Islamic law) and *tasmiya*.<sup>3</sup> Al-Samarqandī adds a further stipulation: the slaughterer must be someone who is fit for such a task – that is, someone intellectually capable of performing the slaughter as the law requires and of pronouncing the *tasmiya* (*ya‘qilu al-dhabḥ wa-al-tasmiya*).<sup>4</sup> The *tasmiya* must be recited over the animal being slaughtered and not over the instrument being used to implement the slaughter, according to al-Samarqandī.<sup>5</sup> The significance of this distinction is that *tasmiya* must be uttered separately for each animal being slaughtered. A similar stipulation is implicit in a statement by the Ḥanbalī scholar Ibn Qudāma (d. 620/1223): if a person recites the name of Allāh upon seeing a flock of sheep, and then takes a sheep from the flock and slaughters it without *tasmiya*, the ritual slaughter is not acceptable.<sup>6</sup> Al-Marghinānī (d. 593/1196), in his *Hidāya*, refers to the Qur’ānic basis of the obligation of *tasmiya*, saying that “the *tasmiya* over the ritual slaughter is obligatory according to the [Qur’ānic] text” (*al-tasmiya ‘alā al-dhabīḥa shart bi-al-naṣṣ*).<sup>7</sup> Al-Sarakhsī (d. 490/1096) explains in *Kitāb al-mabsūt* that *tasmiya* directed solely to Allāh is a condition for proper ritual slaughter. This condition is met only when the person who recites the *tasmiya* “believes in the unity of the All-powerful [God], or pretends to profess such [a belief]” (*ya‘taqidu tawḥidahu jallat qudratuhu aw yuḏhiru dhālika*).<sup>8</sup> Therefore, it may be fulfilled only by a Muslim or by a member of the *ahl al-kitāb*, not by a Zoroastrian. The latter believes in two supreme enti-

<sup>2</sup> For various formulas of *tasmiya* see, for example, Samarqandī, *Nawāzil*, 234.

<sup>3</sup> *Ibid.*, 233.

<sup>4</sup> *Ibid.*, 228.

<sup>5</sup> *Ibid.*, 233.

<sup>6</sup> Ibn Qudāma, *Mughnī*, 13, 291.

<sup>7</sup> Marghinānī, *Hidāya*, 4, 1445. The essential bond between the *tasmiya* and proper ritual slaughter is also mentioned in Sarakhsī, *Mabsūt*, 11, 237.

<sup>8</sup> Sarakhsī, *Mabsūt*, 11, 236. Those who pretend to believe in the unity of God (but who do not truly hold such a belief) are the Jews and the Christians (*ibid.*, 237; see also Marghinānī, *Hidāya*, 4, 1445).

ties, says al-Sarakhsī, so that even if a Zoroastrian slaughterer were to utter *tasmiya*, this *tasmiya* would not be directed exclusively to Allāh, and the meat of the animal slaughtered by him would therefore be prohibited.

These and similar teachings indicate that Muslim legal scholars ascribe great importance to *tasmiya* during ritual slaughter. Nevertheless, under certain circumstances Islamic law does permit the consumption of meat of an animal whose slaughter was unaccompanied by *tasmiya*. A case in point is when the slaughterer forgot to recite it. The accepted (albeit not sole) opinion among the Ḥanafīs, Mālikīs, and Ḥanbalīs is that the ritual slaughter is not acceptable if the *tasmiya* was omitted deliberately (*‘amdan*); if, however, the slaughterer neglected it out of simple forgetfulness (*nisyānan*), then the meat may be consumed.<sup>9</sup> The Shāfi‘īs are more lenient: they do not insist upon *tasmiya* during ritual slaughter, maintaining that observing it is voluntary. Consequently, they rule that the omission of *tasmiya*, whether intentionally or as a result of forgetfulness, does not affect the ritual slaughter.<sup>10</sup> Ibn Ḥazm, in contrast, holds that if the slaughterer omits the *tasmiya* for whatever reason then the animal must not be consumed.<sup>11</sup>

The view that meat may be eaten even if the *tasmiya* was omitted during the ritual slaughter is reflected also in *ḥadīths*. One such *ḥadīth* is a report from ‘Ā’isha, the Prophet’s wife, to the effect that she said to her husband: “Bedouin [*‘arāb*] used to bring us meat, and we did not know whether or not they had recited the *tasmiya* [during its slaughter]”, to which the Prophet replied: “You recite the *tasmiya* and eat [it]”.<sup>12</sup> Other frequently cited *ḥadīths*, attributed to the Prophet

<sup>9</sup> For the Ḥanafī view see: Ṭahāwī, *Mukhtaṣar*, 295; Qudūrī, *Mukhtaṣar*, 110; the Mālikī view is to be found in Ibn Rushd, *Bidāyat al-mujtahid*, 1, 448; Ibn al-‘Arabī, *Aḥkām*, 2, 749ff; and that of the Ḥanbalīs in Khiraqī, *Mukhtaṣar*, 209; and Ibn Qudāma, *Mughnī*, 13, 290. The view that the slaughter is prohibited in both cases – forgetfulness or malicious intent – is also represented among the Ḥanbalīs, and this view is ascribed to Mālik as well (Ibn Kathīr, *Tafsīr*, 2, 169). The opposite opinion, namely, that the slaughter is permitted in both cases, is also attributed to Mālik (Qurtubī, 7, 57).

<sup>10</sup> Māwardī, *al-Ḥāwī al-kabīr*, 15, 95; Baydāwī, *Anwār*, 1, 307.

<sup>11</sup> Ibn Ḥazm, *Muḥallā*, 7, 412; Ibn Rushd, *Bidāyat al-mujtahid*, 1, 448. On the Ṣāḥirī view regarding *tasmiya* see also Goldziher, *The Ṣāḥirīs*, 72. Goldziher (pages 71-2) discusses the Qur’ānic injunction to recite the name of Allāh during the slaughter and the leniencies regarding this injunction.

<sup>12</sup> Sarakhsī, *Mabsūṭ*, 11, 236. For versions of this *ḥadīth*, see: Dāraqūṭnī, *Sunan*, 4, 296 (no. 99); Bayhaqī, *Sunan*, 9, 239.

and transmitted by his Companions al-Barā' b. ʿĀzib and Abū Hurayra, express the idea that Allāh's name exists within the heart of every Muslim (*ism Allāh fī qalb kull Muslim*), and that this existence of Allāh's name in his heart suffices to validate the ritual slaughter by the Muslim in the event he omitted the *tasmiya* (*al-Muslim yadhbaḥ ʿalā ism Allāh, sammā aw lam yusammi*).<sup>13</sup> The implication of this argument is that if the slaughterer unintentionally failed to pronounce the *tasmiya*, then the meat can still be consumed, provided that the slaughterer is a Muslim. However, Islamic law also permits Muslims to consume meat of an animal slaughtered by a non-Muslim: all four Sunnī legal schools maintain that the meat from slaughter performed by Jews or Christians is permitted to Muslims,<sup>14</sup> even if the slaughterer unintentionally failed to pronounce the *tasmiya*.<sup>15</sup> What is the legal status of ritual slaughter performed by a person who pronounced the *tasmiya* but is neither a Muslim nor a member of the *ahl al-kitāb*? Al-Sarakhsī's rejection of the *tasmiya* by a Zoroastrian, noted above, demonstrates that slaughter by such an individual is invalid, and his *tasmiya* cannot change this. The same would apply also to a pagan or an apostate (*murtadd*).<sup>16</sup>

Thus, according to the four Sunnī schools of law, if the slaughterer is either a Muslim or a *kitābī*, then the meat may lawfully be eaten by a Muslim, even if the slaughterer unintentionally failed to pronounce the *tasmiya*. In contrast, the flesh of an animal slaughtered by a Zoroastrian or a pagan is not permitted to a Muslim even if the slaughterer pronounced the *tasmiya*. A *ḥadīth* in this spirit is recorded in the *Muṣannaḥ* by ʿAbd al-Razzāq al-Ṣanʿānī (d. 211/826): the Muslim is always mindful of Allāh; therefore, if he performs ritual slaughter but forgets to utter the name of Allāh, he may recite the name of Allāh before eating and then eat. But the meat from slaughter by a Zoroastrian may not be eaten even if he has pronounced the name of Allāh

<sup>13</sup> Māwardī, *al-Ḥāwī al-kabīr*, 15, 95; Ibn Qudāma, *Mughnī*, 13, 258-9; Sarakhsī, *Mabsūt*, 11, 236; Bayhaqī, *Sunan*, 9, 239-40; Dāraqūṭnī, *Sunan*, 4, 295-6 (nos. 94, 96).

<sup>14</sup> Ṭaḥāwī, *Mukhtaṣar*, 296; Saḥnūn, *Mudawwana*, 1, 544, 545; Shāfiʿī, *Umm*, 2, 363; Khiraqī, *Mukhtaṣar*, 209. For restrictions of this permission see, for example, Ibn Rushd, *Bidāyat al-mujtahid*, 1, 450ff.

<sup>15</sup> Samarqandī, *Nawāzil*, 234; Ibn Qudāma, *Mughnī*, 13, 311; Marghinānī, *Hidāya*, 4, 1446.

<sup>16</sup> For the prohibition against consuming the meat of animals slaughtered by Zoroastrians, pagans and apostates see Marghinānī, *Hidāya*, 4, 1445; Ibn Qudāma, *Mughnī*, 13, 289, 296; Māwardī, *al-Ḥāwī al-kabīr*, 15, 24.

over it.<sup>17</sup> The slaughterer's faith, then, is of greater weight for the validity of the slaughter than his observance of *tasmiya*.

The permission granted by Islamic law to consume meat of animals slaughtered by Jews or Christians results in concessions regarding *tasmiya* that are more expansive than those connected with forgetfulness. Before discussing these concessions, let us review the main Qur'ānic verses relevant to *tasmiya* over ritual slaughter:<sup>18</sup>

2 (*al-Baqara*): 173 "These things only has He forbidden you: carrion, blood, the flesh of swine, what has been hallowed to other than God..."

5 (*al-Mā'ida*): 3 "Forbidden to you are carrion, blood, the flesh of swine, what has been hallowed to other than God..."

6 (*al-An'ām*): 118 "Eat of that over which God's name has been mentioned, if you believe in His signs".

6 (*al-An'ām*): 121 "And eat not of that over which God's name has not been mentioned; it is ungodliness..."

6 (*al-An'ām*): 145 "Say: 'I do not find, in what is revealed to me, aught forbidden to him who eats thereof except it be carrion, or blood outpoured, or the flesh of swine—that is an abomination—or an ungodly thing that has been hallowed to other than God..."

Muslim commentators on the Qur'ān, and legal scholars, take these verses to refer to ritual slaughter. From Q 6:121 and sometimes Q 6:118, they conclude that *tasmiya* must be pronounced over the slaughter. However, from another Qur'ānic verse, 5 (*al-Mā'ida*): 5, which reads, "Today the good things are permitted you, and the food of those who were given the Book is permitted to you...", they infer permission to consume meat from slaughter performed by Jews or Christians. This permission is incompatible with the ruling derived from Q 6:118 and Q 6:121 – namely, that *tasmiya* during the slaughter is a prerequisite for the permissibility of the meat. For while Jewish *halakhah* requires the recitation over the slaughter of a blessing that includes the name of God, there is no Christian ruling in this regard. Accordingly, Christians are likely to sell to Muslims meat of an

<sup>17</sup> 'Abd al-Razzāq, *Muṣannaf*, 4, no. 8539.

<sup>18</sup> I follow Arberry's translation of the Qur'ān throughout this article, and cite only those parts of the verses that are relevant to the discussion.

animal that was slaughtered without the utterance of *tasmiya*. To settle this incompatibility, some commentators argue that the prohibition in Q 6:121 was abrogated by the permission in Q 5:5.<sup>19</sup> This solution is in line with Islamic law: as noted above, all four Sunnī legal schools permit slaughter performed by Jews or Christians. In other words, Muslim scholars were bound to choose one of the two options provided by the Qur'ānic text. They could either insist that *tasmiya* during ritual slaughter is a stringent condition for the permissibility of the meat, thus prohibiting meat of an animal slaughtered by the *ahl al-kitāb*, or they could allow the meat of an animal slaughtered by the *ahl al-kitāb* (or by a Muslim who forgot the *tasmiya*), at the cost of far-reaching concessions regarding the requirement of *tasmiya* at the time of the slaughter. They preferred the second option.

It is noteworthy, for the sake of comparison, that among the Shī'īs the opposite view prevails – namely, that meat of an animal slaughtered by a Jew or a Christian is prohibited. This view arises from the attitude, dominant among the Shī'īs, that Jews and Christians (as well as other infidels) are impure.<sup>20</sup> Consequently, an argument similar to that of al-Sarakhsī against the Zoroastrians – that their *tasmiya* is invalid because it is not intended for the one God – was raised by the Shī'ī scholar Abū Ja'far al-Ṭūsī (d. 460/1067), sometime before al-Sarakhsī, against Christians and Jews. Their *tasmiya* is invalid, al-Ṭūsī maintained, because the god to whom they refer is not the true God. Since the *tasmiya* is a requirement for the permissibility of the meat, as appears from Q 2:173, the meat of an animal slaughtered by members of the *ahl al-kitāb* is not acceptable. Accordingly, the permission granted in Q 5:5 relates to the eating of grains (*ḥubūb*), not meat.<sup>21</sup> In contrast to the Sunnī proclivity, then, al-Ṭūsī favors the obligation of *tasmiya* over the permission to eat the meat of animals slaughtered by *ahl al-kitāb*. As noted, this view is predominant in Shī'ī Islam.<sup>22</sup>

We have seen that the Sunnī legal scholars do not consider the utterance of *tasmiya* during the slaughter essential; they hold that meat

<sup>19</sup> Some commentators argue that 5:5 does not abrogate the prohibition in 6:121 but excludes from it slaughtering conducted by *ahl al-kitāb* (Ibn al-Jawzī, *Zād al-masīr*, 2, 296 and 3, 115; Ibn Kathīr, *Tafsīr*, 2, 170; Ṭabarī, *Tafsīr*, 8, 21; Qurṭubī, 6, 76; Bayhaqī, *Sunan*, 9, 282).

<sup>20</sup> Bar-Asher, 19.

<sup>21</sup> Ṭūsī, *Tibyān*, 3, 444; Bar-Asher, 21.

<sup>22</sup> Bar-Asher, 21.

may be eaten even if the slaughterer unintentionally failed to pronounce the *tasmiya*, and they also permit the consumption of meat from an animal slaughtered by Christians, who do not engage in *tasmiya*. At the same time, the *tasmiya* is emphatically presented in legal works as a requirement for proper slaughter. In seeking the reason for this dichotomy, al-Sarakhsī's explanation is helpful: "We were commanded to pronounce the *tasmiya* during ritual slaughter in order to act contrary to the polytheists (*mukhālafatan li-al-mushrikīn*), for they utter the name of their gods at the time of ritual slaughter, and we are obliged to act contrary to them (*mukhālafatuhum wājiba 'alaynā*)".<sup>23</sup> The Mālikī commentator Ibn al-ʿArabī (d. 543/1148) expresses the same thought: the Arabs in the *Jāhiliyya* would regularly utter the names of their idols, and Allāh abrogated this custom through the obligation to pronounce His name.<sup>24</sup> Al-Sarakhsī and Ibn al-ʿArabī explain, then, that by stressing the importance of the *tasmiya*, the legal scholars meant to counter a pagan practice. By so doing, they contributed to establishing a religious context with monotheistic and Islamic characteristics, intended to define the boundaries of Islam and distinguish it from the pagan world. Additional elements of this context can be identified. Some of them, like the *tasmiya*, became an obligatory legal norm while others, whose observance is recommended, remained nonbinding. An example of the latter, also from the realm of ritual slaughter, is that the slaughterer should face Mecca and turn the animal's head in the same direction. The reason the law recommends the observance of this practice, according to the Ḥanafī legal scholar al-Kāsānī (d. 587/1191), was the polytheists' custom to turn themselves and the animals to be slaughtered toward their idols; acting in a contrary manner, by facing Mecca, is therefore desirable.<sup>25</sup>

Pronouncing the name of Allāh alone expresses pure monotheism, hence its significance as a barrier between Islam and the world of idolaters. It is for this reason that the *basmala* (i.e., the formula *bism Allāh al-rahmān al-rahīm* [in the name of Allāh, the Compassionate, the Merciful]) was apparently introduced by Muḥammad as an introductory formula in written contracts between him and various tribes,

<sup>23</sup> Sarakhsī, *Mabsūt*, 11, 238 (see also *ibid.*, 228).

<sup>24</sup> Ibn al-ʿArabī, *Aḥkām*, 2, 750.

<sup>25</sup> Kāsānī, *Badāʾiʿ al-ṣanāʾiʿ*, 6, 271; see also Sarakhsī, *Mabsūt*, 12, 3.

and in other documents, as symbolizing the connection of every human activity with the hallowed name of Allāh.<sup>26</sup> The *basmala* soon spread to other spheres, and its recitation before every act became accepted practice, both in the ritual sphere and in mundane activities.<sup>27</sup> The importance that Muslims attribute to mentioning Allāh's name is expressed by a tradition from the Prophet that "everything of importance that does not begin with the mention of the name of Allāh is imperfect".<sup>28</sup> The great weight attached by legal scholars to the *tasmiya* during ritual slaughter should be seen within this context. Notwithstanding the importance of *tasmiya*, the law instituted concessions in the form of rules that permit the consumption of meat of an animal slaughtered by those who are not meticulous in this respect. These concessions ensue, in part, from the Muslims' sense of religious affinity with the *ahl al-kitāb* and their desire to legitimize this affinity by law. Such legitimization is obviously of far-reaching significance for everyday relations between Muslims and *ahl al-kitāb*.

In sum, the accentuated importance of the *tasmiya* during ritual slaughter, side by side with the granting of permission to eat from the slaughter performed by a monotheist who is not necessarily careful regarding this practice, came into being out of a dual desire by Muslims: on the one hand to distinguish themselves from the polytheists, and on the other to allow a broad space for relations with members of the monotheistic faiths.

But the permission to eat meat from an animal slaughtered by members of the *ahl al-kitāb* entailed a problem more severe than omitting Allāh's name – namely, the fear that another name, especially that of Jesus, might be pronounced during the slaughter. Eating meat from an animal over whose slaughter the name of a divinity other than Allāh was recited is forbidden by the Qur'ān (in three of the verses listed above). Similarly, according to three of the Sunnī schools (the Ḥanafī, the Shāfi'ī, and the Ḥanbalī), meat from an animal over which the name of Jesus was pronounced may not be eaten; this view is shared by Ibn Ḥazm.<sup>29</sup> The Mālikī view ranges from the

<sup>26</sup> *Encyclopaedia of Religion and Ethics*, II, s.v. "Bismillah" (Goldziher), 666-7.

<sup>27</sup> *Ibid.*, 667-8.

<sup>28</sup> Goldziher, *The Zāhirīs*, 71 (note 2).

<sup>29</sup> The Ḥanafī view: Ṭaḥāwī, *Mukhtaṣar*, 296; Samarqandī, *Tuḥfat al-fuqahā'*, 3, 67; the Shāfi'ī view: *Umm*, 2, 363. The Shāfi'ī scholar al-Māwardī (d. 450/1058) divides ritual slaughter over which the name of Jesus was pronounced into two types. The first con-



prohibition of such meat to disapproval (but not prohibition) of it.<sup>30</sup> It is sometimes mentioned that this prohibition applies only if the Muslim *knows* that the name of Jesus was recited over the ritual slaughter; if, however, he did not have positive knowledge of what the Christian slaughterer recited, then the meat is permitted.<sup>31</sup> Disapproval (rather than prohibition) of the consumption of meat from a slaughter over which a name other than Allāh was recited is also attributed to Sufyān al-Thaurī (d. 161/777), Ibrāhīm al-Nakha‘ī (d. 97/715),<sup>32</sup> ‘Abd al-Razzāq,<sup>33</sup> and others, while ‘Atā’ (probably b. Abī Rabbāh, d. 114/732) and others are said to have permitted such meat.<sup>34</sup> Both the followers of the permissive opinion and the disapprovers justify their opinion by the argument that in Q 5:5 Allāh permitted the eating of meat from slaughter performed by members of the *ahl al-kitāb* even though He knew that they might recite a name other than His. Consequently, such meat may be eaten, and its prohibition would amount to a rejection of this divine permission.<sup>35</sup>

In sum, a broad spectrum of opinions exists concerning slaughter performed by members of the *ahl al-kitāb*. The most stringent among them is the view prevalent among the Shī‘īs: meat from slaughter performed by *ahl al-kitāb* is not permitted, for their *tasmiya* is invalid. The Sunnīs, in contrast, accept the *tasmiya* of the *ahl al-kitāb* and maintain that meat of animals slaughtered by them may be eaten by Muslims. Moreover, the Sunnīs permit meat from an animal slaughtered by a Christian despite the uncertainty regarding the utterance of the *tasmiya*; they hold that slaughter by a Christian would be prohibited only if the name of Jesus was uttered over it. An even more le-

sists of ritual slaughter in which the name of Jesus is mentioned but the intent is to refer to Allāh. This type is permitted, albeit with disapproval. The second type is ritual slaughter with the actual intent to refer to Jesus, which has the status of pagan slaughter and is forbidden (Māwardī, *al-Hāwī al-kabīr*, 15, 94). The Ḥanbalī view: Ibn Qudāma, *Mughnī*, 13, 311-12; Ibn al-Jawzī, *Zād al-masīr*, 2, 296; the Zāhirī view: Ibn Ḥazm, *Muḥallā*, 7, 411.

<sup>30</sup> Saḥnūn, *Mudawwana*, 1, 536; Jaṣṣāṣ, *Aḥkām al-Qur’ān*, 3, 321; Ibn ‘Abd al-Barr, *Istidhkār*, 15, 239 (no. 21736); Qurtubī, 6, 76.

<sup>31</sup> Ṭaḥāwī, *Mukhtaṣar*, 296-7; Ibn Qudāma, *Mughnī*, 13, 312.

<sup>32</sup> Jaṣṣāṣ, *Aḥkām al-Qur’ān*, 3, 321.

<sup>33</sup> ‘Abd al-Razzāq, *Muṣannaf*, 6, no. 10183.

<sup>34</sup> ‘Abd al-Razzāq, *Muṣannaf*, 6, nos. 10180, 10184; Ibn Qudāma, *Mughnī*, 13, 312; Qurtubī, 6, 76.

<sup>35</sup> ‘Abd al-Razzāq, *Muṣannaf*, 6, no. 10177; Ibn al-‘Arabī, *Aḥkām*, 2, 554; Ibn Qudāma, *Mughnī*, 13, 312; Jaṣṣāṣ, *Aḥkām al-Qur’ān*, 3, 321.

nient view allows (although with disapproval) meat from an animal slaughtered by a Christian even if it is known that the name of Jesus was pronounced at the time of the slaughter. This opinion is found among the Mālikis (alongside the prohibiting view) and is also attributed to several authorities from the first/seventh and second/eighth centuries.

## II. *The Technical Procedure of Slaughter*

The tolerance of Sunnī Islamic law toward the *ahl al-kitāb* is reflected in legal concessions not only regarding the *tasmiya* during ritual slaughter, but also regarding the physical procedure of slaughter. Islamic law mandates that mammals and fowl require ritual slaughter before their meat is consumed (unless they were killed during hunting). The slaughter must be conducted in a specific manner, described in detail in the legal literature. The law stipulates which portion of the animal's throat is to be cut by the slaughterer. Perfect slaughter consists of cutting the trachea, the esophagus, and the two veins in the neck. But imperfect slaughter (cutting the trachea, the esophagus, and one of the veins, or even just the trachea and the esophagus) is also acceptable, according to some scholars.<sup>36</sup> All the authorities agree, however, that a failure to cut at least one of these four organs renders the slaughter invalid. The law also specifies the location of the cut on the animal's neck and the instrument required for performing the slaughter.<sup>37</sup>

All four Sunnī schools permit eating meat from slaughter conducted by Jews or Christians. How is the law declaring ritual slaughter acceptable only if conducted in accordance with the rules just mentioned to be reconciled with the permission to eat from slaughter by members of the *ahl al-kitāb*? Here, again (as with *tasmiya*), a distinction needs to be drawn between Jews and Christians. Jewish religious law stipulates that ritual slaughter be conducted in accordance with physical rules similar to the Islamic requirements. Christians, by

<sup>36</sup> For various views on this question see Samarqandī, *Tuḥfat al-fuqahā*, 3, 68-9; Māwardī, *al-Ḥāwī al-kabīr*, 15, 87-9; Ibn Qudāma, *Mughnī*, 13, 303-4.

<sup>37</sup> Māwardī, *al-Ḥāwī al-kabīr*, 15, 70; Ṭaḥāwī, *Mukhtaṣar*, 295; Ibn Qudāma, *Mughnī*, 13, 301-2.

contrast, are not governed by rules concerning the manner of slaughter, so it cannot be determined if meat purchased from them has undergone any process of ritual slaughtering and if so, what form this slaughter has taken. Despite the incompatibility between the obligation to slaughter in the legally mandated fashion, on the one hand, and the fact that Christians do not conduct any form of ritual slaughter, on the other, Islamic law does not forbid meat from an animal slaughtered by a Christian, nor does it distinguish between slaughter conducted by Christians and that by Jews; meat from an animal slaughtered by any of the *ahl al-kitāb* may be eaten by Muslims. The Egyptian Ḥanafī legal scholar Abū Jaʿfar al-Ṭahāwī (d. 321/933) states explicitly that Jews and Christians are equal in all matters pertaining to slaughter.<sup>38</sup>

While the legal literature devotes scant attention to the fact that some of the *ahl al-kitāb* do not engage in proper ritual slaughter, Ibn al-ʿArabī does refer, in his commentary on Q 5:5, to the far-reaching concession made by Islamic law of slaughter so as to sanction meat from an animal slaughtered by Christians. He relates that he was once asked whether a chicken cooked by a Christian, who had killed the fowl by wringing its neck (i.e., not in the manner prescribed by the law) was permissible. He replied in the affirmative, explaining that the meat of the chicken is the food of the Christian and of his religious authorities; although not considered by Muslims to have undergone proper slaughter, it may be consumed by them because Allāh permitted the food of the *ahl al-kitāb* in absolute fashion, so that whatever they permit is similarly sanctioned by Muslims, with certain exceptions specifically prohibited by Allāh<sup>39</sup> (such as the meat of those species of animals that may not be eaten by Muslims<sup>40</sup>). The

<sup>38</sup> Ṭahāwī, *Mukhtaṣar*, 297.

<sup>39</sup> “Whatever they permit in their religion is permitted to us in our religion, except for those things [that they permit but] which Allāh may He be praised prohibited” (*wa-kull mā yarawnāhu fī dīnīhim fa-ʾinnahu ḥalāl lanā fī dīnīnā illā mā kadhdhabahum Allāh subḥānahu fīhi*) (Ibn al-ʿArabī, *Aḥkām*, 2, 556). The opposite view – namely, that the meat of an animal killed by a *kitābī* in a way other than slaughter is not permitted – also appears in the edition I use of Ibn al-ʿArabī’s *Aḥkām* (2, 555). The text containing this view is missing, however, from one of the manuscripts on which this edition relies. This fact, in addition to the disagreement between this prohibitive view and Ibn al-ʿArabī’s statement, repeated at least twice (2, 554 and 556), that the food of *ahl al-kitāb* was permitted absolutely, suggests that the prohibitive view does not reflect Ibn al-ʿArabī’s attitude, and that the text containing it is an interpolation.

<sup>40</sup> Qurṭubī, 6, 76.

Muslims, then, preferred the acceptance of slaughter by the *ahl al-kitāb* over uncompromising rules of ritual slaughter.

## 2. Marriage<sup>41</sup>

The openness of Islam to the other monotheistic religions, as well as the limits of this openness, are also reflected in the law of marriage. All four Sunnī legal schools are unanimous with regard to the following rulings: a Muslim man may marry a Christian or Jewish woman (albeit the legal scholars express disapproval of such unions),<sup>42</sup> but he may not wed a Zoroastrian or pagan woman;<sup>43</sup> a Muslim woman may only marry a Muslim man.<sup>44</sup> These rulings are based on both Qur'ān and *Ḥadīth*. Q 2 (*al-Baqara*): 221 bars marriages with non-Muslims as follows: “Do not marry the *mushrikāt*, until they believe; a believing slavegirl is better than a *mushrika*, though you may admire her. And do not marry the *mushrikūn*, until they believe. A believing slave is better than a *mushrik*, though you may admire him”. Commentators on the Qur'ān who take the word *mushrikāt* to indicate not only idolatresses but also Jewish and Christian women argue that the rule against marrying *mushrikāt* is limited to non-monotheistic women by Q 5:5, which permits marrying women of the *ahl al-kitāb*.<sup>45</sup> In this way a Qur'ānic basis is provided both for the permission granted to Muslim men to marry women of the *ahl al-kitāb* (by Q 5:5), and for the prohibition against marital ties with polytheists (by Q 2:221). These rulings are supported in traditions such as the fol-

<sup>41</sup> For an extensive discussion of interfaith marriages in Islam, the reader is referred to Yohanan Friedmann's *Tolerance and Coercion in Islam* (Ch. Five), which was published after this paper was written.

<sup>42</sup> Ḥanafīs: Ṭahāwī, *Mukhtaṣar*, 178; Mālikīs: Saḥnūn, *Mudawwana*, 2, 219; Shāfi'īs: Shāfi'ī, *Umm*, 5, 8 and 10; Ḥanbalīs: Ibn Qudāma, *Mughnī*, 9, 545-6.

<sup>43</sup> Ḥanafīs: Samarqandī, *Tuḥfat al-fuqahā*, 2, 129; Mālikīs: Saḥnūn, *Mudawwana*, 2, 220; Shāfi'īs: Māwardī, *al-Ḥāwī al-kabīr*, 9, 255; Ḥanbalīs: Ibn Qudāma, *Mughnī*, 9, 547-8. Ibn Ḥazm does allow Muslims to marry Zoroastrian women (Friedmann, *Tolerance*, 185-6).

<sup>44</sup> Ḥanafīs: Sarakhsī, *Mabsūt*, 5, 45; Mālikīs: Sanūn, *Mudawwana*, 2, 212; Shāfi'īs: Shāfi'ī, *Umm*, 5, 9; Ḥanbalīs: Ibn Qudāma, *Umda*, 97.

<sup>45</sup> Ibn Kathīr, *Tafsīr*, 2, 20; Ṭabarī, *Tafsīr*, 2, 376. Another interpretive method to limit the prohibition in Q 2:221 to non-monotheistic women employs the argument that the word *mushrikāt* does not refer to women of the *ahl al-kitāb* (Ṭabarī, *Tafsīr*, 2, 377). Arberry's translation of *mushrikāt* by “idolatresses” reflects this view.

lowing, ascribed to the Prophet: “We shall marry the women of the *ahl al-kitāb*, but they shall not marry our women”.<sup>46</sup> Likewise, the Prophet’s Companions, including Ṭalḥa b. ‘Abdallāh, Ḥudhayfa b. al-Yamān, and even the caliph ‘Uthmān, reportedly took Christian or Jewish wives.<sup>47</sup> In contrast to the unanimity regarding these rulings, a disagreement exists concerning the marriage of a Muslim to a female slave of the *ahl al-kitāb*. Such unions are forbidden by the Mālikīs, the Shāfi‘īs, and the Ḥanbalīs, whereas the Ḥanafīs and Ibn Ḥazm allow them.<sup>48</sup> The following is a concise presentation of the reasoning employed by Muslim scholars to explain the rulings of marriage cited above.

#### I. *The Permission to Marry a Woman of the Ahl al-Kitāb*

The law allows a Muslim to take a *kitābī* wife but disapproves of this action; a Muslim wife is preferred.<sup>49</sup> The reasons presented in connection with this ruling explain the disapproval rather than the permission. They fall into two categories: reasons expressing the concern that non-Muslim women might be preferred over Muslim ones, and reasons reflecting fear of the harmful influence of these women, who might persuade their Muslim husbands and children to abandon their faith. A reason of the first type is recorded by al-Ṭabarī (d. 310/923) in his voluminous commentary on the Qur’ān. He notes that the second caliph, ‘Umar, objected to marriages with women of the *ahl al-kitāb* for fear that Muslims would refrain from marrying Muslim women, preferring others in their stead. ‘Umar provided this ex-

<sup>46</sup> Ṭabarī, *Tafsīr*, 2, 378.

<sup>47</sup> For example, Ibn al-Jawzī, *Zād al-masīr*, 2, 296-7; Ṭabarī, *Tafsīr*, 2, 377; Bayhaqī, *Sunan*, 7, 172. See also Friedmann, *Tolerance*, 181. There are many other traditions regarding both the prohibition against Muslim women marrying non-Muslims and the permission to marry women of the *ahl al-kitāb* (for example, Bayhaqī, *Sunan*, 7, 172; ‘Abd al-Razzāq, *Muṣannaḥ*, 6, nos. 10058 and 10082).

<sup>48</sup> Mālikīs: Saḥnūn, *Mudawwana*, 2, 219; Shāfi‘īs: Shāfi‘ī, *Umm*, 5, 8-9; Ḥanbalīs: Ibn Qudāma, *Mughnī*, 9, 554; Ḥanafīs: Qudūrī, *Mukhtaṣar*, 77; Ibn Ḥazm: *Muḥallā*, 9, 443.

<sup>49</sup> For disapproval of marriage to a *kitābī* woman see: Ḥanafīs: Samarqandī, *Nawāzil*, 126; Mālikīs: Saḥnūn, *Mudawwana*, 2, 219; Shāfi‘īs: Shāfi‘ī, *Umm*, 5, 10; Ḥanbalīs: Ibn Qudāma, *Mughnī*, 9, 546. For *ḥadīths* implying that a Muslim should marry a woman from the *ahl al-kitāb* only when there is no other alternative: Shāfi‘ī, *Umm*, 5, 10 (also in Bayhaqī, *Sunan*, 7, 172).

planation for his demand that Ṭalḥa and Ḥudhayfa divorce the *kitābī* wives they had taken.<sup>50</sup> According to other traditions, it was feared that free *kitābī* women would be more attractive than Muslim female slaves. The tendency of Muslim men to prefer free non-Muslim women over Muslim female slaves is mentioned in the commentaries on Q 2:221: "... a believing slavegirl is better than a *mushrika*...". An elaboration on the occasions of revelation (*asbāb al-nuzūl*) of this verse has it that during the time of the Prophet, Muslim men wanted to marry non-Muslim women (*mushrikāt*, which by majority opinion refers here to both idolatresses and women of the *ahl al-kitāb*) because of their rank. This accounts for the revelation of the verse, with its advocacy of the Muslim female slave over a *mushrika*.<sup>51</sup> Conceivably, however, this reason for the disapproval is not genuine, but rather reflects the need to explain the Qur'ānic verse.

The reasons in the second category ascribe the disapproval to the fear of the foreign influences the non-Muslim wife was liable to exert upon her Muslim husband and their children. Such influences could result in these Muslims violating the prohibitions of their faith and might even lead to assimilation. Mālik explains his objection to marriage with a Christian woman thus: she eats pork and drinks wine, her husband engages in marital relations with her while these forbidden foods are in her mouth, she bears him children and feeds them in accordance with her religion, and she feeds her husband forbidden foods and gives him wine to drink.<sup>52</sup>

The fact that Islamic law permitted Muslims to marry Christian or Jewish women despite the danger of foreign influence inherent in such marriages, reveals a considerable measure of tolerance of the *ahl al-kitāb*.

<sup>50</sup> Ṭabarī, *Tafsīr*, 2, 378. See also Ibn Kathīr, *Tafsīr*, 1, 257.

<sup>51</sup> Ibn al-Jawzī, *Zād al-masīr*, 1, 245-6.

<sup>52</sup> Ṣaḥnūn, *Mudawwana*, 2, 219. For the fear of assimilation among the heretics as a result of marriage to a non-Muslim woman see Ibn Qudāma, *Mughnī*, 9, 546; Bayḍāwī, *Anwār*, 1, 204.

## II. *The Prohibition against a Muslim Woman Marrying a Non-Muslim*

A reason for prohibiting the marriage of Muslim women to non-Muslims is presented in the following tradition attributed to Ibn ‘Abbās, and bases on a Qur’ānic verse: “Allāh may He be great and majestic sent Muḥammad peace be upon him with the [religion of] truth that He may uplift it above every religion; <sup>53</sup> our religion is the best of religions, and our faith is above [other] faiths; and [therefore there is no fault in] our men being over their women, but their men may not be over our women”. <sup>54</sup> A well-known dictum attributed to the Prophet clarifies Ibn ‘Abbās’ teaching: “Islam is supreme, and there is none that surpasses it” (*al-Islām ya’lū wa-lā yu’lā*). <sup>55</sup> A key to the comprehension of this argument is the premise in Islamic law of the superiority of the husband over his wife, and its view of the relationship between them in certain aspects as similar to that between master and slave. Ibn Hazm illustrates this similarity when he includes the following two prohibitions in a single sentence: it is definitely forbidden for a Muslim woman to marry a non-Muslim, and it is forbidden for an infidel to be the master of a Muslim male slave or a Muslim female slave. <sup>56</sup> Were a union between a Muslim woman and a non-Muslim man to be permitted, a situation would result in which an infidel husband would enjoy a superior position in relation to his Muslim wife, rendering Islam inferior to the other religion. Such a set of circumstances must be prevented, for Islam must retain its supremacy over all other religions. This was explicitly said by Ibn Taymiyya (d. 728/1327): “Allāh permitted Muslims to marry [women of the] *ahl al-kitāb*, but the *ahl al-kitāb* may not marry their (i.e., the Muslims’) women, because marriage is a type of slavery (*li-’anna al-nikāḥ naw’ riqq*) ... and He permitted a Muslim man to enslave (*an yastariqq*) an infidel woman but did not permit an infidel man to enslave a Muslim woman, because Islam has supremacy and shall not be surpassed (*li-anna al-Islām ya’lū wa-lā yu’lā ‘alayhi*), just as He permitted the Muslim to own an infidel slave but did not permit an infidel to own a Muslim slave”. <sup>57</sup>

<sup>53</sup> A paraphrase of 9 (*al-Tawba*): 33; 48 (*al-Fath*): 28; and 61 (*al-Saff*): 9.

<sup>54</sup> Bayhaqī, *Sunan*, 7, 172.

<sup>55</sup> Sarakhsī, *Mabsūṭ*, 5, 45.

<sup>56</sup> Ibn Hazm, *Muḥallā*, 9, 449, mentioned by Friedmann in *Tolerance*, 162-3.

<sup>57</sup> Ibn Taymiyya, *Fatāwā*, 32, 184-5, cited by Friedmann in *Tolerance*, 162.

In addition to the blow it represents to the supremacy of Islam, the marriage of a Muslim woman to a non-Muslim man also entails danger: the husband, who controls the wife, is liable to lead her to the denial of Islam by the great influence he wields as a result of his dominance over her. Since a wife has no similar control over her husband, the religious influence of a non-Muslim wife over her Muslim husband is less dangerous.<sup>58</sup>

### III. *The Prohibition against a Muslim Man Marrying a Kitābī Female Slave*

The reasons for prohibiting the marriage of a Muslim man to a *kitābī* female slave (which is based on Q 4 [*al-Nisā'*]:25) include: (1) a *kitābī* female slave is deficient in two aspects: she is an infidel and she is owned (by her master); the combination of these two defects places a woman on a level too low to render her a proper wife for a Muslim;<sup>59</sup> (2) the fear of a Muslim becoming inferior to the adherent of another religion. Marriage between a Muslim man and a *kitābī* female slave whose master is *kitābī* could result in such inferiority, for the child born to a female slave becomes the property of her master. The Muslim child of a *kitābī* female slave and her Muslim husband would thus become the slave of her *kitābī* master. The rule against marriages between Muslim men and *kitābī* female slaves is meant to prevent such a situation.<sup>60</sup>

### IV. *The Prohibition against Marrying a Zoroastrian Woman*

The prohibition against marrying Zoroastrian women is explained by the fact that the Zoroastrians have no scripture, or they have only a "pseudo-scripture" (*shubhat kitāb*). They are therefore not included in the *ahl al-kitāb*, whose scriptures confer a special standing upon them, by virtue of which Muslims may marry their women.<sup>61</sup>

<sup>58</sup> Ibn al-ʿArabī, *Ahkām*, 1, 158.

<sup>59</sup> Ibn Qudāma, *Mughnī*, 9, 554-5.

<sup>60</sup> Ibid., 554; ʿAdawī, *Hāshiya*, 2, 53.

<sup>61</sup> Ibn Qudāma, *Mughnī*, 9, 547-8.



## Conclusion

The laws governing ritual slaughter by non-Muslims, and marital ties with them, were formulated in an attempt to erect a barrier between Islam and the non-monotheistic religions, on the one hand, while allowing a degree of contact between Muslims and *ahl al-kitāb*, on the other. The desire to separate Muslims from non-monotheists is demonstrated by the prohibition against consuming meat from animals slaughtered by them and against marrying their women. The contacts allowed by Islamic law between Muslims and *ahl al-kitāb* are dictated by two opposing motives: the desire to maintain ties with *ahl al-kitāb* in various realms, and a wish to avoid the danger inherent in too close a proximity. The desire to permit ties with members of the *ahl al-kitāb* – despite polemics against them, and despite the restrictions and humiliations the Islamic state imposes on its Jewish and Christians subjects – derives from the esteem in which they are held by Muslims. This admiring attitude is expressed, *inter alia*, in the Muslims' generally high regard for the religious literature of the *ahl al-kitāb*.<sup>62</sup> The esteem for the *ahl al-kitāb*, and the consequent tendency to permit Muslims to maintain various sorts of ties with them, is countered by an awareness of the danger to the Islamic framework posed by these connections. Influenced by these conflicting orientations, the legal scholars permit ties with the *ahl al-kitāb* whenever they do not anticipate a threat from such ties. But when there is any fear that a connection with a non-Muslim would endanger the Muslim's faith or cause any harm to the overarching Islamic framework, such a connection is prohibited. In the law of ritual slaughter, we have seen that Muslim jurists generally permit the consumption of meat from an animal slaughtered by members of the *ahl al-kitāb*, even in the event that the name of Allāh was not recited during the slaughter; but the decisive majority of these authorities prohibit meat from an animal slaughtered by a Christian who recites the name of Jesus over the slaughter. In other words, the line dividing the permitted from the prohibited is drawn at the point beyond which clearly Christian elements enter the picture: permitting meat from an animal slaughtered when Jesus' name was uttered would have led to a perilous blurring of the line separating Islam from Christianity. A similar logic can be

<sup>62</sup> Kister, "Ḥaddithū 'an banī isrā'īla wa-lā ḥaraja".

discerned in the marriage law: the permitted becomes forbidden when a permission might result in the Muslim's inferiority to a *kitābī* spouse. A *kitābī* woman is inferior to her Muslim husband, therefore such a union is permitted; a *kitābī* husband would be superior to his Muslim wife, and such a marriage is thus prohibited. This is also one of the reasons Muslim jurists bar the marriage of a Muslim man to a *kitābī* female slave: their joint, Muslim children run the risk of being enslaved by their mother's *kitābī* master. The rule against any marital relationship in which the Muslim is inferior derives not only from the resulting humiliation to Islam but also, and perhaps mainly, from the danger of assimilation inherent in such inferiority, a danger arising from the greater exposure to religious influences from the stronger side.

To sum up, the material examined in this article demonstrates that Sunnī Islamic law generally tends toward leniency as regards Jews and Christians. The permission to eat meat from slaughter by members of these faiths, and to marry their daughters, provided an opening for Muslim-*ahl al-kitāb* relations in extremely important realms. This lenient attitude reflects a desire to draw closer to the *ahl al-kitāb*, based on the high regard with which these religions and their sacred texts were held by Muslims at an early stage in the history of Islam. The line between permitted and forbidden relations was set at the point beyond which Islamic law foresaw danger for Islam. The greater the security felt by Islam, the less the fear of maintaining ties with non-Muslims and of the possible influence upon Muslims ensuing from such ties. It would seem that some of the factors underlying the preference of Sunnī Islamic law for the more lenient orientations, which allowed significant ties with the *ahl al-kitāb*, are founded in the sense of confidence in the Islamic framework, a sense that derived in no small degree from the political power of the early Islamic empire.

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## ABSTRACT

How have Muslim scholars viewed followers of other religions, mainly *ahl al-kitāb* (the People of the Book, i.e., Jews and Christians)? Islamic laws in two areas – slaughter and marriage – reflect both an attempt to separate Muslims from non-monotheists (demonstrated by rules against consuming meat from animals slaughtered by non-monotheists and against marrying their women), and the permissibility of contact between Muslims and *ahl al-kitāb*. The extent of these contacts is dictated by two opposing motives: the desire to maintain ties with *ahl al-kitāb*, and a wish to avoid the danger to the Islamic framework posed by these ties. Consequently, Muslim jurists generally permit meat from slaughter by *ahl al-kitāb* – even when the obligation to mention the name of Allāh has not been fulfilled – but most jurists prohibit meat from an animal slaughtered by a Christian who recites the name of Jesus over the slaughter. Similarly, the marriage law, which allows certain kinds of marriage between Muslims and *ahl al-kitāb*, prohibits marriages that result in the inferiority of the Muslim to a *kitābī* spouse, for such inferiority carries with it the danger of assimilation.

## RESUMEN

¿Cómo veían los ulemas musulmanes a los seguidores de otras religiones, especialmente a los *ahl al-kitāb* (las gentes del Libro, es decir, los judíos y cristianos)? Las leyes islámicas, en dos áreas concretas – el sacrificio ritual y el matrimonio –, reflejan al tiempo el intento por separar a los musulmanes de los no monoteístas (como muestran las regulaciones en contra de consumir la carne de animales sacrificados por los no monoteístas y en contra de casarse con sus mujeres) y la permisibilidad del contacto entre los musulmanes y los *ahl al-kitāb*. Estos contactos respondían a dos motivos contradictorios: el deseo de mantener vínculos con los *ahl al-kitāb*, y el deseo de evitar el peligro que tales vínculos podían representar. En consecuencia, los juristas musulmanes, en general, permitían consumir carne de animales sacrificados por los *ahl al-kitāb* – incluso cuando no se había seguido la obligación de mencionar el nombre de Allāh –, pero la mayoría de los juristas prohibía consumir carne de animales sacrificados por un cristiano que hubiese recitado el nombre de Jesús durante el sacrificio. Igualmente, el derecho matrimonial, que permite ciertos tipos de matrimonio entre los musulmanes y los *ahl al-kitāb*, prohíbe aquellos casamientos que tengan como resultado la inferioridad del cónyuge musulmán con respecto al cónyuge *kitābī*, pues tal inferioridad trae consigo el peligro de asimilación.