I. Introduction

[1] The publication of twelve cartoons of the Prophet Muhammad in late 2005 was only the beginning of a series of events in a cartoon controversy that has taken the lives of many people and injured others. Muslims believe that these cartoons are prohibited under Shari‘a, or Islamic law. These cartoons were protested against, however, not only because of their depiction of the Prophet Muhammad but the manner in which he was depicted.

[2] This Article argues that while these cartoons do violate Shari‘a, the violent response in protest only perpetuates negative stereotypes of Muslims and Arabs. Moreover, this Article explains why the cartoons violate Shari‘a. Part II of this Article outlines the cartoon controversy by both examining the content of the cartoons and the timeline of events. Part III examines the response to the publication of the cartoons. Part III discusses both the violent and nonviolent responses to the publication of the cartoons. Part IV of this article provides an in-depth explanation of Shari‘a and the sources of Islamic law, including a discussion of the importance of the Prophet Muhammad to

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Islam. Part V explains the response to the cartoon controversy by analyzing two different arguments. The first argument is that the cartoons are absolutely prohibited under Shari‘a. Drawing on the main sources of Shari‘a—the Qur’an and the Sunna—the prohibition of the cartoons is explained. The second argument is that the cartoons are based on negative stereotypes of Muslims and Islam. Part VI concludes by arguing that violent responses to the cartoons are not justified even if the cartoons violate Shari‘a.

II. THE CARTOONS

[3] The Danish Newspaper *Jyllands-Posten* first published twelve cartoons of Muhammad on September 30, 2005.¹ The reasoning behind publishing the cartoons was based upon an “experiment to overcome what the editors perceived as self-censorship reflected in the reluctance of illustrators to depict the Prophet.”² The twelve cartoons pictured Muhammad in a variety of ways. The cartoon that has received the most attention is a drawing of the Prophet Muhammad with a bomb as his turban.³ On his


turban is the *shahada*, symbolizing that there is no god but Allah; Muhammad is his Prophet. Various groups including the American-Arab Anti-Discrimination Committee (ADC) have come out strongly against the cartoons. The ADC released a statement about the cartoons arguing that the “cartoons depict[ed] Prophet Mohammed in a negative, hateful, and racist fashion. These racist attacks . . . do nothing but perpetuate hate and violence against Muslims.”

[4] Other cartoons are also troublesome. One of the images shows Muhammad with a large sword in his hand, seemingly prepared for battle, and it appears that he is happy. He has a woman on each side dressed in a *niqab*. The drawing only shows the wide eyes of the two women, and Muhammad’s eyes are covered. This cartoon plays upon two stereotypes. The first is that Muslims are violent and eager to fight. The second stereotype regards Muslim women and their portrayal, here emphasizing their wide eyes as their only defining characteristic. Another cartoon has Muhammad standing on a

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4 See infra text accompanying note 46.


cloud and shouting at suicide bombers “Stop stop we ran out of virgins” or in the original “Stop Stop vi er løbet tør for Jomfruer!”\(^7\)

[5] Another drawing shows Muhammad talking to two very angry looking Muslim men with large sabers and a bomb. Muhammad is saying "Rolig, venner, når alt kommer til alt er det jo bare en tegning lavet af en vantro sønderjyde," in talking about a drawing he is holding. The general English translation is “‘Relax guys, it’s just a drawing made by some infidel South Jutlander.’ The reference is to a common Danish expression for a person from the middle of nowhere.”\(^8\) The other cartoons also vary in their depictions, but the cartoons that focused on violence such as the one with the bomb in Muhammad’s turban are particularly volatile.

### III. The Reaction

[6] The first reactions to the cartoons did not occur on a very large scale. There was, however, some negative reaction to the September publication, particularly with the Muslim community in Denmark.\(^9\) On October 14, 2005, approximately 3,500 people held a peaceful protest against the cartoons in Copenhagen.\(^10\) The following day, the

\[^7\] Id.


\[^9\] HRW, *Questions and Answers*, supra note 1. For a general simple timeline of events see *Timeline: The Muhammad Cartoons*, TIMES ONLINE, Feb. 6, 2006, [http://www.timesonline.co.uk/article/0,,3-2021760,00.html](http://www.timesonline.co.uk/article/0,,3-2021760,00.html) (last visited Nov. 4, 2006).

\[^10\] Romesh Ratnesar, *Fanning the Flames; As the rage over the Muhammad cartoons burns on, TIME explains why the controversy erupted months after the caricatures appeared--and what could have averted the crisis*, TIME, Feb. 20, 2006, at 30.
Egyptian paper *Al-Fagr* published the cartoons.\(^{11}\) And on October 19, 2005, a group of Muslim ambassadors requested a meeting with Danish Prime Minister Anders Fogh Rasmussen, but he declined to meet with them.\(^{12}\) In December 2005, delegations of Danish Muslims visited the Middle East to raise awareness of the cartoons. The delegation visited Cairo, Damascus, and Beirut, with a forty-three-page dossier regarding the cartoons.\(^{13}\)

[7] In December 2005, an emergency conference was held by the Organization of the Islamic Conference, and while the meeting was supposed to be about sectarian violence, the cartoon issue overshadowed other problems.\(^{14}\) The Organization of the Islamic Conference strongly condemned: “[We express our] concern at rising hatred against Islam and Muslims and condemned the recent incident of desecration of the image of the Holy Prophet Mohamed.”\(^{15}\)

[8] The Organization for the Islamic Conference and the Arab League wanted intervention on behalf of the United Nations. The groups sought “a binding resolution banning contempt of religious beliefs and providing for sanctions to be imposed on

\(^{11}\) Id.


\(^{13}\) Ratnesar, *supra* note 10.


\(^{15}\) Id.
contravening countries or institutions." The U.N. high commissioner for human rights, Louise Arbour, responded positively to the Organization for the Islamic Conference. She stated that, “I find alarming any behaviors that disregard the beliefs of others,” and an investigation into the cartoon controversy was initiated.

Other newspapers, however, had a different perspective. In January 2006, the Norwegian paper, Magazinet, republished the cartoons. Subsequently in February 2006, other newspapers published the cartoons. In total, seven European newspapers republished the cartoons. Italy’s La Stampa, Germany's Die Welt, Spain's El Periodico, the Netherlands' Volkskrant, and France’s France Soir. The French paper argued that it had a right to publish the cartoon and had done so in an effort to take a stance against “religious dogma.”

Beneath a headline starting, “‘Yes, we have the right to caricature God’, France Soir ran a front page cartoon of Buddhist, Jewish, Muslim and Christian gods floating on a cloud. It shows the Christian deity saying: ‘Don't complain, 

16 Aljazeera.Net, UN Urged to Ban Attack on Religion, Jan. 29, 2006, http://english.aljazeera.net/NR/exeres/6362975C-60D7-4E26-A64E-2A7B1D561DA4.htm (last visited Nov. 4, 2006). This is the English version of al-Jazeera which often does not have the same exact content as the Arab version of the website. See also U.N. Responds to Caricature Violence, UPI, Feb. 9, 2006.


18 Id. See also Ratnesar, supra note 10.

19 Marshall, supra note 17. See also Moore, supra note 1; Stefan Theil, The End of Tolerance: Farewell, multiculturalism. A cartoon backlash is pushing Europe to insist upon its values, NEWSWEEK, Mar. 6, 2006, available at http://www.msnbc.msn.com/id/11569485/site/newsweek/.

Muhammad, we've all been caricatured here.”

Outrage against this publication led to the firing of *France Soir* editor Jacques Lefranc.

While many European papers republished the cartoons, major papers in both the United States and the United Kingdom did not follow suit. The United States went so far as to call the drawings “offensive.” State department official Janelle Hironimus called specifically for tolerance and respect for religious beliefs.

While U.S. and U.K. papers have refrained from printing the cartoons, there has been some support for the right to publish the cartoons.

Secretary of State Condoleezza Rice said she found the cartoons personally offensive. President Bush made a statement in support of free speech, but encouraged sensitivity to religious beliefs.

21 Id.


The reactions to the republication of the cartoons have varied, but many violent protests ensued around the globe. In Syria, the Danish embassy was set afire. In Tehran, hundreds gathered and violently protested at the Danish embassy throwing firebombs and stones. In the Gaza strip, protestors threw stones at the EU flag. Palestinian militants protested at the EU headquarters, and there was one report of a brief kidnapping of a German citizen. In Beirut, Lebanon, the Danish embassy was set on fire by protestors when thousands took to the streets, completely destroying the ten-story consulate. In Afghanistan, four were killed during a demonstration against a Norwegian controlled military base. More deaths and injuries followed in

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Afghanistan. Tens of thousands of people protesting in Pakistan resulted in the death of three people, including an eight-year old child.

[12] Not all of the protests were violent. In Brussels, 4,000 Muslims protested in a peaceful, spontaneous manner against the cartoons. In Copenhagen on February 5th, almost 3,000 Muslims and non-Muslims peacefully protested the cartoons and called for understanding. In Tanzania, thousands of Muslims also protested peacefully. However, the violent protests have greatly overshadowed the peaceful demonstrations.

IV. ISLAM AND ISLAMIC LAW

[13] Islam means submission to Allah. Islamic law, or Shari’a, is not a system of law that is separate from religion. Shari’a itself is a religious concept, and one must try...

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to understand the key concepts of Islam to truly appreciate *Shari’a*. The Qur’an is the first and most important source in understanding both Islam and *Shari’a*. Qur’an means reading or recitation. The cornerstone of Islam is the idea of *tawhid*, or the oneness of Allah. Sura (chapter) 112 of the Qur’an explains the concept of *tawhid*. “Say: He is God, [t]he One and Only; God, the Eternal, the Absolute; He begetteth not, [n]or is He begotten, [a]nd there is none like unto Him.”

[14] This concept is very important in distinguishing Islam from Christianity and the belief in the trinity. Moreover, the first pillar of Islam is the *shahada* which means “to testify” or “to bear witness.” The *shahada* is: *There is no god but Allah; Muhammad is*

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44 Qur’an 112:1-4.

His Prophet, or lā 'ilaha 'illā-l-lāhu Muhammadur rasūlu llāh.\textsuperscript{46} The first part of the

shahada states the oneness or tawhid of Allah. The second part “speaks of prophecy.”\textsuperscript{47}

[15] Muhammad is the rasul Allah, or the Messenger of God.\textsuperscript{48} Shari’a is composed

of the Qur’an and the Sunna. Muhammad’s Sunna is made up of the “things he said, i.e. his hadith, as well as the things he did or refrained from doing.”\textsuperscript{49} Moreover, the “sunnah refers to the practice of the Prophet expressed in actions, in oral pronouncements, or in concurrence in action by others.”\textsuperscript{50} The hadith is actually “subsumed under [Muhammad’s] Sunnah because his sayings were one of the things that he did, and reflected his tradition in verbal form.”\textsuperscript{51} While both the Qur’an and the Sunna are the principle sources of Shari’ah, if there is any conflict the Qur’an controls.\textsuperscript{52} Additionally, other sources supplement the Qur’an and the Sunna. The first is \textit{ijma}, or consensus.\textsuperscript{53}

\textsuperscript{46} \textit{Id.} at 45.

\textsuperscript{47} \textit{Id.}

\textsuperscript{48} W. MONTGOMERY WATT, ISLAMIC POLITICAL THOUGHT 27 (1999).

\textsuperscript{49} Irshad Abdal-Haqq, \textit{Islamic Law: An Overview of Its Origin and Elements}, 7 J.


\textsuperscript{50} M. Cherif Bassiouni \& Gamal M. Badr, \textit{The Shari’ah: Sources, Interpretation, and

\textsuperscript{51} Abdal-Haqq, \textit{supra} note 49, at 47.

\textsuperscript{52} Bassiouni \& Badr, \textit{supra} note 50, at 139.

\textsuperscript{53} MURATA \& CHITTICK, \textit{supra} note 39, at 25; \textit{see generally} HASAN AHMAD, DOCTRINE

OF IJMA IN ISLAM: A STUDY OF THE JURIDICAL PRINCIPLE OF CONSENSUS (1992); KEMAL

FARUKI, IJMA AND THE GATE OF IITHAD (1954); MOHAMMED ABDUL KHADEER, IJMA

AND LEGISLATION IN ISLAM (1974).
Qiyas, or reasoning by analogy, is the fourth source of Shari'a.\textsuperscript{54} Qiyas is a fairly limited concept, and personal opinion, ra 'y, cannot be used to argue for a change in Shari'a.

[16] Ilm usul al-fiqh is translated as “the science of the roots of understanding God's law” and fiqh is the scholarly interpretation of Shari'a.\textsuperscript{55} These scholarly interpretations, however, may vary. Scholars come up with their “‘rulings’ (ahkam) which, taken together, represented their fiqh - their interpretation of shari'a.”\textsuperscript{56} In classical Islamic thought, two approaches were used for interpreting Islamic law, ijtihad and taqlid. The process of Ijtihad uses the four main sources of Shari’a which is composed of the Qur’an, Sunna, Ijma, and Qiyas.\textsuperscript{57} Taqlid is a system based upon precedent.\textsuperscript{58}

[17] Sunni Islam and Shi'î Islam have different conceptions of Shari’a. There are four schools of Sunni Islamic jurisprudence. They are as follows: (1) Hanafi school, (2) Maliki school, (3) Shafi'ite school, and (4) Hanbalite school.\textsuperscript{59} Shi'î Islam also has multiple schools of jurisprudence.\textsuperscript{60} Iran which is the most populous Shi'î country


\textsuperscript{56} Id. at 396.

\textsuperscript{57} See also id. at 397.

\textsuperscript{58} Id. at 402.

follows *ithna ashariyya*, or Twelvers. Each school of Islamic jurisprudence varies and has sub-schools of thought. The different schools do agree, however, on the importance of the Qur’an and the Sunna. Where they differ is their reliance on other supplemental sources.

[18] The Sunnis and Shiites also do not place the same reliance on the *hadith* (*ahadith*, plural). Hadith literature is very scattered, but certain collections of *hadith* have gained prominence and acceptance among Sunnis. The most important, the “Six Books” of the Sunnis composed by scholars of the late ninth and early tenth centuries, includes al-Bukhari, Muslim, al-Tirmidhi, Bin Maja, Abu Da’ud al-Sijistani, and al-Nasai. The scholarly consensus is that the most notable of all the works is the *Sahih* of al-Bukhari.

[19] *Hadith* does not play as large of a role for Shi‘i religious thought. There are, however, four main collections that are important: *Al-Kafi* by Kulayni, *Man la yahduruhu*...
al-faqih by Shaykh al-Saduq, al-Istibsar by Muhammad b. Hasn al-Tusi, and Tahdhib al-ahkam.66

[20]  A Hadith is composed of three parts. The matn or text, the isnad or chain of reporters and the taraf or the part of the text that actually discusses the words or actions of the Prophet Muhammad.67 Ahadith are important to Shari’a, although scholars note that ahadith were compiled more for legal than historical reasons.68

[21]  Muhammad’s importance to both Islam and Shari’a must be clearly noted. When Muhammad was forty years old, an angel appeared to him and revealed the first words of the Qur’an.69 The Qur’an was “Muhammad’s grand argument because it was, in effect, a living miracle.”70 While there is a lack of certainty about the exact date of the revelation, most scholars point to the year 610.71 The first Sura received by Muhammad is thought to be Sura 96: “Read: In the name of they Lord who createth, Createth man from a clot.

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66 Id. at 23.


68 WATT, supra note 48, at 94.

69 MURATA & CHITICK, supra note 39, at xx.

70 Id. at xxi.

Read: And thy Lord is the Most Bounteous, Who Teacheth by the pen, Teacheth man that which he knew not.”

[22] This early history of Islam and the life of Muhammad are vital to an understanding of the current cartoon controversy. In inner Arabia, before Muhammad’s revelation in 610, the majority of Arabs were pagan. Idol worship was commonplace, with various local idols being the object of worship. Muhammad’s message of tawhid could be seen as a threat to the system of idol worship, and a “challenge to the religious and hence commercial standing of Mecca and to acknowledge Muhammad as the Prophet of God meant to accept that he had a status within the community superior to that of rich merchants . . . .” Muhammad argued that “idols could have no place in the religion of


74 KENNEDY, supra note 71, at 20.

75 Id. at 16. For more sources on early Islamic history, see CLIFFORD EDMUND BOSWORTH, THE ARABS, BYZANTIUM, AND IRAN: STUDIES IN EARLY ISLAMIC HISTORY AND CULTURE (1996); SULEIMAN ALI MOURAD, EARLY ISLAM BETWEEN MYTH AND HISTORY: AL-HASAN AL-BASRI (D. 110H/728CE) AND THE FORMATION OF HIS LEGACY IN CLASSICAL ISLAMIC SCHOLARSHIP (2006); STUDIES IN EARLY ISLAMIC HISTORY (Martin Hinds et al. eds., 1997).

76 KENNEDY, supra note 71, at 31.
Thus, the message that Muhammad brought must be understood in this context where Islam presented a shift from idol worship to the focus on the tawhid or oneness of Allah.

**V. UNDERSTANDING THE RESPONSE**

[23] Many news sources have cited the cartoons of Muhammad as being a violation of Islamic law.78 One news report stated, “Islamic law forbids depictions of the prophet.”79 Usually no explanation is provided for why this is the case. There is an understanding both under Shari’a, and Islam generally, that depictions of the Prophet are prohibited. However, there is no explicit Sura in the Qur’an that prohibits the imagery of the Prophet.80 The lack of a specific Sura outlawing depictions of the Prophet, however, is not controlling. There is a long tradition under Shari’a of prohibiting these drawings. The source of this prohibition can be traced back to the prohibition on idolatry that is discussed in the Qur’an. Sura 42:11 states “(He is) the Creator Of the heavens and The earth: He has made For you pairs From among yourselves, And pairs among cattle: By this means does He Multiple you: there is nothing Whatever like unto Him, and He is the

77 Id.

78 Pamela Miller, *On the Defensive—Again; As protests escalate worldwide over the publication of caricatures of Mohammed, Minnesota's Muslims find questions and anger directed at them, even as they condemn the violence*, STAR TRIB., Feb. 7, 2006, at 1A (arguing that cartoons violate Islamic law); *Cartoon Outrage Boils Over - Embassies Burnt as Angry Protests Spread*, DAILY TELEGRAPH, Feb. 6, 2006, at World 17.


One That hears and sees (all things).”\textsuperscript{81} Many Muslims read this particular Sura as not permitting a human attempt to recreate Allah because there is “nothing Whatever like unto Him.”\textsuperscript{82}

Moreover, Sura 21:52-54 also condemns idol worship. “Behold! He said To his father and his people, ‘What are these images, To which ye are (So assiduously) devoted?’ They said, ‘We found Our fathers worshipping them.’ He said, “Indeed ye Have been in manifest Error—year and your fathers.”\textsuperscript{83} Other Suras also strongly condemn idol worship. Sura 5:3 states

Forbidden unto you (for food) are . . . that which hath been immolated unto idols. And (forbidden is it) that ye swear by the divining arrows. This is an abomination. This day are those who disbelieve in despair of (ever harming) your religion; so fear them not, fear Me! This day have I perfected your religion for you and completed My favour unto you, and have chosen for you as religion al-Islam. Whoso is forced by hunger, not by will, to sin: (for him) lo! Allah is Forgiving, Merciful.\textsuperscript{84}

Sura 5:60 also condemns those who worship and serve idols.\textsuperscript{85} Sura 5:90 further states, “O ye who believe! Strong drink and games of chance and idols and divining arrows are only an infamy of Satan's handiwork. Leave it aside in order that ye may succeed.”\textsuperscript{86}

Thus, the Qur’an clearly prohibits idolatry and idol worship. The connection between the

\textsuperscript{81} Qur’an 42:11.

\textsuperscript{82} Id.

\textsuperscript{83} Qur’an 21:52-54.

\textsuperscript{84} Qur’an 5:3.

\textsuperscript{85} Qur’an 5:60.

\textsuperscript{86} Qur’an 5:90.
cartoons and idolatry cannot be easily understood outside the historical context where Muhammad brought the message of Islam to the pagan Arabs.

[25] The *hadith* also prohibits idol worship. The English translation of Sahih Bukhari narrated by Abdullah states, “When the Prophet entered Mecca on the day of the Conquest, there were 360 idols around the Ka'ba. The Prophet started striking them with a stick he had in his hand and was saying, "Truth has come and Falsehood will neither start nor will it reappear." On the usage of pictures, the hadith is also abundantly clear. The narration by Ibn Abbas follows: “The Prophet entered the Ka'ba and found in it the pictures of (Prophet) Abraham and Mary. On that he said ‘What is the matter with them (i.e. Quraish)? They have already heard that angels do not enter a house in which there are pictures; yet this is the picture of Abraham. And why is he depicted as practicing divination by arrows?’”

[26] Moreover, the Ibn Abbas narration continues “When the Prophet saw pictures in the Ka'ba, he did not enter it till he ordered them to be erased. When he saw (the pictures of Abraham and Ishmael carrying the arrows of divination, he said, ‘May Allah curse them (i.e. the Quraish)! By Allah, neither Abraham nor Ishmael practiced divination by arrows.’”

[27] From a Sunni perspective, these *ahadith* present a strong argument against pictures and depictions of the Prophet Muhammad. Shiites have demonstrated more


88 Hadith, Translation of Sahih Bukhari, *Prophets*, vol. 4, bk. 55, no. 570.

89 *Id.* at no. 571.
openness toward images of Muhammad in the past.\textsuperscript{90} However, some Shi’i clerics accept pictures and images of Ali but not of Muhammad.\textsuperscript{91} Shiites adhere to the belief that the Imam, or spiritual leader, must be a descendant of Ali, who was the fourth caliph.\textsuperscript{92} Sunnis do not share this belief.\textsuperscript{93}

[28] In the cartoon controversy, however, there has been condemnation of the cartoons from both Sunnis and Shiites. There are two separate critiques that are leveled at the cartoons. The first is that Islamic law or Shari’a prohibits these depictions of the Prophet because they encourage idol worship and go against the principles of Islam. The second criticism of the cartoons is they are racist and perpetuate the stereotype that all Muslims are terrorists. Each argument will be discussed in turn.


\textsuperscript{92} Caliph or khalifat rasul Allah, the successor to the Apostle of God, was the title used by early Islamic rulers. The first four caliphs (Abu Bakr, Umar, Uthman and Ali) are known as the Rashidun or rightly-guided caliphs. PATRICIA CRONE & MARTIN HINDS, GOD’S CALIPH: RELIGIOUS AUTHORITY IN THE FIRST CENTURIES OF ISLAM (2003). See also KENNEDY, supra note 71; WILFRED MADELUNG, THE SUCCESSION TO MUHAMMAD: A STUDY OF THE EARLY CALIPHATE (1998); DAVID NICOLLE, ARMIES OF THE CALIPHATES 862-1098 (1998); WILLIAM MUIR, THE CALIPHATE: ITS RISE, DECLINE AND FALL (Elibron Classics 2005) (1891) (using original sources).

[29] As I have demonstrated there is much textual support in the Qur’an and the hadith to explain the prohibition on cartoons of Muhammad. A primary point is that having an understanding of the historical basis of Islam and inner Arabia during the time Muhammad received the message is very important. It was a period when idol worship was engrained in society. However, the message that Muhammad brought that the people should “acknowledge the glory of Allah and pray to him” was seen as a direct threat to people of Mecca’s way of life. Muhammad’s challenge to idol worship was an important part of the new message of Islam which focused on the oneness of Allah. Tawhid is much more complex than the English translation makes it appear. The “all-encompassing nature” of Allah is a cornerstone of Islam.

[30] As discussed, the outrage against the cartoons is grounded in Shari’a. However, the specific violent response is much more debatable. Many Muslims would strongly argue against any type of violent response. The Council on American-Islamic Relations (CAIR) has come out strongly against the violent attacks. The CAIR communications director specifically stated, “Everyone has the right to peacefully protest defamatory attacks on their religious figures, but protesters should not reinforce existing stereotypes by resorting to violence or inflammatory rhetoric.” In the same manner the American-Arab Anti-Discrimination Committee stated, “ADC completely rejects any acts of

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94 KENNEDY, supra note 71, at 31.

95 Id.

violence and retaliatory threats as a means of protest. Instead, ADC calls on all parties to establish an open and constructive dialogue to address this matter.”

[31] Some violent protestors have called for a jihad against the West for the publication of the cartoons. Jihad is derived from the Arabic root *j*h*d. and is a verbal noun of the root *jahada.* Jahada is defined as “to strive, to exert oneself, to struggle.”* Jihad al-sayf,* or Jihad of the sword, is “religiously grounded warfare.” There is much debate in the Muslim community over the exact meaning of Jihad and whether there is both an offensive and defensive jihad. Based on the Qur’an, one can contend that there is an offensive jihad available when necessary to bring about a “just public order.” However, it would be very difficult in this case to argue that the entire public order was threatened by the publication of the cartoons. Additionally, there are other interpretations


101 Id.


of jihad that are much more limiting. Thus, “Peace is the rule and war is the exception in the doctrine of jihad, and that no obligatory state of war exists between Muslims and the rest of the world.” Some in the West have started labeling the controversy as the “cartoon jihad.”

[32] The Qur’an has many verses about fighting and waging war. Sura 9:73 orders fighting: “O Prophet! Strive against the disbelievers and the hypocrites! Be harsh with them. Their ultimate abode is hell, a hapless journey’s end.” However, other Suras place limitations on violent responses. Sura 2:190 states specifically that “Fight in the cause of God those who fight you, But do not transgress limits; For God loveth not transgressors.” This Sura can be interpreted as limiting jihad in two ways. First, you are only supposed to fight if you are being fought against. Second, even if you are fighting, you must not transgress. Most legal scholars would agree that the violent protests are not an appropriate use of jihad. There is no threat of the Muslims being exterminated as there was where jihad had been employed in the past.


106 Qur’an 9:73.

107 Qur’an 2:190.

108 Syed Abu-Ala’ Maududi, Chapter Introductions to the Qur’an: Muhammad, http://www.usc.edu/dept/MSA/quran/maududi/mau47.html#S47 (last visited Apr. 11, 2005).
The second issue regarding the outrage over the cartoons is that they were racist and stereotypical. The stereotyping of Arabs and Muslims has gained more attention since the horrific events of 9/11, but stereotyping against Arabs and Muslims has been occurring for many years.\(^{109}\) The stereotyping of Arabs and Muslims has roots in Orientalist thought. Edward Said explained the concept in his famous book *Orientalism.\(^ {110}\)* One explanation of Orientalism is “an imaginative and yet drastically polarized geography dividing the world into two unequal parts, the larger ‘different’ one called the Orient, the other, also known as ‘our’ world called the Occident or the West.”\(^ {111}\) Various stereotypes have often been used to characterize Arabs and Muslims. Racial epithets such as “sand nigger” and “camel jockey” are just a couple of examples.\(^ {112}\) Other popular stereotypes include the notion that all Arab and Muslim women are oppressed and that harems abound.\(^ {113}\)

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Additionally, popular terms associated with Arabs and Muslims are “mad dictators, ruthless, violent, treacherous, barbaric, hate Jews & America, [and] secret plots to destroy America.” Moreover, the terrorist stereotype, although relevant before 9/11, has almost been accepted as fact post-9/11. One scholar argues that there is a prevalent train of thought post 9/11 that: “(1) because all of the September 11 terrorists were Arab and Muslim; (2) because most Arabs are Muslims; and (3) because the terrorists claim religious motivation for their actions; (4) all Arabs and Muslims are likely to be terrorists.”

Thus the publication of a cartoon of the Prophet Muhammad with a bomb in his turban lent credence to the argument that Muslims and Arabs were stereotyped as terrorists and that Islam is a violent religion. In a recent poll, nearly one half, forty six percent, of all Americans have a negative view of Islam, a seven percent increase over the immediate aftermath of 9/11. The poll also showed that most Americans believe Muslims are actually more “prone to violence.” The problem for Muslims, however, is

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114 See Arab Stereotypes, *supra* note 109.


that by resorting to violence, the stereotypes that already exist are only solidified in the minds of most people.

[36] To make things worse, the Iranian newspaper Hamshahi announced that it was going to have a Holocaust cartoon contest.\[118\] Editors at the newspaper are challenging Western papers to publish the Holocaust cartoons if they previously published the Muhammad cartoons.\[119\] The newspaper stated its’ position as “Does the West extend freedom of expression to the crimes committed by the United States and Israel, or an event such as the Holocaust? Or is its freedom only for insulting religious sanctities.”\[120\] Conservative leaders of Iran, including President Ahmadinejad, have made their feelings clear regarding the Holocaust including the revisionist history position that the Holocaust was a “myth.”\[121\] This combination of events only adds to the animosity harbored against


\[119\] Id.


Iran by the West because of the nuclear proliferation problem. It is important to note, however, that most Muslims do not hold these views.

VI. Conclusion

[37] This Article examined the current cartoon controversy that has spread across the globe and argued that the cartoons of the Prophet Muhammad were problematic for two reasons. The first reason is that the depiction of the Prophet Muhammad is prohibited under Islamic law. This Article presented the various sources of Islamic law, including the Qur’an and the Sunna that support the prohibition of the cartoons. By analyzing both history and the law, a strong argument was presented that the cartoons violate Shari’a. Second, the cartoons perpetuate a negative stereotype of Muslims and Arabs. By showing the Prophet Muhammad with a bomb in his turban the stereotype that Muslims are violent is perpetrated. Other cartoons also portrayed the Prophet Muhammad and Muslims as violent and ready for battle. Unfortunately, a violent response to the cartoons only solidifies the already negative stereotypes that exist. This Article concludes that the best response to the cartoons is peaceful protest and a meaningful dialogue over the reason why Muslims object to the cartoons in the first place. Instead, the violence only increases the already widening rift between Islam and the West.