

RUTGERS JOURNAL OF LAW AND RELIGION

VOLUME 8

FALL 2006

*YOU DROPPED A BOMB ON ME, DENMARK—A LEGAL EXAMINATION OF THE
CARTOON CONTROVERSY AND RESPONSE AS IT RELATES TO THE PROPHET
MUHAMMAD AND ISLAMIC LAW*

RACHEL SALOOM*

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

* J.D. University of Georgia School of Law, 2006; M.A., Middle Eastern Studies, University of Chicago, 2003; B.A., Political Science, University of West Georgia, 2000. Ms. Saloom is currently an associate at an Atlanta law firm.

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

¹ See Souad Mekhennet, *Muslims Express Anger and Hope at Danish Conference*, N.Y. TIMES, Mar. 11, 2006, at A6; Molly Moore, *Offending Cartoons Reprinted; European Dallies Defend Right to Publish Prophet Caricatures*, WASH. POST, Feb. 2, 2006, at A17, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/02/01/AR2006020102234.html>; Sebastian Rotella, *Anger over Cartoons of Muhammad Escalates*, L.A. TIMES, Feb. 3, 2006, at A1; Human Rights Watch, *Questions and Answers on the Danish Cartoons and Freedom of Expression: When Speech Offends*, Feb. 15, 2006, available at <http://www.hrw.org/english/docs/2006/02/15/denmar12676.htm> [hereinafter HRW, *Questions and Answers*].

² HRW, *Questions and Answers*, *supra* note 1.

³ *The Cartoon Bomb*, THE NATION, Feb. 8, 2006, available at <http://www.thenation.com/doc/20060227/editors>; Stefanie Sy, *Bomb-Shaped Turban Cartoons Upset Muslims*, ABC NEWS, Feb. 2, 2006, available at <http://abcnews.go.com/International/story?id=1570095&CMP=OTC-RSSFeeds0312>. For information on the cartoons, see David Crumm, *Holy Images Enflame and Enlighten; The Muhammad Episode Offers Opportunity For Faiths to Connect*, DETROIT FREE

turban is the *shahada*, symbolizing that there is no god but Allah; Muhammad is his Prophet.⁴ 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.”⁵

[4] Other cartoons are also troublesome.⁶ 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

PRESS, Mar. 10, 2006, at 1; Angela Tuck, *Muhammad Cartoons Went Beyond Responsibility*, ATLANTA J. CONST., Feb. 18, 2006, at A17; *Prophetic Insults; Denmark and Islam*, THE ECONOMIST, Jan. 7, 2006.

⁴ See *infra* text accompanying note 46.

⁵ American-Arab Anti-Discrimination Committee, *ADC Condemns Hateful Depiction of Islam and Calls for Inquiry*, Feb. 2, 2006, <http://www.adc.org/index.php?id=2726> (last visited Nov. 4, 2006).

⁶ There are various sites on the web where the full cartoons are published. See *Muhammad Cartoon Gallery*, HUMAN EVENTS ONLINE, Feb. 2, 2006, <http://www.humaneventsonline.com/sarticle.php?id=12146> (last visited Nov. 4, 2006); Mohammed Image Archive, http://www.zombietime.com/mohammed_image_archive/jyllands-posten_cartoons/ (last visited Nov. 4, 2006).

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.*

⁸ Outside the Beltway, http://www.outsidethebeltway.com/danish_muslim_cartoons (last visited Nov. 4, 2006).

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> (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.*

¹² Hassan M. Fattah, *At Mecca Meeting, Cartoon Outrage Crystallized*, N.Y. TIMES, Feb. 9, 2006, at A1.

¹³ Ratnesar, *supra* note 10.

¹⁴ Daniel Howden, David Hardaker, & Stephen Castle, *How a Meeting of Leaders in Mecca Set Off the Cartoon Wars Around the World*, THE INDEPENDENT (London), Feb. 10, 2006, at 36.

¹⁵ *Id.*

contravening countries or institutions.”¹⁶ 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.¹⁷

[9] Other newspapers, however, had a different perspective. In January 2006, the Norwegian paper, *Magazinet*, republished the cartoons.¹⁸ 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*.¹⁹ 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.”²⁰ 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.

¹⁷ Paul Marshall, *The Mohammed Cartoons; Western Governments Have Nothing to Apologize For*, THE WKLY. STANDARD, Feb. 13, 2006, available at <http://www.weeklystandard.com/Content/Public/Articles/000/000/006/680llmyu.asp>.

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/>.

²⁰ *France Enters Muslim Cartoon Row*, BBC NEWS, Feb. 1, 2006, <http://news.bbc.co.uk/2/hi/europe/4669360.stm>.

Muhammad, we've all been caricatured here.”²¹ Outrage against this publication led to the firing of *France Soir* editor Jacques Lefranc.²²

[10] 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.”²³ State department official Janelle Hironimus called specifically for tolerance and respect for religious beliefs.²⁴ 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.²⁵ Secretary of State Condoleezza Rice said she found the cartoons personally offensive.²⁶ President Bush made a statement in support of free speech, but encouraged sensitivity to religious beliefs.²⁷

²¹ *Id.*

²² *French Editor Fired Over Cartoons*, BBC NEWS, Feb. 2, 2006, <http://news.bbc.co.uk/2/hi/europe/4672642.stm>; Angela Charlton, *French Editor Fired over Muhammad Drawings*, ABC NEWS, Feb. 2, 2006, <http://abcnews.go.com/International/wireStory?id=1568874>.

²³ Qassim Abdel-Zahra, *U.S. Calls Muhammad Drawings ‘Offensive,’* ABC NEWS, Feb. 3, 2006, <http://abcnews.go.com/International/wireStory?id=1576528>; *Muslim Outrage Spreads: U.S. Calls Cartoons ‘Offensive,’* USA TODAY.COM, Feb. 3, 2006, http://www.usatoday.com/news/world/2006-02-03-muslimanger_x.htm.

²⁴ Abdel-Zahra, *supra* note 23.

²⁵ Arthur Bright, *US, British Media Tread Carefully in Cartoon Furor*, CHRISTIAN SCI. MONITOR, Feb. 6, 2006, available at <http://www.csmonitor.com/2006/0206/dailyUpdate.html>.

²⁶ Jim Wolf, *Cartoon Fury Could Spin Out of Control: Rice*, BOSTON.COM, Feb. 12, 2006, http://www.boston.com/news/nation/washington/articles/2006/02/12/cartoon_protests_could_get_out_of_control_rice/.

[11] 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.²⁸ In Tehran, hundreds gathered and violently protested at the Danish embassy throwing firebombs and stones.²⁹ In the Gaza strip, protestors threw stones at the EU flag.³⁰ Palestinian militants protested at the EU headquarters, and there was one report of a brief kidnapping of a German citizen.³¹ In Beirut, Lebanon, the Danish embassy was set on fire by protestors when thousands took to the streets, completely destroying the ten-story consulate.³² In Afghanistan, four were killed during a demonstration against a Norwegian controlled military base.³³ More deaths and injuries followed in

²⁷ *Bush Cautions Press, Urges Peace*, CBS NEWS, Feb. 8, 2006, <http://www.cbsnews.com/stories/2006/02/08/world/main1294287.shtml>.

²⁸ *Muslim Cartoon Fury Claims Lives*, BBC NEWS, Feb. 6, 2006, http://news.bbc.co.uk/2/hi/south_asia/4684652.stm.

²⁹ *Danish Embassy in Tehran Attacked*, GUARDIAN UNLIMITED, Feb. 6, 2006, <http://www.guardian.co.uk/cartoonprotests/story/0,,1703495,00.html>. See also *Cartoon Bans Hit Danish Firms*, CNN.COM, Feb. 7, 2006, <http://www.cnn.com/2006/WORLD/asiapcf/02/06/cartoon.protests/index.html>.

³⁰ *Danish Embassy*, *supra* note 29. See also *Fury Over Islam Cartoons, Calls for Restraint*, MSNBC.COM, Feb. 4, 2006, <http://www.msnbc.msn.com/id/11097877/>.

³¹ *Militants Surround EU Offices in Gaza Over 'Offensive' Cartoons*, FOXNEWS.COM, Feb. 2, 2006, <http://www.foxnews.com/story/0,2933,183551,00.html>; *Palestinian Gunmen Take Over EU Office*, ABC NEWS, Jan. 30, 2006, <http://abcnews.go.com/International/wireStory?id=1556092>.

³² *Protestors Burn Consulate over Cartoon*, CNN.COM, Feb. 5, 2006, <http://www.cnn.com/2006/WORLD/asiapcf/02/05/cartoon.protests/>; *Danish Embassy in Beirut Torched*, BBC NEWS, Feb. 5, 2006, http://news.bbc.co.uk/1/hi/world/middle_east/4682560.stm.

³³ *Four Killed in Attack on Norwegian-led Military Base in Afghanistan*, AFTENPOSTEN, Feb. 7, 2006, <http://www.aftenposten.no/english/local/article1216591.ece>.

Afghanistan.³⁴ Tens of thousands of people protesting in Pakistan resulted in the death of three people, including an eight-year old child.³⁵

[12] Not all of the protests were violent. In Brussels, 4,000 Muslims protested in a peaceful, spontaneous manner against the cartoons.³⁶ In Copenhagen on February 5th, almost 3,000 Muslims and non-Muslims peacefully protested the cartoons and called for understanding.³⁷ In Tanzania, thousands of Muslims also protested peacefully.³⁸ However, the violent protests have greatly overshadowed the peaceful demonstrations.

IV. ISLAM AND ISLAMIC LAW

[13] Islam means submission to Allah.³⁹ Islamic law, or *Shari'a*, is not a system of law that is separate from religion.⁴⁰ *Shari'a* itself is a religious concept, and one must try

³⁴ *Death Toll from Afghan Cartoon Protests Rises*, MSNBC.COM, Feb. 8, 2006, <http://www.msnbc.msn.com/id/10705393/>; *Four Die in Afghan Cartoon Riot*, BBC NEWS, Feb. 8, 2006, http://news.bbc.co.uk/1/hi/world/south_asia/4692172.stm.

³⁵ *3 Killed as Pakistan Cartoon Protests Escalate*, MSNBC.COM, Feb. 15, 2006, <http://www.msnbc.msn.com/id/11341523/>; *Pakistan Cartoon Violence Spreads*, BBC NEWS, Feb. 15, 2006, http://news.bbc.co.uk/1/hi/world/south_asia/4715084.stm.

³⁶ *Muslims Hold Demonstration in Brussels*, VRTNIEUWS.NET, Feb. 6, 2006, http://www.vrtnieuws.net/nieuwsnet_master/versie2/english/details/060205_demonstrations/index.shtml.

³⁷ *Dansk demonstration for fred og dialog*, DANMARKS RADIO, Feb. 5, 2006, available at <http://www.dr.dk/Nyheder/Indland/2006/02/05/172150.htm>.

³⁸ *Embassies Evade Muslim Demonstrators*, IPP MEDIA, Feb. 18, 2006, <http://www.ippmedia.com/ipp/guardian/2006/02/18/60360.html>.

³⁹ SACHIKO MURATA & WILLIAM C. CHITTICK, *THE VISION OF ISLAM* 3 (1994). See generally JOHN L. ESPOSITO, *WHAT EVERYONE NEEDS TO KNOW ABOUT ISLAM* (2002); MARSHALL HODGSON, *THE VENTURE OF ISLAM* (1977); SEYYED HOSSEIN NASR, *ISLAM: RELIGION, HISTORY, AND CIVILIZATION* (2003).

to understand the key concepts of Islam to truly appreciate *Shari'a*.⁴¹ The Qur'an⁴² is the first and most important source in understanding both Islam and *Shari'a*. Qur'an means reading or recitation.⁴³ 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."⁴⁴

[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."⁴⁵ The *shahada* is: *There is no god but Allah; Muhammad is*

⁴⁰ See generally RODOLPHE J.A. DE SEIFE, *THE SHARI'A: AN INTRODUCTION TO THE LAW OF ISLAM* (1994); MOHAMMAD HASHIM KAMALI, *PRINCIPLES OF ISLAMIC JURISPRUDENCE* (3rd ed. 2005); JOSEPH SCHACHT, *AN INTRODUCTION TO ISLAMIC LAW* (1964); Majid Khadduri, *Nature and Sources of Islamic Law*, 22 GEO. WASH. L. REV. 3 (1953) (discussing sources and methods for studying *Shari'a*).

⁴¹ See LALEH BAKHTIAR, *ENCYCLOPEDIA OF ISLAMIC LAW: A COMPENDIUM OF THE VIEWS OF THE MAJOR SCHOOLS* (1996) (outlining the various schools of Islamic jurisprudence); WAEL HALLAQ, *AUTHORITY, CONTINUITY, AND CHANGE IN ISLAMIC LAW* (2001). See also LAILA AL-ZWAINI & RUDOLPH PETERS, *A BIBLIOGRAPHY OF ISLAMIC LAW, 1980-1993* (1994) (collecting sources on Islamic Law).

⁴² See HELMUT GÄTJE, *THE QUR'AN AND ITS EXEGESIS: SELECTED TEXTS WITH CLASSICAL AND MODERN MUSLIM INTERPRETATIONS* (Alford T. Welch ed. & trans., 1976); MUHAMMAD ABDEL HALEEM, *UNDERSTANDING THE QUR'AN: THEMES AND STYLES* (2001); MICHAEL SELLS, *APPROACHING THE QUR'AN: THE EARLY REVELATIONS* (1999); *ENCYCLOPEDIA OF THE QUR'AN* (Jane Dammen McAuliffe ed. 2004).

⁴³ KAMALI, *supra* note 40, at 16.

⁴⁴ Qur'an 112:1-4.

⁴⁵ MURATA & CHITTICK, *supra* note 39, at 10.

His Prophet, or *lā 'ilaha 'illā-lāhu Muhammadur rasūlu llāh*.⁴⁶ The first part of the *shahada* states the oneness or *tawhid* of Allah. The second part “speaks of prophecy.”⁴⁷

[15] Muhammad is the *rasul Allah*, or the Messenger of God.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.”⁴⁹ Moreover, the “*sunnah* refers to the practice of the Prophet expressed in actions, in oral pronouncements, or in concurrence in action by others.”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.”⁵¹ While both the Qur'an and the Sunna are the principle sources of *Shari'a*, if there is any conflict the Qur'an controls.⁵² Additionally, other sources supplement the Qur'an and the Sunna. The first is *ijma*, or consensus.⁵³

⁴⁶ *Id.* at 45.

⁴⁷ *Id.*

⁴⁸ W. MONTGOMERY WATT, *ISLAMIC POLITICAL THOUGHT* 27 (1999).

⁴⁹ Irshad Abdal-Haqq, *Islamic Law: An Overview of Its Origin and Elements*, 7 J. ISLAMIC L. & CULTURE 27, 33 (2002).

⁵⁰ M. Cherif Bassiouni & Gamal M. Badr, *The Shari'ah: Sources, Interpretation, and Rule-Making*, 1 UCLA J. ISLAMIC & NEAR E.L. 135, 150 (2002).

⁵¹ Abdal-Haqq, *supra* note 49, at 47.

⁵² Bassiouni & Badr, *supra* note 50, at 139.

⁵³ MURATA & CHITTICK, *supra* note 39, at 25; *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 IJTIHAD* (1954); MOHAMMED ABDUL KHADEER, *IJMA AND LEGISLATION IN ISLAM* (1974).

Qiyas, or reasoning by analogy, is the fourth source of *Shari'a*.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*.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*.”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*.⁵⁷ *Taqlid* is a system based upon precedent.⁵⁸

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

⁵⁴ MURATA & CHITTICK, *supra* note 39, at 25. See also AHMAD HASAN, ANALOGICAL REASONING IN ISLAMIC JURISPRUDENCE: A STUDY OF THE JURIDICAL PRINCIPLE OF QIYAS (1986) (analyzing *qiyas* as a means of reasoning in Islamic Law).

⁵⁵ Clark B. Lombardi & Nathan J. Brown, *Do Constitutions Requiring Adherence to Shari'a Threaten Human Rights? How Egypt's Constitutional Court Reconciles Islamic Law with the Liberal Rule of Law*, 21 AM. U. INT'L L. REV. 379, 395-96 (2006).

⁵⁶ *Id.* at 396.

⁵⁷ See also *id.* at 397.

⁵⁸ *Id.* at 402.

⁵⁹ C. G. WEERAMANTRY, ISLAMIC JURISPRUDENCE: AN INTERNATIONAL PERSPECTIVE, 49-54 (1988). See also WAEL B. HALLAQ, A HISTORY OF ISLAMIC LEGAL THEORIES: AN INTRODUCTION TO SUNNI USUL AL-FIQH (1997).

follows *ithna ashariyya*, or Twelvers.⁶¹ 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.⁶²

[18] The Sunnis and Shiites also do not place the same reliance on the *hadith* (*ahadith*, plural).⁶³ *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.⁶⁴ The scholarly consensus is that the most notable of all the works is the *Sahih* of al-Bukhari.⁶⁵

[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*

⁶⁰ See generally MUHAMMAD BAQIR AL-SADR, PRINCIPLES OF ISLAMIC JURISPRUDENCE: ACCORDING TO SHI'I LAW (2003); JUAN COLE, SACRED SPACE AND HOLY WAR: THE POLITICS, CULTURE AND HISTORY OF SHI'ITE ISLAM (2002) (outlining history of Shi'i Islam); ROBERT GLEAVE, INEVITABLE DOUBT: TWO THEORIES OF SHI'I JURISPRUDENCE (2000); DEVIN J. STEWART, ISLAMIC LEGAL ORTHODOXY: TWELVER SHI'ITE RESPONSES TO THE SUNNI LEGAL SYSTEM (1998) (explaining interaction between Sunni and Shi'i schools of jurisprudence).

⁶¹ Bassiouni & Badr, *supra* note 50, at 143 n.20.

⁶² *Id.* at 143.

⁶³ R. STEPHEN HUMPHREYS, ISLAMIC HISTORY: A FRAMEWORK FOR INQUIRY 22 (1991).

⁶⁴ *Id.*

⁶⁵ *Id.* Two other famous works are the *Muwatta* of Malik b. Anas and the *Musnad* of Ahmad b. Manbal.

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.

⁶⁶ *Id.* at 23.

⁶⁷ See *The Science of Hadith*, <http://www.usc.edu/dept/MSA/fundamentals/hadithsunnah/scienceofhadith/brief1/> (last visited Oct. 13, 2006). See generally MUHAMMAD ALI, A MANUAL OF HADITH (1944); JOHN BURTON, AN INTRODUCTION TO THE HADITH (1994); SCOTT LUCAS, CONSTRUCTIVE CRITICS, HADITH LITERATURE, AND THE ARTICULATION OF SUNNI ISLAM (2004); MAZHARUL HAQ QAZI, HADITH AND SUNNAH, (1999); HADITH: ORIGINS AND DEVELOPMENT (Harold Motzki ed. 2004).

⁶⁸ WATT, *supra* note 48, at 94.

⁶⁹ MURATA & CHITTICK, *supra* note 39, at xx.

⁷⁰ *Id.* at xxi.

⁷¹ HUGH KENNEDY, THE PROPHET AND THE AGE OF THE CALIPHATES: THE ISLAMIC NEAR EAST FROM THE SIXTH TO THE ELEVENTH CENTURY 30 (1999).

Read: And thy Lord is the Most Bounteous, Who Teacheth by the pen, Teacheth man that which he knew not.”⁷²

[22] This early history of Islam and the life of Muhammad are vital to an understanding of the current cartoon controversy.⁷³ In inner Arabia, before Muhammad’s revelation in 610, the majority of Arabs were pagan.⁷⁴ Idol worship was commonplace, with various local idols being the object of worship.⁷⁵ 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”⁷⁶ Muhammad argued that “idols could have no place in the religion of

⁷² Qur’an 96:1-5 (quoted in KENNEDY, *supra* note 71, at 30).

⁷³ For more on the life and teachings of the Prophet Muhammad, see KAREN ARMSTRONG, *MUHAMMAD: A BIOGRAPHY OF THE PROPHET* (1993) (including a history of how the West has viewed Islam); SYED AHMAD KHAN BAHADOR, *A SERIES OF ESSAYS ON THE LIFE OF MUHAMMAD AND SUBJECTS SUBSIDIARY THERETO* (1968); MARTIN LINGS, *MUHAMMAD: HIS LIFE BASED ON THE EARLIEST SOURCES* (1987); MAULANA WAHIDUDDIN KHAN, *GOD ORIENTED LIFE: IN THE LIGHT OF SAYINGS AND DEEDS OF THE PROPHET MUHAMMAD AND HIS COMPANIONS* (1992); IBN KATHĪR, ISMĀ‘ĪL IBN ‘UMAR, *THE LIFE OF THE PROPHET MUHAMMAD, A TRANSLATION OF AL-SĪRA AL-NABAWIYYA* (1998).

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.

Islam.”⁷⁷ 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.

⁷⁹ Jeffrey Stinson, *Protests Over Prophet Cartoons Continue to Grow*, USA TODAY.COM, Feb. 2, 2006, available at http://www.usatoday.com/news/world/2006-02-02-cartoonuproar_x.htm.

⁸⁰ *Q&A: Depicting the Prophet Muhammad*, BBC NEWS, Feb 2, 2006, http://news.bbc.co.uk/1/hi/world/middle_east/4674864.stm.

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

[24] 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—ye and your fathers.”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.⁸⁴

Sura 5:60 also condemns those who worship and serve idols.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.”⁸⁶ Thus, the Qur'an clearly prohibits idolatry and idol worship. The connection between the

⁸¹ Qur'an 42:11.

⁸² *Id.*

⁸³ Qur'an 21:52-54.

⁸⁴ Qur'an 5:3.

⁸⁵ Qur'an 5:60.

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.”⁸⁷ 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?’”⁸⁸

[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.’”⁸⁹

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

⁸⁷ Hadith, Translation of Sahih Bukhari, *Military Expeditions Led by the Prophet (pbuh) (Al-Maghaazi)* vol. 5, bk. 59, no. 583.

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.⁹⁰ However, some Shi'i clerics accept pictures and images of Ali but not of Muhammad.⁹¹ Shiites adhere to the belief that the *Imam*, or spiritual leader, must be a descendant of Ali, who was the fourth caliph.⁹² Sunnis do not share this belief.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.

⁹⁰ *Misrepresentations of Islam*, NAT'L REV., Feb. 13, 2006, <http://www.nationalreview.com/script/printpage.p?ref=/comment/marshall200602130815.asp>.

⁹¹ *Muslims Again Protest Muhammad Cartoons*, BREITBART.COM, Feb. 3, 2006, <http://www.breitbart.com/news/2006/02/03/D8FHNUPG8.html>.

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; WILFERD 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).

⁹³ See generally MOOJAN MOMEN, *AN INTRODUCTION TO SHI'I ISLAM: THE HISTORY AND DOCTRINES OF TWELVER SHI'ISM* (1987) (providing a general and basic introduction to Shi'i Islam); Ayatollah Jafar Sobhani, *DOCTRINES OF SHI'I ISLAM: A COMPENDIUM OF IMANI BELIEFS AND PRACTICES* (Reza Shah Kazemi, trans., 2001); GRAHAM E. FULLER & REND RAHIM FRANCKE, *THE ARAB SHI'A: THE FORGOTTEN MUSLIMS* (2001); ARZINA R. LALANI, *EARLY SHI'I THOUGHT: THE TEACHINGS OF IMAM MUHAMMAD AL-BAQIR* (2004) (discussing the important contribution of al-Baqir).

[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"⁹⁴ was seen as a direct threat to people of Mecca's way of life.⁹⁵ 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."⁹⁶ In the same manner the American-Arab Anti-Discrimination Committee stated, "ADC completely rejects any acts of

⁹⁴ KENNEDY, *supra* note 71, at 31.

⁹⁵ *Id.*

⁹⁶ Council on American-Islamic Relations, *U.S. Muslims Reject Violent Response to Cartoon Controversy*, Feb. 5, 2006, <http://www.cair-net.org/default.asp?Page=articleView&id=1977&theType=NR>.

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.”⁹⁷

[31] Some violent protestors have called for a jihad against the West for the publication of the cartoons.⁹⁸ Jihad is derived from the Arabic root *j.h.d.* and is a verbal noun of the root *jahada*.⁹⁹ *Jahada* is defined as “to strive, to exert oneself, to struggle.”¹⁰⁰ *Jihad al-sayf*, or Jihad of the sword, is “religiously grounded warfare.”¹⁰¹ There is much debate in the Muslim community over the exact meaning of Jihad and whether there is both an offensive and defensive jihad.¹⁰² Based on the Qur’an, one can contend that there is an offensive jihad available when necessary to bring about a “just public order.”¹⁰³ 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

⁹⁷ American-Arab Anti-Discrimination Committee, *ADC Condemns Hateful Depiction of Islam, but Rejects Violence as a Means of Protest*, <http://www.adc.org/index.php?id=2743> (last visited Oct. 13, 2006).

⁹⁸ See generally *Jihad Against Danish Newspaper*, BRUSSELS J., Oct. 25, 2005, <http://www.brusselsjournal.com/node/382>.

⁹⁹ REUVEN FIRESTONE, *JIHAD: THE ORIGIN OF HOLY WAR IN ISLAM* 16 (1999).

¹⁰⁰ RUDOLPH PETERS, *JIHAD IN CLASSICAL AND MODERN ISLAM: A READER* 1 (1996).

¹⁰¹ *Id.*

¹⁰² For more information on jihad see RUDOLPH PETERS, *ISLAM AND COLONIALISM: THE DOCTRINE OF JIHAD IN MODERN HISTORY* (1979) (providing an excellent examination of jihad); LOUAY SAFI, *PEACE AND LIMITS OF WAR: TRANSCENDING CLASSICAL CONCEPTION OF JIHAD* (2001); MUHAMMAD IBN AL-HASAN SHAYBĀNĪ, *THE ISLAMIC LAW OF NATIONS: SHAYBĀNĪ’S SIYAR* (Majid Khadduri, trans., 1966).

¹⁰³ Abdulaziz A. Sachedina, *The Development of Jihad in Islamic Revelation and History*, in *CROSS, CRESCENT, AND SWORD: THE JUSTIFICATION AND LIMITATION OF WAR IN WESTERN AND ISLAMIC TRADITION* 39, 35-50 (John Turner Johnson & John Kelsay eds., 1990).

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.”¹⁰⁴ Some in the West have started labeling the controversy as the “cartoon jihad.”¹⁰⁵

[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.”¹⁰⁶ 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.”¹⁰⁷ 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.¹⁰⁸

¹⁰⁴ HILMI M. ZAWATI, *IS JIHAD A JUST WAR?: WAR, PEACE, AND HUMAN RIGHTS UNDER ISLAMIC AND PUBLIC INTERNATIONAL LAW* 111 (2002).

¹⁰⁵ Oliver Guitta, *The Cartoon Jihad*, THE WKLY. STANDARD, Feb. 20, 2006, available at <http://www.weeklystandard.com/Content/Public/Articles/000/000/006/704xewyj.asp>; Melanie Phillips, *The Cartoon Jihad*, REALCLEARPOLITICS, Feb. 5, 2006 http://www.realclearpolitics.com/Commentary/com-2_5_06_MP.html.

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).

[33] 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

¹⁰⁹ See Rachel Saloom, *I Know You Are But What Am I? Arab American Experiences Through the Critical Race Theory Lens*, 27 *HAMLIN J. PUB. L. & POL’Y* 55 (2005) (arguing that stereotyping against Arabs is not a new phenomenon although it is more highly publicized post-9/11); see also Louise Cainkar, *The Impact of the September 11 Attacks on Arab and Muslim Communities in the United States*, in *THE MAZE OF FEAR: SECURITY AND MIGRATION AFTER 9/11*, 215-39, 229 (John Tirman, ed., 2004); Natsu Taylor Saito, *Symbolism Under Siege: Japanese American Redress and the “Racing” of Arab-Americans as “Terrorists,”* 8 *ASIAN L.J.* 1, 12 (2001) (arguing that Arab Americans are raced as terrorists); Arab-American Anti-Discrimination Committee, *ARAB STEREOTYPES*, available at http://www.adcma.org/arab_stereotypes.pdf (last visited Mar. 11, 2006) [hereinafter *ARAB STEREOTYPES*].

¹¹⁰ EDWARD W. SAID, *ORIENTALISM* (2d. ed. 1994).

¹¹¹ EDWARD W. SAID, *COVERING ISLAM: HOW THE MEDIA AND THE EXPERTS DETERMINE HOW WE SEE THE REST OF THE WORLD* 4 (1981).

¹¹² See *ARAB STEREOTYPES*, *supra* note 109. See generally JANICE TERRY, *MISTAKEN IDENTITY: ARAB STEREOTYPES IN POPULAR WRITING* (1985).

[34] Additionally, popular terms associated with Arabs and Muslims are “mad dictators, ruthless, violent, treacherous, barbaric, hate Jews & America, [and] secret plots to destroy America.”¹¹⁴ 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.”¹¹⁵

[35] 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 9/11.¹¹⁶ The poll also showed that most Americans believe Muslims are actually more “prone to violence.”¹¹⁷ The problem for Muslims, however, is

¹¹³ Ronald Stockton, *Ethnic Archetypes and the Arab Image*, in *THE DEVELOPMENT OF ARAB-AMERICAN IDENTITY* 119, 131 (Ernest McCarus ed., 1994).

¹¹⁴ See *ARAB STEREOTYPES*, *supra* note 109.

¹¹⁵ Muneer I. Ahmad, *A Rage Shared by Law: Post-September 11 Racial Violence as Crimes of Passion*, 92 *CAL. L. REV.* 1259, 1278 (2004).

¹¹⁶ *Negative Perception of Islam Increasing*, *WASH. POST*, Mar. 9, 2006, at A01, available at <http://www.washingtonpost.com/wpdyn/content/article/2006/03/08/AR2006030802221.html>. See also Council on American-Islamic Relations, *American Public Opinion About Islam and Muslims: Detailed Results*, Mar. 2006, <http://www.cair.com/CAIRSurveyReport.pdf> (providing a comprehensive survey).

¹¹⁷ *Negative Perception of Islam Increasing*, *supra* note 116.

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 *Hamshahri* 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

¹¹⁸ *Iran Paper Seeks Cartoon Revenge*, BBC NEWS, Feb. 7, 2006, http://news.bbc.co.uk/1/hi/world/middle_east/4688466.stm.

¹¹⁹ *Id.*

¹²⁰ *Holocaust Cartoon Contest in Iran*, CBS NEWS, Feb. 7, 2006, <http://www.cbsnews.com/stories/2006/02/07/world/main1289317.shtml>.

¹²¹ *Id.* For more information on Ahmadinejad's views on the Holocaust see *Iranian Leader: Holocaust a 'Myth,'* CNN.COM, Dec. 14, 2005, <http://www.cnn.com/2005/WORLD/meast/12/14/iran.israel/>; *Ahmadinejad: Holocaust a Myth*, ALJAZEERA.NET, Dec. 14, 2005, <http://english.aljazeera.net/NR/exeres/60AE1720-F333-4869-974D-3B69283105BF.htm>; *Iranian President Calls Holocaust a Myth*, FOXNEWS.COM, Dec. 14, 2005, <http://www.foxnews.com/story/0,2933,178646,00.html>. Ahmadinejad has also publicly announced his desire to see Israel "wiped away." See *Iranian Leader: Wipe Out Israel*, CNN.COM, Oct. 27, 2005, <http://www.cnn.com/2005/WORLD/meast/10/26/ahmadinejad/>; *Wipe Israel Off the Map, says Iran's President*, TELEGRAPH, Oct. 27, 2005, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/10/27/wiran27.xml>.

Iran by the West because of the nuclear proliferation problem.¹²² 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.

¹²² The world community is trying to handle the possibility of Iran having a nuclear program. The debate over this issue is currently very volatile. *See Iran Rules Out Conditions in Russia Plan*, CNN.COM, Mar. 12, 2006, <http://www.cnn.com/2006/WORLD/meast/03/12/iran.nuclear.index.html>; *Dealing with Iran's Nuclear Ambitions: Four Approaches*, CHRISTIAN SCI. MONITOR, Mar. 13, 2006, <http://www.csmonitor.com/2006/0313/p09s01-coop.html>.