

Jacob Marcus, *The Jew in the Medieval World: A Sourcebook, 315-1791*, (New York: JPS, 1938), 15-19, online version accessed at: <http://www.fordham.edu/halsall/jewish/1772-jewsislam.html>

In 1772 a Muslim scholar in Cairo was asked how Jews and Christians should be treated. The answer is found in this selection, issued four years before the American Declaration of Independence. This answer is not law, but only the opinion of a conservative Muslim. The opinion is in Arabic.

Question

What do you say, O scholars of Islam, shining luminaries who dispel the darkness (may God lengthen your days!)? What do you say of the innovations introduced by the cursed unbelievers [Jewish and Christian] into Cairo, into the city of al-Muizz [founder of Cairo, 969] which by its splendor in legal and philosophic studies sparkles in the first rank of Muslim cities?

What is your opinion concerning these deplorable innovations which are, moreover, contrary to the Pact of Umar which prescribed the expulsion of the unbelievers from Muslim territory? □

Among other changes they have put themselves on a footing of equality with the chiefs, scholars, and nobles, wearing, like them, costly garments of cloth of India, expensive silk and cashmere fabrics, and they imitate them even in the cut of these very garments.

In addition, whether through necessity or otherwise, they ride on saddles which are of the same type as those of chiefs, scholars, and officers, with servants at their right, at their left, and behind them, scattering and pushing back Muslims for whom they thus block the streets.

They carry small batons in their hands just like the chiefs. They buy Muslim slaves, the offspring of Negro, Abyssinian, and even white slaves; this has become so common and so frequent among them that they no longer consider this offensive. They even buy slaves publicly, just like the Muslims.

They have become the owners of houses and build new ones of a solidity, durability, and height possessed by neither the houses nor mosques of the Muslims themselves. This state of affairs is spreading and is extending beyond all proportions. They contribute for the extension of their churches and convents; they seek to raise them higher and to give them a strength and a durability which even the mosques and the monasteries themselves do not have.

Christian foreigners, foes who solicit our tolerance, settle in the country for more than a year without submitting themselves thereby to taxation and without renewing their treaties of protection. The women of the tolerated non-Muslim natives liken themselves to our women in that they deck themselves in a garment of black silk and cover their faces with a veil of white muslin with the result that in the streets they are treated with the consideration due only to respectable Muslim women.

Ought one to allow these things to the unbelievers, to the enemies of the faith? Ought one to allow them to dwell among believers under such conditions? Or, indeed, is it not the duty of every Muslim prince and of every magistrate to ask the scholars of the holy law to express their legal opinion, and to call for the advice of wise and enlightened men in order to put an end to these revolting innovations and to these reprehensible acts? Ought one not compel the unbelievers to stick to their pact [of Umar]; ought one not keep them in servitude and prevent them from going beyond the bounds and the limits of their tolerated status in order that there may result from this the greatest glory of God, of His Prophet, and of all Muslims, and likewise of that which is said in the Qu'ran?

Be good enough to give us a precise answer, one based on authentic traditions.

The Answer Of The Shaikh Hasan Al Kafrawi, The Shafiite [Professor of canon

law in Cairo, d. 1788 CE]

Praise be to God, the guide of the right way!

The decision given by the Shaikh ar-Ramli [a great Cairo legal authority, d. 1596], by the Shaikh al-Islam [the Muslim religious authority in Constantinople], and by the learned scholars whose decrees can hardly be written down here, may be worded as follows: "It is forbidden to the tolerated peoples living on Muslim territory to clothe themselves in the same manner as the chiefs, the scholars, and the nobles. They should not be allowed to clothe themselves in costly fabrics which have been cut in the modes which are forbidden to them, in order that they may not offend the sensibilities of poor Muslims and in order that their faith in their religion should not be shaken by this. [Poor Muslims may regret their faith when they see how well-dressed the Christians and Jews are.]

"They should not be permitted to employ mounts like the Muslims. They must use neither saddles, nor iron-stirrups, in order to be distinguished from the true believers. They must under no circumstance ride horses because of the noble character of this animal. The Most-High has said [Qu'ran 8:62]: 'And through powerful squadrons [of horses] through which you will strike terror into your own and God's enemies.' [A verse of the Qu'ran makes a good support for a law. Verses may even be torn out of their context.]

"They should not be permitted to take Muslims into their service because God has glorified the people of Islam. He has given them His aid and has given them a guarantee by these words [Qu'ran 3:140]: 'Surely God will never give preeminence to unbelievers over the true believers.' Now this is just what is happening today, for their servants are Muslims taken from among men of a mature age or from those who are still young. This is one of the greatest scandals to which the guardians of authority must put an end. It is wrong to greet them even with a simple 'how-do-you-do'; to serve them, even for wages, at the baths or in what relates to their riding animals; and it is forbidden to accept anything from their hand, for that would be an act of debasement by the faithful. They are forbidden while going through the streets to ape the manners of the Muslims, and still less those of the cities of the religion. They shall only walk single-file, and in narrow lanes they must withdraw even more into the most cramped part of the road.

"One may read that which follows in Bukhari and Muslim [religious authorities of the ninth century]: 'Jews and Christians shall never begin a greeting; if you encounter one of them on the road, push him into the narrowest and tightest spot.' The absence of every mark of consideration toward them is obligatory for us; we ought never to give them the place of honor in an assembly when a Muslim is present. This is in order to humble them and to honor the true believers. They should under no circumstances acquire Muslim slaves, white or black. Therefore they should get rid of the slaves which they now have for the), have no right to own them. If one of their slaves who was formerly an infidel, becomes a Muslim, he shall be removed from them, and his master, willingly or unwillingly, shall be compelled to sell him and to accept the price for him.

"It is no longer permitted them to put themselves, with respect to their houses, on an equal footing with the dwellings of their Muslim neighbors, and still less to build their buildings higher. If they are of the same height, or higher, it is incumbent upon us to pull them down to a size a little less than the houses of the true believers. This conforms to the word of the Prophet: 'Islam rules, and nothing shall raise itself above it.' This is also in order to hinder them from knowing where our weak spots are and in order to make a distinction between their dwellings and ours.

"They are forbidden to build new churches, chapels, or monasteries in any Muslim land. We should destroy everything that is of new construction in every place, such as Cairo, for instance, founded under the Muslim religion, for it is said in a tradition of Umar: 'No church shall be built in Islam.'

They shall no longer be permitted to repair the parts of these [post-Islamic] buildings which are in ruins. However, the old buildings [of pre-Islamic times] which are found in a land whose population had embraced Islam need not be destroyed. They shall not, however, be enlarged by means of repairs or otherwise. In case the tolerated peoples [Jews, Christians, etc.] act contrary to these provisions we will be obliged to destroy everything that has been added to the original size of the building. [Only pre-Islamic churches and synagogues may be repaired; new ones must be torn down.]

"Entrance into Muslim territory by infidels of foreign lands under the pact guaranteeing protection to the tolerated peoples is permitted only for the time necessary to settle their business affairs. If they exceed this period, their safe-conduct having expired, they will be put to death or be subject to the payment of the head-tax. [Jews and Christians of foreign lands must pay a special head-tax if they wish to remain permanently in Muslim lands.] As to those with whom the ruler may have signed treaties, and with whom he, for whatever motive, may have granted a temporary truce, they form only the smallest fraction. But they, too, must not pass the fixed limit of more than four months [without paying the tax], particularly if this occurs at a time when Islam is prosperous and flourishing. The Most-High has said [Qu'ran 2: 234]: 'They should wait four months,' and he has again said [47:37]: 'Do not show any cowardice, and do not at all invite the unbelievers to a peace when you have the upper-hand and may God be with you.'

"Their men and women are ordered to wear garments different from those of the Muslims in order to be distinguished from them. They are forbidden to exhibit anything which might scandalize us, as, for instance, their fermented liquors, and if they do not conceal these from us, we are obliged to pour them into the street."

This which precedes is only a part of that which has been written on this subject, and if we should wish to mention it all here it would take too long. But this brief recital will be sufficient for those men whose intelligence God has enlightened, to whom he has given the breath of life, and whose inner thoughts he has sanctified. Now let us beg the Sovereign Master of the world to extend His justice over humanity universally, in order that they may direct all their efforts toward raising with firmness the banner of the religion.

In a tradition of the sincere and faithful [Calif Abu Bekr, 632-634] it is likewise said: "The abolition of a sacrilegious innovation is preferable to the permanent operation of the law." In another tradition it is also said: "One hour of justice is worth more than sixty years of ritual." The verses of the Qu'ran and the traditions are very numerous on this subject, and they are known by all the faithful. God has cursed the former nations because they have not condemned scandalous things; and He has said [Qu'ran 5:82]: "They [the children of Israel] seek not at all to turn one another from the bad actions which they have committed. O how detestable were their actions. But He has punished these men because of their obstinate conduct." The Most-High has also said [Qu'ran 9: 1 131]: "Those who bid what is right and forbid what is wrong, who observe the divine precepts, will be rewarded. Announce these glad tidings to the Muslims."

May the Most High God admit us to the number of this company and may He lead us in the paths of His favor. Certainly God is powerful in everything; He is full of mercy to His servants; He sees all.

Written by the humble Hasan al Kafrawi, the Shafiite. [1772 CE]

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