

FATWA CONCERNING THE UNITED STATES SUPREME COURTROOM FRIEZE

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In the name of God, the most Gracious, the most Merciful

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Peace be upon you, with the mercy of God and His blessings. ††

I have received your letter and the accompanying photograph, which you identified as that of a section of the frieze in the Supreme Courtroom, located in the capital, Washington, D.C. The frieze (*tunf*)¹ portrays images of eighteen of the greatest leaders in human history who played a role in either establishing or enforcing laws or *Shara'i*.² One of these images purports to represent the Prophet Muhammad (SAAS).³ The artist placed the Qur'an in one hand of this image, thus symbolically recognizing it as the source of Islamic legislation. In his other hand, the figure holds a sword symbolizing the power of the state. This second symbol is in recognition of the fact that the Prophet was also a leader of his community.⁴

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†† [Editor's note: This *fatwa* (legal opinion) opens with a salutation to the person who has requested the opinion (Azizah Y. al-Hibri) from the author (Taha Jabir al-Alwani).]

1. The frieze is a band of engraved images or decoration round the top of a wall or building. In Arabic, this form of art is referred to as *tunf*.

2. *Shara'i* (plural of *Shari'ah*) are legal systems, Islamic and otherwise.

3. Translator's Note: SAAS: *Salla Allahu 'Alayhi wa ala Allihi wa Sallam* (May the peace and blessings of God be upon him and upon his household members). This prayer is said by Muslims whenever the name of the Prophet Muhammad is mentioned or whenever he is referred to as the Prophet of God.

4. The Prophet was selected by Muslims to lead the first Muslim community, which was formed in Madinah. The symbolism of the sword was used throughout the frieze and the Supreme Court building to depict historical figures who exercised worldly authority.

In your letter, you mentioned that some American Muslim organizations and individuals have expressed outrage that the Messenger of God and the final Prophet (SAAS) has been thus portrayed in visual form among those great persons in the Supreme Court frieze. You have asked for a legal opinion about the propriety of such a portrayal. My response follows (and may guidance come from God).

In embarking on this task, however, it is necessary to establish first the basic premises that undergird the Islamic juristic understanding of representations such as the one in question. This way, the opinion can be understood by everyone who reads it, and placed in its proper perspective. Second, it is important to take into consideration the legal texts, the *usuli* principles,⁵ and the sayings of the *a'immah* (leaders of juristic schools) and early jurists with respect to this matter of representing the Prophet (SAAS) in the form of a visual image. A contemporary jurist (*faqih*) must be familiar with both the basic premises and the legal background in order to approach this issue in the correct *fiqhi* (juristic) manner. The contemporary jurist must also reach a legal opinion, which reflects acceptable juristic form and perspective, while taking into account the modern context of a current event. I hope to present an opinion in this case which is neither contested nor rendered controversial by the leaders of the Muslim community in the United States, since they already have enough juristic disagreements concerning the crescent and *halla*l meat.⁶

NECESSARY PREMISES

The following premises, which derive from recognized Islamic interpretive methods, are important in rendering a proper judgment in the case of the frieze:

1. Each culture, indeed, each civilization, has its own means of self-expression, its own methods of describing its characteristics, attitudes, and world-view. Islamic culture is no different in this regard. It has come to be known as "the culture of the Word" because its self-expression is bound to the Holy Qur'an, the explanatory *Sunnah*,⁷ the

5. *Usuli* Principles are basic principles employed for the interpretation of texts (the Qur'an and *Sunnah*).

6. Muslims in the United States have debated at length whether it is possible to confirm the birth of the new moon, and hence the end of Ramadan (the month of fasting) through astronomical calculations, or whether seeing the moon with the naked eye is required. They have similar debates about whether Muslims are required in the United States to eat only *halla*l meat, i.e. meat prepared in accordance with Islamic rules.

7. *Sunnah*: The sayings and example of the Prophet Muhammad (SAAS), including what he acquiesced or objected to.

Prophet's *hadith*,⁸ the *al-akhbar* (narrations)⁹ and the *al-athaar* (Islamic traditions).¹⁰ Indeed, Islamic civilization is one of expression and clarity, and it is the epitome of the culture of the Word. The centrality of the Word in Islamic culture explains the fact that the art of expression and related arts, such as *tajwid* (the art of reciting the Qur'an), *qira'at* (styles of reciting the Qur'an), calligraphy, grammar, poetry, prose, and oratory, have all flourished in this civilization.

2. The Arabs, who became the first carriers of the message of Islam, valued the Word more than images and statues.¹¹ Although they worshipped idols, they took pride in the Word and the Poem, and not in the Statue or the Image.¹² In these ancient times, the Pharaohs embodied their vision of the afterlife in their pyramids and sunboats. The Greeks and Romans translated their genius and skills into high fortresses, huge columns, statues and images. The Arabs, however, expressed themselves in their poems and poetic *mu'allaqat*¹³ in places such as 'Ukaz, Mujannah, al-Majaz, then al-Marbad and Katheemah.¹⁴ These were the challenging arenas for the Knights of the Word, the heroes of the poems, the orators and the conveyors of beliefs, traditions and glories of days gone by. Indeed, when Islam was subsequently revealed, and the Messenger of God (SAAS) sent, his greatest miracle was the Word: the miraculous words of God in the Qur'an. In all respects, in its eloquence, fluency, purity, revelation, methodology, order, and style, the wondrous nature of the Qur'an reveals itself in its inimitability.

3. In stark contrast, Western culture is the culture of the "image," the illustration, and the statue. In Western civilization, imagery and sculpture are paramount means of expressing sacred and centrally important truths. While neither the influence of Christianity on Western civilization nor its connection to the Word is deniable, other influences

8. *Hadith* (pl. *ahadith*): A saying of the Prophet Muhammad. Sometimes this word appears with the prefix "al"; this means simply "the".

9. *Khabar* (pl. *Akhbar*): Whatever is transmitted about the Prophet (SAAS), and by or about the Companions, the Successors, and their successors.

10. *Athaar*: Traditions reported by the Companions of the Prophet (SAAS).

11. Note that other semitic cultures, such as the Hebraic one, held similar attitudes. This is clear from the Biblical passage which prohibits the making of graven images.

12. There are scholars who discussed this issue like al-Jahiz. See Amro bin Bahr al-Jahiz, *Al Bayan Wa Tabyeen* vol. 1 (Abdussalam Muhammad Haroun ed. & commentator, Cairo: Al-Khanjee Institute n.d.).

13. *Mu'allaqat*: Prior to Islam, Arabs used to hang poetic masterpieces on the curtains of the Ka'bahh to honor the poet. The *mu'allaqat* were the actual poems hanging on the curtains.

14. These were markets in pre-Islamic Arabia, each taking place at a certain place and specific time of year. For more detailed description of each place read Shaikh Imam Shahabuddin Bin Abdulllah al-Hamawi, *Mu'jam Al-Buldan* vols. 7-8, of 10 vols. (Egypt: Assa'adah Printing House 1906).

were more decisive. In the view of both Islam and Christianity, Christ is the Word and spirit of God bestowed upon Mary. Yet, those nations and peoples who adopted Christianity after the time of Christ, especially the Greeks and Romans, succeeded in turning the West into a culture and civilization of imagery. Thus, in Western culture Liberty is symbolized by a statue or image; so are Beauty, Justice, Truth, Strength and Weakness, Good and Evil, and other ideas of this nature. The Greeks and the Romans have bequeathed this perspective about representation to the Western world, even to the extent of creating images of gods, prophets and abstract values.

4. Islamic culture and civilization regard the Word as the medium best capable of expressing their specificity and symbolism. The Word—in the view of Arabs and Muslims—is the medium most capable of expressing the culture’s inner characteristics; for its meanings are agreed upon by linguists. Although in some sense this agreement is restrictive, the Word nevertheless encompasses a multitude of meanings. Its immense horizon ranges over various meanings and concepts, while transcending others. The Word enables intellectual faculties and human consciousness to incorporate certain meanings and exclude others, while leaving room for new interpretations, explanations and comprehension. The “culture of the Word” is thus the ultimate culture of abstraction, comprehension, transcendence, and limitless possibilities! Yet, the Word remains accessible to its students of all nations, and is abundantly available for everyone’s use in a diversity of contexts. By contrast, the image can be rendered only by the talented artist. It is restricted to the elite who possesses the ability to make it powerfully symbolic of a civilization’s values and ideas.

The culture of imagery regards the image as the most capable symbol for expressing ideas in a precise, physical and defined manner because the image represents an embodiment, not an abstraction. In the Western view, this embodiment of either an ideal or a material being is seen and felt, and only then realized by the intellect. Yet, by contrast to the Word, the meaning of an image is limited, and indeed, its meaning is exclusive to the maker and the individual viewer.

5. Those who support “the culture of imagery” as preferable to the “culture of the Word” partly justify their support by arguing that a child understands images even before he or she understand words. To these supporters, this fact suggests that the image is prior to the Word in the experience of human communication, comprehension, explanation and education. Consequently, it makes it preferable to the Word. Nevertheless, the image must be accompanied by a word.

6. The United States of America, where the Supreme Court occupies the highest judicial position and serves as the strongest voice in the justice system, is an open country. It embraces virtually all of the diverse cultures and civilizations on earth, which interact within the framework of equality set forth in the American Constitution. Therefore, it is only natural that Americans should attempt to express the meanings of this diversity by using the American cultural majority's means of representation: that is, the "Image." Thus, when the Supreme Courtroom displays the images of select world leaders to symbolize justice and strength in human history, and the Messenger of God and the final Prophet (SAAS) is included among them, it expresses a specific view. It is the view of those who designed and approved the architecture of the Supreme Court building more than 60 years ago as to the diversity of cultures and civilizations that had significant impact on the legal system in the United States. Whether this expression is consistent with the Islamic juristic vision in general, or with the vision of a particular juristic school of Islam, is another matter. The juristic vision in the Islamic world diverges in some significant ways from the national visions of those countries to which Muslims have migrated. Yet, unquestionably, even Islamic judicial rulings change as the times, places, circumstances and people change.¹⁵

7. The Islamic vision of culture and civilization during many periods of Islamic history, especially for the non-Arab Muslim people, has also been a vision of diversity and variety. It has not been inhospitable to the forms of self-expression traditional to diverse peoples and nations who have joined the ranks of Islam, whether their means of representation had been by imagery or otherwise. However, the official expression of Islamic arts has always been guided by the requirement that it be in harmony with the *tawhidi*¹⁶ vision and the abstract, based on the Word. Therefore, the arts of the Word, including poetry, prose, calligraphic arts, mosaic, arabesque, and similar arts, have been the fundamental means of artistic expression in Islam. Despite this clear preference for the arts of the Word, the spiritual leaders of Islam did not try to destroy the Pharaohic pyramids, the Persian throne, ancient Persian ruins, or the Greek and Roman fortresses scattered throughout its lands. Rather, Islam preserved and even maintained all of cultural expressions, including the ancient houses of worship belonging to other

15. See Imam Muhammad Ibn Idriss al-Shafi', *Risalat al-Shafi'* (10th Cent., Cairo: Matba'at Mustafa al-Baabi al-Halabi 1940); Imam Muihammad Ibn Idriss al-Shafi', *Kitab al-Um* (10th Cent. repr., Beirut: Dar al-Ma'rifah wa al-Nashr 1973).

16. *Tawhidi*: (monotheistic) the reference here is to the principle that there is no god but God.

religions, such as synagogues, churches and monasteries and the pictures, images and other artifacts and possessions they housed. In fact, if it had not been for Islamic protection, some of these structures, artifacts and other possessions may not have survived to this day. Indeed, Muslim jurists went so far as to impose on Muslims a duty to protect from destruction places of worship of other faiths. As their justification for imposing such a duty, the jurists explained that these places of worship were among those things belonging to people of other faiths and hence should be respected. They also argued that if people did not protect each other, then each group will destroy the other's place of worship at one time or another.¹⁷

Is There a Text in the Holy Qur'an that Prohibits the Use of Images?

8. When we read the Holy Qur'an—the only constitutive source of legislation in Islam—we will not find within it a single text that directly addresses the question of whether making or possessing “pictures” and “images” is prohibited. Instead, we find the story that tells of the Creator's (*Subhanahu wa Ta'ala*)¹⁸ grant to the prophet Solomon (a king who incidentally was included in the Supreme Court frieze, the subject of this *fatwa*) of the power to deal with unseen creatures (*Jinn* and devils). In the story, Solomon made these *Jinn* and devils obedient to him and caused them to work to create the arches, images, and other things he desired, and Solomon was thankful to the Almighty for this power. Because the prophets are (without exception) infallible, even the slightest conception that they would make, or cause to be made, anything forbidden is unthinkable. This is just as impossible as the idea that God in His grace would give one of His messengers the ability to commit what is forbidden. The Qur'an says as much when it tells this story, reciting the deeds and words of The Almighty:

And to Solomon (We Made) the Wind (obedient): Its early morning (stride) was a month's (journey), and its evening (stride) was a month's (journey); and We made a font of molten brass to flow for him; and there were Jinn that worked in front of him, by the leave of his Lord, and if any of them turned aside from Our command, We made him taste of the chastisement of the Blazing Fire. They worked for him as he desired, (making) Arches,

17. See e.g. the discussion of Ibn Qayyim al-Jawziyyah in *Subhi al-Saleh* 666-669 (Ahkam Ahl al-Thimmah ed., 14th Cent. Damascus: Matba'at Jami'at Dimashq 1961) in which he surveys the views of various jurists on this matter.

18. *Subhanahu wa Ta'ala* (SWT): May He be praised and may His transcendence be affirmed.

Images, Basins as large as wells, and (cooking) Cauldrons fixed (in their places): “Work you, Sons of David, with thanks, but few of My servants are grateful!” (S.34, A.12-13)¹⁹

This Qur’anic verse is a clear indication of Solomon’s gratitude that the *Jinn* made things upon his command, including images of living and material things. Respected interpreters, like Ibn Kathiri and others, have confirmed that King Solomon’s throne was decorated with pictures as well as statues of birds and lions, which according to interpreters, moved mechanically to inspire further awe.²⁰ In still another passage describing the miracles of Jesus, the messenger of God (SAAS), Jesus created replicas of birds. He said: “In that I make for you out of clay, as it were, the figure of a bird, and breathe into it, and it becomes a bird by God’s leave” (S.3, A.49)

In addition to the Qur’anic texts, interpreters of these texts discussed them at length to arrive at the rules regarding the making and possessing of images. None of them derived from any Qur’anic text a definitive prohibition against making and possessing images. However, these Qur’anic interpreters cited *ahadith ahad* (Prophetic sayings narrated by a single reporter),²¹ upon which they based all the sayings and rulings they examined concerning the *ayah* (Qur’anic verse). These *ahadith*, studied in their totality, indicate that the Prophet Muhammad (SAAS) despised the making and dissemination of images, and the spreading use of such images among the people. There is no doubt that, in these narrations, the Messenger of God (SAAS) prohibited sculpture and drawing of images, warning strongly against such acts and holding those who engaged in them responsible for such acts until the Day of Resurrection.

Yet, we must still ask whether the *ahadith* necessarily express a prophetic Islamic view absolutely prohibiting “embodied beauties” for all places, times and peoples. We must inquire whether the *ahadith* have totally prohibited the making of images as an act of worship, or whether this prohibition is contextual. We must ask about that, which is critical in making proper Islamic rulings on this matter: the *ratio*,²² or causal reason that determines the *manaat* (basic rationale on which the

19. [Editor’s Note: Translation of all Qur’anic cites herein were provided by the author.]

20. Imad ad-Deen Ibn Kathir, *Tafsir al-Qur’an al-Athim* vol. 3, 506-507 (15th Cent. repr., Riyadh: Mu’assasat al-Kutub al-Thaqafiyyah 1997); Abu Abd-Allah al-Qurtubi al-Jami’, *Ahkam al-Qur’an* 271-272 (Cairo: Dar al-Kitab al-‘Arabi, repr. 1967).

21. *Ahadith Ahad: Ahadith* for which the chain of transmission does not reach the “level of genuineness (*tawatur*).”

22. *Ratios (illah)*: The underlying cause of a *hukm*, (legal ruling) its *ratio decidendi*, on the basis of which the accompanying *hukm* is extended to or applied in other cases.

legal ruling hangs). That is, we must ask whether the meaning of the precise prohibitions, warnings, or even descriptions of the text necessarily also depend on the interpreter's knowledge of the events, circumstances and other situations about which these *ahadith* are concerned.

The Interpretive Conflict over the *Ahadith* is Ancient

9. The most intense interpretive conflict that began with the early Islamic jurists and continues among contemporary jurists arises from their differing understandings of, and attitudes toward, the Prophetic *ahadith*. This argument about what can be understood and derived from a *hadith* is one that may be found in most human approaches to interpreting texts generally. Should the *mujtahid*²³ or legislator focus on the literal words of the text and express their significance? This is the method followed by those jurists who restrict themselves to a literal reading of the text. Alternatively, should the *mujtahid* direct his or her attention to the essence of the text? This is the method followed by those who apply the analytic deductive method to the text. Finally, should the *mujtahid* use yet a third interpretive method that combines the literal reading of the text with the deductive method?

This third "holistic approach" or "comprehensive reading" of the holy text which takes into account the *ratio* and the wisdom behind the literal language might suggest that there is another reason behind the Prophet's exhortations against images. Such a reading may suggest that this strong prohibition from the Messenger of God (SAAS) is made in recognition of the realities of the early period of Islam. At that time, Muslims had just emerged from a period of infidelity and *jahiliyah* (the period of ignorance prior to Islam). There is in fact a *hadith* that says

Had your people not been close to the days of *jahiliyah*, I would have ordered that the *Bayt* [*Ka'bah*] be demolished, brought back to it what was removed from it, made it closer to the ground, and made for it two doors, an East door and a West door, and would have thus returned it to its Abrahamic basis.²⁴

23. *Mujtahid*: The scholar who makes a creative but disciplined intellectual effort to derive legal rulings from the accepted juridical sources of Islam while taking into consideration the variables imposed by the fluctuating circumstances of Muslim society.

24. See *Sahih Al-Bukhari bi Sharh al-Sindi*, at 276. "Baab Al-Hajj," the Pilgrimage Section. This *hadith* has been quoted in different ways from 'A'ishah, the mother of the believers: First among them is what Muslim and the Nasa'i compiled:

Had the people not been unbelievers in the recent past and had I funds to use to reinforce the construction of the building (*Ka'bah*), I would have added to it five *azera* (a specific measurement) of stone and made for it a door where people would enter and another

This *hadith* indicates that the Messenger of God (SAAS) was striving to eradicate the making of idols and their dissemination in the Arabian Peninsula among peoples who had until recently worshipped and adored them.

However, foreseeing this idolatry, God the Almighty sent the people prophets, who are children of “‘allat”.²⁵ A great number of these prophets are named in the Holy Qur’an, while many others are merely hinted at. In interpreting the sayings of the Messenger of God (SAAS), it is critical to understand that he was ordered to follow the prophecy of prior prophets: “Those (prophets) received God’s guidance. So, follow the guidance they received” (S.6, A. 90)

Moses, one of those noble messengers, moved the children of Israel to *tawhid* (monotheism), to (the) belief in and the worship of God. However, when they came upon other peoples devoted entirely to the worship of idols, they cried, “O Moses! Fashion for us a god like the gods they have.” (S.7, A. 138) It is as if humans, created of clay, have a perpetual longing for the concrete over the abstract. So, the People of Israel hastened to worship the Golden Calf as soon as the Sumarian fashioned it for them.²⁶ The allure of the Golden Calf is easy to see from a materialist perspective: it has a physical embodiment, whereas the God of Moses is an abstraction. The People of Israel could see the Golden Calf, could hear its lowing and its whistle; but as for the God of Moses: “No vision can grasp Him, but He grasps all visions; He is kind and has

where they would exit.

Second: “Had your people not been close to the period of *jahiliyah*, I would have demolished the Ka’bah and made for it two doors” (from *Al-Termathi* and *Al-Nasa’i*). Third: “Had your people not been close to the days of *jahiliyah*, I would have spent the treasury of the Ka’bah in the way of God, and I would have put its door by the floor and entered into it through the stones (which have been knocked down)” (from *Sahih Muslim*). Fourth:

Had your people not been unbelievers in the recent past (had they not quite recently accepted Islam), I would have demolished the Ka’bah and would have rebuilt it on the foundation (laid) by Abraham; for when the Quraish had built the Ka’bah, they reduced its (area), and I would also have built (a door) in the rear.

(Compiled by Ahmad in his *Musnad* (the book of *ahadith*) and in *Nasa’i*.) All these narrations are in the *Al-Fath Al-Kabir* (the Big Victory).

25. Children of ‘*allat* means that their mothers are different and their religion is one, or else that they belong to different nations, but their religion is the same in faith, purpose and goal (as explained in *Lisan al-Arab* and *al-Qamus*). Imam Abi al-fadl Jamalluddin Muhammad bin Mukrram bin Manzour al-Masri, *Lisan al-Arab* vol. 11, 470 (Beirut: Dar Sader n.d.); Majduddin Muhammad bin Ya’quob al-Fairouzabadi, *al-Qamus Al-Muhit* 1338 (Arriissalah Inst. n.d.). Imam Mujduddin Abi Assa’addat bin, Muhammad bin al-Atheer, *Annihayah fi Gharib al-Hadith wa al-athar* vol. 3, 291 (Taher Ahmad Azzawi & Mahmoud Muhammad Attanahi revisors, Dar al-Fikr 1979).

26. Qur’an 20:85-88; 2:51. See also Fakhr al-Din al-Shafi’, *Al-Tafsir al-Kabir* vol. 11, 87 (13th Cent. repr., Beirut: Dar al-Kutub al-’Ilmiyyah 1990) (explaining who the Sumarian was); see also Ibn Kathir, *Tafsir al-Qur’an al-’Athim* vol. 3, *supra* n. 19, at 159.

thorough knowledge (of his creatures).” (S.6, A.103)

Knowing human nature, it was appropriate for the Messenger of God (SAAS) to take all necessary measures to prevent the Arabs from committing a mistake similar to that made earlier by their cousins, the People of Israel. This matter was of critical importance because most Arabs had worshipped idols prior to their conversion to Islam. For this reason the Prophet (SAAS) said the *ahadith* mentioned earlier. Our task in this *fatwa* is to study these *ahadith*, reflect upon them, and contemplate their meanings with the reader so that we might reach together a common understanding of their significance.

Al-Tabari, al-Qurtubi, Ibn Kathir, al-Alousi, al-Razi and other great interpreters have all compiled many of these *ahadith* and discussed them and their significance. Among these scholars, al-Hafiz Ibn Hajar was one of the most knowledgeable.²⁷ He was a careful student of these texts, his collection of the *ahadith* was among the most comprehensive, and his arguments were most cogent and insightful. The question of the propriety of image-making resurfaced in Islamic jurisprudence at the beginning of this century and was discussed by many scholars, among whom Sheikh Rashid Ridha was one of the most important. (For further detail on his work *see infra* p 120ff.) Thus, in this *fatwa*, we will set forth these *ahadith*, both in original text form and as they have been cited by Ibn Hajar. Then we will consider and discuss the *fatwa* pronounced by the author of al-Manar, Sheikh Rashid Ridha. Careful consideration of these sources will permit us, then, to clarify our opinion on the matter of the Supreme Court frieze in particular, in light of the wisdom derived from these sources. First, however, it may be important to those who are not students of Islam to understand the Islamic view about the importance of various sources of legislation.

10. Sources of Legislation in Islam

The Holy Qur'an is the sole constitutive source for obtaining and deriving legal rulings. What we mean by "constitutive" must be well understood: this is a precise *usuli* (foundational jurisprudence) term that distinguishes between the ruling itself and its justification or explanation. The Qur'an alone provides evidence that constitutes the legal rule that governs human responsibilities toward the Almighty. However, clarifying evidence concerning these rulings may be provided

27. Al-Hafiz (the "Memorizer"): A title given to a person who knows most narrators of each category; and the person who occupies himself with the study of *hadith*. Among his contributions is *Fath al-Bari* (14th Cent. repr., Riyadh: Dar al-Buhuth al-'Ilmiyyah 1982).

by the *Sunnah*. Explanatory evidence may be available from the *ahadith*, *al-akhbar*, *al-athaar*, and *al-ijtihaad*.²⁸ In Islam, there is no doubt that God (SWT) is the only One who issues and establishes legal rulings in His Book. He is the only Ruler in this sense, there is no god but Him, and therefore, it is beyond the province of human creatures to establish legal rulings over other creatures like themselves, even if the creature is a prophet, king, sultan or other type of ruler. As evidence of this, the Holy Qur'an states: "The command is for none but God." (S.12, A. 40 & 67)

Moreover, there is no doubt that the ruling of God as given in the Qur'an should be obeyed without question. He has revealed the Qur'an, and caused it to contain all of His legal rulings and laws (the *Shari'ah*):

On the day We shall raise from all peoples a witness against them, from amongst themselves. And We shall bring you as a witness against these (your people); and We have sent down to you the Book explaining all things, a Guide, a Mercy, and Glad Tidings to Muslims. (S.16, A.89)

And He said to the Prophet (SAAS) in the same *Surah* (chapter): "And We sent down the Book to you so that you should make clear to them those things in which they differ, and that it should be a guide and a mercy to a people that believe." (S.16, A. 64) He gave His Noble Prophet (SAAS) the mission of reciting the law to the people, informing them of all His legal rulings, and explaining all of these legal rulings to them, usually in a practical way: ". . . And We have sent down unto you the Message; that you may explain clearly to people what was revealed to them, and that they may reflect." (S.16, A.44)

The laws of the Almighty might also be accompanied by some of the Prophet's sayings or *ahadith* for the purpose of clarification, or even for emphasizing the binding character of that clarification. Examples are found in the Prophet's saying (SAAS): "Pray as you have seen me pray," and his saying "Take from me all of the rituals of worship" when he made the pilgrimage (*hajj*) with thousands of Muslims.²⁹ The Prophet then showed them the rituals of the *hajj*, by performing them himself. So that they would follow his *sunnah* (legacy and teachings), he told the people: "Take from me your rituals of worship." This saying confirmed for them the necessity of emulating him precisely in everything he did, of following in his footsteps and learning these rituals

28. *Ijtihaad*: The effort of the jurist to derive the law on an issue by expending all available means of interpretation at his disposal and by taking into account all legal proofs related to the issue.

29. Sahih Muslim, Baab Al-Hajj Section, Hadith No. 1297.

so that they could do the same. In taking him as an example and following him exactly, they could be assured of doing the right thing before God.

11. Differences Among the Jurists on the Subject of Image-Making

Islamic Jurists have differed widely on the topic of image-making. Some have taken the position that every image, whether it is a painting, photograph, sculpture, or some other representation, is prohibited if the subject of the image has a soul (for example, a human being or an animal or a bird). These jurists, however, did not prohibit images of soul-less physical objects, such as trees. As evidence of this prohibition, these jurists adopted the general proofs included in the *ahadith* of the Prophet (SAAS), which are also based on known *usuli* and juristic principles. Indeed, some jurists expanded their positions to include a general prohibition on the making, taking, selling or buying of images, based on details that could be found in the appropriate sources.

Still other jurists have taken the position that imagery is permitted, based on proofs from the texts of *ahadith* and from juristic and *usuli* principles, whether agreed upon or disputed. We will critically examine herein the arguments of two important groups of jurists who reached opposing opinions on the propriety of image-making. In so doing, we shall rely upon our earlier discussion of the *ahadith* previously cited on this issue. We shall also examine these jurists' interpretation of the *ahadith* and their use of the *ahadith* as proofs for their position.

A. The *Ahadith* of *Al-Baab*³⁰ and Their Discussion

Two texts are critical for a decision in this matter. In *Sahih Muslim* the Prophet (SAAS) is cited as saying: "Those who make images will be punished by God and it will be said to them: 'Breathe soul into what you have created' and they would not be able to."³¹ Another version of this *hadith* has been reported as follows: "Those who try to emulate the creation of God . . ." (the rest of the text will follow in section B below).

The first group of Islamic jurists, who support the prohibition, argue that these *ahadith* support their *madhab* (school of thought) on the prohibition of image-making. Their *madhab* is based on the *usuli* principle that a stern warning of dire punishment on the Day of

30. *Baab* (Gate): a main chapter compiling *ahadith* around a specific topic.

31. *Sahih Muslim*, Hadith No. 1687.

Judgment is in itself a sufficient legal indicator that the act warned against is prohibited. The vast majority of the *usuli mutakalimun* (scholars of theology who follow *usuli* jurisprudence) holds this view.

On the other hand, the juristic group that rejects the prohibition against images disagrees with the majority *madhab* because this group relies upon different versions of the same *hadith*. The group's principle of interpretation ties the legal propriety of a representation to its intention, namely, whether the image attempts to emulate the creation of God, and to the extent of resemblance between the image and the creation of God. The words of this *hadith*, as reported by Muslim, indicate that harsh judgment is imposed on: "Those who try to emulate the creation of God . . ." In the view of this juristic group, as long as this is the measure of the prohibition, the legal prohibition against images continues to be applicable only to the extent its *ratio* is relevant. Thus, the act of illustration that is not intended to create an exact resemblance to the creation of God is not prohibited. This view is followed by all the *usulis* who argue that analogy (*qiyas*)³² is one of the roots of legislation; and these are the *jumhoor* (the vast majority of scholars).

B. Story About A'ishah

Another source for our understanding of the proper ruling about image-making is a story about 'A'ishah, the mother of the believers—May God be pleased with her. In this story, 'A'ishah is quoted as saying:

The Messenger of God (SAAS) entered into my chambers while I was wrapped in a piece of cloth (a curtain) with a picture on it. His face colored in anger, and he removed it saying: "Verily, the most grievously tormented people on the Day of Resurrection will be those who try to emulate the creation of God." 'A'ishah said, "So I tore it up and made two cushions out of it." (Muslim's *hadith* 1666).³³

The first group of jurists, who adopted the prohibition, argued that the Messenger's (SAAS) anger was a strong indication of the presence of something prohibited by the *Shari'ah*. For, it was not the habit of the Messenger (SAAS) to get angry, except in cases where the prohibitions

32. *Qiyas*: Analogy, syllogism. The extension of the established *hukm* (legal ruling) of a specific case to a new case through reasoning by analogy.

33. Sahih Muslim, Hadith No. 1666. Also in Sahih Al-Bukhari, Hadith No. 5610, Baab al-Libas.

of God were being violated or His established legal rules (*hudud*) exceeded. The Messenger's (SAAS) act of removing the cloth (which had monetary value) indicated that image-making was forbidden (*haram*). Moreover, in this *hadith*, the Messenger threatened punishment for the act of making images. In the view of the first group of jurists, these striking acts by the Messenger (SAAS) were convincing proof that the prohibition against image-making was a definitive legal rule ordained by God.

The second group of jurists, by contrast, argued that the legal ruling in the case turned on the extent to which the artist attempted to emulate the creation of God. This was especially significant in a community that had just emerged from an era when both two-dimensional images and images in bas-relief were being worshipped as gods or in the belief that idol-worship would draw the people closer towards God. In such a historical environment, prohibiting image-making becomes the proper legal ruling because of the *asl*³⁴ principle of "*sadd al dhari'ah*"³⁵ which prohibits whatever leads to infidelity or *shirk* (polytheism).

Thus, the legal ruling is dependent on the words and context of the *hadith*. The mere fact that pictures on the walls and doors in 'A'ishah's house—May God be pleased with her—were converted into pillows and cushions, indicates, in its context, that the fundamental rule is one of non-prohibition of images. It also indicates that the prohibition is tied to the intended use of the images. Further, this story is a testimony to Prophetic education of the people's minds and hearts, to the Prophet's (SAAS) efforts to divert people away from images and bas-reliefs. These two- and three-dimensional images impeded the people's contemplation of the abstract, and the use of their psychological and intellectual powers to understand abstract doctrinal concepts, which were the object of divine revelation.

The second group of scholars found additional benefits in this same *hadith* (Muslim's *hadith* 1666). The *hadith* also shows that the Prophet's (SAAS) natural humility and modest way of life made him loathe to see in his home what was considered in his own community an overly luxurious style of living. (In those days, the practice of hanging pictures on walls was considered a luxury.) This interpretation of the *hadith* is underscored by the Prophet's (SAAS) statement that: "Whenever . . . I see them [the pictures] . . . it brings to my mind (the

34. *Asl*: Origin; root; foundation. Source of law. The established case that forms the basis of the extension of the *hukm* in *qiyas*. A principle of law.

35. "*Sadd al dhari'ah*": means blocking a lawful justification to block an unlawful end.

pleasures) of worldly life.” This *hadith* is consistent with his other *hadith*, namely that “God did not order us to cover mud and stones.”

C. Another *Hadith* Supporting the “Modesty” Interpretation

The interpretation that the Prophet denounces images insofar as they represent improper luxury is also consistent with his saying in another *hadith* found in Muslim and Abu Dawoud and narrated by Zaid bin Khalid: “God has not ordered us to cover stones and clay.”³⁶

The *hadith* of Abu Talha which is *marfu'* (traceable all the way back to the Prophet (SAAS)) echoes the same view. According to this *hadith* 'A'ishah said,

'Angels do not enter a house in which there is a dog or a statue.' and when she was asked, 'have you heard this from the Messenger of God (SAAS)?!' she replied: '. . . he said: 'God has not ordered that we cover stones and clay.' Clarifying his direction to her, 'A'ishah then said: 'So I tore off [the cloth, which was hanging on the wall.] and I made two cushions from it and I filled them with fibers and [the Prophet] did not find error in this.'³⁷

Scholars point out that the cushions were made of a wall-hanging that had images of horses with wings, as stated in *hadith* Muslim. Thus, the images, when transferred to the cushions, were not found to violate the rule because the cushions were useful rather than luxury items. Moreover, al-Nawawi, the most prominent jurist who has a well-known exegesis on Sahih Muslim, has commented on the Prophet's statement noting that it expressed *tanzih*³⁸ (aversion), not *tahrim* (prohibition).³⁹

D. Examining *Ahadith* Cited in Favor of Prohibition

Jurists who oppose image-making, cited as proof of this prohibition the *ahadith* which mention the unwillingness of the angel Gabriel (SAAS) to enter the home of the Prophet (SAAS) because it contained images. (In some of the narrations there was also a dog in his home.) (*Hadith* No. 2104 by 'A'ishah in Sahih Muslim, al-Libas wa al-Zeenah section about a puppy entering the Prophet's home without his or 'A'ishah's knowledge and preventing Gabriel from coming to the Prophet) Among the *ahadith* on which they rely are the following:

36. Sahih Muslim, Hadith No. 2106 Baab Al-Libas.

37. Abu al-Hussein al-Nawawi, Sahih Muslim bi Sharh al-Nawawi vol. 7, 86 (13th Cent. repr., Beirut: Dar Ihya' al-Turath al-'Arabi n.d).

38. *Sahih Muslim bi Sharh al-Nawawi* v. 4, p. 818 (Cairo: Dar al-Sha'b n.d.).

39. *Id.*

(i) *From 'A'ishah:*

Gabriel promised to visit the Prophet at a specific hour but did not come The Prophet said that neither God nor his messengers would break a promise. He looked and found a puppy under his bed and . . . ordered that it be removed, and it was. Then Gabriel came . . . and said: The dog prevented my coming, for we do not enter a house which has a dog or an image.⁴⁰

(ii) *From Abdullah bin Omar:*

Gabriel had promised to return to the Prophet (SAAS) but he stalled until the Prophet (SAAS) was distressed by this and went out to meet him, and Gabriel complained about what he had found saying: "We do not enter a house which has either an image or a dog." (Quotation compiled in abbreviated form.)⁴¹

(iii) *From Ibn 'Abbas and Abu Talha: "The Prophet (SAAS) said: 'Angels do not enter a house in which there is a dog or an image.'"*⁴²

In the view of these scholars, it is the existence of impure objects in the House of the Prophet (SAAS) which prevented the angels, among them Gabriel (SAAS), from entering the house. Since images were specifically listed in this category of impure objects, the legal ruling of prohibition applies to them.

On the other hand, the second group of scholars, i.e., those who permit the making and displaying of images, does not accept the view that the general unwillingness of angels to enter a place where there are impure objects or deeds implies a prohibition of image-making. This group provides two reasons in support of its position. First, not every impurity is subject to a legal ruling. This is a well-known principle, agreed upon by scholars from all of the Islamic juristic traditions. Second, the reluctance of Gabriel (SAAS) to enter a house in which there was a dog or an image is an unwillingness unique to the Prophet (SAAS), and stems from the specificity of the descent of the spirit upon him. It is unimaginable that Gabriel (SAAS) would enter any house

40. Al-Nawawi, *supra* n. 37, at 81.

41. *Mussnad Ahmad* No. 847 in the "Baab The Ten promised with Paradise."

42. *Sahih al-Bukhari*, Al Maghazi Section, Hadith No. 3780, supported also by Hadith No. 4155 in *Sunan Abi Dawood* in "Baab Al-Libas," within the wording of: "Angels do not enter a house in which there is an image."

other than the house of the Prophet (SAAS), or a house where the Prophet (SAAS) was not present. This is a matter that no one disputes. It is also undisputed among scholars that angels are unwilling to enter a house where statues and images are displayed for the purpose of worship. Thus, scholars that permit image-making argue that the text implies only that angels do not enter homes where there is *shirk* (worshipping other gods beside God). It does not imply that angels enter no houses where images are displayed.

This group of scholars that permits images argues further that the host of *ahadith* cited in al-Baab lead to the same legal ruling about images, because each of these *ahadith* contains its own explanatory *ratio*. For example, in these *ahadith*, the Prophet (SAAS) at times forbade images out of his *zuhd* (ascetic life style). Other *ahadith* explained that Garbiel was unwilling to enter the Prophet's (SAAS) home while the dog was in it. Yet, having dogs in one's house is not legally forbidden. In fact, having a dog is clearly permitted by the text of the Qur'an and no one has spoken of it as having been prohibited at a later stage (*naskh*).⁴³ Thus, if the presence of a non-prohibited dog prevented Gabriel from entering, it may be inferred that the presence of a non-prohibited image may also prevent Gabriel from doing so.

In yet another story, images were denounced because they distracted the Prophet (SAAS) during his prayers. Anas narrates: "A'ishah had a colorful curtain which she used to cover one side of her house. So, the Prophet (SAAS) told her: 'Take it out of my sight because its designs distract me during my prayer.'"⁴⁴ Yet, that which distracts one during prayer is not prohibited in and of itself. Further, the fact that the Prophet (SAAS) did not prevent 'A'ishah from using the curtain for "design in a dress" [see the *hadith*],⁴⁵ or as a cushion, or some thing else, proves that images are not prohibited in and of themselves. It also clearly provides the *ratio* for the incident.

An important interpretive rule which is well known by Muslim scholars, is that *ahadith* that provide the *ratio* of the case and its

43. They ask you what is lawful to them (as food). Say:

Lawful unto you are (all) things good and pure: and what you have taught your trained hunting animals (to catch) in the manner directed to you by God: eat what they catch for you, but pronounce the name of God over it: and fear God; for God is swift in taking account.

Surat al-Ma'idah 5:4. There are also two other references to a dog in the story of the young men in the cave in Surat Kahf 18: 18, 22.

44. Abu al-Hassan al-Sindi, *Al-Bukhari bi Hashiat al-Sindi* vol. 4, 45 (9th Cent. repr., Beirut: Dar al-Ma'rifah n.d.).

45. Sunan Abi Dawood, ed., *Muhammad Abdul Hamid* v. 4, p. 73-4, Kitab al-Libas, Hadith No. 4155 (Beirut: al-Maktabah al-'Asriyyah n.d.).

applicability to other cases take precedence over those that do not. Further, explanatory texts take precedence over general ones. Moreover, the *hadith* of Abdullah bin Mas'oud and the similar *hadith* of Ibn Abbas about artists being among those who will suffer the most on the Day of Resurrection are *mawqufan* (each is *mawquf*).⁴⁶ But a *hadith* which is *mawquf* does not take precedence over the *ahadith* of 'A'ishah, the mother of the believers. Yet, the *hadith* of 'A'ishah clearly provides a *ratio* for the Prophet's (SAAS) forbiddance. For this reason, if one desires to reconcile all *ratios* on this subject, the two *ahadith* mentioned earlier must be understood in light of 'A'ishah's *hadith*.

E. Other Sources of Disagreement

Another objection to the view that images are forbidden arises from the fact that the legal ruling regarding images was one of permission for previous nations, but was later rescinded for Muslims. However, rescinding the permission was governed by the *ratio* of the *hukm*. For this reason, Solomon's (SAAS) use of images and statues was permitted simply because there was no suspicion whatsoever that he would use them for *shirk*. It is, in fact, unthinkable that a prophet upon whom the spirit has descended would worship any other gods but God. Furthermore, as a prophet, Solomon (SAAS) is considered to be infallible, just like our Prophet (SAAS). Like all other prophets, he would have also known and abided by the same doctrinal rulings, related ethical mandates, and educational methods.

Another well-known source for the dispute about images is found in a second *hadith* concerning 'A'ishah—may God be pleased with her. In this *hadith*, she said: "I used to play with *banat* (girls or dolls) in the house of God's Messenger (SAAS), and I had playmates. When he would enter the house, my playmates would cover themselves [out of modesty]; so he would send them to me, and they would play with me."⁴⁷

Sheikh Rashid Ridha commented on the previous *hadith* as follows:

Some of the interpreters who take a strict view in the matter of images distorted the words of the *hadith* claiming that 'A'ishah

46. *Mawquf*: a *hadith* traced back to a Companion of the Prophet (*Sahabi*) whether its chain of transmission is connected or not. See the *ahadiths* of Abdullah bin Mas'oud and Ibn Abbas, *Sahih Muslim bi Sharh al-Nawawi*, *supra* n. 37, at 92-93.

47. This *hadith* is among those compiled by al-Bukhari in the Book of Good Manners, *Hadith* No. 5665. (See 20:5 al-Manar, § 1 (n.p. 1917) (*infra* full cite in n. 48); *Sahih Muslim Hadith* No. (1666). Also in *Sahih al-Bukhari*, *Hadith* No. 5610, Baab al-Libas.

said 'I used to play with girls' instead of 'I used to play with dolls.' Al-Hafiz said in his explanation of the *hadith*: 'Ibn al-Tin has narrated it [the *hadith*] from al-Dawoudi and refuted it [the distorted *hadith*]. (I said) it was also refuted by what Ibn 'Uyaynah compiled in [his book] al-Jami' from the narration of Said bin Abdul Rahman al-Makhzumi from Hisham bin 'Urwah's narration of this *hadith*: 'And they were girls that came and played with her.' In the narration of Jarir from Hisham: 'I used to play with girls and they were dolls.' 'A'ishah said, as compiled by Abu Dawoud and al-Nasa'i from another perspective: The Messenger of God (SAAS) came from a military campaign—Tabuk or Khaibar—and the *hadith* in which he removed the cloth hanging on her door was recounted; so he drew back one side of the curtain to reveal girls (dolls) belonging to 'A'ishah, so he said: 'What's this 'A'ishah?' She answered: "*banati*" ("my dolls", or "my girls"). And he saw among these dolls a winged horse. So he said: 'What's this?' She said: 'a horse.' He said: 'A horse with two wings?' She said: 'Haven't you heard that Solomon had horses with wings?' So he laughed. This is a clear indication that what was meant by 'dolls' was something other than human, contrary to the claims of the strict interpreters. Rather, it refers to dolls (toys) that are meant to be played with.⁴⁸

This interpretation is followed by the school of thought that represents the majority of highly regarded scholars (e.g., Ibn Waddah, al-Dawoudi, al-Nawawi, al-Qurtubi, Ibn Habban, al-Mawardi, al-Khatabi, Ibn Daqiq al-Eid, and Ibn al-Sabagh). It is also the interpretation chosen by al-Hafiz bin Hajar and many others.

12. A Summary of the Proofs Used by Those Who would Prohibit Images

There are approximately thirteen (13) narrations of *ahadith* on this topic, all of which are *ahadith ahad*, and some of which are *mawquf*,⁴⁹ including the *hadith* of Ibn Mas'oud and the *hadith* of Ibn Abbas. Some *ahadith* threaten great suffering to those who try to emulate the omnipotent power of the Creator and His Divinity. But the problem of emulating the creation of the Almighty is not at issue in the matter of the Supreme Court frieze.

Some of these *ahadith* point out that the angel of spirit, Gabriel (SAAS), would not enter a house to bestow the divine revelation upon

48. Sheikh Rashid Ridha, *The Fatawa of Al-Manar*, 20:5 Al-Manar 228 (1917).

49. For the definition of *mawqaf*, see *supra* n. 46.

the Prophet (SAAS), if the house had a dog or an image. Again, these *ahadith* are not relevant to the dispute with which we are concerned, for their purpose is to clarify the nature of those places where it is proper for the revelation to descend. Some *ahadith* indicate that the *ratio* for the prohibition of images and statues lies in the fear of their use to express vanity and project an appearance of wealth and luxury in a poor society. Other *ahadith* condemn displaying images in places where they attract attention and give the impression that they deserve reverence. This impression may, in time, lead people to worship these displays as their hearts become harder. Thus, in some of the stories, the Prophet (SAAS) asked that the displays be rearranged so as not to acquire an improper significance. It is not easy, therefore, to use this group of *ahadith*—as a whole or individually—to derive conclusive legal proofs supporting an absolute prohibition against image-making in general or certain images in particular, except those that have been mentioned previously.

13. The *Fatwa* of Sheikh Muhammad Rashid Ridha

In issuing his ruling on the question of image-making, Sheikh Rashid Ridha Muhammad Rashid Bin Ali Ridha Bin Muhammad Shamsuddi al-Kalamouni, was the creator of Al-Manar Magazine and one of the religious reformers. He was one of the writers and scholars of *hadith*, literature, history and interpretation (exegeses). He grew up in al Kalamoun region, and later moved to Egypt where he studied with Muhammad Abdu. He started Al-Manar Magazine to spread his ideas of religious and social reform. He also established the school of “al-Da’wa wal Irshad.” He went to Syria during the reign of King Faisal Bin al-Hussain, and was elected president for the Syrian Conference, and left when the French came. He went back to Egypt in 1920 and then traveled to India, Hijaz and Europe. He died in Cairo with the legacy of Al-Manar Magazine of which he published 34 volumes and the “Interpretation of Al Qur’an Al-Karim” in 12 volumes. He also wrote many books, including a 3-volume biography of Muhammad Abdu, a book about women in Islam, *Nida’ Ila Al Jinns Allatif*⁵⁰ has usefully compiled and skillfully interpreted the *hukm* regarding image-making, as well as the display and possession of images and statues. His ruling was prepared in response to a question from Singapore regarding the propriety of oil painting, all types of sculpture, photographs, and other

50. Khairuddin Azirikli, *Al-'Alam: Qamus Trajem*, vol. 6 (Beirut: Dar Al-'ilm lil Malayeen n.d.).

things made for the purpose of being worshipped⁵¹ or revered and for other purposes. This inquirer asked whether the *hukm* regarding these matters is affected by changes in time and place as well as other factors.

Ridha held that the *ahadith* cited in the compilation of Ibn Hajar and which numbered fifteen (15) can be classified objectively into four groups:⁵²

First, a number of the *ahadith* serve as a warning to the arrogant and vain who try to emulate the creation of God by showing off their own skills. In so doing, they cause worshippers to turn away from pondering the creation of God and deriving therefrom proof of His Existence, Oneness, and Providence. Instead, worshipers ponder the statues and images themselves and the genius, originality, and skill of the human creator which are embodied in them. This is a critical concern, for the most important proofs for God's existence advanced by prophets and missionaries to their followers are: (1) the proof of creation and divine invention, which has no precedent; and (2) the proof of divine providence upon living creatures.

The Second category of *ahadith* are those which warn of the necessity of putting aside all that may distract people from the worship of the Creator. Among the things that may be distracting are images representing virtuous people and prophets. The fear is that, though they wish to pray and remember God, people may not be able to worship only Him or remember only Him, because their hearts and minds would be occupied with other things that these images bring to mind.

In the Third category, some *ahadith* warn about the fact that having images on curtains or in houses constitutes a display of luxury and wealth which breaks the hearts of the poor who cannot afford to buy or have such images in their homes.

In my opinion, in this day and age, such extravagance has reached the extreme, as certain paintings are sold for tens or hundreds of millions at a time when millions of people are suffering hunger, sickness, ignorance, and so forth.

The Fourth category is that of *ahadith* whose purpose is to warn against promoting human capabilities for concretization while weakening human capabilities for abstraction. This trend undeniably affects the human's psychological and spiritual constitution. For this reason, religions place the greatest emphasis on addressing the human soul and spirit to guide them to the straight path. This prepares the way

51. *Supra* n. 45.

52. Ibn Hajar, *supra* n. 26.

for guiding the human mind, acts and deeds.

Sheikh Rashid Ridha concluded from his profound discussions of these *ahadith* that making images is permitted and that there was no clear proof that they were prohibited. He qualified his ruling, however, with the proviso that it was appropriate that there be no extravagance and that the use of images be restricted to cases of necessity.⁵³

AN APPROACH THAT COULD RESOLVE THIS MATTER

We are now prepared to articulate an approach which could help resolve the question of whether the depiction of the Prophet (SAAS) in the Supreme Court frieze is prohibited or not. First, we must study the chain of narrators (*sanad*) and the text (*matn*) of the entire body of cited *ahadith*, the compilations of these *ahadith* and the *ratio* upon which the related legal ruling rests. In order to fully understand the rulings in these *ahadith*, we must also know the circumstances surrounding each ruling, the reasons the ruling occurred, and its specific characteristics. This aspect of our work, which is highly technical, has already been completed by al-Hafiz bin Hajar, al-Nawawi and other *hadith* scholars who are experts on *hadiths* that are *sahih*⁵⁴ and who have interpreted it carefully.

Second, we must describe and take into account the characteristics of each *hadith*, such as its brevity or *bayan* (expansiveness as in-depth explanation), and whether its message is absolute or restricted to its circumstances, general or specific. These steps are necessary for the *faqih* to assess the possibility of an objective reconciliation of all the *ahadith* and to reach a conclusion compatible with and common to all of them. This conclusion cannot be reached, except by patient and careful examination of the relevant *ahadith*, both individually and collectively, randomly and in a specific order. Furthermore, this examination must also be bound by other general principles, which guide the interpretation of the legal rulings of the Holy Qur'an. It must also take into account the guiding principles concerning the ranking of the *Sunnah* with respect to the Qur'an, as well as the nature of the relationship between the Holy Qur'an, the Prophetic *sunnah*, *al-ahadith*, *al-akhbar*, and *al-athaar* in the methodical and scholarly jurisprudential reasoning, as all these aspects relate to the issue at hand.

53. See also the summary of his *fatwa*, *supra* n. 45.

54. *Sahih*: (authentic). *Hadith* whose chain of narrators is carried by truly pious persons who have been distinguished by uprightness and exactitude and whose reports and character have been free from blemish.

The *faqih* needs also to refer to the “science of religious sociology,” and the disciplines of history and “religious anthropology,” as these are among the necessary tools needed for a thorough and precise examination of various aspects of this issue.

14. Our *Fatwa* in the Matter of the Supreme Court Frieze

The subject of the “frieze” is a select group of historic figures from around the world who were lawgivers. The frieze includes images, which purport to represent our Prophet Muhammad (SAAS) and our Prophets Moses and Solomon (PBUT).

In contemplating the message conveyed by this frieze, it is important to clarify the personal attributes of the Messenger of God (SAAS) as set forth by those who wrote the *Siyar*.⁵⁵ Within the framework of the “culture of the Word,” on which our civilization is built, Hind bin Abu-Halah and others have described the Messenger of God (SAAS) very precisely:

He was grandly elegant. His face (SAAS) shone like the full moon. He was taller than average, but not extremely so, and with a great stature. He used to leave his hair down, and if he parted it, it would part easily, but he did not let it grow below his earlobe. His skin was pinkish and he had a broad forehead. His eyebrows were thick, but they did not grow together in the middle. When he was angry, the vein between his brows stood out. The bridge of his nose was narrow. He had a visible aura that could be seen even at the most casual glance. His nose was well-proportioned. He had a thick beard, smooth cheeks, a sturdy mouth with a moustache. He had a small space between his front teeth. The shelf of his mouth was delicate. His neck was like that of a doll, as pure as silver. He was of moderate build, plump but firm, whether in his stomach or chest, with a wide chest, stretching between broad shoulders. If he removed his shirt, his torso was most pleasing. There was a hairline between his navel and the upper part of his chest, otherwise his breasts and stomach were bare. His arms, shoulders, and upper chest were hairy. His forearms were long and his palms were wide. There were many visible veins in his hands. His palms and feet were moist and dotted with perspiration. His feet were arched and smooth such that water flowed evenly over them. When he stood, he stood up with his full body. He walked with an even pace, gracefully but

55. *Sirah* (pl. *Siyar*): the Arabic term for biography, and it is also used to refer to books written about the life of the Prophet (SAAS).

briskly, as if he were going downhill. When he turned, he turned around completely. He generally gazed down, his contemplative gaze focused more at the earth than at the sky, most of his looks being in observation. He led his Companions and initiated the greeting with everyone he met with the salutation '*Salam*.'⁵⁶

Many other *ahadith* have described the Prophet (SAAS), detailing his physical appearance and behavior so specifically that any skillful contemporary artists who had read them could have made a painting that reflects his true appearance much more closely than the photograph of the frieze which you have sent to me. There is no doubt that these detailed, precise descriptions indicate the love that those who described him and all the *sahabah* (the Prophet's companions) felt for him, almost as if one of them had kept his picture very accurately in his imagination.

An artist paints either someone he sees or someone he imagines. The Persian and Turkish Muslims have made many pictures (in miniatures) of the Prophet (SAAS) as they imagined him according to the precise descriptions they read or heard from those who described him. If it had not been for the indulgence of the scholars among these peoples with regard to representing the Prophet (SAAS), none of these pictures would have been seen or widely distributed among their people. Yet, the *sahabah* and the *tabi'oun* (the followers who met the *sahabah*, but did not meet the Prophet) did not ask any of the painters or sculptors in their times—and it seems there were many—to make a statue or an image of the Prophet (SAAS). Instead, they merely passed on his description orally or in writing because for them the Word was a better medium of expression than pictures or statues, and the oral description left the door open wide for the imagination to add to the Prophet (SAAS) the attributes of perfection that are deemed appropriate.

To think fully in the abstract requires an uncommon intellectual ability. Common people cannot engage in this process except to a very limited degree. That is why scholars sometimes used *ta'wil* (interpretations) and *tashbih* (similes) to capture the unseen in order to help all of the lay people comprehend these matters. As a human being, the Messenger of God (SAAS) is a person like us who eats food and walks through the streets. In fact, the affirmation of his humanity is, like the affirmation of his message and prophethood, an objective of the Qur'an and a necessary jurisprudential purpose. This affirmation balances the faith of the believers with their understanding of the

56. Jalal ad-Din al-Suyuti, *al-Jami' al-Saghir* vol. 2, 306-307 (Beirut: Dar al-Fikr, repr. 1981) referring to al-termadhi in *al-Shama'l*, al-Tabarani in *al-Mu'jam al-Kabir*, and al-Bayhaqi in *Shu'ab al-Imam* by Hind bin Abi-Halah.

Prophet's personality. In other words, the descriptions of the Prophet (SAAS) help believers achieve a balance between his prophethood and message, which belong to the realm of the transcendental, and his humanity and humanness, which belong to this world. This balance enables believers to take him as an ideal and an example, hence follow in his footsteps. Of course, this attitude does not require having a picture or image of the Prophet (SAAS).

When I visited the Supreme Court and saw the frieze, which is the subject of discussion, I noticed that many Prophets were missing from it. I noticed the absence of an image of the Messiah, a Prophet of Islam. The Messiah validated and amended the basic laws of Moses. So did our Prophet Muhammad (SAAS). Thus, from an Islamic point of view, the figures who represent this law are Moses, Jesus, and Muhammad.

Second, the artist who created the frieze should have referred to the Prophet's attributes mentioned in the Muslim tradition. It is no excuse that the artist had no guiding image of the Prophet (SAAS) on which to base his work; for, as indicated, the Turkish and Persian tradition are rich with images, some of which wonderfully and very accurately render the Prophet (SAAS) according to the detailed descriptions of biographers.

In our tradition, there is a story about Sultan Abdul-Hamid of the Ottoman Empire. He was reputed to have inherited a painting of the Messenger (SAAS) done by Buhayra, the Christian priest, when the Prophet was twelve years old and on a trade trip with his uncle to *al-sham*, present day Syria. Of course, this image may have been lost and destroyed by those who rebelled against Abdul-Hamid. Yet, such an image, even if it is quite old or represents the Prophet (SAAS) at a young age, could have inspired the artist and aided him in accurately rendering the delicate features of the Prophet (SAAS). By contrast, the present image in the frieze represents an Arab man who could be a leader or ruler, but it somehow does not capture the essence of a prophet. Perhaps the logic of his companions in declining to draw him becomes clear to us from this failure of the Supreme Court artist.

Still, despite these reservations, I have a great deal of gratitude and appreciation for those who insisted on including an image of our Prophet, Muhammad (SAAS), in that highly regarded site in the United States of America, in order to remind the whole world of the important contribution of the Prophet (SAAS). It is important that in a pluralistic culture like the United States he is symbolized as one of the select illustrious lawgivers who merit being honored. This is especially significant since the West has generally treated the Prophet (SAAS) and

his contributions unfairly.⁵⁷

I must be clear in saying that, for me and for every Muslim, the Messenger of God (SAAS) is the greatest and most revered personality known between the earth and heaven, not simply one lawgiver among many. Still, it was an important gesture by those who did not believe in him as a Prophet and a messenger, who did not see him as anything other than a historic personality, to include him. In a culture whose literary heritage is replete with disdainful images of the Prophet Muhammad (SAAS), it is comforting to note that those in the highest Court in the United States were able to surmount these prejudices, and display his image among those of the greatest lawgivers in human history. Isn't that effort a noble gesture that deserves from us, who believe in him as the Prophet and Messenger, every encouragement, esteem, and gratitude instead of disapproval, condemnation, and outrage?

There is no doubt that those who built the Supreme Court and placed within it all of these symbols wished to indicate that they had benefited from this diverse human heritage, directly or indirectly, and that it somehow shaped the concept of justice in the new world. They have thus espoused the message of the Prophet (SAAS) as part of their universal heritage, even though they do not believe in Islam or in the Messenger of God as we do.

In the Hudaibiyah Agreement, Imam Ali—May God be pleased with him—wrote: “This is what Muhammad, the Messenger of God, has agreed upon” He was stopped by the Pagans’ delegate, who said: “Erase it [the words: ‘the Messenger of God’] for if I believed that you were the Messenger of God, I wouldn’t have fought you” But Ali did not agree to erase it himself. So the Prophet (SAAS) asked him to show him the words and he erased them himself.⁵⁸ The Prophet (SAAS) judged that others have the right to express their own position as they see it. In following the Prophet’s (SAAS) example, we must remember that those who carved the frieze and placed it in the Supreme Court are not Muslims. So, it should not be expected that they would express what the Muslim believers usually express when they talk about the Prophet in his capacity as a Messenger of God (SAAS). As the Prophet (SAAS) himself respected freedom of conscience in his own dealings, so should we.

57. Azizah al-Hibri, *Islamic Constitutionalism and the Concept of Democracy*, 24 Case W. Res. J. Intl. L. 1-27 (Winter 1992).

58. Shaikh Izuddin Abi al Hassan Ali Bin Abi al-Karam Ashibani (known as Ibn al-Athir), *Al-Kamel Fi Attarikh*, vol. 2, 204 (Beirut: Dar Sader 1965).

SUMMARY

Islamic jurisprudence is vast and rich and encompasses many schools of thought. If this jurisprudence is vast enough to encompass the view that prohibits paintings and sculpture representing living souls, then it should also be vast enough to encompass the view that permits them. In every age and in most unclear religious matters, people are caught between those ultra-conservatives who interpret the law strictly so as to forbid, prohibit, or restrict the scope of what is permitted, and moderates who constantly seek to enlarge the scope of what is permitted, and restrict the scope of what is prohibited. The tendency of the contemporary reformist school of Islamic jurisprudence is to take the expansive approach as to what is permitted. At the forefront of this school are esteemed jurists such as Sheikh Rashid Ridha, Sheikh Muhammad Bakheet al-Mutaiyi'i, the former Mufti of Egypt, as well as many Islamic schools of thought too numerous to describe herein.

Indeed, the famous interpreter Ibn Kathir referred to images of Prophets in his explanation of the Qur'anic verse 7:157 (al-A'raf). He repeated a narration mentioned in Mustadrak al-Hakim about the Umayyad Hisham bin al-'Aas: In the days of Khalifah (Caliph) Abu Bakr (may God be pleased with him), Hisham al-'Aas was sent with another person to Heraclius, the Emperor of Byzantium, to invite him to Islam. According to the narration, the ruler of Byzantium showed Hisham al-'Aas and his companion pictures of a number of prophets. Among these they recognized the picture of the Prophet Muhammad, Messenger of God (SAAS). When the incident was related to Abu Bakr (may God be pleased with him), he was moved to tears. He did not fault Hisham al-'Aas or his companion.⁵⁹

The most pertinent inquiry in resolving the matter of the propriety of the frieze may not be a search of the legal rulings regarding sculpture, photography, oil painting, or other representations of living souls. Rather, it may be to ask whether the Court has the right to place among these symbols a representation of the Prophet Muhammad (SAAS), which does not reflect his true image, as described in the *sirah*, but which nevertheless accords him full respect.

My answer to this question is as follows: What I have seen in the Supreme Courtroom deserves nothing but appreciation and gratitude from American Muslims. This is a positive gesture toward Islam made by the architect and other architectural decision-makers of the highest

59. Ibn Kathir, *Tafsir al-Qur'an al-'Athim*, vol. 2, 241-243 (15th Cent. repr., Riyadh: Mu'assasat al-Kutub al-Thaqafiyah 1997).

Court in America. God willing, it will help ameliorate some of the unfortunate misinformation that has surrounded Islam and Muslims in this country.

For this reason, I would like to express my gratitude and appreciation to the early twentieth century architect and his associates who brought, in their own way, the essence of what the Prophet (SAAS) symbolized, namely, law with justice, to the attention of the American people. I hope that the Muslim leadership in the United States and around the world will join me in expressing this appreciation even though the frieze is over 60 years old.

God knows best what is right.

May God let you be successful in what He loves and in what pleases Him.

Peace be upon you with the mercy of God and His blessings.