Islam as Intellectual Property: 'My Lord! Increase Me in Knowledge'

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ISLAM AS INTELLECTUAL PROPERTY

“My Lord! Increase me in knowledge.”

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INTRODUCTION

This article presents Islam as protected knowledge, a form of intellectual property. The Quran, the Sunna,\(^1\) and the unique marks and symbols of faith, together constitute the protected knowledge of Islam.\(^2\) These timeless assets establish a way of life devoted to none but One God. As a favor, God has placed these knowledge-based assets in an irrevocable Trust for an indefinite period of time. He established the Trust for the benefit of all human beings.\(^3\) However, Muslims have entered into an irrevocable Covenant with God to be the good faith trustees of these timeless assets. As beneficiaries, Muslims draw upon these assets to lead morally intelligent lives. As trustees, they preserve these assets from the irreverence of misinformed critics, from the assault of misguided assailants, and from the mockery of fools.\(^4\) As trustees, they also transfer these assets to the next generation of Muslims without changing the nature of the Trust and without depreciating the value of its assets. For

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\(^1\) Quran 10:19 (stating all mankind is one community).
\(^2\) Sahih Al-Bukhari and Sahih Muslim are the two well-known compilations of authentic traditions of the Sunna.
\(^3\) In this article, “Islamic intellectual property,” “knowledge-based assets of Islam” and “protected knowledge” are synonymous terms.
\(^4\) Quran 2:14-15. “Show forgiveness, enjoin what is good and turn away from the foolish.” Quran 7:199.

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* Professor of law, Washburn University. I am grateful to Professors Bill Rich, Myrl Duncan, and Megan Ballard for their comments on the substance and form of this article. Jacqueline Torres of the class of 2001 provided useful assistance. Special thanks to Lori Khan, my dear wife, who greatly improved the substance of the article. This article is dedicated to Cyrus.
the preservation of these assets, any property can be expended, and every life can be sacrificed; to Muslims, nothing is more precious than the integrity and honor of these timeless assets.

The distinction between assets and ideas lies at the core of the misunderstanding between Islam and secularism, the strongest version of which is unfolding in the United States. Muslims view Islam as knowledge-based (intellectual) property, not an idea. Secularists reduce Islam to a mere idea, reserving the notion of intellectual property for literary and artistic works, inventions, patents, films, computer programs, designs, trademarks, and trade secrets. Muslims elevate the knowledge-based assets of Islam to the highest level of protection, more than the intellectual work of any scientist, artist, or corporation. Even in the face of a rising tide of secularism throughout the world, they refuse to consign their religion to the marketplace of ideas, a place where ideas are depreciated and trashed. This clash of understanding between Islam as an idea and Islam as intellectual property breeds mutual mistrust between secularists and Muslims.

This article is written from an internal viewpoint. It will be useful for the readers of this article to bear in mind a fundamental distinction between the internal viewpoint of Muslims and the external viewpoint of non-Muslims who may or may not be secularists. The internal viewpoint is tied to the Trust; it treats the timeless assets of Islam as protected knowledge that no one may alter or dishonor. The external viewpoint flourishes on freedoms; it defends the freedom of belief, granting individuals the right to make any changes in the protected knowledge of Islam. The external viewpoint protects freedom of speech, granting individuals the right to denigrate God, the Quran, and the Prophet.

The gap between the two viewpoints can be enormous. Take the example of Salman Rushdie's novel, *The Satanic Verses*. From an internal viewpoint, the publication of the novel was an act of extreme disrespect towards the Quran and the Sunna, an assault designed to depreciate the assets of Islam. The novel was banned in all Islamic countries, worldwide angry protests were staged, and Imam Khomeni, the spiritual leader of Iran, issued a fatwa (decree) for the execution of the

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6. I write this article from the internal viewpoint of a Sunni Muslim.
7. Freedom of belief is larger than freedom of religion, as belief includes atheistic and ethical models, whereas religion is most often deistic.
author. The external viewpoint, however, was one of bewilderment and disgust toward the fatwa. Even though Jewish, Catholic, and Protestant leaders condemned the novel, the predominant external viewpoint, particularly among secularists, defended the author’s right to freedoms of speech and belief. This and many other episodes highlight the clash of the two viewpoints. Muslims view secularists as spiritually barren. Secularists view Muslims as intolerant, self-righteous, behind the times, and having little or no respect for universal human rights that guarantee individuals the freedom of literary and artistic expression.

One purpose of this article is to present and describe the knowledge-based assets that Muslims have vowed to protect. The other is to examine these assets in light of secular freedoms of belief and speech. As a broad thesis, I will argue that the internal viewpoint sees Islamic assets as analogous to intellectual property, whereas the external viewpoint sees the same assets through the bifocal freedoms of belief and speech. While these freedoms may be appropriate for positioning religion in the frame of a secular society, they distort the image and reality of Islamic assets. It is hoped that secularists will gain a new understanding of the internal viewpoint, respecting Muslims as spiritual people who want to protect their knowledge-based property. It is also hoped that Muslims will see the external viewpoint more forgivingly, without branding all critics as

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8 The Chief Rabbis of Israel and Britain protested against the publication of the book. The Vatican paper called the book as blasphemous and Reverend Billy Graham of the United States, a noted Protestant leader, expressed his sympathy for the protests against the book. See generally SACRILEGE VERSUS CIVILITY: MUSLIM PERSPECTIVES ON THE SATANIC VERSES AFFAIR (M.M. Ahsan & A.R. Kidawi eds. 1991).

9 Another such story is the case of Taslima Nasreen of Bangladesh, an accomplished writer, who suggested that the verses of the Bible, Gita, and the Quran are outdated and, therefore, need revision. Hindus and Christians did not protest but the Muslims of Bangladesh threatened to kill her. She was forced to leave the country and sought asylum first in Belgium, then in France. See John F. Burns, Furor Over Feminist Writer Leaves Bangladesh on Edge, N.Y. TIMES, July 16, 1994, at A1; Dexter Filkins, Writer Risks threats on Her Return to Bangladesh, L.A. TIMES, Nov. 13, 1998, at A5.


11 See Anthony Chase, Legal Guardians: Islamic Law, International Law, Human Rights Law, and the Salmon Rushdie Affair, 11 AM. U. INT’L L. POL’Y 375 (1996). The author rightfully comments that the Rushdie affair is much more complex than "strict dichotomies: Islam vs. the West; ... divine natural law vs. positive law; ... the traditional vs. the modern." Id. at 377.
sworn enemies of Islam.

I. PROTECTED KNOWLEDGE OF ISLAM

Indeed God bestowed a great favor by furnishing the knowledge of
Al-Kitab (the Quran) and Al-Hikma (the Sunna)\textsuperscript{12}

Islam is based on assets (mulkyyah) founded on knowledge
(al-elm). The concept of mulkyyah al-elm, that is, the knowledge­
based assets or the protected knowledge, establishes Islam as a
form of intellectual property.\textsuperscript{13} The protected knowledge of
Islam is known and unknown,\textsuperscript{14} rational and mystical,\textsuperscript{15} re­
vealed and hidden.\textsuperscript{16} God alone has “the keys of the Ghaib”\textsuperscript{17}
because “not a leaf falls, but He knows it”\textsuperscript{18} and because
“[t]here is not a grain in the darkness of the earth . . . but is
written in a Clear Record.”\textsuperscript{19} Out of His vast knowledge, God
has imparted a little to human beings, some through divine
revelation and some through human reason.\textsuperscript{20} The protected
knowledge that Muslims have received through the Quran and
the Sunna constitutes the precious property of Islam. This
knowledge is accessible to those who study\textsuperscript{21} and understand.\textsuperscript{22}

\textsuperscript{12} Quran 3:164.
\textsuperscript{13} A more appropriate Arabic translation of intellectual property is Mulkyyah-at­
fikria. I, however, use the term mulkyyah al-elm to distinguish human intellect from
the protected knowledge of Islam.
\textsuperscript{14} Two modes of interpretation are used to understand the meaning of the
Quran. They are called tafsir and ta’wil. Tafsir places the meaning of the Quran in
historical context, using grammar, the ahadith, plain meaning, logic, and reason. Ta’wil
is allegorical, intuitive, meditative, and poetic. Both modes have been used to study
and understand the Quran. See John Wansbrough, Quranic Studies 154-157 (Ox­
\textsuperscript{15} The Sufi movement in Islam strives to decode the mystical, the unknown, and
the hidden. Sufis have been both loved and criticized for their libertarian practices.
The Sufi, however, experiences spirituality and the Quran’s hidden meaning, not
accessible to the formalist, the textualist, or the scholar. For a background study of
the great Sufis of Islam, see Idries Shah, The Sufis (Octagon Press 1964).
\textsuperscript{16} One difference between Shi’a and Sunni jurisprudence focuses on the hidden
knowledge. Whereas the Sunni believe that no one but God possesses the hidden
knowledge, the Shia believe that the hidden knowledge is accessible to the Imams
descending from the family of the Prophet. Sayyid Murtaba Mosavi Lari, Imamate
and Leadership, available at http://alislam.org/leadership/ (this e-book explains the
role of the Imam in the Shi’a faith and highlights the difference between Shia and
Sunni views with respect to leadership).
\textsuperscript{17} Quran 6:59. Ghaib is interpreted “hidden knowledge.”
\textsuperscript{18} Id.
\textsuperscript{19} Id.
\textsuperscript{20} Quran 17:85: “And of knowledge, you (human beings) have been given only a
little.”
\textsuperscript{21} Quran 3:79.
\textsuperscript{22} Quran 6:98.
Islam, however, as noted above, is not confined to rational or understandable knowledge. It also embodies a secret source code, the hidden knowledge (Al-Ghaib), which only God knows. And to God belongs the knowledge of the day and the knowledge of the night for "He is the All-Hearing, the All-Knowing." Muslims adore the protected knowledge they can study and understand. But, out of humility and submission to God, they honor and fear the hidden knowledge they cannot fathom and ascertain.

The concept of intellectual property provides a vehicle, though defective and inadequate, for understanding the protected knowledge of Islam. It opens up a window, particularly for non-Muslims, for looking into the uniqueness of Islamic knowledge. The analogy between intellectual property and the protected knowledge is by no means perfect. In fact, it breaks down in many ways. Intellectual property, for example, which includes copyrights, patents, trademarks, and other proprietary knowledge, is the product of human intellect, innovation, and effort. In contrast, Islamic assets are the Quran and the Sunna, which no ordinary human being can create. The Quran is God's own knowledge, beyond the creative reach of man. The Sunna is the knowledge attributable to the Prophet's inspired reason, always submissive to the will of God. Thus, the protected knowledge of Islam—the Quran and the Sunna—is the combined treasure of revelation and reason.

Another important attribute distinguishes intellectual property from the protected knowledge of Islam. Intellectual property is often commercial in nature, protected only for a short duration. Furthermore, the knowledge underlying intellectual property may be faulty, frivolous, or even harmful. Unlike intellectual property, the protected knowledge of Islam is not for sale or commercial exploitation. Islamic knowledge is based on assured certainty, which the Quran describes as al-yaqqin. As such, the protected knowledge of Islam is timeless and imperishable. It is handed down from one generation of Muslims to the next without innovations, alterations, or di-

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23 The secret source code works without human awareness. To capture a glimpse of the secrets of the source code, the great Sufi poet Rumi wrote: In Winter the bare boughs that seem to sleep Work covertly, preparing for their Spring.
25 Quran 2:3.
26 Quran 102:5.
minishment in value. Each generation uses this knowledge to protect and nurture a morally intelligent life.

A. Protected Knowledge of The Quran

Of all the assets of Islam, the Quran is the foremost and the most precious asset that God has created for the benefit of all human beings.27 The Quran is God’s gift of knowledge, donated to human beings through the medium of the apostle. Critics and secularists may question the gift, arguing that the Quran offers a set of intangible beliefs, not intellectual or tangible property. This critique is quite familiar to Muslims. In fact, the Quran highlights the disbelief of the external viewpoint, saying: “And even if We had sent down unto you (O Muhammad) a Message written on paper so that they could touch it with their hands, the disbelievers would have said: ‘This is nothing but obvious magic!”28 In the Prophet’s own life and since, the external viewpoint has ridiculed the protected knowledge of the Quran as forgery, poetry, and the work of the Devil.31

1. Divinity.

For Muslims, however, the Quran is a divine asset, inscribed in the Preserved Tablet.32 “And this Quran is not such as could ever be produced by other than Allah (Lord of the heavens and the earth), but it is a confirmation of (the revelations) which was before it (i.e. the Torah, and the Gospel, etc).”33 Over the past fourteen centuries, the external viewpoint has challenged the Quran’s divine origin, alleging that the Quran is not God’s work, but that the Prophet forged it.34 However, the internal viewpoint has remained unshakeable, as each generation of Muslims preserves the divine knowledge of the Quran, believing that “This is the Book (the Quran), whereof there is no doubt.”35 The Quran itself refutes the

27 Quran 39:41; 80:11-12.
28 Quran 6:7.
29 Quran 10:38.
30 Quran 36:69.
32 Quran 85:22.
33 Quran 10:37.
34 See, e.g., NORMAN GEISLER & ABU SALEEB, ANSWERING ISLAM 178-204 (1993) (the authors challenge the authenticity of the Quran).
35 Quran 2:2.
charges of forgery, daring the critics and secularists to produce a single verse of comparable quality.36

The Quran's protected knowledge is woven in layers. It is light upon light. Its study and understanding requires time, patience, faith, and knowledge. Its meaning can escape the most learned. Those who mock the knowledge of the Quran and challenge its divinity find it "a wearisome, confused jumble, crude, incondite. Nothing but a sense of duty could carry [for example] any European through the Koran."37 To critics and secularists, the knowledge of the Quran is inaccessible and unsuitable,38 as the Quran itself cautions, because "they have been removed far from hearing it."39 "Nay, they deny that; the knowledge whereof they could not compass."40 Yet those who have time, patience, faith, and knowledge may access the Quran, enjoying its grammar and literary beauty, and benefiting from its manifest laws and the layers of secrets that gradually unfold themselves.

2. Authenticity.

The Quran's authenticity was preserved at the time of its revelation so that falsehood cannot come to it from before it or behind it.41 "[T]he Quran is a clear Arabic tongue"42 "revealed . . . by stages,"43 that is, a few verses at a time, over a period of twenty-three years.44 As soon as the verses were revealed, they were carefully written by "the hands of scribes, honorable and obedient."45 They were also orally memorized. This combination of written and oral records assured the Quran's accuracy.46

36 Quran 10:38.
37 ANSWERING ISLAM, supra note 34, at 189.
38 Quran 26:211.
39 Quran 26:212. The Prophet said that the knowledge that God has bestowed upon him is like abundant rain, some of which falls on fertile soil, some on hard soil, and some on barren soil. The fertile soil produces vegetation, the hard soil holds the rainwater for drinking, but the barren soil just absorbs the rain, returning no benefits. 1 SAHIH AL-BUKHARI, supra note 3, at hadith 79 (Muhammad Mushin Khan trans., Dar Al Arabia).
40 Quran 41:43. "Nothing is said to you (O Muhammad) except what was said to the messengers before you." Id.
41 Quran 16:103.
42 Quran 17:106.
43 Quran 25:32.
44 Quran 80:15-16.
45 In the battle of Yamama (A.D. 633), a lot of the Qurra (individuals who knew the Quran by heart) were killed. Fearing that more of the Qurra might be killed in other battlefields, Umar and Abu-Bakr, the first two caliphs, decided to collect the
The critics questioned the slow revelation of the Quran, asking "why is not the Quran revealed to him all at once?" God informs the critics that the Quran was revealed in small portions so that "We may strengthen your heart thereby. And we have revealed it to you gradually, in stages." Gradual revelation of the Quran maximized its instructional effect, as each verse came down to respond to a concrete factual circumstance. Each verse calls for, and communicates, special awareness. This "divine pedagogy" was essential for the gradual transformation of the human Prophet. It also safeguarded the Quran's authenticity because human beings were much more able to accurately write and memorize only a few verses at a time. As new verses were revealed, the Prophet himself selected their proper sequence and placement within the Book, thus organizing the final form of the completed Quran. Fully guarded on all sides, and protected in both substance and form, the Quran's authenticity was preserved during the Prophet's life.

3. Unalterability.

The Quran was not only preserved at the time of its revela-

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47 Quran 25:32.
48 Quran 25:32; 76:23. Though the Prophet lived and died as a mortal man and though he could not read or write, his personhood to receive the Quran was most transparent. Even contemporary non-Muslims recognized and witnessed the Prophet to be sadiq (truthful) and mu'lin (trustworthy). See KAREN ARMSTRONG, A HISTORY OF GOD 238 (1993) (Prophet Muhammad was insan-ikamil (the perfect man) of his generation).
49 Even the Quran warns the Prophet not to hasten the process of the revelation: "Move not your tongue concerning (the Quran, O Muhammad) to make haste therewith. It is for Us to collect it and to give (O Muhammad) the ability to recite it (the Quran). And when We have recited it to you (O Muhammad through Gabriel), then follow you its (the Quran) recital." Quran 75:16-18.
50 Each verse has a historical context, clear or ambiguous meaning, general or specific application. Some verses modify the meaning of previous revelations. Some verses have been abrogated. Some verses have both hidden and manifest meaning. Some verses have plain meaning, some are sarcastic, and some refer to biblical stories. In other words, the Quran contains multiple levels of meaning.
51 JOHN RENARD, SEVEN DOORS TO ISLAM 3 (1996).
tion. It has also been carefully safeguarded from any alterations, in either form or substance, ever since it was revealed to the Prophet, some fourteen-hundred years ago. In fact, as a matter of principle, the Quran is an unalterable text. No one, neither a Muslim nor a non-Muslim, may lawfully amend, delete, or repeal even a single verse or word of the Quran. Furthermore, not a single verse or word of the Quran can be shifted from its appointed place within the Book. Precisely defined, the Quran is the protected knowledge—a unique form of intellectual property—in that no user is authorized to tinker with its form, substance, integrity, and wholesomeness.

4. Flexibility.

The textual constancy of the Quran, however, does not mean that the knowledge of the Quran is inherently rigid. The Quran contains numerous flexible principles, enunciated for the guidance of the Islamic community and individual behavior. These principles are general in nature and broad in application. They cover numerous aspects of communal life, ranging from the law of war and peace to the freedom of religion. Although some principles guide individuals, others direct individuals and social institutions. Moreover, even a single principle may guide in multiple ways.

It is beyond the scope of this article to fully discuss the protected knowledge of the Quran that shapes the contours and character of the Islamic society. Here, however, I will discuss one principle, the principle of consultation, to demonstrate how the protected knowledge of the Quran is inherently flexible and, therefore, evolutionary in its guidance and application.

The Quran's consultation principle mandates that Muslims engage in mutual consultation before making decisions on worldly affairs. The principle disapproves of egotistical and dictatorial decisions and requires the sharing of information, experience, and analysis before decisions are made. Further-

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53 The Quran has been "copyrighted" in perpetuity as God's authentic work, which cannot be distorted, mutilated, or modified in any way. This right to the Quran's integrity is not designed for any pecuniary benefit, as copies of the Quran may be freely made and published without any prior permission and without paying royalties to any person, family, or nation. The Quran is a Book of Dignity. No one may intentionally or maliciously dishonor it through verbal, artistic, literary, or physical assaults.

54 This protection is already available to secular, copyrighted books, in most legal systems.

55 Quran 42:38.
more, the principle can have a wide application. As applied to family matters, the principle forbids any one member from imposing his own will on the entire family. When applied to statecraft, it prohibits the ruler from implementing any legislative policy without expert or popular advice.

Furthermore, each generation of Muslims may use the consultation principle in new and creative ways to respond to their unique social and political circumstances. For example, the consultation principle was fully compatible with the caliphate form of government, established soon after the Prophet's death, under which the caliph ruled with the assistance of a council of wise men and women. Despite the golden period of Islamic statecraft under the first four caliphs, the consultation principle imposes no requirement that the caliphate be the only form of government that Muslims may lawfully have. The consultation principle is equally compatible with modern democracy under which decision-making officials are accountable to the people. In addition, a parliament of elected officials, who make social policy after debate and exchange of views, is a sound political institution founded on the consultation principle. Due to the inherent flexibility of the consultation principle, Islamic statecraft is not rigid but evolutionary. Thus, Muslims may lawfully demand a democratic form of government, particularly in times when the rest of the world has embraced democracy on a universal basis.

5. Specificity.

While the Quran's principles are general and flexible, its rules, however, are specific and firm. Some rules are more specific than others. With varying degrees of firmness, the Quran's specific rules cover a wide range of legal matters, including family law, wills, trusts, contracts, evidence, and property. Whereas flexible principles allow Muslims to adapt social institutions to the needs of the times, the Quran's firm rules anchor the Islamic community in an otherwise changing world.

56 The Prophet died in 632, at the age of 62 or 63. Lapidus, supra note 52, at 33.
57 The golden period of the rightly guided caliphs (Abu Bakr, Umar, Uthman and Ali), however, lasted only for a short period of about 29 years (632-61). Id. at 54-55.
59 For example, the Quran prescribes fixed shares of inheritance for a decedent's children, parents, and spouse. Quran 4:11-12.
Flexible principles promote harmony between Muslims and non-Muslims, allowing Muslims to follow universal trends that other nations have established. On the other hand, firm rules may cast Muslims in a head-on collision with the rest of the world. In all situations, however, Muslims are committed to preserve the Quran's authentic and wholesome knowledge, without accepting any changes to its rules or principles.

Consider the Quran's specific rule of written contracts. To avoid confusion, fraud, and injustice, the Quran favors written contracts. The rule of written contracts has triumphed in all legal systems, thus affirming the Quran's inherent wisdom and pragmatism. However, the Quran further states that two male witnesses must sign a written contract of debt. If a male witness is unavailable, two female witnesses may be substituted for one male. The Quran justifies this inequality on the presumption that if one woman errs, the other can correct her. This gender inequality in witnessing contracts may harden the popular stereotype that Islam treats men more favorably than women. The specific evidentiary rule seems to oppose the modern movement of gender equality, which advocates non-discrimination in matters of law.

Muslim women enjoy broad-based respect and general equality. The Quran establishes principles of equity and fairness between males and females. "Never will I allow to be lost the work of any of you, be he male or female. You are (mem-

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60 Quran 2:282.
61 Quran, 2:282. This specific gender inequality in matters of witnessing contracts, however, allows no Islamic state to institute broad-based discrimination against women. In most matters, the Quran preserves equality between men and women.
62 Quran 2:282.
63 Convention on the Elimination of All Forms of Discrimination Against Women, Sept. 3, 1981, 1249 U.N.T.S. 13. Article 15(2) states: Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
64 The general principle of equality is laid down in the following verse: For Muslim men and women, for believing men and women, for devout men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast, for men and women who guard their chastity, and for men and women who engage in God's remembrance, for them God has prepared forgiveness and great reward.
Quran 33:35.
bers) one of another."65 While recognizing equal interdependence between males and females, the Quran rejects the doctrine of sameness under which men and women have no distinguishing characteristics. The Quran also rejects the phantom of strict equality, advising Muslim men and women: "And wish not for the things in which Allah has made some of you to excel others. For men there is reward for what they have earned, (and likewise) for women there is reward for what they have earned."66 Thus, the Quran finds it perfectly normal that men may excel in some aspects of life and women in others. In some areas, they may both excel.67 In all cases, however, men and women are the offspring of another. They share a collaborative enterprise. They are not set against each other. Even though they are not the same, men and women are entitled to receive equal reward for what they have earned.68

Despite this pragmatic equality between Muslim men and women, the specificity of the Quran's evidentiary rule in debt contracts poses a direct conflict between the external and internal viewpoints. The external viewpoint demands that Muslims ignore the Quran's gender inequality in matters of contract evidence. However, from the internal viewpoint, the Quran cannot be ignored or altered. Despite the emergence of a universal rule that allows no gender discrimination in matters of witnessing contracts, Muslims have no other option but to adhere to the Quran's specific exceptions. The internal viewpoint cannot change; it cannot question God's wisdom; it cannot provide gender equality where the Quran has clearly withheld it.69 When the external viewpoint cannot be reconciled with the internal viewpoint, Muslim men and women submit to the will of God and not to shifting paradigms of the external viewpoint. Unlike the followers of other religions, Muslim men and women refuse to compromise the integrity of the protected

65 Quran 3:195.
66 Quran 4:32.
67 The Prophet prohibited the people from wishing to be someone else except in spending your wealth in righteous causes and sharing and teaching wisdom of the protected knowledge of the Quran. 1 SAHIH AL-BUKHARI, supra note 3, at hadith 73.
69 Ikhilaf or disagreement is prohibited when the text of the Quran or the substance of the Sunna is clear and known. See ISLAMIC JURISPRUDENCE: SHAFI'I'S RISALA 333-34 (Majid Khadduri trans. 1961).
knowledge. "And those who are firmly grounded in knowledge say: 'We believe in it; the whole of it (clear and unclear verses) are from our Lord.'"70 And once the law has been laid, Muslim men and women do not question its authority.71 No reason may alter what a clear revelation of the Quran has established.72

Thus, the protected knowledge of the Quran reigns supreme in Islamic communities. Guided by their reason, secularists may criticize the Quran's principles and rules as anachronistic and reactionary. Even misguided Muslims may pick and choose the rules and principles they would obey and respect. They may "distort the Book with their tongues"73 to "purchase a small gain."74 It serves no purpose to expect secularists and critics to respect the protected knowledge of the Quran in its entirety, because they would say: "Shall we believe as the fools have believed?"75 Muslims fully realize that the external viewpoint may or may not coincide with the Quran's protected knowledge. Muslims are willing to evolve with the rest of the world but only if the evolution is consistent with the flexible, as well as firm, knowledge of the Quran. If not, Muslims choose the Quran. In all cases, they submit to the will of God, honoring what has been revealed and fearing what has been hidden.76

B. Protected Knowledge of the Sunna

In addition to the Quran, the Sunna is the protected asset that constitutes Islamic intellectual property. While the Quran provides the written law, the Sunna supplies the case law, consistent with the Quran's text. The Sunna embodies the application of the Quran's written law to concrete disputes and hypothetical questions that arose during the Prophet's life. Some

70 Quran 3:7.
71 Quran 33:36.
72 In early centuries of Islam, a great Rational Movement, known as the Mu'azzila, argued that if there was any discrepancy between reason and revelation, the latter must be construed to conform to reason. They did not suggest to discard revelation but to interpret it within the confines of reason. Under Caliph al-Ma'mun (d. A.D. 833), their doctrines were recognized as official. The movement, however, was short-lived as it came to an abrupt end during the reign of Caliph al-Mutawakkil (d. A.D. 847). See MAJID KHADDURI, THE ISLAMIC CONCEPTION OF JUSTICE 40-43 (1984).
73 Quran 3:78.
74 Quran 3:77.
75 Quran 2:13.
76 The Prophet said that a Muslim is like (as stable and self-protective as) a date-palm tree whose leaves do not fall. 1 SAHIH AL-BUKHARI, supra note 3, at hadith 58, 59.
Sunna cases simply explain the Quran's principles and rules. Some cases interpret the Quran's text, providing new insights into the written law. Some provide new principles and rules, supplementing the Quran's protected knowledge.

The Quran itself validates the Sunna's authority, commanding Muslims that "whatsoever the Messenger (Muhammad) gives you, take it, and whatsoever he forbids you, abstain (from it)." The Quran reposes this confidence in the Prophet because he had no inclination but to follow and disseminate the law of God. In yet another verse, the Quran brings together the two sources of the protected knowledge of Islam: "Indeed, Allah conferred a great favor on the believers when He sent among them a Messenger (Muhammad) from among themselves, reciting unto them His Verses (the Quran) and purifying them (from sins by their following him), and instructing them (in) the Book (the Quran) and Al-Hikma, . . . while before that they had been in manifest error." Here, Al-Hikma refers to the Sunna. The Quran is Al-Kitab

It is important to note that the Prophet was a mortal human being. Accordingly, he made no claims to possess the unlimited knowledge that God commands. In fact, the Quran advised the Prophet to publicly announce his limited knowledge in the following words: "Say (O Muhammad) ... [I do not] know what will be done with me or with you. I only follow that which is revealed to me, and I am but a plain warner." Thus, what the Prophet said or did was in harmony with the protected knowledge of the Quran.

The synergy between the Quran and the Sunna is seamless. The Quran is the word of God; the Sunna is the conduct of the Prophet. Each word of the Quran is protected; each authentic case of the Sunna is protected. The Quran is the protected knowledge of God; the Sunna is the protected knowledge of the Prophet. The Quran and the Sunna together constitute the Shari'ah, that is, the protected knowledge of Islam. Both the

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77 Quran 59:7.
78 Quran 3:164.
79 Quran 46:9.
80 The words of the Sunna may vary from one chain of transmission to the other, as different transmitters remembered or described the same event in different words. Hence, what is important in the Sunna is the substance rather than the exact words in which the event was reported.
81 These two sources provided the basic texts on the basis of which the scholars, through the medium of reasoning, called *ijtihad*, laid down the law and the creed. See Majid Khadduri, The Islamic Conception of Justice 3 (1984).
Quran and the Sunna are equally binding sources of law. However, the Quran is superior to the Sunna. No Sunna case, therefore, may be read or understood in a way that it ignores, refutes, or supersedes the Quran’s protected knowledge.

1. Preservation of the Sunna.

Great care was taken to collect the Sunna cases, known as the *ahadith*. Because these cases were compiled decades after the Prophet’s death, the accuracy of their content and source needed verification. Great scholars of Islam authenticated each Sunna case after a careful examination of its chain of transmission, as each case must be traced back to the Prophet. Thus “authentic cases (sahih)” were separated from “weak cases (da’if).” Authentic cases were transmitted through a chain of credible narrators, men and women, whose characters were unimpeachable and whose memory was reliable. Many authentic cases were traced back to the Prophet through distinct and separate chains of transmission, thus adding to their veracity. In contrast, weak cases lack a credible chain of transmission. Some of these cases were falsely attributed to the Prophet. Some failed the rigorous test of scholarly authentication. Weak cases are not included in the most reliable compilations of the Sunna. Accordingly, they carry little or no weight in the realm of protected knowledge. Authentic cases, however, serve

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82 *Ahadith* is plural of the word *hadith*. *Hadith* means a piece of news, a tale, a story, or a report relating to a present or past event. In Islamic jurisprudence, the word *hadith* stands for the report of the words, deeds, approval, or disapproval of the Prophet (peace be upon him). *See Introduction to 1 SAHIH MUSLIM*, at ix (Abdul Hamid Siddiqi trans., Dar Al Arabia).

83 A *sahih hadith* means a report properly attributed to the Prophet, in which the chain of transmission (isnad) is flawless and the text (matn) of which is fully compatible with the Quran and other established doctrines of Islam. *See id.*

84 A *daif hadith* is one in which either the chain of transmission is defective or the content of the *hadith* is not fully compatible with the protected knowledge of the Quran and other established doctrines distilled through *sahih hadith*. In fact, a more complex classification has been used to sift through the knowledge of the *ahadith*. For example, a *hadith* reported by one narrator that differs in context with another *hadith* reported by a reliable group of narrators is called a *gharib* (unfamiliar) *hadith*. If there is an unknown person in the chain of narrators, the *hadith* is known as *maujul* (unknown). A *musnad hadith*, though reported by a reliable chain, is not rated as high as a *sahih* (authentic) *hadith*. *See id.*

85 It is important to note that many cases were traced back to the Prophet through a chain of transmitters that ended with Aisha, the Prophet’s wife, who finally reported the Prophet’s acts and statements. *See id.*

86 A *hadith* that has a flawless chain of transmission, but some of its narrators are found to have a defective memory, is not rated as high as a *sahih hadith*. *See id.*
2. Substance of the Sunna.

Authentic cases of the Sunna may or may not report the Prophet's precise words. Different narrators in the chain of transmission do not use the same words to describe what they heard from the Prophet or what they saw him doing. In the case of the Sunna, therefore, the focus is more on the content (matn) of each reported hadith rather than the words in which the content was reported. This is an important distinction, because in the case of the Quran, each word in itself is protected.

The substance of the Sunna, reported in thousands of authentic cases, covers a wide range of spiritual, ethical, social, economic, and legal topics. These cases, in their cumulative effect, provide detailed instructions on religious matters, including prayer, fasting, zakat (obligatory charity), jihad, and hajj (pilgrimage). They also examine legal questions and provide rules and guidelines regarding sales, contracts, marriage, divorce, wills and testaments, inheritance, gifts, mortgage, partnership, distribution of water, gifts, renting, interest, and rules of evidence.

The protected knowledge of the Sunna contains contentious and advisory cases. In contentious cases, the Prophet resolved actual controversies. For example, once a Bedouin urinated in the mosque. The Muslims got angry and started shouting at him. To resolve this conflict between the Bedouin and the Muslims, the Prophet told the Muslims not to disturb the Bedouin. When the Bedouin finished, the Prophet had the spot cleaned with a bucket of water, and then instructed the Muslims at the congregation: "You have been sent to make things

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87 For example, the following three ahadith were reported in different words, though the substance is the same. (1) Narrated Sufyan: I said to Amr, "O Abu Muhammad! Did you hear Jabir bin Abdullah saying, 'A man carrying arrows passed through the mosque and Allah's Apostle (peace be upon him) said to him, Hold the arrows by their [sic] heads!' Amr replied, 'Yes.'" 9 Sahih Al-Bukhari, supra note 3, at hadith 194. (2) Narrated Jabir: A man passed through the mosque and he was carrying arrows, the heads of which were exposed (protruding). The man was ordered (by the Prophet) to hold the iron heads so that it might not scratch (injure) any Muslim. Id. at hadith 195. (3) Narrated Abu Musa: The Prophet (peace be upon him) said: "If anyone of you passed through our mosque or through our market while carrying arrows, he should hold the iron heads," or said, "... he should hold (their heads) firmly with his hand lest he should injure one of the Muslims with it." Id. at hadith 196.
easy and not to make them difficult." This treatment of the Bedouin set a precedent that Muslims must treat the uninformed non-Muslims with kindness, even when they engage in ignorant or (unintentional) offensive conduct.

Most cases reported in the Sunna are of advisory nature. Advisory cases contain the Prophet's statements, acts, and gestures, all of which are informative and instructive. Advisory cases also include questions and hypothetical situations on which the Prophet commented. For example, a man asked the Prophet about the lawfulness of finding and keeping a lost object. The Prophet advised the man to make a public announcement and, in the meantime, preserve the lost object in the manner of a trust. If, however, no owner claimed the lost property within a year, the finder may lawfully keep it or dispose of it. The man then asked about the lawfulness of keeping a lost goat. The Prophet advised the man: It is yours or for your brother, or for the wolf. In other words, if a lost object is likely to perish, the finder has a superior right to consume it. However, when the man asked about appropriating a lost camel, the Prophet distinguished the case, saying: You have nothing to do about that; (the camel) has feet and a leather bag (to quench its thirst) until its owner finds it. On these and other reported cases, the Sunna law of lost and found property offers sophisticated insights into the finder's rights and obligations.

The protected knowledge of the Sunna is a core Islamic asset. It supplements the protected knowledge of the Quran. Mere transmission of God's knowledge to the people does not exhaust the Prophet's duties. The human Prophet must also explain the purposes of divine revelations, not only through speech but also conduct. This enables the followers to apply God's injunctions to their real lives. Words alone, powerful and pointed, cannot be fully comprehended unless they are translated into definite forms and shapes of behavior. Even divine knowledge begins to become inaccessible unless illustrated by living examples. Deeds, not mere words, are the final message of Islam. The Sunna provides the experiential dimension to the spiritual. It humanizes the divine.

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88 1 Sahih Al-Bukhari, supra note 3, at hadith 218-22.
89 This case also informs Muslims to find easier solutions to problems.
90 3 Sahih Muslim, supra note 82, at hadith 4272-81.
91 Introduction to Sahih Muslim, supra note 82, at i.
C. Protected Marks and Symbols of Faith

Derived from the Quran and the Sunna, Islamic assets contain protected marks and symbols that define, identify, and preserve Islamic practices and rituals. For example, the masjid is the house of worship, which is not simply a building but a protected symbol of Islam. The very word "masjid" in Arabic or "mosque" in English represents and identifies the masjid as a house of prayer for Muslims and for no one else. Along with its universally recognized association with Islam, the masjid possesses unique characteristics throughout the world, which have lasted for centuries. Though flexible and variant in its architecture, the masjid is nonetheless a pure house of worship, which contains no idols, musical instruments, pews, or chairs. Also, no shoes, food, or drinks are admitted into the masjid. Thus the masjid, both as a symbol and as a design, is a protected part of Islamic intellectual property.

Accordingly, Muslims of the world have a right to protect the symbol and the design of the masjid from any unlawful use or misuse. For example, Muslims will strongly disapprove if someone intentionally appropriates the word masjid to designate a non-Muslim house of worship or, worse, to name a governmental structure, private residence, casino, bar, or any other building. Any such infringement of Islamic intellectual property will authorize Muslims to demand that the word "masjid" not be associated with any such building. If no such relief is forthcoming, Muslims will have a lawful basis to forcibly remove the word "masjid" from the name of the building, particularly when the building is located within an Islamic

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92 In the United States, religious institutions are entitled to the protection of the trademark and unfair competition laws to the same extent as commercial enterprises. The enforcement of trademark laws does not abridge the religious freedom rights of a group that is infringing the protected symbols and marks. Purcell v. Summers, 145 F. 2d 979, 985 (4th Cir. 1944); National Bd. of YWCA v. YWCA of Charleston, 335 F. Supp. 615, 621, 624 (D.S.C. 1971).

93 "It is not for the Mushrikin (polytheists, idolaters, pagans, disbelievers in the Oneness of Allah), to maintain the Mosques of Allah." Quran 9:17.

94 In secular intellectual property law, the power of symbolism is recognized as having great economic power. The value of the Coca-Cola trademark, for example, is immense. The symbolism of Islamic marks carries great spiritual value for Muslims. If capitalists can protect beverages, Muslims can surely safeguard the masjid and other fundamental symbols of faith and worship.

95 In the law of trademarks, a mark may not be registered if it is deceptive, scandalous, or conflicts with earlier marks. A mark is deceptive if it misleads the consumers about the nature or quality of the product it represents. BAINBRIDGE, supra note 5, at 409.
state. When the building is located in a non-Muslim state, the right to protest through international forums will continue to exist until the infringement is remedied.

Islamic intellectual property has numerous other protected symbols and marks. The adhan is the call to prayer, which is a unique symbol of Islam. No one may use the adhan to call the people to any other gathering or for any other purpose. Likewise, the five daily prayers with prescribed physical movements identify Muslims worshiping One God. Other permanent features of Islam include the ramadhan, the month of fasting, the zakat, the paying of a fixed share of one's income to the poor and the needy, and the hajj, the annual pilgrimage when Muslims of the world congregate in the holy cities of Mecca and Medina. Furthermore, the Islamic greeting of “assalam-ualaihkm” (peace be upon you) is part of Islamic assets. Since the inception of Islam, each practice has been carefully defined to eradicate confusion, speculation, or alteration. These symbols and practices identify the religion as Islam and its follower as Muslims. Muslims of all nations and of all times are obligated to preserve the integrity of these marks and symbols from confusion, misappropriation, and subversion.

II. AL-AMANAH: THE TRUST OF PROTECTED KNOWLEDGE

For the protection of their integrity and dignity in this world, the core assets of Islam—the Quran and the Sunna—have been placed in a Trust (Al-Amanah). The Trust is universal, timeless and irrevocable. The Trust is established for the benefit of all, as every human being, Muslim or non-Muslim, is free to benefit from the protected knowledge. However, not

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96 A non-Muslim may use the greeting to show respect for the Islamic community. The intention of the user and the use itself determine whether they violate Islam’s right to attribution and integrity.

97 Zaheeruddin v. State, 26 S.C.M.R. 1718 (1993) (Pak.). In his dissenting opinion, Justice Abdul Qadeer Chaudhry, relying upon a United States case, holds that the Ahanddis, who do not believe in the finality of Muhammad’s prophethood, cannot pass off as Muslims. Justice Chaudhry stated:

And, if a religious community insists on deception as its fundamental right and wants assistance of Courts in doing the same, then God help it. It has been held by the United States Supreme Court in Cantwell v. Connecticut (310 U.S. 296 at 306) that “the cloak of religion or religious belief does not protect anybody in committing fraud upon the public.”

Id. at 1754.

98 It is the basis of this analysis that the Pakistan Supreme Court upheld the laws that prohibit Ahanddis from using the traditional symbols and marks of Islam. Id. at 1718; see supra text accompanying notes 92-97.
everyone has accepted the obligations of the Trust. Nor can anyone be forced to do so. All Muslims, born and naturalized, are trustees of the protected knowledge, because their faith is inseparable from the Trust. They understand the obligation of the Trust. They know that the protected knowledge placed in the Trust cannot be altered; it cannot be assaulted; it cannot be disrespected. They accept the Trust in its entirety as it is. They also understand that they cannot accept the Trust on conditions or accept part of the Trust property and reject the remainder. They preserve all assets of the Trust at all costs and from all assailants. More than the rest of the world, they, as trustees, are under a higher obligation not to dishonor the Trust or diminish the value of its assets.

A. No Ownership.

It is important to understand that Muslims are the trustees, not the owners of protected knowledge. No individual, no family, no nation, and no one generation of Muslims can claim proprietorship of these assets, simply because no one owns these assets. Even Muslims, in their totality, do not own these assets. In fact, no concept of ownership applies to the knowledge-based assets of Islam, as it does to intellectual property. This difference cannot be over-emphasized. To prevent any competing claims of exclusive ownership, God has wisely placed the protected knowledge in a Trust. All human beings, including Muslims, are its beneficiaries, although the obliga-

99 The word "naturalized" is used to describe an individual who converts to Islam. This word is more descriptive and accurate, because according to Islam, every child is born with an Islamic nature. Thus, an individual who embraces Islam simply reclaims his natural state of spirituality.
100 Cf. Denny v. Guarantee Title & Trust Co., 234 P. 966, 967-68 (Kan. 1925) (stating that, conditional acceptance of a trust agreement by a trust company is not acceptance of the trust). "The provisions of [the contract between the parties] obviously formed a material part of the trust agreement. Until the trust company should agree to those provisions, it could not be said to have accepted the trust created by the written agreement between the [parties]." Id. at 967.
102 Quran 2:213; 10:19.
tion to protect these assets has been assigned to Muslims.¹⁰³

B. Trust Obligations.

The Quran highlights obligations of the Trust in a historical context. When God first proposed the idea of the Trust, the heavens, the earth, and the mountains declined to be the trustees because they knew they would be unable to execute its responsibilities in a fair and faithful manner.¹⁰⁴ Despite onerous burdens of the Trust, man unwittingly accepted to be the trustee, partly because he was prone to injustice and partly because he was ignorant.¹⁰⁵ Mired in ignorance and injustice, man failed to carry out the responsibilities of the Trust. Nor did he fully benefit from the revealed knowledge. Instead of holding firmly to the Trust,¹⁰⁶ he protected only selective assets of the protected knowledge and threw away the rest.¹⁰⁷

This state of ignorance, however, changed when the protected knowledge of the Quran and the Sunna was conferred upon humanity. Benefiting from this new knowledge, human beings acquired a better understanding of benefits and burdens of the Trust. Just like previous peoples of the book, Muslims have also entered into a Covenant with God to honor and fear His sovereignty. However, Muslims are determined to succeed in their Covenant with God and honor the Trust. They want to make no mistakes. They want to honor the Trust and they are willing to protect the received knowledge from alterations and indignities. In this effort, they are fully aware of the fact that "[t]hose who break Allah’s Covenant after ratifying it, . . . it is they who are losers."¹⁰⁸

C. Keys of the Trust.

If God possesses the keys to all the hidden knowledge, He has donated the keys of the Trust to Muslims. The Islamic faith, called iman, is composed of two keys that safeguard the knowledge placed in the Trust. One key safeguards the protected knowledge of tauhid, that is, monotheism—a realm of knowl-

¹⁰³ Quran 2:143.
¹⁰⁴ Quran 33:72.
¹⁰⁵ Id.
¹⁰⁶ Quran 2:93.
¹⁰⁷ Quran 2:85. "Then do you believe in a part of the scripture and reject the rest?" Id.
¹⁰⁸ Quran 2:27.
edge in which one understands and experiences the Oneness of God, believing without doubt that there is only One God, the Creator of all the worlds, and none but He has the right to be worshiped. This key has previously been given to other religions, including Judaism and Christianity, so that they could access the protected knowledge of One God.\textsuperscript{109} Nonetheless, the Islamic knowledge of \textit{tauhid} is the most protected as it carries not even a shadow of any god but One God.\textsuperscript{110} This key becomes uniquely Islamic when the knowledge of One God is received through the verses of the Quran.\textsuperscript{111}

The second key of \textit{iman} is the exclusive property of Islam. It accesses the protected knowledge of the Sunna. In the realm of the Sunna, Muslims find a detailed manual for living an authentic Islamic life. This practical manual also provides great insights into understanding the protected knowledge of the Quran. The Sunna illuminates a simple fact that a morally intelligent and materially prosperous life can be lived in accordance with dictates of the protected knowledge. It offers Islam as a natural and easy religion, imposing no obligation that an individual cannot bear in his natural state of being.\textsuperscript{112}

Whereas the first key unlocks the knowledge of One God through the medium of the Quran, the second key unlocks the knowledge of the Prophet's life, the Sunna, devoted to practical demonstration and direct application of the protected knowledge of the Quran. The two keys together are indispensable for understanding, protecting and preserving Islamic assets placed in the Trust—for one key without the other does not work. That is why the complete Islamic faith is comprised of the \textit{shahada}: There is no god but Allah and Muhammad is His messenger.

\textsuperscript{109} Professor Witte rightfully points out that the "teachings and practices of Judaism, Christianity, and Islam have much to commend themselves to the human rights regime. Each of these traditions is a religion of revelation, founded on the eternal command to love one God, oneself, and all neighbors." John Witte, Jr., \textit{Law, Religion, and Human Rights}, 28 COLUM. HUM. RTS. L. REV. 1, 13 (1996).

\textsuperscript{110} LAPIDUS, supra note 52, at 34-35. The Quran offers a special originality within the framework of monotheistic religions. \textit{id.}

\textsuperscript{111} Once the Quran was complete, God sealed for good the source of revelation. Always guided and restrained by the Quran's perfected message, Muslims no longer look for more divine instruction.

\textsuperscript{112} "Allah intends for you ease, and He does not want to make things difficult for you." Quran 2:185. For example, prayers may be joined and even shortened during traveling, \textit{AL-MUWATTA OF IMAM MALIK IBN ANAS, THE FIRST FORMULATION OF ISLAMIC LAW} 54 (Aisha Abdurrahman Bewley trans., Kegan Paul Int'l). Malik's book, written about a hundred years after the Prophet's death, is a valuable asset of Islam. "No book has been placed on earth closer to the Quran than the book of Malik." \textit{id. at trans. intro. xxxiv}. 
The Quran and the Sunna, the two keys are freely available, and, therefore, no key can be hidden, damaged or forged. Free availability of the two keys also makes it impossible for any single nation, individual, scholar, or sect to appropriate or misappropriate the intellectual property of Islam.113

III. MORAL RIGHTS OF ISLAM

Secular intellectual property is most often associated with economic rights. However, another important set of rights related to secular intellectual property is recognized at both national and international levels. Originating in France, the set is known as droit moral or "moral rights."114 The term captures "rights of a spiritual, non-economic and personal nature. The rights spring from a belief that an artist in the process of creation injects his spirit into the work and that the artist’s personality, as well as the integrity of the work, should therefore be protected and preserved."115 DaSilva states the concept more simply and succinctly: "the author has, in a sense, made a gift of his creative genius to the world; in return, he has a right—a moral right—to expect that society respect his creative genius."116

Though related to economic rights, moral rights are founded on a separate raison d’être117 Whereas economic rights protect the author’s financial interests in his creative work, moral rights recognize the unique relationship between the author and his work.118 Economic rights may be assigned or sold,
but moral rights cannot be traded away as they are tied to the person or the author. Moral rights remain with the author even when he has alienated pecuniary and contractual rights of his work.\textsuperscript{119} There may even be a public interest in preserving the integrity of cultural and artistic creations.\textsuperscript{120}

Among important moral rights, the right to attribution and the right to integrity are the most relevant rights.\textsuperscript{121} The right to attribution demands that the author's name always be associated with his work. This right also prohibits any false attribution of the author's name to a work he has not created. Of all the moral rights, the right to attribution is the least controversial. While economic rights involving intellectual property expire after a designated period, the right to attribution may be granted in perpetuity.\textsuperscript{122}

The right to integrity protects the author's work from "any distortion, mutilation or other modification of the said work which would be prejudicial to his honor or reputation."\textsuperscript{123} Even excessive criticism may be prejudicial to the work's integrity. In one case, a United States court prevented American Broadcasting Companies from airing distorted versions of a program produced by British writers and performers known as "Monty Python."\textsuperscript{124} The court stated:

This cause of action, which seeks redress for deformation of an artist's work, finds its roots in the continental concept of droit moral, or moral right, which may generally be summarized as

\begin{quote}

The Legislature hereby finds and declares that the physical alteration or destruction of fine art, which is an expression of the artist's personality, is detrimental to the artist's reputation, and artists therefore have an interest in protecting their works of fine art against such alteration or destruction; and that there is also a public interest in preserving the integrity of cultural and artistic creations.

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\textsuperscript{119} The United States has also recognized moral rights, though for a limited category of works. The Visual Artists Rights Act extends moral rights to works of visual art. 17 U.S.C. 106A (1990).

\textsuperscript{120} Id.

\textsuperscript{121} In common law countries, some aspects of the rights of attribution and integrity are protected under the torts concept of libel and slander. See Dane S. Ciolino, \textit{Moral Rights and Real Obligations: A Property-Law Framework for the Protection of Authors' Moral Rights}, 69 TUL. L. REV. 935, 950-52 (1995) (tort theories provide limited protection of moral rights).


\textsuperscript{123} Berne Convention, June 2, 1928, art. 6bis, 123 L.N.T.S. 235, 249. In 1948, article 6bis was amended to extend the maintenance of these rights even after the author's death.

\textsuperscript{124} Gilliam v. Am. Broad. Cos., 538 F.2d 14, 23 (2d Cir. 1976).
including the right of the artist to have his work attributed to him in the form in which he created it.\textsuperscript{125}

Ironically, however, Monty Python made a series of movies that lampooned Jesus Christ, parables of the New Testament, and the Catholic Church.

The moral rights, despite the misleading word "moral," safeguard the name and the work of artists, authors, and sculptors, not prophets. They are nonetheless insightful for understanding the protected knowledge of Islam. Islamic moral rights mandate that the Quran's integrity and honor be upheld against any physical or verbal attack. Islamic law prohibits any intentional and hateful burning or mutilating the pages of any copy of the Quran.\textsuperscript{126} Furthermore, any proposal to amend the Quran is offensive to the Book's inherent dignity. Likewise, any attack on the person of the Prophet infuriates the entire Islamic community. In fact, any derogatory remarks about Allah or the Quran or the Messenger are occasions for Muslim revenge and punishment. When authors face death threats for their novels and comments, the outside world, particularly the secular west, accuses Muslims of intolerance and extremism. An examination of the Islamic rights of attribution and integrity may explain some of the misunderstanding.

\textbf{A. Islamic Right to Attribution}

\textit{"No change can there be in the Words of Allah. This is indeed the supreme success."\textsuperscript{127}}

The Islamic right to attribution, which safeguards the purity of protected knowledge of Islam—the Quran and the Sunna—has now been firmly established in Islam. In the case of the Quran, the right to attribution preserves the authentic text in its original form, without any alterations, additions, and deletions. Though revealed through the medium of the Prophet, no one but God is the Quran's sole creator. Each and every verse of the Quran is the word of God. Accordingly, the Islamic right to attribution demands that no man-made verse be attributed to God, nor any verse of the Quran be attributed to man. In case of the Sunna, the right to attribution preserves the authenticity of the Prophet's decisions, statements, and comments. Thus, any false attribution of a decision, statement, or

\begin{quote}
\textsuperscript{125} \textit{ld. at 24.}
\end{quote}

\begin{quote}
\textsuperscript{126} Each and every copy of the Quran deserves equal respect.
\end{quote}

\begin{quote}
\textsuperscript{127} Quran 10:64.
\end{quote}
comment to the Prophet violates the right to attribution.\textsuperscript{128} Moreover, the right to attribution also prohibits the Prophet’s decisions, statements, and comments from being attributed to any one but the Prophet. In sum, the right to attribution preserves the authenticity of the Quran and the Sunna.

The right to attribution was much more critical in the early decades of Islam when the Quran and the Sunna were in the process of compilation. Then, it was not uncommon for non-Muslims to attribute false verses to the Quran and false hadith to the Prophet. Once the authentic text of the Quran was ascertained, false attributions began to disappear.\textsuperscript{129} It is no less than a miracle that, for more than fourteen centuries since the revelation of the Quran, there has been, and is, only one authentic text of the Quran throughout the world. The Quran’s own claim that “this is a Book about which there is no doubt” has now been firmly established.

In the early years of Islam, false attribution of hadith to the Prophet was more common than false attribution of verses to the Quran. Known as maddu hadith, these were fabricated words and deeds attributed to the Prophet. The hadith were forged to please rulers and to corrupt the religion of Islam. Among countless hadith attributed to the Prophet, scholars\textsuperscript{130} of immense knowledge and immaculate character spent decades carefully researching and authenticating the chain of transmission (isnad) and the content (matn) for each hadith.\textsuperscript{131}

\textsuperscript{128} The Prophet said, “[w]hoever (intentionally) ascribes to me what I have not said then (surely) let him occupy his seat in Hell-fire.” 1 SAHIH AL-BUKHARI, supra note 3, at hadith 109.

\textsuperscript{129} The official version of the Quran was promulgated by the Caliph Uthman (644-656). “[S]mall points of detail remained in dispute until the tenth century, when Muslim scholars” embraced the seven variant readings as equally valid. LAPIDUS, supra note 52, at 21. However, these seven variants do not change the meaning of the Quran. It simply asserts that a word, whose meaning is fixed, may be pronounced in seven different dialects. See ABU JAFAR MUHAMMAD B. JARIR AL-TABARI, THE COMMENTARY ON THE QURAN 21 (1987, original 9th century). Al-Tabari was born in 839 in northern Iran. id. at ix. From an external viewpoint, however, the authenticity of the text of the Quran has never been fully accepted. See HELMUT GATJE, THE QURAN AND ITS EXEGESIS 23-30 (Alford T. Welch trans., 1976) (1971).

\textsuperscript{130} The Prophet’s companions were keen observers of the Prophet’s words and deeds. Some of them put down the Prophet’s judgments, verdicts, utterances, and addresses in written records, called sahifas. These sahifas later provided reliable records for the hadith. Introduction to SAHIH MUSLIM, supra note 90, at iii.

\textsuperscript{131} Imam Malik ibn Anas is the most eminent Islamic scholar, “celebrated for his taqwa, his retentive memory and his reliability in transmission . . . .” Id. at xxix-xxx. In collecting hadith, Imam Malik relied on only those “men that he saw had taqwa, scrupulousness, good memory, knowledge and understanding, and who clearly knew that they would be accountable for what they said on the Day of Rising.” See Introduction to MALIK, supra note 113, at xxix.
Imam Bukhari, the most respected scholar of *ahadith*, collected over 300,000 *ahadith*, but selected in his compilation only about 7,000 *ahadith* whose authenticity was irrefutable.\(^\text{132}\)

In order to establish authenticity, the content (*matn*) of a *hadith* was evaluated for its substantive harmony with the Quran. If any contradiction arose between the Quran and the reported *hadith*, the *hadith* was disregarded. Furthermore, the content of a *hadith* was also scrutinized for its compatibility with other authentic *ahadith*. Even when the content of a reported *hadith* was in harmony with the Quran and other authentic *ahadith*, great care was taken to carefully assess the reliability of each narrator in the *hadith*’s chain of transmission. A *hadith*, unimpeachable both in content (*matn*) and transmission (*isnad*), was granted the status of a sahih *hadith*. These two scholarly verifications—content (*matn*) and transmission (*isnad*)—defined the right of attribution. The treasured collection of the sahih *ahadith* constituted the protected knowledge of the Sunna.\(^\text{133}\)

Thus, from an internal viewpoint, the right to attribution has been finally resolved and firmly established. The *umma*, that is, the community of believers, are no longer equivocal or confused about the authenticity of the protected knowledge. From an external viewpoint, however, the challenges to the authenticity of the protected knowledge may continue to be presented.

**B. Islamic Right to Integrity**

"Say: ‘Are those who know equal to those who know not?’ It is only men of understanding who will remember."\(^\text{134}\)

In addition to the right to attribution, the integrity of protected knowledge is the most significant right that distinguishes Islam from other religions. This right safeguards the protected knowledge from innovations, repudiation, internal disrespect, and external assaults. It also protects the honor of

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\(^{132}\) *Introduction* to 1 *SAHIH AL-BUKHARI*, supra note 3, at xiv-xv (Muhammad Mushin Khan trans.).

\(^{133}\) Six compilations of *ahadith* are considered genuine and reliable. Named after the compilers, they are (1) Bukhari, (2) Muslim, (3) Abu Dawud, (4) Tirmidhi, (5) Ibn Maja, and (6) al Nasai. The collections of Bukhari and Muslim are held in the most esteem. The *ahadith* reported in both of these collections are recognized as absolutely authentic. See *Introduction* to 1 *SAHIH MUSLIM*, supra note 82, at iv-v. For online complete collections of Sahih Bukhar and Sahih Muslim, see http://www.usc.edu/dept/MSA/reference/searchhadith.html

\(^{134}\) Quran 39:9.
the Prophet who served as the sole medium to transmit the protected knowledge to the world. The integrity of protected knowledge and the Prophet's honor are vested in Islam, but their enforcement has been trusted to Muslims. As trustees, Muslims of all nations and all times are under an irrevocable obligation to carry out this fiduciary duty in good faith and to the best of their ability.

To fully appreciate the integrity of protected knowledge, three important points may be noted. First, Islam encourages the study and understanding of the protected knowledge. Second, it discourages innovations that compromise the integrity of protected knowledge—any such innovations are known as *bid'a*. Third, it abhors situations in which trustees of the protected knowledge themselves repudiate its integrity—an activity known as *ridd'a*. To safeguard the integrity of protected knowledge from innovations and repudiations, Islam punishes both *bid'a* and *ridd'a*. Furthermore, it punishes severely every malicious and public act of *ridd'a*.

1. Understanding the Protected Knowledge.

Islam is a religion of knowledge; it encourages the study and understanding of the protected knowledge. Islamic quest for knowledge, however, is not confined to the study of the Quran and the Sunna. Ever since the advent of Islam, Muslims of successive generations and diverse regions have engaged in the study and research of science, architecture, philosophy, and literature. "Muslim contributions to astronomy, mathematics, medicine, chemistry, zoology, mineralogy, and meteorology often surpassed the received heritage of Greek, Persian, and Indian ideas." The Prophet himself encouraged the tradition of learning, advising his followers "to pursue knowledge, even if you have to go to China." This proposed journey to China approved learning of not only what is sacred and familiar, but also of what is material and remote.

Even with respect to protected knowledge of the Quran and the Sunna, the right to integrity allows multiple understandings of the same sources. This understanding depends upon the person's background, preparation, state of mind, in-

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135 Quran 3:79.
136 LAPI DUS, supra note 52, at 96.
137 1 MISHKAT MASABIH, at hadith 111W; see also Rifiat Hussain, Religious Human Rights in the World Today, 10 EMORY INT'L L. REV. 85, 92 (1996).
tention, and the quality and quantity of knowledge he already possesses. "As he reaches higher stations, new doors are open to him through which he looks upon new and subtle meanings." The grasp of protected knowledge, therefore, varies from person to person and stage to stage. It also varies from age to age, as the protected knowledge contains secrets that may be disclosed to one generation, but not another.

Multiple understandings of the protected knowledge are most pronounced in the realm of Islamic law. Muslim jurists of high learning and sincere intentions understood the protected knowledge of the Quran and the Sunna at different levels of sophistication, and sometimes, disagreed with each other on key issues. No one school of jurisprudence has claimed a monopoly on interpretation of the protected knowledge. In the last fourteen centuries, Muslim scholars have continued to provide new insights and nuances. Even non-Muslims of high learning and sympathetic intentions have contributed to expanding the understanding of the protected knowledge of Islam. Such interpretive expansions, and even disagreements, do not violate the right of integrity. The Prophet has declared, "difference of opinion among my community is a sign of the bounty of God." By all means and in all times, therefore, the flourishing of the internal viewpoint has been, and continues to be, an integral part of the Islamic evolution.

The right to integrity respects doctrinal decisions of past scholars, not merely as historical literature, but as a source of guidance for present and future generations; it refuses to declare scholarly literature of the past as time-specific or culture-specific. Islamic scholars of all times and all cultures must be

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138 RENARD, supra note 51, at 5. The quotation is taken from Ibn-Arabi (d.1240), a Muslim jurist born in Andalusia, Spain. Id.

139 Quran 51:47. As the Quran explains “[w]ith power did We construct the heaven. Verily, we are able to expand the space thereof.” Id. The gradual expansion of the universe is an important discovery unavailable to previous generations of Muslims to fully appreciate the meaning of the Quran. Describing human reproduction, the Quran states: "He created you in the wombs of your mothers, creation after creation in three veils of darkness." Quran 39:6. The three veils of darkness have been identified as (1) abdominal wall (2) uterine wall, and (3) amino-chorionic membrane (a sac filled with fluid in which the fetus floats). MAURICE BUCAILLE, THE BIBLE, THE QURAN AND SCIENCE 205 (North American Trust 1979).

140 N.J. COULSON, A HISTORY OF ISLAMIC LAW 102 (1964).

141 Coulson, an English scholar of Islam, sums up the metaphors that Muslim authors use to describe the phenomenon of ikhtilaaf, or diversity of doctrine: "A tree, whose network of branches and twigs stems from the same trunk and roots; a sea, formed by the merging waters of different rivers; a variety of threads woven into a single garment; even the interlaced holes of a fishing net." Id. at 86.
respected, their works must be studied, and their interpretations must be seriously honored. Despite this deference to historical scholarship, however, the right to integrity discards the doctrine of taqlid, which forces Muslims to follow interpretations of the early scholars of Islam. Accordingly, Muslim scholars of each generation are free to study and understand the protected knowledge of the Quran and the Sunna in the context of a broader evolution of human civilization. The gate of ijtihad—that is, research and reasoning, serious, sincere, but always submissive to the will of God and always deferential to the protected knowledge of the Quran and the Sunna—must never be closed.\footnote{In the first four hundred years, Muslim scholars developed an understanding of the protected knowledge of Islam through logic, analysis, mutual dialogue, and consensus. In the next two hundred years, four major schools of jurisprudence, under the scholastic leadership of Abu-Hanifa, Malik, Shafi'i (d. 204/820), and Hanbal (d. 241/855), were fully developed. "While the Hanafi, Maliki, and Shafi schools agreed that the 'gate of ijtihad' or independent reasoning was closed, ... the Hanbalis and a minority of Shafi [scholars declined to embrace the doctrine of taqlid." LAPI\textsc{dus}, supra note 52, at 193; see e.g., Burstyn v. Wilson, 343 U.S. 495 (1952) (holding that "it is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine, whether they appear in publications, speeches, or motions pictures").}

2. \textit{Bida}: Innovating the Protected Knowledge.

While understanding the protected knowledge is mandatory for the constant revival of Islam, \\textit{bida} or innovations are prohibited. Bid'a\footnote{\textit{Bid'a} is singular, whereas \textit{bida} is plural. See GAT\textsc{f}, supra note 129, at 21.} is a mischievous assault on the integrity of the protected knowledge of Islam.\footnote{See \textit{id}.} Two distinct elements define the act of bid'a. First, most often, the intention of the innovator is to reform Islamic law or beliefs. Sometimes, the innovator intends to create public mischief. \textit{"And when it is said to them: 'Make not mischief on the earth,' they say: 'we are only peace-makers.'"}\footnote{Quran 2:11.} Even when the innovator is well intentioned and religiously inspired, the innovation sullies the integrity of protected knowledge though the innovator fails to perceive his mischief.\footnote{Quran 2:12.} Second, almost always, the innovation is a dramatic departure from the existing understanding of the protected knowledge. Often, the two elements are simultaneously present. Sometimes, the dramatic departure itself is a sufficient basis to characterize an innovation as bid'a.\footnote{\textit{Bid'a} is singular, whereas \textit{bida} is plural. See GAT\textsc{f}, supra note 129, at 21.}
Thus, bid'a is a precept that modifies the established meaning of protected knowledge. Its purpose may be reformative or mischievous. The person who commits bid'a is a Muslim. The innovator does not renounce the faith in its entirety, and he may even wish to lead a new sect within the fold of Islam or remain loyal to an established school of law. 147

All bid'a are prohibited because the core identity of Islam cannot change. The protected knowledge of Islam needs no reformation; it needs understanding, not renovation. Islam allows no intellectual revolution that would dramatically reformulate the meaning of protected knowledge. Science, law, literature, philosophy, or any other discipline may illuminate the meaning of protected knowledge, but nothing can weaken its integrity. That is why, over the centuries, all Islamic revolutions and movements have been toward eradicating innovations that accrue over time. 148 Almost always, they strive toward reinstating the integrity of protected knowledge.

It is important to distinguish between kufr (disbelief) and bid'a (innovation). Kufr is the rejection of a basic element of the protected knowledge, whereas bid'a is an innovation in the basic element. To completely deny, for example, that Prophet Muhammad (peace be upon him) was God's Messenger is kufr. To assert that Muhammad (peace be upon him) is indeed God's Messenger but not the last Prophet is bid'a, an innovation that dramatically departs from the established meaning of the protected knowledge of Islam. In proposing his innovations, the innovator does not reject the protected knowledge of Islam. 149 He may not question the textual integrity of the Quran, he may even adhere to the substantive integrity of the Sunna, and his bid'a simply attaches innovative meaning to the Quran's text or the Sunna's substance. Thus, bid'a may not be a false attribu-

147 Yet, in a secular community that extensively allows the freedoms of speech and religion, bid'a or heresy is a protected intellectual and religious viewpoint. Consequently, no church or community may lawfully harm or even silence the heretic. Under the combined effect of free speech and free exercise of religion, the state must allow the heretic to express his views, regardless of how offensive the views are to the church or community. The state may restrict or prohibit public advocacy of heresy only if the heretical speech causes or is most likely to cause a serious law and order situation.

148 The Iranian revolution of 1979, for example, repudiated all innovations and reinstated a more fundamental version of Shi'a Islam. There are movements in almost all Islamic countries, which strive to restore the purity of protected knowledge. Even the Saudi legal system has been greatly influenced by Muhammad ibn Abd Al-Wahhab (died 1791) who proposed the elimination of all innovations. GATJE, supra note 129, at 21.

149 Quran 33:40.
A recent example of Islam's treatment of innovations is its response to Mirza Ghulam Ahmed (1835-1908) of India who claimed prophethood within the fold of Islam. It is disputed whether he was motivated to reform Islam or to create mischief by dividing the Muslims of British India. In claiming prophethood, however, Ahmed proposed no changes in prayers, fasting or the sacred text of the Quran. However, he introduced dramatic new meaning in the firmly established understanding of the Quran. Mirza Sahib claimed to be the "Ahmed," an apostle that Jesus had predicted would come after him. Under the established meaning of the Quran and the Sunna, "Ahmed" was a reference to Prophet Muhammad (peace be upon him), not to Mirza Sahib. Ahmed’s claim to prophethood also dramatically altered the meaning of another verse of the Quran, which declares that Muhammad (peace be upon him) is the last Prophet. “Muhammad is not the father of any of your men, but he is the Messenger of God and the last (end) of the prophets.” Thus, Ahmed’s innovative reading of the Quran disturbed the fundamental meaning of key verses that have remained uncontroversial throughout the ages.

Ahmadis, the followers of Mirza Sahib, have not been well received in Muslim communities of the world. They have been banned from pilgrimage to Mecca. They have been declared non-Muslims under the Pakistan Constitution.

150 Mirza Sahib is an abbreviated but respectful name for Mirza Ghulam Ahmed.
151 Quran 61:6.
152 Prophet Muhammad (peace be upon him) said: “I have five names. I am Muhammad and Ahmed. I am Al-Mahl through whom Allah will eliminate Al-Kuf; I am Al-Hashir who will be the first to be resurrected, the people being resurrected thereafter; and I am also Al-Aqib (i.e. there will be no Prophet after me).” 4 SAHIH AL-BUKHARI, supra note 3, at hadith 732.
153 Quran 33:40. According to the followers of Ahmed, “there will be no Prophet after Muhammad [peace be upon him] who will bring a new law or who will not be completely obedient to [Muhammad (peace be upon him)] . . . [New prophets may] appear, but only through allegiance to Muhammad (peace be upon him).” They also believe that Muhammad (peace be upon him) was the most perfect Prophet, not the last Prophet. See M. Nadeem Ahmad Siddiq, Enforced Apostasy: Zaheeruddin v. State and the Official Persecution of the Ahmadiyya Community in Pakistan, 14 LAW & INQ. 275 n.17 (1995).
154 The Baha’is are similarly situated in Iran. Baha’u’llah claimed to be a Prophet as well. Both Ahmadis and Baha’is innovate Islam in essentially the same way: They both deny that Muhammad (peace be upon him) was God’s last Messenger. Note, however, that Muslims seem to have no problems with new prophets within the fold of Christianity, including Joseph Smith of Mormons.
155 According to the Constitution, "‘Muslim’ means a person who believes in the unity of oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the prophets and does
thermore, they have been forced by Pakistani laws not to use any Islamic symbols and practices. When they challenged these laws under the freedom of religion, the Pakistan Supreme Court held that laws restricting religious practices of Ahmadis are constitutional. Thus, the Islamic right to integrity preempted the right of Ahmadis to freely practice their innovative version of Islam.

The case embodies the principle that every Muslim, as a trustee, is under a fiduciary obligation to protect the integrity of protected knowledge. Islam prohibits its followers from making or proposing any innovations in the fundamental structure, design, and ingredients of the protected knowledge. In contemporary society, this prohibition is perhaps best understood by an analogy to the computer world. For example, no secular state will protect a person who makes unauthorized alterations in proprietary software, and it may even criminally punish or impose punitive damages if a hacker introduces a computer virus that infects the system. This offense will be even more punishable if the person subverting the source code of a software program is a trusted insider. The prohibition in Islam is similar, but much stricter. Islam forbids Muslims from making any innovations in the essentials of protected knowledge.

3. Ridda: Repudiating the Protected Knowledge.

Ridda, that is, the repudiation of protected knowledge, is a more serious offense than bid’a. Whereas bid’a aspires to re-
form the protected knowledge, *ridda* aims at its total rejection. *Ridda* is the highest breach of Trust under which Muslims have vowed to uphold and preserve the dignity and integrity of protected knowledge. The concept of *ridda* applies to Muslims only—"those who have turned back (have apostated) as disbelievers after the guidance has been manifested to them."\(^{162}\) No non-Muslim may be charged with the offense of *ridda*, because he has undertaken no fiduciary duty of honoring the integrity and dignity of protected knowledge. When non-Muslims mocked the verses of the Quran, the Prophet was advised to leave their company and stay away from them until they changed the conversation,\(^{163}\) but they were not guilty of *ridda*.

To fully understand the concept of *ridda*, the privacy of belief must be distinguished from public pronouncements. Islam protects the privacy of belief. The Quran prohibits Muslims from spying on each other.\(^{164}\) The Sunna also affirms the privacy of belief.\(^{165}\) No ruler, therefore, has any lawful authority to question Muslims about the authenticity of their private faith. As a general rule, it is forbidden to investigate whether Muslims observe the *Shari'a*, and whether their beliefs are correct from all points of view.\(^{166}\) Each Muslim, in the privacy of his heart or home,\(^{167}\) is accountable to none but God. In matters of faith, the Quran forbids Muslims from defaming one another or calling each other with insulting names.\(^{168}\) In short, no one is authorized to scrutinize, much less punish, the private faith of a Muslim who shows no outward disrespect for the protected knowledge of Islam.

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ever, the meaning of *ridda* is not fixed, except in a very general way, that *ridda* is the repudiation of Islam. Professor David Forte, for example, correctly points out that in the early days of Islam, apostasy and treason were synonymous. In Hanafi school of jurisprudence, *ridda* is most often treated as rebellion. See David F. Forte, *Apostasy and Blasphemy in Pakistan*, 10 CONN. J. INT'L L. 27, 43-45 (1994).

\(^{162}\) Quran 47:25.

\(^{163}\) Quran 6:68.

\(^{164}\) Quran 49:12.

\(^{165}\) The Prophet prohibited calling a person who has embraced Islamic monotheism a hypocrite. It is irrelevant whether others still think, "he does not love Allah and His Messenger." 9 SAHIH AL-BUKHARI, *supra* note 3, at hadith 71. Likewise, the Prophet prohibited Muslims from challenging each other's sincerity of faith.

\(^{166}\) http://www.lio.org/deviant/noi.htm

\(^{167}\) The Quran prohibits anyone from entering a house without permission and commands him to turn away if no one is in the house. Quran 24:27-28. The Sunna also protects the privacy of homes. The Prophet strictly observed the privacy of home. Once a man peeped into the house of the Prophet. The Prophet got up and aimed a sharp-edged arrowhead at him to poke him. 9 SAHIH AL-BUKHARI, *supra* note 3, at hadith 26-27.

\(^{168}\) Quran 49:11.
Ridda is an offense involving public repudiation of the protected knowledge of Islam. This repudiation does not take place in the privacy of one's heart or home; it is openly advocated. According to the Quran, the murtaddun (apostates), persons who commit ridda, are "those who purchase a small gain at the cost of Allah's Covenant and their oaths." \(^{169}\) Ridda is an offense committed by a trusted insider. Most often, the murtaddun live in Muslim nations. But even when they live elsewhere, their ridda is aimed at dishonoring the protected knowledge of Islam.\(^{170}\) The murtad (apostate)\(^{171}\) is akin to a corporate insider who discloses the secrets he has undertaken to protect; he is akin to a state official who turns traitor and joins the ranks of the enemy; he is akin to a custodian who destroys the very monument he was safeguarding on behalf of the community. All legal systems punish insiders who breach their trusts; Islam punishes murtaddun too, sometimes severely.\(^{172}\)

The punishment for ridda varies under different Islamic schools of jurisprudence. It could be death in serious cases.\(^{173}\) Aggravating facts surrounding ridda and the social status of the murtad may affect the severity of the punishment. If the attack on protected knowledge is open, hostile, and voiced contemptuously, the punishment is likely to be stiff. Furthermore, if the murtad is a notable person in the community or famous in the world, the offense of ridda is considered more serious.\(^{174}\) Again, this treatment of the murtad is no different from the one meted out to a malicious and non-repentant traitor or a prestigious official who compromises the security and honor of a secular

\(^{169}\) Quran 3:77.

\(^{170}\) Historically, ridda was considered a mutiny against Islam. During the Prophet's life, ridda was not simply the repudiation of faith; it amounted to a declaration of war.

\(^{171}\) Murtad is singular; murtaddun is plural.

\(^{172}\) Shari‘ah prescribes the death penalty for apostasy, a practice that is "especially troublesome to the concept of democracy." Peter A. Samuelson, Pluralism Betrayed: The Battle Between Secularism and Islam in Algeria's Quest for Democracy, 20 YALE J. INT'L L. 309, 339 (1995). Modern Islamic human rights documents have failed to challenge the death penalty for ridda. Id.

\(^{173}\) The Quran does not specify the punishment for apostasy. However, all four schools of jurisprudence prescribe the death penalty. According to Malik and Shafi, the apostate should not be executed for three days during which he may repent and accept Islam. See Shaybani Siyar, THE ISLAMIC LAW OF NATIONS 195 (Trans. Majid Khadduri, 1966). Shaybani is an eighth century Muslim jurist. See id. at 27-36.

\(^{174}\) The Satanic Verses of Salman Rushdie, for example, was a contemptuous attack on the integrity of the Quran, the honor of the Prophet, and his pious wives. Because Rushdie was a world-known author, his advocacy of hatred against Islam was taken more seriously. Accordingly, the Iranian Imam issued a death decree against the author.
state. In Islam, however, public repudiation of the protected knowledge is the most serious crime, even more serious than giving away nuclear secrets.

The severe punishment prescribed for ridda is designed to deter imposters who embrace Islam in complete bad faith; they accept Islam as a means of subversion either to dishonor the protected knowledge or to physically harm the Islamic community. A key case illuminates the concept of ridda. Some members of the tribe of Ukl embraced Islam and swore allegiance to the Prophet. Afterwards, they complained to the Prophet that they were ill. The Prophet sent them to the fold of his camels so that they could rest, drink milk, and treat their pleurisy. After regaining health, however, they denounced Islam, killed the shepherds, and ran away with the Prophet's camels. This is a classic case of ridda. On the Prophet's orders, therefore, the apostates were captured and killed. 175

The Ukl case clarifies several elements of ridda. First, the members of the tribe embraced Islam without any coercion. Second, they repudiated the faith after receiving a substantial benefit. Third, they violated the trust that the Prophet and other Muslims had reposed in them. Fourth, they inflicted serious harm on Muslim life and property. Under these circumstances, their punishment was appropriate both for retributive and deterrence purposes.

From an internal viewpoint, therefore, ridda is enforced to prevent and punish mischief against the protected knowledge of Islam and to safeguard Muslims from traitors and imposters. Ridda is not brute force to discourage Muslims from changing their religion, nor is it a license in the hands of a government to investigate Muslims' private beliefs and in no case does it apply to non-Muslims. The meaning of ridda becomes even more lucid when one learns that Islam prohibits any and all forcible conversions. No one is required to assume the trustee obligations of the protected knowledge, but when they do, they cannot abandon the trust. These rules preserve the dignity of protected knowledge, discouraging an "easy in, easy out" attitude toward Islam. Therefore, as the section below explains, the dissemination of protected knowledge is based on informed consent, not deception or coercion.

175 3 SAHIH MUSLIM, supra note 82, at hadith 4130-35.
V. DISSEMINATION OF PROTECTED KNOWLEDGE

"Verily! You (O Muhammad) guide not whom you like, but Allah guides whom He wills. And He knows best those who are guided." 176

Although Islam is a religion of protected knowledge, a common misperception festers that Islam was forcibly spread with the sword. Part of this misperception might have arisen from specific enforcement of ridda. Part of it arose from the war-prone state of human civilization in general. In the early centuries of Islam, when international law recognized war as a lawful means of conquering territories, Muslim rulers, like non-Muslim kings and monarchs, used force to conquer and subdue foreign nations and peoples. 177 This conquest of land, however, should not be confused with forcible conversion to Islam. Even during the period when international law allowed the use of force to conquer foreign lands, Muslim rulers remained under a clear obligation not to forcibly covert the conquered people to Islam; most observed the commandment. If any ruler used the sword to spread Islam, his act violated the principles of the protected knowledge. Indonesia, the largest Islamic country in the world, was never invaded or conquered by a Muslim ruler.

Islam is the truth beyond doubt. 178 Yet, it cannot be imposed on any non-Muslim. Even the Prophet himself was unable to guide his beloved uncle Abu Talib, 179 about which Allah said: "Verily! You (O Muhammad) guide not whom you like, but Allah guides whom He wills. And He knows best those who are guided." 180 Muslims are required to convey the message of Islam. However, they are under no obligation to convert.

Two great principles of the Quran guide the dissemination of protected knowledge. First, the Quran mandates the principle of non-compulsion. Second, it enunciates the principle of invitation. These two principles reaffirm the inherent dignity of

176 Quran 28:56.
177 In the mid twentieth century, the United Nations Charter outlawed the use of force against the territorial integrity of any state. U.N. CHARTER art. 2, para. 4. Over the centuries, however, nations and empires used war as a lawful means to conduct foreign policy, colonize other nations, and occupy inhabited and uninhabited territories.
178 Quran 23:89-90.
179 The Prophet's father died before he was born. His mother died when he was six. At the age of eight, the Prophet lost his influential grandfather. He was then raised by his loving uncle, Abu Talib. GATJE, supra note 129, at 4.
180 Quran 28:56.
the protected knowledge, which cannot be innovated, repudiated, or imposed. They also underscore the importance of the Al-Amanah (Trust) in that no one can be forcibly recruited as a trustee of the protected knowledge.

A. Principle of Non-Compulsion

"There is no compulsion in religion.”

Islam is submission to the will of God. Force or deception must not enter the equation, if the acceptance of protected knowledge is to be genuine, voluntary, and informed. The Quran, therefore, declares the principle of non-compulsion, known as al-ikrah, which outlaws coercive and manipulative methods for the conversion of non-Muslims. Submission to Islam is a contract that a non-Muslim freely makes with God—and with no one else—to accept the benefits and obligations of the Trust. Submission is essentially a private matter. It is also a public declaration that one makes to join the community of believers. In the realm of protected knowledge, submission begins a life-long process of beneficial learning. “So whosoever receives guidance, he does so for the good of his own self.”

But even the most beneficial knowledge requires effort and rarely can the attainment of knowledge be coerced or imposed, for, most often, it demands a voluntary opening of the mind and the soul.

Thus the principle of al-ikrah mandates that the protected knowledge of Islam be clearly presented to non-Muslims sincerely and without the use of force, tricks, or strings. For example, converting the hungry, the sick, the disabled, the homeless, or any other non-Muslim suffering under a disability will

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181 Quran 2:256.
183 Quran 10:108.
184 Quran 4:19 (forbidding inheriting women against their will). 9 SAHIH AL-BUKHARI, supra note 3, at hadith 78 (Trans. Muhammad Muhsin Khan) (stating that a coerced marriage is invalid). Al-ikrah is a foundational principle of Islamic law. Even in commercial and family matters, coercion and tricks are forbidden. For example, a marriage or a sales contract obtained through coercion is invalid. Likewise, any tricks used in bargains, giving of gifts, or in the contracts of marriages are unlawful, as the Islamic law mandates transparency in inter-human transactions.
be unlawful if conversion is obtained as an exchange for food, medicine, or shelter. Any overt precondition or covert manipulation underlying conversion violates the principle of al-ikrah. This is not lawful evangelism, but an unkind betrayal. The Prophet said: "For every betrayer there will be a flag by which he will be recognized on the Day of Resurrection." 185

The principle of al-ikrah also promotes interfaith respect. 186 As there is no compulsion in religion, Muslims must not put down other creeds. Under Muslim rule, Jews and Christians enjoy special protection, as, according to the Quran, they are the people of the book. 187 Their faith is close to Islam in many essential attributes, such as belief in One God, and the concepts of sin, revelation, prophethood, angels, the day of judgment, hell, and heaven. 188 In fact, the Quran states that Adam, Moses, and Abraham were the first Muslims. 189 Thus, the protected knowledge of Islam is inclusive of monotheistic religions. As a general principle, Islam respects religions, prophets, and holy books, except the ones that corrupt the purity of its protected knowledge. 190

B. Principle of Invitation

"Invite (mankind, O Muhammad) to the Way of your Lord (i.e. Islam) with wisdom (i.e. with the Divine Inspiration and the Quran) and fair preaching, and argue with them in a way that is better." 191

The principle of invitation further explains the principle of non-compulsion. Known as da’wah, the invitation principle invites non-Muslims to accept the protected knowledge of Islam, as trustees and beneficiaries. Although da’wah may be roughly

185 SAHIH AL-BUKHARI, supra note 3, at hadith 96.
187 Quran 5:5. The most prominent messengers of God are Moses with the Torah, David with the Zabur (Psalms) and Jesus with the Injil (Gospel). However, the people of the book also include the Sabians and Zoroastrians. The Iranian Constitution recognizes Jews, Christians, and Zoroastrians as protected minorities. In a separate provision, the constitution requires the government and all Muslims to treat non-Muslims in an ethical fashion and respect their human rights. See Ali Khan, Constitutional Kinship Between Iran and the Soviet Union, 9 N.Y.L. SCH. J. INT’L & COMP. L. 293, 318 (1988).
188 It is lawful for Muslims to eat the food of the people of the book and Muslim men may lawfully engage in marriage with Jewish and Christian women.
189 Quran 5:5.
190 In fact, Jesus is mentioned in the Quran far more times than Muhammad (peace be upon him).
191 Quran 16:125.
translated into proselytization or evangelism, it literally means invitation. Proselytization is a more generic term that means religious activism aimed at others for the purpose of changing their religion or belief. Evangelism is a more specific concept that characterizes efforts of missionaries to convert Christians from one church (Catholic) to another (Protestant) or to convert non-Christians to a specific Christian faith (Baptist). Rather than drawing contrasts or parallels between da’wah and evangelism, I will simply explain the manners of da’wah.

The most pertinent injunction of the Quran for da’wah reads: "Invite (mankind, O Muhammad) to the Way of your Lord (i.e. Islam) with wisdom (i.e. with Divine Inspiration and the Quran) and fair preaching, and argue with them in a way that is better. Truly, your Lord knows best who has gone astray from His Path, and He is the Best Aware of those who are guided." 192

The Quran’s invitation principle lays out at least three distinct rules of guidance. First, da’wah is an invitation, not a forced initiation. A non-Muslim invited to accept the protected knowledge of Islam may or may not accept it. Because the protected knowledge of Islam is placed in an irrevocable Trust in perpetuity, no invitee can be lawfully forced to accept the obligations of a trustee against his will. Likewise, even the benefits of the protected knowledge cannot be imposed on anyone, simply because no gift is valid without the donee’s acceptance. Thus, an invitee to Islam may refuse the invitation on either account. The invitee may refuse obligations of the trust, which include safeguarding the knowledge-based assets of Islam; or, the invitee may decline its benefits, which include enjoying an authentic spirituality, leading a balanced life of moral intelligence, and sharing a sense of community with other Muslims.

Second, da’wah mandates wisdom and fair preaching. The invitor is prohibited from presenting a distorted or pandering picture of the protected knowledge. For example, highlighting only the benefits of protected knowledge without mentioning the corresponding obligations will be unwise because the invitee would eventually learn that Islam is a complex composite of obligations and benefits and the one cannot be severed from the other. Nor should the invitee be presented only the obligations of Islam. For example, a lower caste Hindu is entitled to know whether he would enjoy complete equality with other

192 Id.
Muslims once he accepts the Trust of Islam. The rule of fair preaching requires that the invitee be informed that Islam abhors prejudice on the basis of race, caste, nationality, property, or language. Thus, an invitee belonging to a prejudiced race, nation, social class, or linguistic group must be honestly informed that Islam prohibits any such bigotry. Ignoring or pandering to the invitee's prejudice will violate the rule of wisdom and fair preaching. Similarly, the invitee, if a female, is entitled to know that Islam imposes a distinct regime of rights and duties on women as daughters, mothers, and wives. The rule of fair preaching will be breached if the female invitee is enticed only with the rights available under Islam, such as the right to divorce, to possess property, and to hold separate accounts. Any deliberate attempt to de-emphasize the duties of a woman to the Islamic community in general, including wearing a modest dress, and upholding the family in particular, including respecting the husband and treating children with kindness, care and dedication, will not only be counter-productive but deceptive.

Third, da'wah is founded on a basic rule that the invitee's decision to accept Islam is a matter that resides in the will of God, and not that of man. No human effort, without the will of God, can succeed in matters of faith. Even the Prophet had no power to bring a non-believer to the faith. Several Quranic verses explain this element of da'wah: "Say 'It is not in my power to cause you harm or to bring you to the Right Path.'" Thus, a Muslim is obligated only to invite others to Islam in a

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193 The racism that the Nation of Islam advocated against the whites in the United States is unfortunate. Any recruitment of African American men and women into Islam by playing on their racial fears is contrary to everything for which Islam stands. See Ali Khan, Lessons from Malcolm X: Freedom By Any Means Necessary, 38 HOW. L.J. 79 (1994) (pointing out that Malcolm rejected the racism of the Nation of Islam).

194 "And tell the believing women to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts, etc.) and not to show off their adornment ..." Quran 24:31. The same principle is prescribed for men. Quran 24:30.

195 Educated Muslim women are proud of their faith, they do not like the Western model for the liberation of women. In fact, Western feminist critique of the First Amendment pornography right is in harmony with the Islamic view of treating women as spiritual beings, not as sexual objects. See e.g., CATHERINE MACKINNON, FEMINISM UNBOUND (1987) (providing feminist critique of pornography protected under the First Amendment); see also Ali Khan, The Hermeneutics of Sexual Order, 31 SANTA CLARA L. REV. 47, 93-101 (1990) (explaining despiritualization of women under First Amendment jurisprudence) (upon reflection, however, I have now repudiated the concept of religious neurosis, which was central to my thesis in this article).

196 Quran 72:21.
non-coercive atmosphere of wisdom and fair preaching. The invitor should claim no credit if the invitee accepts Islam, nor should he be disheartened if the invitee rejects Islam after a fair preaching done with good manners. The Quran reinforces this rule of da'wah in saying: "And had your Lord willed, those on earth would have believed, all of them together. So, will you (O Muhammad) then compel mankind, until they become believers." This da'wah is an extension of the al-ikrah principle in that there is no compulsion in religion. For example, the Quran states with no ambiguity that "It is not for any person to believe, except by the Leave of Allah." Related to da'wah are the manners of discourse that the invitor must observe in introducing Islam to the invitee. The Shari'a prohibits excessive argumentation or impolite criticism of others' beliefs. The Quran states rather candidly that when an invitee begins to ridicule God's message, the invitor must leave the company and not engage in a nasty or hurtful conversation. The Sunna also prohibits annoying questions in matters of faith. Thus, da'wah is not a contest for winning an intellectual debate. It is a sincere invitation to Islam, a positive message that does not vilify other religions.

Although Muslims disseminate the protected knowledge of Islam with wisdom and fair preaching, the enterprise of dissemination will fail if invitees have no freedom of religion and inviters have no freedom of speech. Both freedoms of religion and speech are necessary and inseparable for the propagation of any religion, including Islam. Even if Islam is intellectual property, and not an idea, its dissemination still needs both freedoms. It has already been suggested that non-Muslims are not required to assume trustee obligations of the protected knowledge. However, if they do, they cannot innovate or repudiate the knowledge. The next section examines the Islamic conception of free speech that further safeguards the integrity of protected knowledge. It also contrasts the Islamic conception of free speech with secular speech, drawing out their underly-

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197 Quran 10:99.
198 Quran 10:100.
199 The Prophet selected suitable time to preach, made sure no one got bored, and advised others to make things easy rather than difficult so that they did not run away from Islam. 1 SAHIH AL-BUKHARI, supra note 3, at hadith 68-69.
200 Quran 6:68.
201 The Prophet disliked, and even showed anger, when the people asked too many questions. 9 SAHIH AL-BUKHARI, supra note 3, at hadith 394. He prohibited asking too many questions in disputed religious matters. Id. at 392.
ing assumptions and values.

IV. CONFLICTING CONCEPTIONS OF FREE SPEECH

"And those who annoy believing men and women undeservedly, bear on themselves the crime of slander and plain sin."202

If Islam protects free speech, why, the critics ask, do Muslims all over the world want to kill authors and artists who, exercising their right to free speech, criticize Islam.203 Muslims, on the other hand, get publicly angry when their most precious assets are verbally abused and attacked. In this conflict, secularists uphold the right of the attacker, because the protection of free speech is dearer to them than preserving religion’s right to integrity; they ignore the feelings of Muslims and advocate tolerance. From the internal viewpoint, however, Muslims have no option but to perform in good faith the Covenant they have entered with God, the All-Seer, All-Knower. The Covenant is not to protect the free speech of authors and artists; it is to safeguard the integrity of protected knowledge. Ordinarily, Muslims have no obligation to censor “nonsensical” speech of non-Muslims.204 Yet, they would accept no version of free speech that openly dishonors Allah, the Quran, or the Messenger.

Western criticism of Islamic intolerance thrives on free speech. Freedom of speech, embodied in the Universal Declaration of Human Rights,205 is a universal right that most Muslim nations have vowed to protect. However, the Islamic version of free speech is different from the Western version, particularly that of the United States. The First Amendment to the United States Constitution protects two prominent competing freedoms.206 First, it protects the free exercise of religion, a right

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202 Quran 33:58.
203 For an aggressive criticism of Islamic practices regarding apostasy, see Donna E. Arzt, Heroes or Heretics: Religious Dissidents Under Islamic Law, 14 WIS. INT’L L. J. 349 (1995). In denying free speech, it is asserted, fundamentalist Muslims “are deceived by their religion.” Quran 8:49.
204 “So leave them (alone) to speak nonsense and play until they meet the Day of theirs, which they have been promised.” Quran 43:83.
205 Article 19 of the Declaration states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Universal Declaration of Human Rights, art. 19.
206 “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. CONST. amend. 1.
without which no spiritual life is possible. Second, it also protects free speech. The American concept of free speech, for the most part, is a precious contribution to global law. Muslims living under repressive and unaccountable regimes can particularly benefit from the jurisprudence of the First Amendment.

A. Secular Speech

In the past few decades, the First Amendment has been overly secularized. The Free Exercise Clause of the First Amendment protects the freedom to religion and belief in teaching, practice, worship, and observance. It does not, however, safeguard the dignity of any religion. The Free Speech Clause allows attack on any and all religions. Although any individual may freely assail religion, authors and artists are at the forefront in dismantling the traditional respect for religion. Most often, the religion they assault is Christianity. When

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207 The American concept of freedom of religion is derived from moral neutrality, presuming that no one religion has monopoly over divine truth. In the realm of religious faith, . . . sharp differences arise. . . . The tenets of one man may seem the rankest error to his neighbor. To persuade others to his own point of view, the pleader . . . resorts to exaggeration . . . and even to false statement. But the people of this nation have ordained that . . . these liberties are . . . essential to enlightened opinion and right conduct on the part of the citizens of a democracy. Cantwell v. Connecticut, 310 U.S. 296, 310 (1940).

208 Several judicial principles articulate the nature and scope of free speech. See, e.g., Police Dep't of Chicago v. Mosley, 408 U.S. 92, 95, 102 (1972) (holding that the government may not regulate speech based on its content unless the regulation can survive strict scrutiny); Perry Educ. Ass'n v. Perry Local Educators' Ass'n., 460 U.S. 37, 45-49 (1983) (saying that the government cannot lawfully regulate speech when a certain ideology or perspective is the rationale for the restriction); City Council of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789, 804 (1984) (explaining that in the realm of private speech, law may not favor one speaker over another); R.A.V. v. St. Paul, 505 U.S. 377, 381-96 (1992) (stating that viewpoint discrimination is prohibited); Rosenberger v. Rector and Visitors of Univ. of Virginia, 515 U.S. 819, 835-37 (1995) (pointing out that a university may not suppress religious speech under the Establishment Clause of the First Amendment).


210 In Kunz v. People of State of New York, 340 U.S. 290 (1951), the Supreme Court struck down the ordinance under which Kunz—who denounced Jews and Catholics "in vicious and unbridled terms" in a congested Manhattan intersection—was convicted. The Free Exercise Clause will protect most religions, including Ahmadis and Baha'is. However, the clause does not secure any religious right to integrity. The clause will protect any sect that innovates or repudiates any existing religion.

211 Due to fear of anti-Semitism, few authors and artists will openly attack Judaism, as they do Christianity. Perhaps due to a possible violent reaction from Muslims,
literary and artistic works collide with religion, the First Amendment protects secular speech. This legal development does not demonstrate that Americans are secular. In fact, Americans are religious people and they do not wish to denigrate any religion,\textsuperscript{212} Nor do they encourage artists and authors to do so. They may even disapprove of the art that assaults religion. Yet, they are unwilling to allow government to suppress creative expression.\textsuperscript{213} Free speech, not the dignity of religion, is the most precious value that most Americans cherish.\textsuperscript{214}

The triumph of art\textsuperscript{215} over the protection of religion is a compelling story of secular speech. Using public funds obtained through the National Endowment for the Arts (NEA), for example, Andres Serrano produced the so-called artistic work named Piss Christ, a photograph of a crucifix immersed in urine. Several members of Congress, along with many Christians, were outraged at the artist’s offensive audacity. In view of this and other artistic intemperance, Congress debated several proposals to reform the NEA’s grant-making criteria. One proposal would have prohibited any grants used “to promote, distribute, disseminate or produce matter that has the purpose or effect of denigrating the beliefs, tenets, or objects of a particular religion.”\textsuperscript{216} Secular forces within Congress defeated this proposal. A more watered-down legal standard, however, was enacted into law. In funding art works, the NEA is now required to “take(e) into consideration general standards of decency and respect for the diverse beliefs and values of the American public.”\textsuperscript{217}

Secular forces were unhappy even with these weak “de-
cency and respect" standards. They challenged the law on constitutional grounds, asserting the artist's right to be obnoxious.\footnote{So, the unpopularity of views, their shocking quality, their obnoxiousness, and even their alarming impact is not enough. Otherwise, the preacher of any strange doctrine could be stopped." Rockwell v. Morris, 12 A.2d 272, 282 (N.Y. App. Div. 1961).} However, the issue involved was rather narrow in scope. Serrano was free to produce, promote, distribute, and disseminate his obnoxious work with private funding as no decency and respect standards can be invoked to suppress a privately funded work. The First Amendment protects artists' rights to express themselves as indecently and disrespectfully as they choose.\footnote{Nat'l Endowment for the Arts v. Finley, 524 U.S. 569, 579 (1998).} To this extent, the concept of free speech is non-controversial.

The critical issue was whether the First Amendment compels the government to fund indecent and disrespectful works. The Supreme Court upheld the statute, declaring that the government is under no such compulsion.\footnote{Id. at 588.} However, the Court's holding is weak; it provides no guarantee for withholding public funds for indecent and disrespectful works and it imposes no categorical requirement that an application in violation of the enacted decency and respect standards must be denied.\footnote{Id. at 592 (Scalia, J., concurring).} In fact, the Court seems to suggest that even in the provision of subsidies, the government may not suppress disfavored viewpoints. Accordingly, the NEA may consider the decency and respect standards in reviewing grant applications, but it cannot disfavor works simply because they are disrespectful to a certain religion.

The Serrano controversy tells the story of how secular speech has placed religion in the open market of ideas where it may be repudiated and discredited. Driven by profits and liberty, the free market has unleashed a pornographic and hateful infrastructure of speech that annoys believing men and women, and thus, disturbs their spiritual tranquility. The free market allows artists and authors to challenge what religion holds beyond doubt; it may disparage what religion considers the most sacred. It maintains, if not encourages, a culture of abusive speech, in which skeptical and cynical individuals may freely denigrate all norms of any established religion. It spawns a realm of creativity in which artists and authors are at liberty to...
dismantle the dignity of religion.\textsuperscript{222}

The bedrock principle underlying secular speech is designed to protect the individual's liberty and creativity. In its doctrinal manifestations, however, the principle becomes antisocial. The government, for example, cannot suppress "the expression of an idea simply because society finds the idea itself offensive or disagreeable."\textsuperscript{223} In fact, free speech "invite(s) dispute . . . it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."\textsuperscript{224} Note the long arm of the principle; the principle is not confined to protecting the expression of an idea offensive to ruling elites, the protection is available even if the idea is offensive to an entire religious community. Few would question the virtue of free speech when it allows individuals to criticize or oppose ruling elites. However, when law allows an individual to freely trash the deepest sentiments and religious beliefs of an entire population, the doctrine of secular speech enters the domain of excess.

Ironically, secular speech can be highly protective of scientific inventions, as well as literary and artistic works.\textsuperscript{225} No individual may lawfully break into the source codes of a software company, reproduce musical cassettes, destroy paintings, or alter copyrighted manuals. Thus, speech is subordinated to the protection of intellectual property because no secular doctrine will allow individuals to lawfully change the text of a copyrighted novel or misappropriate the patents of a corporation. However, secular speech will protect the same individuals if they change the text of the Bible, dishonor Jesus,\textsuperscript{226} or depict

\textsuperscript{222} The International Covenant on Civil and Political Rights prohibits hate speech against religion. Article 20(2) states that "(a)ny advocacy of . . . religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." The United States has ratified the Covenant with a reservation to Article 20. This reservation is consistent with the United States constitutional law that allows hate speech against racial and religious groups. R.A.V. v. City of St. Paul, 505 U.S. 377 (1992) (burning of a cross inside the fenced yard of a black family cannot be punished as prohibited speech).


\textsuperscript{224} Terminiello v. Chicago, 337 U.S. 1, 4 (1949).

\textsuperscript{225} "The copyright and trademark laws are such neutral laws of general applicability to which [one] must adhere for the betterment of the public good, regardless of [one's] religious convictions to the contrary." Urantia Found v. Maaherra, 895 F. Supp. 1329, 1332 (D. Ariz. 1995).

\textsuperscript{226} In books and musicals, the honor of Jesus has been constantly compromised. In Passover Plot, Jesus has been portrayed "a political machiavel who plotted to fulfill the political prophecies of the Old Testament." Leeds Music Ltd. v. Robin, 358 F. Supp. 650, 653 (S.D. Ohio 1973). In "Jesus Christ Superstar", a musical, he is shown as "a charismatic, rock and roll singer who, through indecision and curiosity, and on a
"the Virgin Mary covered with elephant dung, and surrounded by photographs of buttocks and female genitalia." Thus, secular speech has successfully degraded the integrity of religion to a mere idea that individuals may trash with impunity. However, it has upgraded the work of artists and authors to intellectual property that the law must vigorously protect.

Few will dispute that the First Amendment enjoys broad-based support in the United States. Problems arise, however, when the United States wishes to export the secularized model of free speech, and Muslim countries resist accepting it. When authors and artists disparage the protected knowledge of Islam, the United States wants to protect the liberty of creative expression while Muslims want to protect the dignity of Islam. Muslims refuse to embrace secular speech that empowers authors and artists to make fun of prophets, sacred books, religious rituals, and worship practices. They are labeled intolerant when they protect the honor of Allah, the Quran, and the Prophet from any verbal abuse. It seems unlikely that Muslims would ever concede to the notion that authors and artists may denigrate the protected knowledge of Islam. It is more likely than not that the world would refuse to universalize secular speech under which intellectual property is protected, but the integrity of religion is not.

B. Islamic Speech

The integrity and honor of protected knowledge is a core kind of ego-trip, goes to his confused death on the cross." 227 Danielle Caminiti, Brooklyn Institute of Arts and Sciences v. City of New York: The Death of the Subsidy and the Birth of the Entitlement in the Funding of the Arts, 10 FORDHAM INTELL. PROP. MEDIA & ENT. L. J. 875, 876 (2000); see also Brooklyn Institute of Arts and Science v. New York, 64 F. Supp.2d 184, 191 (E.D.N.Y. 1999).

228 "It would be an unwarranted infringement of property rights to require them to yield to the exercise of First Amendment rights where adequate alternative avenues of communications exist. Such an accommodation would diminish property rights without enhancing the asserted right of free speech." Lloyd Corp. v. Tanner, 407 U.S. 551, 567 (1972).

229 "The danger of 'secular fundamentalism,'" says Professor John Esposito, is that secular fundamentalists believe that their world view is not only best for them but for all the people. See John Esposito, Political Islam and U.S. Foreign Policy, 20 FLETCHER F. WORLD AFF. 119, 128 (Fall 1996).

230 For example, the United States will protect The Satanic Verses of Salman Rushdie, ignoring that he intentionally inflicts emotional distress on Muslims. The Islamic world has the opposite reaction. Some Muslims are so distressed that they want to kill the author. In this situation, there is a total breakdown of mutual understanding: The West sees Islamic extremism whereas, the Islamic world sees the spiritual emptiness of secularism.
Islamic value. Any version of free speech, under which artists and authors may assault the rights of attribution and integrity vested in the protected knowledge, is unlikely to take root in Muslim countries. Just as secular speech protects intellectual property, Islamic speech honors and safeguards the protected knowledge of the Quran and the Sunna. In fact, the protected knowledge of Islam is the most precious intellectual property that no version of free speech may alter, mutilate, deform, or defame. Islamic speech, therefore, treats protected knowledge as a form of intellectual property, and not an idea that individuals may freely dishonor, innovate, and repudiate.

The assumptions underlying Islamic speech are fundamentally different from the ones supporting secular speech. The Quran presents a conception of speech that, in the doctrinal language of secular speech, may be considered unnecessary barriers to vigorous discourse. For example, Muslims are required to speak gently and kindly, in a low voice, without arrogance, or egotistical display of one's knowledge or eloquence, for "Allah does not like such as are proud and boastful ..." In the Sunna, even eloquence is less than a sure virtue. In matters of public speaking, the Prophet was highly skeptical of the use of captivating rhetoric. He is reported to have warned against its use, saying, "part of eloquence is sorcery." These values are critical for orienting Muslims toward a conception of speech that searches for truth without arrogance, moral relativity, verbal abuse, or disrespect toward other religions.

First and foremost, Islamic speech is content-sensitive and protects the knowledge-based assets of Islam. Under secular speech, no principles are universal. Truth is no more than a viewpoint. God's verses and satanic verses receive equal legal protection. Based on this relativism, secular speech embraces

231 The Islamic distrust of art goes back to the revelations of the Quran, which overturned the pre-Islamic culture rooted in pagan poetry and idolatry. The Quran is opposed to sculpture, but not literature. The Quran warns against poets who "wander distracted in every valley" but makes an exception for those who believe. Quran 26:224-227; see also Pamela Constable, *Ban on Idols Wipes Faces from Afghanistan; Even the Living Feel Taliban Law*, CHICAGO TRIBUNE, April 1, 2001, at 4.

232 Quran 17:53.

233 Quran 31:19. "[A]nd lower your voice. Verily, the harshest of all voices is the voice (braying) of the ass."

234 The Prophet said that anyone who has in his heart the weight of a musterd seed of pride shall not enter Paradise. 1 SAHIH AL-BUKHARI, supra note 3, at hadith 164.

235 Quran 4:36; 57:23.

236 MALIK AL-MUWATTA, supra note 112, at 414.
content-neutrality. One may, therefore, challenge the core tenets of any and all religions. Such content-free moral relativity is incompatible with Islam. "And if the truth had been in accordance with their desires, verily, the heavens and the earth, and whosoever is therein would have been corrupted!" Accordingly, Muslims cannot cast doubts on the honor and integrity of protected knowledge. They submit to the truth of Islam. They take God's command seriously: "I have perfected your religion for you, . . . and have chosen for you Islam as your religion." Rarely do they engage in egotistical repudiation of Islam. Even when they have sincere questions about moral, legal, or religious matters, they pursue their inquiries with care and humility, without breaching the standards of decency and respect.

Second, constraints of manner, respect, and decency embodied in Islamic speech encourage, not discourage, scientific invention, creative poetry, and literature. By all counts, Islam is a religion founded on knowledge and hence it is suffused with a spirit of inquiry. Quest has been a permanent feature of Islamic knowledge. The flexible principles of the Quran and the Sunna require free speech for their creative understanding in a changing world so that Muslims may constantly improve their social, political, and economic institutions. The firm principles do not conflict with free speech either because their purpose is to safeguard the identity of Islam in a confusing and chaotic world. The combined knowledge of flexible and firm principles provides a framework in which creative minds may concentrate without distraction. The flourishing of jurisprudence, sciences, and literature throughout Islamic history, most often

237 Secularists argue that even standards of decency cannot be generalized. Decency means "something very different to a septuagenarian in Tuscaloosa ("a small conservative town") and a teenager in Las Vegas ("the city of gambling")." National Endowment for the Arts v. Finley, 524 U.S. 569, 583 (1998).

238 Quran 23:71.

239 Quran 5:3.

241 The world-renowned genres of qasida, ghazal, qawwali, and sufi literature are the examples of the freedom of expression. Under the Moghul rule in India, Hindu literature developed along with Muslim literature, enriching the literary tradition of the subcontinent.
through the medium of individual and collaborative reasoning, demonstrates that Islamic speech promotes creativity and invention.

Third, Islamic speech spawns, not chills, serious and respectful viewpoints;\(^{242}\) it simply discourages frivolous and slanderous speech against the protected knowledge. The Quran disapproves the culture of \(\text{Al-laghw}^{243}\) that is, idle chatter.\(^{244}\) Any slander against religion is bound to hurt the feelings of its followers. The Quran instructs Muslims “not to annoy” men and women of faith, condemning it as sin and slander.\(^{245}\) In the Sunna, the Prophet prohibited Muslims from verbally abusing the community. He said, “When you hear a man say, 'The people are ruined,' he himself is the most ruined of them all.”\(^{246}\) The \(\text{Shari’ah}\), therefore, places little premium on the individual’s right to assault the integrity of protected knowledge, thus, outraging an entire community of believers—a right that secular speech is determined to protect. Muslims are advised to exchange their viewpoints after careful study, with humility, in good faith, and without showing disrespect to the Quran or the Sunna and without injuring the deeply held beliefs of the Islamic community. Standards of respect and decency are not confined to the protected knowledge of Islam; they are extended to other religions, except ones that corrupt the integrity of the protected knowledge of Islam.\(^{247}\)

Finally, Islamic speech protects the “intellectual property” of other religions, according them due respect and dignity.\(^{248}\) "Allah does not forbid you to deal justly and kindly with those

\(^{241}\) Under the secular notions of free speech, the standards such as sincere and respectful will be derided as subjective, empty of meaning.

\(^{242}\) “And when they (Muslims) hear Al-laghw (dirty, false, evil and vain talk), they withdraw from it and say: “To us our deeds, and to you your deeds. Peace be to you. We seek not (the way of ) the ignorant.” Quran 28:55. The Prophet also prohibited sinful and useless talk. 9 \(\text{SAHIH AL-BUKHARI, supra}\) note 3, at hadith 395.

\(^{243}\) The Prophet prohibited \(Qil\) and \(Qal\) (sinful and useless talk). \(\text{Id.}\)

\(^{244}\) Quran 33:58.

\(^{245}\) \(\text{MALIK, supra}\) note 112, at 414.

\(^{246}\) According to the protected knowledge of Islam, for example, Jesus is a beloved Prophet of God. Muslims, therefore, dislike when authors and artists ridicule Jesus, God’s beloved Prophet and his mother, Mary, a woman "chosen above the women of all nations.” Quran 3:42. This respect for Jesus, his mother, and his disciples prompted Muslims to demonstrate on the streets of Manhattan when “Corpus Christi,” a musical that depicts Jesus and his disciples as homosexual men, was debuted. Vanessa Thorpe, \(\text{Review: Arts: What have they done to our Monty?: Broadway Asset-Strippers Have Replaced Sheffield with Buffalo, NY. What, No Hot Chocolate?},\) \(\text{THE OBSERVER, at 6 (Nov 5, 2000).}\)

\(^{247}\) Islam, however, does not treat all beliefs equally; it will not allow belief systems that corrupt its protected knowledge.
who fought not against you on account of religion and did not drive you from your homes. Verily, Allah loves those who deal with equity."\textsuperscript{249} It is inaccurate, therefore, to assert that Islamic speech advocates homogenization; Islam simply rejects secular pluralism under which every belief counts equally\textsuperscript{250} but the "intellectual property" of established religions is no longer entitled to the rights of attribution and integrity. Islamic speech protects the intellectual property of artists and authors. Most importantly, it also instructs Muslims not to malign other religions. This protection, however, is unavailable to innovative sects, arising within the fold of Islam, which tinker with the integrity of protected knowledge.\textsuperscript{251}

By protecting the intellectual property of other religions, Islamic speech promotes interfaith coexistence and mutual tolerance; believing Muslims do not denigrate other religions, even when they contest their message or doctrines. Nor do they allow others to denigrate Islam. Non-Muslims are free to examine Islamic doctrines and beliefs. No Islamic principle prohibits their free speech. In Islam, however, interfaith conversations and contacts are carried out within the domain of mutual respect. Islam expects these conversations and contacts to be sincere, serious, and respectful. Good manners are part of Islamic speech. Therefore, Islamic speech mandates Muslims to express their viewpoints without being obnoxious, without insulting prophets and sacred books, and without attacking the integrity of any religion.\textsuperscript{252}

**CONCLUSION**

Islam is a religion founded on knowledge of assured certainty. From an internal viewpoint, therefore, the protected knowledge of Islam cannot be innovated and repudiated. Islamic right to attribution prohibits any alteration in the text of the Quran and in the substance of the Sunna. The right to integrity preserves the honor of Allah, the Quran, and the mes-

\textsuperscript{249} Quran 60:8.

\textsuperscript{250} In the United States, the definition of religion is liberal. Unless the religion is bizarre, clearly non-religious in motivation, the courts accept the practice as religious. United States v. Kuch, 288 F. Supp. 439 (D.D.C. 1968).

\textsuperscript{251} Islam is unlikely to protect religions that corrupt the protected knowledge of Islam. Even secular law of intellectual property refuses to protect plagiarized or counterfeit literary and artistic works.

\textsuperscript{252} "0 you who believe! If a rebellious evil person comes to you with a news, verify it, lest you harm people in ignorance, and afterwards you become regretful to what you have done." Quran 49:6.
senger. In view of these Islamic rights, no one is allowed to at-
tack the dignity of the Quran or show public disrespect for the
person of the Prophet. In brief, the internal viewpoint sees the
protected knowledge of the Quran and the Sunna as a timeless
asset that Muslims are under trustee obligation to preserve at
all costs. Under all circumstances, easy and difficult, good and
bad, Muslims have chosen to honor their Covenant with God.

The external viewpoint relies on secular freedoms of belief
and speech to criticize Muslims' intolerance towards authors
and artists who wish to pursue their creativity without con-
straints. Secularists point out that freedoms of religion and
speech are indispensable for the preservation of spirituality;
they prefer that Muslims tolerate authors and artists who at-
tack the Quran, the Sunna, and the Prophet. They also advocate
that Muslims should grant the freedom of religion to sects,
within the fold of Islam, which have innovated the established
meanings of the Quran and the Sunna.

This clash of viewpoints breeds mutual distrust between
Muslims and secularists. In this battle, it seems unlikely that
Muslims will accept the secularized version of free speech nor
would they allow innovations within the framework of pro-
tected knowledge. Secularists do not have to win this battle
either, because the world can live and prosper without attack-
ing prophets, holy books, and spiritual rituals. However, if
they are determined to allow unbridled literary and artistic ac-
tivity in countries where they have the law on their side, they
have little reason to forcibly export their secular vision to Is-

damic nations.

In any event, Muslims should resist the pressure to accept
the secularized version of free speech. They should continue to
practice religious tolerance that the Shari'ah teaches them. Reli-
gious minorities are entitled to full protection within Islamic
states. When Muslims visit or live in non-Muslim states, they
must employ the principles of non-compulsion and invitation
in conveying the protected knowledge of Islam. In their phi-
losophical disagreement with secularists, however, Muslims
should understand that not every critic of the protected knowl-
edge is a sworn enemy of Islam. Secularists are entitled to their
liberties while Muslims are entitled to their profound vision of
purity and spirituality. "To us our deeds, and to you your
deeds. Peace be to you."253 If no force is added to the mix from

253 Quran 28:55.
either viewpoint, the dialectical contest between secularists and Muslims carries immense educational value for the generations to come.