

Where Is It Written?

Last winter at OLLI [formerly Learning in Retirement], in a course about understanding Judaism, I learned that it is a frequently asked question during discussions in that community, to challenge an unwelcome point of view with the question, “Where is that written?” For the next few minutes, I want to put that question to the serious accusations often leveled at Islam.

As you all know the Quran, which means *recitation*, is the Arabic language collection of oral revelations to Mohammad by God, or Gabriel, likely dictated to scribes by Mohammad during his adult lifetime, 610 – 632 AD. It is comprised of 114 surahs, or chapters. The written Arabic goes from right to left, contains no vowels, and the words are jammed together without spaces in between, making possible “endless possibilities in meanings and error in transcription” [E.92]. Therefore, it is not easy to translate. Generally, the few followers of Islam, who are well educated, can, or have, read it. A few have memorized all of it, and most have memorized some of it. It is a difficult book. Its companion is the Hadith, a book of sayings and reports about Mohammad’s behavior, written down in the 9th and 10th century, after Mohammad’s death in 632. I intend here to rely on the Quran only for trying to deal with the accusations about, and the violence issue associated with, Islam.

The word, Islam, means “surrender or submission to Allah”. Islam starts the story of the beginning of the world with Adam. Its precepts were transmitted by God through Abraham, Moses, Jesus, and Mohammad. Surah 2:285 says, “We make no distinction between any of God’s apostles or messengers.” [I.3] Abraham was the first monotheist, so Allah is the same God that Jews and Christians worship. Therefore, one must assume that Allah is a benevolent and kindly god, who wants his flock to behave kindly and benevolently. Yet in many quarters of the Islamic world today, violence is not only preached, but taught and practiced. So there is a big dichotomy between the Islamic terrorists, the Islamic fundamentalists, the Taliban, the Shiite militarists, the Sunni tribes, over and against the worship of a benevolent and kindly Allah. The leaders of the various and incomprehensible warlike groups mentioned all claim to get their core beliefs from the Quran.

Other documents influence the followers of Islam. Mentioned above is the Hadith, a collection of “accounts of the Prophet’s deeds and sayings....compiled in 6 major collections....about 2 ½ centuries after the Prophet’s death.... second only to the Quran in their practical significance and authority.” [A. pg.74]. From these sayings there has been extracted the Sunna, “...the ethical and religious model of exemplary behavior...” [D.80].

Two more documents influence the practice of Islam in the form of laws, the Shariah, which is the way to live as required by Allah, and the Fiqh, the application of this method, by human reason, to specific contemporary cases [A.90, 108]..

It would take a scholar, with more patience than I, to read and study these ancillary documents. True, they have arguably been the source of much negativism, dogmatism, and personal political aggrandizement; but they all claim to be derived from the Quran. So I will deal here only with it. It is all that I can, or care to, handle. The contemporary translation by Ahmed Ali, published in 2001 by the Princeton University Press, running to 561 pages, will be my primary guide to the core beliefs of Islam.

The major indictments of Islam fall into 4 categories:

They hold Christians and Jews to be unbelievers, so make war [Jihad] against them any way you can.

They treat women as chattels.

You will be rewarded in the next life for your personal sacrifices to Jihad.

They prescribe extremely harsh punishments to violators of Islamic Law.

Let's see if those claims can find sources in the Quran.

Where is it written?

Jihad

In the 2/23/1998 fatwa, 5 radical leaders, including bin Ladin, declared war on the US for

1. Occupying the Arabian Peninsula;
2. Annihilating what is left of Iraqis and Muslim neighbors; and
3. Serving the "Jewish petty state". [G 182]

This religious decree, after stating the jihad does not primarily refer to a struggle for personal piety [and submission to God], cites Surah 2:190 as proof. Well, let's read that verse from the Quran:

Fight those in the way of God who fight you, but do not be aggressive. God does not like aggressors.

Add to that these quotations: --

O you who believe, bow in adoration, worship your Lord, and do what is good that you might find success. Strive in the way of God with a service worthy of him. Surah 22:77-8]

We [God] sent down the Torah which contains guidance and light...which gave instructions to the Jews, as did the rabbis and priests, for they were custodians and witnesses of God's writ...Later we sent Jesus, son of Mary, confirming the Torah, which had been sent down before him, and gave him the Gospel, which corroborated the earlier Torah,...for those who follow the straight path. [Surah 5:44-6]

All those who believe, and the Jews and the Sabians and the Christians, in fact anyone who believes in God and the Last Day, and performs good deeds, will have nothing to fear or regret. [Surah 5:69]

We believe in God and what has been sent down to us, and what has been revealed to Abraham and Ishmael and Isaac and Jacob and their progeny, and that which was given to Moses and Christ, and to all other prophets by the Lord. [Surah 2:136]

Say to Jews and Christians, "...God is our Lord and your Lord; and we shall be accounted for our deeds, and you for your deeds, and we are true to him alone. [E.73 combined with Surah 2:139]

Call them to [Islam] with wisdom and words of advice; and reason with them in the best way possible. [Surah 16:125]

Repel evil with what is good. Then you will find your erstwhile enemy like a close , affectionate friend. [Surah 41:34]

Do not take a life, which God has forbidden, unless for some just cause...[God] gave the Book to Moses, a perfect law, distinctly explaining all things, and a guidance....[Surah 6:151 & 6:154]

Moses is mentioned 140 times in the Quran, more than any other prophet. In fact, the Old Testament is confirmed: --

[All] this [meaning what has been written in the previous 86 Surahs] is surely in the earlier books, the books of Abraham and Moses. [Surah 87:18-19]

I find no justification in the Quran for declaring war on the USA; so the five radicals who issued the fatwa either distorted Mohammed's words, or lied for political purposes.

Women

The Quran holds women up to respect in many verses.

Verily men and women who have come to submission, who are believers...devout...truthful...modest...give alms...observe fasting...remember God a great deal, for them God has forgiveness and a great reward. [Surah 33:35]

Does [God] prefer sons to daughters? What ails you that you judge in such a way?
[Surah 37:153-4]

The Lord answered, "I suffer not the good deeds of any to go to waste, be he man or woman: the one of you is the other." [Surah 3:195]

Men are the support of women, as God gives some more means than others, and because they spend of their wealth to provide for them....As for women you feel averse, talk to them persuasively; then leave them alone in bed without molesting them, and go to bed with them when they are willing. [Surah 4:34]

Rewards, Justification, Paradise

You have all heard the astonishing notion that jihad martyrs will go to a paradise of fruits, milk, honey, wine, and 70 virgins on 70 couches made of gold and emerald. [G.193]. Part of this fantasy appears to have come from a book by an author who claims to have heard it from Muhammad himself. Right off the bat, I am suspicious. How did wine get into paradise, when the Quran clearly forbids intoxicants. Surah 5:90-91 reads,

O believers, this wine and gambling, these idols, and these arrows you use for divination, are all acts of Satan; so keep away from them...Satan only wishes to create among you enmity and hatred through wine and gambling.

Secondly, the notion of 70 virgins to be sexually enjoyed is exhausting, if not preposterous, to a man my age. In Surah 2:25 as a promise in paradise, believers are promised "fair spouses"; but that has different implications.

There will be 2 gardens,... with 2 springs,... fruits in pairs,... maidens with averted glances, undeflowered by man...[Surah 55:46-56]. OK, virgins; but all of this passage promises dualities, not 70 of everything.

Those who fear God and follow the straight path will surely be in gardens and in bliss....They will recline on couches set in rows, paired with fair companions, clean of thought and bright of eye. [Surah 52:17 & 20]. Promising intercourse on couches set in rows?

Well, maybe there is some evidence in the Quran of a promise of free sex, and maybe it can be preached to young males to urge them to self-destruct. But the main weight of the Quran is toward moderation, tolerance, forgiveness, acting gently, no assault on civilians, treating others as one desires to be treated -- the same values of Christianity and Judaism -- according to Islamic scholars [I].

Punishment

Some who are antagonistic to Islam decry the punishments supposedly demanded by Islam. They claim that

Gamblers and drinkers should be whipped. That is not in the Quran. As stated above, Surah 5 simply says, “Keep away from them”.

Husbands should beat their disobedient wives. Not in the Quran, where Surah 4 requires dealing with them persuasively.

Thieves must have their hands cut off. This is not as easy to rebut, for Surah 5:38 says,

As for the thief, whether man or woman, cut his hand as punishment from God for what he had done...But those who repent after a crime and reform, shall be forgiven by God, for God is forgiving and kind.

It does not say, “Cut off”: just cut. And if a thief is to be forgiven, no-hands is hardly a reprieve.

Again, it is hard to brush aside what Surah 5:33 says:

The punishment for those who wage war against God and his Prophet, and perpetrate disorders in the land, is to kill or hang them, or have a hand on one side and a foot on the other cut off, or banish them from the land...But those who repent before they are subdued should know that God is forgiving and kind.

But what is a “war against God and his Prophet”? Certainly the Islamic fundamentalists and extremists can quote this one to their advantage in their view of America as waging war on their religion. However, is this same punishment to be applied to terrorists who “perpetrate disorders in the land”? And doesn’t the ending phrase of a forgiving God limit the application of dismemberment?

Apostates, like Salmon Rushdie, should be killed. But in Surah 16:106-109 we read

Whoever denies, having once believed,...[and] opens his mind to disbelief, will suffer the wrath of God. Their punishment will be great...They will surely be losers in the life to come.

In Surah 24:2 we find

The adulteress and the adulterer should be flogged 100 lashes each, and no pity for them should deter you from the law of God, if you believe in God and the Last Day; and the punishment should be witnessed by a body of believers.

Note, both the man and the woman are to be punished. Maybe a suitable punishment in Muhammad’s time; a questionable punishment 1100 years later during our era of slavery, and not appropriate today, anywhere. Additionally, the NYT [H.48] notes that in Shariah

law, “the accused must confess 4 times, or 4 male witnesses of good character must testify that they directly observed the sex act.

Fundamentalists

My conclusion about the Mid-East terrorists, the Islamic fundamentalists, the Taliban, the Shiite militarists, the Sunni tribes is that they have a severely distorted understanding of their own Quran, that they do not comprehend its core values, and therefore they are violating its basic precepts. They are also distorting basic Islamic teachings for personal power.

In November 2005 some 200 Islamic scholars from 50 countries gathered in Amman, Jordan; and they unanimously adopted an Amman Message, a “declaration aimed at clarifying the true nature of Islam”. It denounced “the terrible crime against our own brothers and sisters, [and stated that] all such atrocities committed in the name of Islam are traceable to a fatwa of men totally unqualified, morally and intellectually, to issue one” [I]. In traditional Islam, only those with 4 years of undergraduate training, plus 10 years of post-graduate work leading to a doctorate degree, can properly issue a fatwa.

Islamic scholars by and large agree that the Quran in reality contains a message of obedience to God’s benevolent desires for mankind, and dealing with your neighbors and all mankind as you want to be treated.

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FAIR ?

This will be a story about two people. One will be called MD, as in physician. The other, DA, as in Department of Justice District Attorney. For the most part the story is factual and true. However, the author's lack of either medical or legal formal training may lead to unintentional distortions, for which, if discovered, he apologizes from the outset. There won't be much action in this story. Rather, there will be rather long descriptions of the two characters.

MD

MD is, and always has been, a rather mild gentleman, neither flamboyant nor extravagant. He went through the normal primary, secondary and college education, before completing his 4 years of medical school and an internship. He accepted and took the Oath of Hippocrates, whose modern version [1964 by Dean L Lagna, Tufts U.] reads in part –

“I swear to fulfill, to the best of my ability and judgment, this covenant:....

I will apply, for the benefit of the sick, all measures that are required, avoiding those twin traps of over treatment and therapeutic nihilism.

I will remember that there is art to medicine, as well as science, and that warmth, sympathy, and understanding may outweigh the surgeon's knife or the chemist's drug....

I will respect the privacy of my patients, for their problems are not disclosed to me [so] that the world may know...

I will remember that I do not treat a fever chart, [or] a cancerous growth, but a sick human being, whose illness may affect the person's family and economic stability...

If I do not violate this oath, may I enjoy life and art, respected while I live and remembered with affection thereafter. May I always act so as to preserve the finest traditions of my calling, and may I long experience the joy of healing those who seek my help.”

In his practice of “the art of medicine” he eventually concentrated on helping those unfortunate souls in the panhandle area of Florida, who suffered chronic pain. At different times, he prescribed Oxycodone, Methadone, Diazepam, Fentanyl, Morphine, and Hydrocodone: all controlled substances. There is differing opinion about these opioids being addictive. Medical literature puts the rate of addiction at less than 1%. Interestingly, the Drug Enforcement Administration [DEA] in '05 published a set of guidelines for physicians who treat pain with opioids. It stated, “For a physician to be convicted of illegal sale, the authorities must show that the physician knowingly and

intentionally prescribed or dispensed controlled substances outside the scope of legitimate practice.” Mysteriously, this useful information was removed from the DEA website. The DEA further renounced the rules and made it clear that it wasn’t bound by any standards or practices. Nevertheless, for our purposes here, they are regulated by the U S Government, and fall under the Controlled Substances Act and Food & Drug Administration [FDA] regulations. [Cato Institute, 4/5/05.]

There is no instrument to determine the specifics of a patient’s pain: exactly where it is, or exactly how intense it is. Such data is subjective and supplied only by the patient. A person with a back pain must describe where and when it hurts. He must also describe how intense it is, and additionally whether the physician’s prescriptions are working, ie. relieving his pain, or not working. If ineffective, the doc may change the prescription or increase the dose. To document his prescriptions, the physician can file only the subjective testimony of the patient. A doc who is skeptical about, or challenges the patient’s complaints is not fulfilling the 3rd part of his oath above, to be sympathetic and warm in the practice of his art. As a personal aside, I like to emphasize the word *practice* of medicine because I see it as an art, based on available science, which evolves over time, and which is improved with experience and practice.

In running his medical practice, MD also had to manage a business office. Bills needed to be prepared and sent to individuals, and insurance companies, including Medicare and Medicaid administrations. Payments needed to be recorded. As all physicians do, he employed an office staff to handle these financial matters as well as appointments, and so forth. Routine stuff, not requiring post-graduate training, or high pay. And few if any docs have any formal training in accounting or office administration.

So it is understandable to me that MD, being a gentle physician, focused on his hurting patients: and he might not pay 100% close attention to his administrative responsibilities. It could occur that a husband and wife usually made appointments with him together, but that on one occasion just the husband appeared, the wife did not; and MD’s notes mentioned treating only the man, but the office billing failed to reduce the usual 2-person charge to just one.

It is also understandable to me that a small percentage of his patients lied to him about the intensity of their discomfort to get higher doses of their pain drugs, either to use the extra for getting high, or to sell the extra to addicts for cash. Some might also have forged his prescriptions. If any prescriptions were duplicated, the dishonest patient could use a number of pharmacies to multiply his inventory.

Neither over-billing, nor allowing oneself to be duped, obviates the responsibility of a physician to operate his practice within the bounds of existing laws. If rules are not followed, corrective action is in order. So let’s turn to the 2nd person in the story, the DA, to look at his operation.

DA

After his schooling and post graduate training in law school, he elected to apply to the U S Department of Justice for work in the Attorney General's division. It has many of the characteristics of a federal bureaucracy, but there is incentive to climb up a ladder within the Department of Justice [DOJ], or do a lateral arabesque into the private sector of law with a good firm. So DA recognized that one way to get noticed and move ahead is to bring and win cases. This may not be immediately rewarding financially, but with determination it can pay off.

There are undoubtedly many avenues of opportunity to bring lawbreakers to justice. DA's eye lit on the violation of drug laws. It has several attractions to an aggressive lawyer:-

- There was, and still is, a big concern in the country, particularly in FL, which is relatively close to Columbia and other drug supply locales;
- Physicians have deep pockets, so there is cash changing hands and being accumulated; and that always captures the media and the public's attention;
- Doctors and pharmacies keep detailed records; so that area of legal concentration would be an easy place to focus, certainly easier than catching and convicting drug dealers and warlords;
- The drug bosses are tougher targets, because they have large bank accounts to hire teams of lawyers, and guns which they are not afraid to use;
- There are some nifty laws on the federal books to help DA fulfill his obligation to prosecute offenders vigorously.

One of the tools DA could use in drug cases is criminal asset forfeiture. This tool is described in Title 21 of the U S Code, dealing with the Controlled Substances Act. Section 853 on Criminal Forfeitures, boiled down to reduce legalese fat, says –

- (a) Any person convicted of a violation [of the Act] may be fined not more than twice the gross profits or other proceeds.
- (b) This includes real property, and securities.
- (e) The court may preserve the availability of [such] property –
 - (A) upon filing of an indictment, and alleging that the property would be subject to forfeiture, or
 - (B) the court determines that there is substantial probability that the US will prevail, or the need to preserve the availability of the property, outweighs the hardship on any party.
- (h) Following the seizure of property [so] ordered, the Attorney General shall [sell] it, making due provision for the rights of any innocent persons. The defendant [shall not] be eligible to purchase forfeited property at any sale by the US.
- (i) The Attorney General is authorized to (3) award compensation to persons providing information resulting in [such] forfeiture
- (o) The provisions of this Section shall be liberally construed.

At the risk of making obvious editorial comments, you have heard that Sect. 853 allows DA to –

- File an indictment, and then to allege that the assets seized would be subject to forfeiture if found guilty of the crimes listed in the indictment;
- Seize 2X the asset value of the alleged crimes;
- Claim that keeping the assets outweighs the hardship on any party;
- Cause the assets to be sold at any time, but not to the accused;
- Reward any folks who help the DA find assets;
- Construe these powers liberally.

The Story

Now let me describe what happened in the case I know something about. I cannot say that I have complete knowledge. Grilling MD or his family would have caused me to open recent painful wounds. Plus the 173 legal records are quite voluminous to buy from the U S Attorney's office, and they are not eager to help a layman look into the case. They never responded to my last request letter for help

For 2 years a North Florida Health Care Fraud Task Force, including the DEA, the FBI, the FL Dept. of Law Enforcement, the FL Attorney General's Office, the Medicaid Fraud Control Unit, other FL departments and law enforcement units, investigated MD's practice. They compiled a 124 count charge, including 34 counts of health care fraud, 76 counts of dispensing drugs without determining medical necessity, and 14 other complaints. A FL grand jury, hearing DA's side only, issued the indictment. MD was arrested in Cincinnati, 12/13/06.

He was taken to FL and thrown in jail. His medical license was removed.

All of his assets were seized, "...along with joint holdings he had with his wife and family, notably his wife's daughter". Without any assets, he was assigned an attorney by the court. He did not ask for a jury trial because he was threatened that, if he did, "his wife and daughter would be thrown in jail until trial time, in this case 9 months away." [Panama City News Herald, 9/15/07].

MD, age 77, pled guilty to 6 counts of health care fraud and 6 counts of illegally dispensing controlled substances. Several friends wrote to the judge in his behalf:-

- ✓ A businessman wrote, "When I first came to MD, I was unable to walk without assistance and was psychologically drained...MD established a medication regime that was effective in controlling the pain...just controlling it...I asked him why he continued to practice as he neared the twilight of his life. His response was ...that he wanted to use his skills to help others as long as he could."

- ✓ A medical professor wrote, “In talking to his staff, patients, local community physicians, and friends, I found no one who felt MD had any motivations other than compassion for his patients....Other physicians felt MD handled their most difficult patients guided by accepted medical pain guidelines.”
- ✓ A friend wrote, “I know MD as a kind and simple physician. I have never seen any trace of greed, or ostentation, or pretension, in either MD or his wife... They have lived simply and never tried to impress anybody with high style living. So it is very hard for me to believe that any crime he committed was an act of venal criminality...He has already lost all of his modest assets, his license to practice medicine....I plead with you, Judge, to show mercy, and let him go, for whatever time he has left.”

After 8½ months in a FL jail, he was sentenced on 8/30/07 to 20 years in jail, plus 3 years of supervised probation, plus an assessment of \$1,200, plus restitution of \$466,723.03 to 4 medical insurers. He is now sick and in a Federal Prison in KY. If he survives, he will be let out at age 97; and at 100 he will be free of probation restrictions. I don't know whether he is guilty of the 124 counts in the indictment. I doubt it. But we will never know, as there will never be a trial to argue the facts of MD's case.

Is that fair?

DOJ

One has to wonder if the Department of Justice and its District Attorneys are getting overly aggressive.

- The NYT on 5/29/93 published an article by S. Labaton. It started with a bang, “...asset forfeiture is out of control, a system all too easily abused by overzealous prosecutors eager to meet budget targets by taking as much property as they can...[In the 6 years between 1986 and 1992], more than \$1 billion has been transferred to more than 3,000 state and local law enforcement agencies... Internal memorandums... suggest that the need to meet a budget target has sometimes been at least as important to the U S Justice Department as fighting crime.”
- According to DOJ figures, 28,421 properties were seized or forfeited in 1996, with a combined value of \$1.264 billion.
- The Seattle *Times* in '07 reported a bizarre asset forfeiture case. “...Federal prosecutors tried to seize the fancy dental work of two alleged drug dealers. Known as grillz, the customized tooth caps, made of precious metals and jewels, can cost thousands of dollars... Past president of the Washington Association of criminal Defense Lawyers, and a forfeiture specialist, said the it sounds like Nazi Germany, when they removed the gold from the teeth of bodies, but at least they waited until they were dead...”
- The WSJ on 10/24/07 reported that Dick Thornberg [R], former U S Attorney General, said, “Prosecutors are using unprecedented legal theories to turn nickel and dime transgressions into major federal felonies.”

- The NY Times reported on 1/3/08 that a special prosecutor, appointed to re-examine a murder, concluded that “helpful evidence had been withheld from the defense by prosecutors in the 1999 trial” which convicted Tim Masters. A reprise of Michael Nifong and the 3 Duke lacrosse players’ DNA fiasco?
- The WSJ on 2/27/08 published an op-ed piece by Dr. Scott Gotlieb, former deputy commissioner of the FDA from ’05 to ’07. He wrote, “...The DEA is trying to influence clinical decisions about when [opiates] are prescribed. This is a mistake...When it comes to managing legitimate medical practice, the cops should step aside...”

Again I ask, is this story fair?

Should prosecuting attorneys have the power and unfettered right to seize the assets of the accused before a trial to determine innocence or guilt?

Should an accused be left with enough money to hire good defense attorneys, when the prosecutors have a bottomless purse of government personnel and time?

What is the justification for prosecutors to seize 2X the estimated fines, if they win all charges, and retain the frozen assets regardless of outcome?

Is it acceptable for the democratic government of a free people to threaten an accused with incarceration of his family members, if he desires a jury trial?

Is it permissible for lawyers and judges, without medical training or experience, to determine what the legitimate practice of medicine is, and the prescription of opioids?

Is the deck of cards stacked by our government to the disadvantage of accused citizens?

Is this fair?

No, it doesn’t pass my smell test.