

HADITH

THE PUNISHMENT OF APOSTASY IN ISLAM

Part II: An Examination of the Ahadith on the Subject

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After having examined in Part I the issue of the punishment of apostasy in Islam in the light of the Qur`an (see [Part I](#)) we now turn to the examination of the issue in the light of ahadith. We will insha allah show that the authentic words of the Holy Prophet do not prescribe any punishment for apostasy. Ahadith in which the Prophet is reported to have prescribed the death penalty for this sin are either unreliable or are to be interpreted differently.

To begin with we present some general considerations to demonstrate the above position before examining the ahadith in question in detail.

First, when a law is given it is given in a public way so that maximum number of people can know about it and follow it. Even ordinary law-givers promulgate laws to make them known widely. In ancient times a town crier would go around and read the king's decree in public squares. This point can be illustrated by another example: if a professor wants his students to do some homework for credit, he would not tell it only to one or two students. He would either himself announce it to the whole class or make sure that the students to whom he mentioned the assignment will pass the information about it to the other students. If the knowledge of the assignment remained limited to a very few students for weeks, then the assignment cannot be binding on the class. The same principle would apply to a much greater degree in case of the Islamic law, which is meant to be for all people and for all times, and in the particular case of a law that prescribes the taking of a human life. We can therefore be sure that if the Holy Prophet wanted to give a law prescribing death penalty for apostasy, he would make it known to a large number of Companions who would then make it known to even a larger number of Successors and so on. It is not conceivable that he would prescribe a law by telling it to only one or two Companions. Therefore a hadith prescribing such a death penalty would be reported by many Companions, and then by even a greater number of Successors and so on. It would then be known to every major scholar of later generations. But the fact is that we do not possess any such hadith about the death penalty for apostasy. Whatever ahadith we have in books are *gharib*, being narrated by a very few Companions and Successors. This is a strong argument to show that

these ahadith are among those thousands that were fabricated or subjected to *tahrif* by some early Muslims.

Second, some early Muslim scholars appear to be unaware of any hadith prescribing the death penalty. Thus a leading first-century jurist, Ibrahim al-Nakha'i (d. 95), a teacher of Imam Abu Hanifah, ruled that an apostate is to be invited back to Islam as long as there is a hope for his repentance and is not to be condemned to death. A similar opinion is held in the second century by the hadith expert Sufyan al-Thawri (d. 161). This opinion is not likely to be held by a leading jurist and a leading hadith expert if there existed generally accepted ahadith in which the Prophet prescribed the death penalty for apostates. Our examination of the *asanid* of the ahadith in question would also suggest that these ahadith did not exist for most of the first century and might not have been generally known until well into the second century.

Third, the ahadith about the death penalty are called into serious question by other ahadith that show that the Holy Prophet did not consider such a penalty for apostasy.

Fourth, and most importantly, as we saw in Part I the death penalty for apostasy does not fit with the Qur'anic perspective, which rejects *fitnah* (persecution on religious grounds), rejects compulsion in religion, mentions apostasy many times but never mentions any legal penalty for it, and in fact permits less than the death penalty even when the crime of apostasy is accompanied by other crimes..

We now examine the relevant ahadith in some detail.

(A)

“WHOEVER CHANGED HIS RELIGION, KILL HIM”

As should become clear in the sequel, the only hadith that legislates or prescribes as a law the death penalty for apostasy is found, with some variations, in Bukhari 2794, 6411, Abu Da'ud 3787, Tirmidhi 1378, Nasa'i 3991-7, Ibn Majah 2526, Ahmad 1776, 2420, 2813 (cf. Ahmad 1802). All these narrations are identical or similar to one of the following five narrations:

A-I)

حَدَّثَنَا أَبُو النُّعْمَانِ مُحَمَّدُ بْنُ الْفَضْلِ حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَبِي يُوْبَ عَنْ عِكْرِمَةَ قَالَ أَتَى عَلِيٌّ رَضِيَ اللَّهُ عَنْهُ بَرْزَادِقَةَ فَأَحْرَقَهُمْ فَبَلَغَ ذَلِكَ ابْنَ عَبَّاسٍ فَقَالَ لَوْ كُنْتُ أَنَا لَمْ أُحْرِقْهُمْ لِنَهْيِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ وَلَقَتْلُهُمْ لِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ

Abu al-Nu'man Muhammad ibn al-Fadl related to us: Hammad ibn Zayd related to us from Ayyub from "Ikrimah who said: "Some Zanadiqah were brought to 'Ali and he burnt them. This reached Ibn 'Abbas and he said: I would not have burnt them because of the prohibition by the Messenger of God: 'Do not punish with the punishment of God.' I would have killed them in accordance with the word of the Messenger of God: 'Whoever changed his religion kill him'." (Bukhari 9/57=6411)

Narrations similar to the above are also found in Bukhari 2794, Nasa'i 3992, Abu Da'ud 3787, and Ahmad 1775, 2420.

A-II)

حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ بْنُ حَنْبَلٍ حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ أَخْبَرَنَا أَيُّوبُ عَنْ عِكْرِمَةَ أَنَّ عَلِيًّا عَلَيْهِ السَّلَامُ أَحْرَقَ نَاسًا ارْتَدُّوا عَنِ الْإِسْلَامِ فَلَمَّا بَلَغَ ذَلِكَ ابْنُ عَبَّاسٍ فَقَالَ لَمْ أَكُنْ لِأَحْرِقَهُمْ بِالنَّارِ إِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ وَكُنْتُ قَاتِلَهُمْ بِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَإِنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ فَلَمَّا بَلَغَ ذَلِكَ عَلِيًّا عَلَيْهِ السَّلَامُ فَقَالَ وَيْحَ ابْنِ عَبَّاسٍ

Ahmad ibn Muhammad bin Hanbal related to us: Isma'il bin Ibrahim related to us: Ayyub informed us from 'Ikrimah that 'Ali, peace be upon him, burned some people who abandoned Islam. This reached Ibn 'Abbas and he said: I would not have burnt them with fire. Indeed, the Messenger of God said: 'Do not punish with the punishment of God.' I would have killed them in accordance with the word of the Messenger of God. For, surely the Messenger of God said: 'Whoever changed his religion kill him'." This reached 'Ali, peace be upon him, and he said: **'Woe to Ibn 'Abbas'**. (Abu Da'ud 3787)

A-III)

حَدَّثَنَا أَحْمَدُ بْنُ عَبْدِ الصَّبِيِّ الْبَصْرِيُّ حَدَّثَنَا عَبْدُ الْوَهَّابِ النَّخَعِيُّ حَدَّثَنَا أَيُّوبُ عَنْ عِكْرِمَةَ أَنَّ عَلِيًّا حَرَقَ قَوْمًا ارْتَدُّوا عَنِ الْإِسْلَامِ فَلَمَّا بَلَغَ ذَلِكَ ابْنُ عَبَّاسٍ فَقَالَ لَوْ كُنْتُ أَنَا لَقَتَلْتُهُمْ لِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ وَلَمْ أَكُنْ لِأَحْرِقَهُمْ لِقَوْلِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ فَلَمَّا بَلَغَ ذَلِكَ عَلِيًّا فَقَالَ صَدَقَ ابْنُ عَبَّاسٍ

Ahmad ibn 'Abdah al-Dabbi al-Basri related to us: 'Abd al-Wahhab al-Thaqafi related to us: Ayyub related to us from 'Ikrimah that 'Ali burned some people who abandoned Islam. This reached Ibn 'Abbas and he said: I would have killed them in accordance with the word of the Messenger of God: 'Whoever changed his religion kill him'. I would not have burnt them in view of the word of the Messenger of God: 'Do not punish with the punishment of God.' This reached 'Ali and he said: **Ibn 'Abbas has spoken the truth'** (Tirmidhi 1378)

A-IV)

أَخْبَرَنَا مُحَمَّدُ بْنُ الْمُثَنَّى قَالَ حَدَّثَنَا عَبْدُ الصَّمَدِ قَالَ حَدَّثَنَا هِشَامٌ عَنْ قَتَادَةَ عَنْ أَنَسٍ أَنَّ عَلِيًّا أَتَى بَنَاسٍ مِنَ الزُّطِّ يَعْبُدُونَ وَتَنَا فَأَحْرَقَهُمْ قَالَ ابْنُ عَبَّاسٍ إِنَّمَا قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ

Muhammad bin Muthanna informed us saying: 'Abd al-Samad related to us saying: Hisham related to us from Qatadah from Anas that 'Ali was brought with people from al-Zatt who worshipped idols and he burnt them. Ibn 'Abbas said: The Messenger of God said exactly: Whoever changed his religion kill him. (Nasa'i 3997)

A narration similar to the above is also found in Ahmad 2813.

A-V)

حَدَّثَنَا يَحْيَى عَنْ مَالِكٍ عَنْ زَيْدِ بْنِ أَسْلَمَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَنْ غَيَّرَ دِينَهُ فَاصْرَبُوا عُنُقَهُ

Yahya related to me from Malik from Zayd bin Aslam that the Messenger of God said: "Whoever changed his religion strike his neck" (Muwatta 1219)

Narrations similar to the above, quoting only the words "Whoever changed his religion ..." are also found in Nasa'i 3991, 3993-6, and Ibn Majah 2526.

At first sight the hadith seems to be strong. It is considered *sahih* by Bukhari and by Tirmidhi. And Nasa'i and Abu Da'ud also find no fault with it. But despite this, the hadith is not as reliable as a hadith prescribing death penalty should be, since as we shall see it is called into question by another, better attested, hadith. Moreover, it also has the following weaknesses:

First, if we examine the chains of transmission of the hadith we find that in Bukhari, Tirmidhi, Abu Da'ud and Ibn Majah the hadith is narrated only by Ayyub al-Sakhtiyani (d. 131) in the third generation, only by 'Ikrimah (d. 104) in the second generation, and only by Ibn 'Abbas (d. 68) in the first generation. Nasa'i 3994, 3996, 3997 and Ahmad 2813 are related from Qatadah (d. 117) from Anas (d. 91) [or 'Ikrimah] from Ibn 'Abbas. In addition, we have two *mursal* narrations, having no Companion in their *asanid*: Nasa'i 3995, which is from Qatadah from al-Hasan al-Basri (d. 110) and Muwatta 1219, which is from Malik from Zayd bin Aslam (d. 136). This means that very few people narrated the hadith in the third and second generations and in the first generation either no Companion is quoted or only one Companion – Ibn 'Abbas – is quoted. Ibn 'Abbas was a boy of 13 when the Holy Prophet died. It is not conceivable that the Holy Prophet will give a law prescribing death penalty in a way that only a boy of less than 13 will transmit it to the future generations.

Second, if we examine the reliability of the various narrators we find that at least one of them, 'Ikrimah, the slave of Ibn 'Abbas, has received mixed reviews from the scholars of hadith. Some scholars such as Ahmad bin Hanbal, Yahya bin Ma'in, Bukhari, Nasa'i, 'Ijli, and Abu Hatim al-Razi considered or are reported to consider him reasonably trustworthy while others considered him a liar or at least untrustworthy.

Abu 'Amr 'Uthman ibn al-Salah (d. 643) in his book *'Ulum al-Hadith*, commonly known as *Muqaddimah* of Ibn al-Salah, says that Bukhari has reported from narrators who were not trusted by others. He mentions 'Ikrimah as one of the narrators not trusted by others. Muhammad bin Sa'd in *al-Tabaqat al-Kubra*, Abu Ja'far al-'Aqili in *Kitab al-Du'afa' al-Kabir*, al-Dhahabi in *Mizan al-I'tidal*, and Ibn Hajr al-Asqalani in *Fath al-Bari* quote several early scholars who considered 'Ikrimah as untrustworthy.

Ibn Sa'd says: "His reports were not authentic and people had doubts about him". Ibn Sirin said concerning him: "He used to lie" and Ibn Abi Dh'ib said: "I met 'Ikrimah; he was not trustworthy". Sa'id bin Jubayr said: "You relate from 'Ikrimah some traditions that he would not have dared to relate if I had been with him." Sa'id bin al-Musayyib said: "The slave of Ibn Abbas will not desist until a rope is tied around his neck and then taken around". Sa'id also used to advise his slave: "Do not report any lies and attribute them to me as the slave of Ibn 'Abbas did to him". A similar advice is attributed to Ibn 'Umar for his slave, Nafi'.

'Abd Allah bin al-Harith says that when he visited 'Ali, son of Ibn 'Abbas, he was shocked to find 'Ikrimah bound to a post outside the door of 'Ali's house. He asked 'Ali if he had no fear of God in him. 'Ali explained by saying: "This wicked man attributes false traditions to my (late) father (Ibn 'Abbas)"

Malik and Muslim also did not trust 'Ikrimah. Mutarrif said: "I heard Malik saying that he disliked mentioning 'Ikrimah (as a narrator), and I do not think that he reported on his authority". Ibn Hanbal said: "Malik reported one tradition on the authority of 'Ikrimah". Indeed, when we search for ahadith in Muwatta from 'Ikrimah we find only one hadith (# 765) and even that is supported by Malik by a second narrator. Muslim also hardly relates any ahadith from

‘Ikrimah, except in a small number of cases when he finds his hadith supported by another chain. No wonder the hadith in question is absent from Muslim.

Third, there are several differences in the various narrations of the hadith, some of which are important.

1. The words attributed to the Prophet are different in Muwatta 1219, although the meaning is the same: Instead of “kill him” we have “strike his neck” and the word for changed is *ghayyara* instead of *baddala*.
2. More importantly, in narrations I – III Ibn ‘Abbas objects to the burning of people by ‘Ali while in narration IV he does not and in fact seems to be approving it. Also, in narration I we are not told whether ‘Ali came to know Ibn ‘Abbas’ objection. But in narration II ‘Ali learns about Ibn ‘Abbas’ objection and says in response:

“Woe to Ibn ‘Abbas” (*wayḥa Ibn ‘Abbas*).

In some manuscripts of Abu Da`ud the words attributed to ‘Ali are:

“Woe to the mother of Ibn ‘Abbas” (*wayḥa umm Ibn ‘Abbas*)

In narration III also a response by ‘Ali is mentioned but is very different:

“Ibn ‘Abbas said the truth.” (*sadaqa Ibn ‘Abbas*).

Thus either in narration I the response from ‘Ali has been removed or it has been invented and added in narrations II and III. Moreover, someone changed ‘Ali’s response from *wayḥa (umm) Ibn ‘Abbas* **to** *sadaqa Ibn ‘Abbas* or vice versa. Hadith commentators try to harmonize the two responses by saying that *wayḥa* is an expression of praise and wonder but in their natural meaning they are irreconcilable. In any case, even if the meaning of the two responses is the same, the wording has changed in a significant way.

3. The people whom ‘Ali is said to burn to death are described variously as follows:

Narration I: Zanadiqah, a word of Persian origin translated by Muhsin Khan as “atheists”;

Narrations II and III: “those who abandoned Islam”.

Narration IV: “people from al-Zatt who worshipped idols”.

People who worship idols are not atheists and neither atheists nor idol worshippers are necessarily apostates, since they may have never accepted Islam.

Some of the variations noted above are probably unconscious but others are clearly conscious and deliberate. Hence we see that the hadith has suffered some *tahrif*. Therefore we cannot put sufficient trust in it to institute on its basis a law requiring the killing of a human being.

Fourth, the hadith requires us to believe that either Sayyidna ‘Ali did not know the prohibition by the Messenger of God against burning people or he knowingly acted contrary to it. Both possibilities are extremely remote. If Ibn ‘Abbas knew something prohibited by the Prophet, then it is highly unlikely that ‘Ali was ignorant about it. ‘Ali, who is said to be the door of the city of knowledge, was among the first people to accept Islam and therefore had almost 23 years to learn from the Prophet. Ibn ‘Abbas, on the other hand, was converted to Islam as a boy of about

10 years old when his father ‘Abbas accepted Islam in 7 H, only three years before the departure of the Prophet from this world.

And even if for some reason ‘Ali was ignorant about the hadith against burning, some of the many other senior Companions alive at the time would have known about it. We expect them to bring the Prophet’s words to ‘Ali’s notice when he was deciding to burn people or after he had done so.

Quite apart from the hadith prohibiting the burning of people, there is no report of burning of a human being by the Prophet, or Abu Bakr, or ‘Umar, or ‘Uthman. So why would ‘Ali depart from the practice of his illustrious predecessors? Perhaps he became very angry at those people and wanted to punish them in the severest way. But it was not the style of the *khulafa` rashidun* to act in anger in this way. ‘Ali’s character was closer to the one depicted in the tradition in which he was about to kill a disbeliever during a battle when the man spat on him. ‘Ali withdrew his sword and let the man go. When asked about why he withdrew his sword, ‘Ali replied in effect that the man’s spitting on him might have tainted the purity of his intention of fighting only for the sake of God. Hence killing people because of excessive anger is not expected from ‘Ali. It was something that came after the time of *al-khulafa` al-rashidun* when the rulers became power-loving, dictatorial and unjust.

Furthermore, had ‘Ali burned some people many Muslims would have come to know about it, not least because of the unprecedented nature of the punishment. Consequently, reports about the burning would have found their way in many books of history. But we do not seem to have any independent report about it in any reputed source.

Thus we must conclude that at least one part of the hadith is unreliable: the prohibition of burning by the Prophet or the act of burning by ‘Ali. And if one part of a hadith is not reliable, reasonable doubts arise about the whole hadith.

Fifth, laws should be sufficiently precise to provide useful guidance. But the law “whoever changed his religion, kill him” is too general and imprecise. If taken literally it would oblige us to kill, for example, a Christian who became a Jew, since he is changing his religion. Some Shafi‘i scholars have in fact interpreted the hadith in this general way, an interpretation mentioned and criticized by al-Shawkani in his *Nayl al-Awtar: Sharh Muntaha al-Akhbar*.

The generality and imprecision in the law “whoever changed his religion, kill him” is further enhanced by the fact that no context is known in which the law was prescribed. Usually laws were given in some contexts, which in important cases were preserved and which helped make the law more precise. But in the case of this particular law no context is given to clarify its scope.

And even apart from the context, the Qur`an and the Hadith often start with general laws and then provide sufficient details elsewhere. Even their general formulations of laws are carefully worded. But the law “whoever changed his religion, kill him” appears almost careless in its formulation and is not further clarified and elaborated in other ahadith. It is difficult to accept that it is coming from the Holy Prophet.

Further Analysis

The above considerations are sufficient to show that the hadith under consideration is not authentic. We now present some further analysis of the hadith in order to see when and how it came to be fabricated.

We can say with some confidence that the hadith was indeed related by some third-generation narrators – Ayyub (d. 131), Qatadah (d. 117) and Zayd bin Aslam (d. 136). Several chains lead us to Ayyub, some lead us to Qatadah and we have Imam Malik's documented word that Zayd bin Aslam (d. 136) narrated the hadith. This means that the hadith had begun to be known in the early part of the second century or even a little earlier. But the history of the hadith prior to that time is uncertain.

Zayd bin Aslam does not give any source of the hadith. Qatadah is said to relate from three narrators: 1) al-Hasan; 2) Anas bin Malik; 3) 'Ikrimah. But all three isnads are doubtful. Both al-Hasan and Anas had many students coming to them to seek ahadith and it is unlikely that only Qatadah will report the hadith from them. It seems that originally the hadith was related by Qatadah without any isnad, like Zayd bin al-Aslam in the Muwatta. It was later that isnads were provided. Since Qatadah was known to be a companion of al-Hasan and Anas, some presumed that he narrated the hadith from al-Hasan (Nasa'i 3995) while others presumed that he narrated it from Anas (Nasa'i 3996-7, Ahmad 2813). Still others, knowing that 'Ikrimah also narrated the hadith, assumed that Qatadah heard it from 'Ikrimah (Nasa'i 3994). Such additions and changes in isnads must have taken place. We have very many clear examples of changes taking place in the contents of ahadith, some of which we have encountered in connection with the hadith under discussion. And if changes took place in the contents of ahadith, then they must have also taken place in their isnads.

Having dealt with Zayd bin Aslam and Qatadah, we are now left with Ayyub who is consistently said to name 'Ikrimah (d. 104) as his source. So we can accept that 'Ikrimah did indeed relate the hadith. Moreover, it is probable that 'Ikrimah narrated the hadith in a form that mentioned the burning of some people by 'Ali and the objection of Ibn 'Abbas' to that action (Narrations I-III). This is because it is in this form that 'Ikrimah's hadith is narrated by most isnads and in most books.

To move further in our analysis note that the hadith of 'Ikrimah presents 'Ali in a negative light. He is shown as burning people in ignorance or in violation of the command of the Prophet. This negative attitude towards 'Ali is carried further in narration II, which tells us that when Ibn 'Abbas' objection to the action of burning reaches 'Ali, he responds not by regrets for acting against the command of the Prophet but by saying, "Woe to (the mother) of Ibn 'Abbas!" The question arises: Who would want to present 'Ali in such a negative light?

'Ali had two main opponents: Supporters of Bani Umayyah and the Khawarij. It turns out that the very 'Ikrimah who narrated the hadith had sympathy with the Khawarij, if he was not actually one of them. Ibn al-Madini, 'Ata', and Ahmad bin Hanbal are all reported as saying that 'Ikrimah belonged to a sect of Khawarij, although they differ as to the identity of the sect, probably because the differences between various sects of Khawarij were not very sharp in the time of 'Ikrimah. Yahya bin Bukayr said: "'Ikrimah came to Egypt on his way to Morocco where the Khawarij of Morocco learned much from him". Mus'ab Zubayri said: "'Ikrimah has adopted

the views of Khawarij”, suggesting that he attributed to Ibn Abbas after his death what he used to reject during his life.

Moreover, historical reports indicate that Khawarij believed, and whenever possible practiced, the killing of those Muslims whom they considered as apostates. They fought with ‘Ali on the basis of a similar thinking. ‘Ikrimah seems to have shared this view. According to Ibn al-Madini ‘Ikrimah once stood beside the door of a masjid and said: "All who are inside are apostates". And once at the time of hajj when people were gathered around the Ka‘bah, ‘Ikrimah is reported to have said: "I wish I had a spear in my hand to kill all those who came to hajj this year". It would thus appear that the rule, "Whoever changed his religion, kill him", originated as a view held by the Khawarij and then made into a hadith by someone, probably by ‘Ikrimah, who certainly provided it with an isnad by attributing it to Ibn ‘Abbas after the latter’s death. The “hadith” began to spread in the second and third generations, thereafter becoming more and more acceptable.

The reason for the gradual and wide acceptability of the hadith is no doubt the appealing nature of the idea of loyalty to one’s group and of keeping that loyalty by executing traitors and apostates. An indication of the wide appeal of this idea is provided by the fact that the death penalty for traitors/apostates was found in all cultures and traditions near the time and place of the rise of Islam and indeed beyond. In the Jewish tradition, which is the source of many fabricated rules and ideas in Islam, the death penalty for apostasy, especially when manifested by the worship of gods other than the God of Israel, is taught in several Biblical passages including Exodus 22:20, 32:21-29, Deut 17:2-7, Lev 24:16. Similar is the case with Roman and Christian tradition or practice.

Often the punishment for traitors/apostates was death by burning. Thus Romans often burned people for treason and apostasy, including Christians whom they considered traitors to the empire and/or apostates from the Roman paganism. Later the death by burning was used by the Christians themselves against heretics and witches, considered apostates from Christianity. For example, in the Middle Ages prominent Unitarian Christians such as Servetus who believed in true monotheism and rejected the Catholic dogmas of divinity of Jesus and trinity of God were burned to death. Judaism also prescribes death by burning for a number of crimes: sex with one’s mother in law (Lev 20:14), prostitution by the daughter of a priest (Lev 21:9), for adultery (Gen 38:24), (Josh 7:15, 24-25), though not for apostasy. It may well be that the tradition of burning of some people by ‘Ali has been inspired by the influence of this non-Muslim tradition rather than by historical fact.

In view of the above analysis we are now in a position to explain significant differences among the various narrations. The most important of these differences concern the words: “Woe to the mother of Ibn ‘Abbas” (*wayha umm Ibn ‘Abbas*)” attributed to ‘Ali in one narration. For the following two reasons these words were probably part of the original narration of ‘Ikrimah.

First, the words fit with the negative view of ‘Ali presented in the burning of some people by him in ignorance or violation of a command of the Prophet. This negative attitude also fits with the attitude of Khawarij with whom ‘Ikrimah sympathized or associated.

Second, if we start by assuming the absence of these words from ‘Ikrimah’s original narration, then it seems difficult to explain why someone added the words after ‘Ikrimah, since none of the narrators after ‘Ikrimah is known to be among the opponents of ‘Ali. On the other hand, by

assuming the words as part of the original narration we can explain why they later came to be changed or omitted. This explanation is as follows: Narrators after ‘Ikrimah were not comfortable with these words because of their negative characterization of ‘Ali and so they started to modify them in their own different ways. Some narrator toned down the harshness of the words a little by removing the reference to the mother of Ibn ‘Abbas, as we find in Narration II. Another decided to change ‘Ali’s words to a positive form found in Narration III: “Ibn ‘Abbas said the truth.” (*sadaqa Ibn ‘Abbas*). Still another narrator decided to simply remove ‘Ali’s response, as in narrations of type I. Yet another solution was to remove the whole episode of ‘Ali burning people and Ibn ‘Abbas objecting to it. This solution is adopted in Narration IV.

In addition to the differences connected with ‘Ali’s response, there is also the difference between narrations I – IV and narration V. In narration V only the words attributed to the Prophet and prescribing the death penalty are related; there is no mention of burning by ‘Ali. This difference is not a case of *tahrif*, because it was a common and acceptable practice among narrators to extract from a tradition words attributed to the Prophet and narrate them separately. The procedure is acceptable because it is the Prophet’s words that constitute the primary source of our guidance and therefore focusing on them is justified.

It is interesting to note that there is also one narration in which the Prophet’s prohibition of burning is isolated and related by itself:

حَدَّثَنَا سُفْيَانُ عَنْ أَيُّوبَ عَنْ عِكْرِمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا تُعَذِّبُوا بِعَذَابِ اللَّهِ عَزَّ وَجَلَّ

Sufyan related to us from Ayyub from ‘Ikrimah from Ibn ‘Abbas who said: The Messenger of God said: “Do not punish with the punishment of God”. (Ahmad 1802)

It is a pertinent question to ask: Did the law prescribing death penalty for apostasy and the one prohibiting punishment by burning existed as separate ahadith before ‘Ikrimah or is he the first one to make them into ahadith? The answer seems to be the latter. For, narrations containing only one or the other of the two laws are not as well-imbedded in the Hadith literature as they would have been if they had existed as ahadith earlier than ‘Ikrimah and independently of him. Two of them have incomplete isnads and others are found only in Nasa’i, Ibn Majah, and Ahmad, of which the last two books are not known for their high reliability. In contrast, the narration of ‘Ikrimah with its reference to burning of some people by ‘Ali is more mainstream, being in Bukhari, Tirmidhi, Abu Da’ud, Nasa’i, and Ahmad. Hence ‘Ikrimah’s narration seems to be the more original and other narrations are derived from it by a process mentioned above, that is, by isolating the words attributed to the Prophet and quoting them separately.

(B)

A BEDOUIN WHO “CANCELLED” HIS ISLAM WAS NOT PUNISHED

We now discuss a hadith, which is more reliable than the one we have discussed above and which suggests that the Prophet was not thinking in terms of any penalty for apostasy. The hadith is found in three of our best sources, Muwatta, Bukhari and Muslim, as well as in Tirmidhi, Nasa’i, and Ahmad. It is found mainly in two different versions.

B-I) Narration of Muhammad bin al-Munkadir

وَحَدَّثَنِي يَحْيَى عَنْ مَالِكٍ عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ أَنَّ أَعْرَابِيًّا بَايَعَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى الْإِسْلَامِ فَأَصَابَ الْأَعْرَابِيَّ وَعْكٌ بِالْمَدِينَةِ فَأَتَى رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ يَا رَسُولَ اللَّهِ أَقْلَنِي بَيْعَتِي فَأَبَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ثُمَّ جَاءَهُ فَقَالَ أَقْلَنِي بَيْعَتِي فَأَبَى فَخَرَجَ الْأَعْرَابِيُّ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّمَا الْمَدِينَةُ كَالْكَبِيرِ تَنْفِي خَبَثَهَا وَيَنْصَعُ طَبِيبُهَا

Yahya related to me from Malik from Muhammad bin al-Munkadir from Jabir bin ‘Abd Allah: A Bedouin gave a pledge of allegiance for embracing Islam. The next day he came with fever and so came to the Prophet, saying: "O Messenger of God! Cancel my pledge." The Prophet refused. He came to him again and said: "Cancel my pledge". He refused. He came to him another time and said: "Cancel my pledge." He refused again. The Bedouin then went out. Then the Messenger of God said: "Madinah is exactly like a furnace; it expels out the impurities and retains the good." (Muwatta 1377)

Like the above narration, most other narrations -- Bukhari 9/316=6669, 9/318 = 6671, 9/424A = 6777, Muslim 2453, Tirmidhi 3855, Nasa'i 4114, Ahmad 13766 -- come with the isnad:

Malik (d. 179) -- Muhammad bin al-Munkadir (d. 131) – Jabir bin ‘Abd Allah (d. 78)

Some -- Bukhari 3/107 = 1750, Ahmad 13781, 14409, 14682 -- also come with the isnad:

Sufyan al-Thawri (d. 161) -- Muhammad bin al-Munkadir – Jabir bin ‘Abd Allah

Without the story of the Bedouin the statement about Madinah being like a furnace is found in Muslim 2454 (from Zayd bin Thabit) and Muwatta 1378 (from Abu Hurayrah). In Ahmad 14697 the statement about Madinah is supplemented by other statements about the sanctity of Madinah and Makkah that are also mentioned in numerous other ahadith.

In Muslim 2453, the important words ‘*ala al-islam*’ are omitted. Ahmad 13781 from Sufyan has ‘*ala al-hijrah*’. But almost all other narrations from Malik as well as from Sufyan have the words ‘*ala al-islam*’ and we can be confident that they were part of the original narration of Muhammad bin al-Munkadir.

B-II) Narration of al-Harith bin Abi Yazid

حَدَّثَنَا حُسَيْنُ بْنُ مُحَمَّدٍ حَدَّثَنَا الْفُضَيْلُ يَعْنِي ابْنَ سُلَيْمَانَ حَدَّثَنَا مُحَمَّدُ بْنُ أَبِي يَحْيَى عَنْ الْحَارِثِ بْنِ أَبِي يَزِيدَ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ الْأَنْصَارِيِّ أَنَّ قَوْمًا قَدِمُوا الْمَدِينَةَ مَعَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَبِهَا مَرَضٌ فَتَهَاهُمْ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ يَخْرُجُوا حَتَّى يَأْذَنَ لَهُمْ فَخَرَجُوا بِغَيْرِ إِذْنِهِ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّمَا الْمَدِينَةُ كَالْكَبِيرِ تَنْفِي الْخَبَثَ كَمَا يَنْفِي الْكَبِيرُ خَبَثَ الْحَدِيدِ

Husayn bin Muhammad related to us: al-Fuḍayl (Ibn Sulayman) related to us: Muhammad bin Abi Yahya relate to us from al-Harith bin Abi Yazid from Jabir bin ‘Abd Allah al-Anṣari that some people arrived in Madinah with the Prophet and came with a disease. The Prophet prohibited them to leave till he gave them his permission. But they left without his permission. So the Messenger of God said: "Madinah is exactly like a furnace, it expels out the impurities like a furnace expels impurities of iron." (Ahmad 14600)

This narration not only has a very different *isnad*, but also gives a significantly different story. There are more than one person who comes to Madinah and their sin was not to cancel the *bay'ah* on Islam but to leave Madinah against the Prophet's order. It is easy to see that this narration, found only in Ahmad, is defective. The narrator Ibn Sulayman is considered weak by most scholars. Among the comments he has received are the following:

“there are some rejected ahadith from him”,

“not trustworthy”

“writes hadith, not strong”

“not strong”.

Another narrator al-Harith bin Abi Yazid is too little known to be evaluated with any confidence. Compared with this, the narration B-I (of al-Munkadir) is found in many books including Ahmad and has sound *isnad*. Two hadith scholars, Malik and Sufyan narrate it from Muhammad bin al-Munkadir who is considered highly reliable and who is said to narrate the hadith directly from a Companion.

One could say that the two narrations are talking about two different incidents. But, although this will remove the conflict between the two narrations, the weakness of the second narration will remain, since it arises from the fact that its narrators are not all trustworthy and it is absent from a vast majority of books. Moreover, it is too much of a coincidence that two different but very similar incidents would be narrated by the same single Companion.

Hence only the narration of al-Munkadir can have any reliability. This narration provides us with a clear case of apostasy taking place right in front of the Holy Prophet and yet he did not consider any penalty for it, much less the death penalty. Some scholars assume that the Bedouin's *bay'ah* was for staying in Madinah. But as Qadi 'Ayyad and others have said the Bedouin asked for cancelling his Islam. The words '*ala al-islam*', which, as shown earlier, were almost certainly part of the original narration, also clearly show that *bay'ah* of the Bedouin was for embracing Islam and his request for its cancellation meant that he was abandoning his Islam.

The narration B-II (of al-Harith bin Abi Yazid) is the result of some type of *tahrif*, the purpose for which seems to be to reconcile the hadith with the death penalty for apostasy. Thus in this narration the sin of apostasy becomes the sin of leaving Madinah without the Prophet's permission. In this way the death penalty for apostasy is not called into question. The omission of the words '*ala al-islam*' from Muslim 2453 and their change into '*ala al-hijrah*' in Ahmad 13781 appear to have the same purpose.

A comparison of the ahadith of al-Munkadir and of 'Ikrimah.

The hadith of al-Munkadir about the unpunished apostasy of the Bedouin is much stronger than the hadith of 'Ikrimah prescribing the death penalty for apostasy. Scholars give special credibility to an “agreed upon” hadith, one that is accepted by both Bukhari and Muslim. The hadith of al-Munkadir is “agreed upon” while the hadith of 'Ikrimah is not, being found in Bukhari but not in Muslim. Connected with this is the fact that Muhammad bin al-Munkadir is considered a much more trustworthy narrator than 'Ikrimah.

In addition, there is nothing in the hadith of al-Munkadir like the burning of people by ‘Ali that raises doubts about its authenticity. And there is no tension or contradiction with the Qur`an. The Prophet’s treatment of the apostate Bedouin is perfectly consistent with the Qur`an – the apostasy is condemned but its punishment is left to God. The behavior of the Bedouin is also consistent with what the Qur`an (9:90, 97-101, 49:14 etc) and some ahadith say about Bedouins (*al-a‘rab*).

Like the hadith of ‘Ikrimah, the hadith of al-Munkadir is also *gharib*, since it is transmitted only by one narrator in the first generation and two in the second. But unlike the hadith of ‘Ikrimah, this hadith is not proved unreliable by this fact. For, this hadith does not lay down a law that had to be promulgated to reach a maximum number of people. It reports an incident that could have taken place when only a few Companions such as Jabir bin ‘Abd Allah, were present. Neither the Prophet nor the Companions had any special reason to spread it widely.

One way to reconcile the hadith about the Bedouin apostate with the hadith of ‘Ikrimah would be to say that the apostasy of the Bedouin happened before the death penalty was prescribed for apostasy. But in view of the complete absence of any indication of dates and extreme weakness of ‘Ikrimah’s hadith this harmonization is difficult to accept. Had the prescription of the death penalty come to us in a clear and certain way from many reliable sources and through many ahadith, we would be justified to attempt to reconcile it with the Prophet’s treatment of the apostate Bedouin even in the absence of any indication of dates. But given the fact that ‘Ikrimah’s hadith is the only hadith that prescribes the death penalty for apostasy and his hadith suffers from many weaknesses, we need to give priority to the hadith about the apostate Bedouin and regard it as the true indication of the Prophet’s attitude towards apostates.

(C)

“BLOOD OF A BELIEVER CANNOT BE SHED EXCEPT ...”

The two ahadith discussed above, those of ‘Ikrimah and Muhammad bin al-Munkadir, are the most relevant to the question of whether the Holy Prophet prescribed the death penalty for apostasy. Another hadith often quoted in connection with the issue is the one that lists three conditions under which a Muslim can be justifiably killed. However, even a casual reading of the various narrations of this hadith is enough to show that it does not prescribe a death penalty for apostasy but is simply admitting the possibility that an apostate can be lawfully killed under certain conditions.

To begin our detailed examination of the hadith we categorize its various narrations and quote a typical one in each category.

C-I) Narration of Masruq from ‘Abd Allah ibn Mas‘ud

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ وَأَبُو مُعَاوِيَةَ وَوَكَيْعٌ عَنْ الْأَعْمَشِ عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ عَنْ مَسْرُوقٍ عَنْ عَبْدِ اللَّهِ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَجِلُّ دَمُ امْرِئٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنِّي رَسُولُ اللَّهِ إِلَّا بِأَحَدٍ ثَلَاثٍ النَّيْبُ الزَّانِي وَالنَّفْسُ بِالنَّفْسِ وَالتَّارِكُ لِدِينِهِ الْمَفَارِقُ لِلْجَمَاعَةِ حَدَّثَنَا أَبُو نُعَيْمٍ

حَدَّثَنَا أَبِي ح وَ حَدَّثَنَا ابْنُ أَبِي عُمَرَ حَدَّثَنَا سُفْيَانُ ح وَ حَدَّثَنَا إِسْحَقُ بْنُ إِبْرَاهِيمَ وَعَلِيُّ بْنُ حَشْرَمٍ قَالَا أَخْبَرَنَا عِيسَى بْنُ يُونُسَ كُلُّهُمْ عَنْ الْأَعْمَشِ بِهَذَا الْإِسْنَادِ مِثْلَهُ

Abu Bakr bin Abi Shaybah narrated to us: Hafs bin Ghayath and Abu Mu'awiyah and Waki' related to us from al-A'mash from 'Abd Allah bin Murrah from Masruq from 'Abd Allah (bin Mas'ud) who said: The Messenger of God said: 'The blood of a Muslim who bears witness that there is no god but God and that I am his Messenger is not lawful except in one of three cases: a person who, being married, commits *zina*, a person for (the murder) of another, and a person who abandons his religion and separates from *jama'ah* (of Muslims)." (Muslim 3175)

Narrations similar to the above come with the following isnad:

Al-A'mash (d. 147) from 'Abd Allah bin Murrah (d. 100) from Masruq (d. 63) from 'Abd Allah ibn Mas'ud (d. 32).

They describe the apostates who can be killed as those who separate from the community, although there are the following variations in the words used:

- "one who abandons his religion and separates from the community" [*al- tarik li din hi al-mufariq (li) al-jama'ah*] (Muslim 3175, Abu Da'ud 3788, Ibn Majah 2525, Darimi 2196, 2339, Ahmad 3438, 3859, 4024)
- "one who abandons Islam and separates from the community" [*al- tarik (li) al-islam (wa al-) mufariq (li) al-jama'ah*] (Muslim 3176, Nasa'i 3951, Ahmad 34301)
- "one who abandons his religion and separates" [*al-tarik din hu al-mufariq*] (Nasa'i 4642)
- "one who abandons his religion and separates the community" [*al- tarik din hu al-fariq al-jama'ah*] (Ahmad 4197)
- "one who separates from the religion and abandons the community" [*al-mufariq min al-din (li al-din) al-tarik li al-jama'ah*] (Bukhari 6370)

C-II) Narration of 'Ubayd bin 'Umayr from 'A'ishah

حَدَّثَنَا مُحَمَّدُ بْنُ سِنَانٍ الْبَاهِلِيُّ حَدَّثَنَا إِبْرَاهِيمُ بْنُ طَهْمَانَ عَنْ عَبْدِ الْعَزِيزِ بْنِ رُفَيْعٍ عَنْ عُبَيْدِ بْنِ عُمَيْرٍ عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا يَحِلُّ دَمُ امْرَأٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّ مُحَمَّدًا رَسُولُ اللَّهِ إِلَّا بِأَحَدٍ ثَلَاثٍ رَجُلٌ زَنَى بَعْدَ إِحْصَانٍ فَإِنَّهُ يُرْجَمُ وَرَجُلٌ خَرَجَ مُحَارِبًا لِلَّهِ وَرَسُولِهِ فَإِنَّهُ يُقْتَلُ أَوْ يُصَلَّبُ أَوْ يُنْفَى مِنَ الْأَرْضِ أَوْ يَقْتُلُ نَفْسًا فَيُقْتَلُ بِهَا

Muhammad bin Sinan al-Bahili related to us: Ibrahim bin Tahman related to us from 'Abd al-'Aziz bin Rufay' from 'Ubayd bin 'Umayr from 'A'ishah who said: The Messenger of God said: "The blood of a Muslim who bears witness that there is no god but God and that Muhammad is the Messenger of God is not lawful except in one of three cases: a person who

commits *zina* after marriage, for he is stoned; a person who sets out fighting God and his Messenger, for, he is killed or crucified or exiled from the land; or a person who kills another person and is killed for him." (Abu Da`ud 3789)

This type of narrations comes with the isnad:

Ibrahim bin Tahman (d. 168) from ‘Abd al-‘Aziz bin Rufay‘ (d.130) from ‘Ubayd bin ‘Umayr (d. 68) from ‘A`ishah (d. 58).

They describe the apostasy that could result in the death penalty as fighting God and his Messenger with some variations:

- “a man who sets out fighting God and his Messenger” [*rajul kharaja muhariban li allah wa rasul hi*] (Abu Da`ud 3789)
- “one who gets out of Islam and fights God and his Messenger” [*yakhriju min al-islam yuharibu allah ‘azza wa jalla wa rasul hi*] (Nasa`i 3980)

The understanding of crimes punishable by death found in this second type of narrations is also found in an independent hadith of Abu Qilabah (Bukhari 6390; see also 3872, 4244). This long hadith is quoted in full in the Appendix.

C-III) Narration of ‘Amr bin Ghalib from ‘A`ishah

أَخْبَرَنَا عَمْرُو بْنُ عَلِيٍّ قَالَ حَدَّثَنَا يَحْيَى قَالَ حَدَّثَنَا سُفْيَانُ قَالَ حَدَّثَنَا أَبُو إِسْحَقَ عَنْ عَمْرِو بْنِ غَالِبٍ قَالَ قَالَتْ عَائِشَةُ أَمَا عَلِمْتَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ إِلَّا رَجُلٌ زَنَى بَعْدَ إِحْصَائِهِ أَوْ كَفَرَ بَعْدَ إِسْلَامِهِ أَوْ النَّفْسُ بِالنَّفْسِ

‘Amr bin ‘Ali informed us saying: Yahya related to us saying: Sufyan related to us saying: Abu Ishaq related to us from ‘Amr bin Ghalib saying: ‘A`ishah said: Did you not know that the Messenger of God said: ‘The blood of a Muslim is not lawful except (that of) a man who commits *zina* after he is married or disbelieved after his *islam* or a person for (the murder) of another’. (Nasa`i 3952)

This third type of narrations comes with the isnad:

Sufyan (and Isra`il) from Abu Ishaq (d. 128) from ‘Amr bin Ghalib from ‘A`ishah (d. 58).

They describe the apostasy that could be punished by death as committing *kufir* after accepting *islam* or committing *irtidad*:

- “one who disbelieves after accepting Islam” [*kafara ba‘da islam hi (ma aslama)*] (Nasa`i 3952, Ahmad 23169)
- “a man who apostates after his acceptance of Islam” [*rajul irtadda ba‘da islam hi*] (Ahmad 24518, 24611)

The narrations of type C-III are the weakest of the three. They are found only in Ahmad and Nasa'i. Moreover, the narrator 'Amr bin Ghālib is an unknown. Only two narrators are said to narrate ahadith from him and they both have the same nickname, Abu Ishaq, which may be the result of some confusion because of identity of nicknames and may imply that there is only one person who narrates ahadith from him. We do not know when he died and so we cannot tell whether or not he met 'A'ishah. Abu Ishaq himself is trustworthy but is said to have become mentally confused in his later years.

The narration C-III makes permissible the blood of an apostate. But that does not mean that here the death penalty is prescribed for apostasy. Making something permissible is clearly not the same thing as prescribing it. This becomes even clearer if we compare the case of apostasy with another case mentioned in the hadith – the case of a murderer. In Islamic law the execution of a murderer is not prescribed in that a murderer does not have to be killed. His life can be spared if the relatives of the murdered person accept ransom, in which case his blood will not be lawful. Notice in case of a murderer this condition is not mentioned in the narration. It is perfectly reasonable to assume that the case of the apostate is similar. That is, the narration can be understood to mean that an apostate can be executed under some conditions.

The narrations C-I and C-II in fact mention some conditions under which the blood of an apostate becomes lawful. Unlike the narration C-III, which is the weakest of the three narrations, the narration C-I does not talk of simple apostasy. To the description of the apostate as “one who abandons his religion” it adds the further condition: “separates from *jama'ah*”. This additional condition cannot possibly mean that if a Muslim leaves his religion and remains in the *jama'ah* (Muslim community), having some interactions with the Muslims, he is not killed but if he breaks all ties with the Muslims then he will be killed. The expression rather has to be interpreted as referring to the separation that creates division, conflict, or rebellion. So the meaning is that killing of an apostate whose apostasy accompanies a conflict with the Muslims is permissible. This becomes very explicit in C-II, which says that “a (Muslim) person who sets out fighting God and his Messenger” is “killed or crucified or exiled from the land”. This is very close to what the Qur'an says (5:33) and implies that there is no penalty for apostasy as such. Only if the apostate engages in fighting God and his Messenger is he punished and even then the punishment could be just exile.

Commenting on the first narration, which is from Muslim, Nawawi talks about the *shuruṭ* under which a person is killed for murder or adultery, but when it comes to apostasy he takes the words absolutely and says: “this is general for every apostate from Islam whatever may be the apostasy and so his execution is *wajib* if he does not return to Islam”. He also mentions the view of the scholars that the death penalty is likewise applicable to everyone who leaves the community by *bid'ah* or rebellion etc, like the al-Khawarij. But if we are willing to qualify killing of a murderer under some conditions, specified elsewhere in the Qur'an and the Hadith, we can similarly qualify killing of an apostate under some conditions specified elsewhere: in Qur'an (5:33), in narration C-II, and the hadith of Abu Qilabah.

Hence we conclude that the hadith under consideration does not prescribe the death penalty for apostasy and if C-I and, especially, C-II are accepted as the original versions, then the hadith in fact conflicts with a prescribed death penalty for a simple case of apostasy.

The reliability question

In view of the above conclusion it is not really necessary to examine the hadith for reliability. It is only as a further support for the un-Islamic character of the death penalty for apostasy that we mention some reasons suggesting that the hadith is unreliable.

First, adultery is one of the three crimes for which the hadith allows the killing of a person. But the death penalty for adultery is also problematic in the light of the Qur'an (See *Punishment for Adultery in Islam: A Detailed Examination* in <http://www.islamicperspectives.com/Stoning.htm>).

Second, the hadith remained relatively little known for a very long time. From 'Abd Allah bin Mas'ud only Masruq narrates, from Masruq only 'Abd Allah bin Murrah (d. 100) narrates and from him only al-A'mash (d. 147). A similar situation exists in relation to the narration from 'A'ishah. Hence until the second century the knowledge and/or acceptance of the hadith were very limited. It is significant that the hadith is not found in the Muwatta of Imam Malik (d. 179) even though that collection deals with the punishment of apostasy. This suggests that the hadith was not very widely known or acceptable to scholars even by the middle of the second century.

Third, we find that many ahadith simply list laws, principles etc that do not originate with those ahadith but are based on some other ahadith and/or some Qur'anic verses. The hadith in question appears to be of this type. It lists three cases under which a Muslim's life can be taken. We know that two of the cases do not originate with this hadith but are legislated elsewhere. Thus killing of a person in retaliation for murder is legislated in Qur'an 2:178 and 5:45 and the death penalty for adultery is also based on some other ahadith. We should expect the case of apostasy to be similar. That is, as in the other two cases, the death penalty for this case is not based on this hadith but on some other ahadith and is simply being listed here. If we inquire where in case of apostasy the death penalty is legislated, we are led back to the hadith of 'Ikrimah that we saw above to be unreliable. In other words, the hadith in question requires another authentic saying of the Messenger of God prescribing the death penalty for apostasy, but no such saying is to be found. This clearly points to the reliability of the hadith in question.

The lists were usually created by early scholars to summarize Islamic teaching on a subject for easy memorization. Many of them were later attributed to the Prophet and became ahadith. That this is a distinct possibility in the present case is shown by the hadith of Abu Qilabah. Discussing the issue of *al-qasamah* in the court of 'Umar bin 'Abd al-'Aziz, Abu Qilabah says:

"By God, the Messenger of God never killed anyone except in one of the three situations:

- (1) A person who killed somebody unjustly, was killed (in *qisas*)
- (2) A married person who committed illegal sexual intercourse.

(3) A man who fought against God and his Messenger and deserted Islam."

Notice that here Abu Qilabah does not quote the Messenger of God, but gives his own list of crimes for which, in his understanding, the Prophet would apply the death penalty. Since ‘Umar bin ‘Abd al-‘Aziz was *khalifah* between 99 H and 101 H, it appears that the list of capital crimes did not exist as a hadith even around 100 H. It became a hadith sometimes after that. This explains why very few narrators are said to narrate the hadith in the first three generations.

(D)

ANOTHER APOSTATE NOT EXECUTED

We earlier discussed the well-attested case of the Bedouin apostate who was not punished by death or in any other way. Some less reliable ahadith mention other cases of apostates who were not executed. We now briefly examine these ahadith...

D-I)

حَدَّثَنِي مُحَمَّدُ بْنُ رَافِعٍ حَدَّثَنَا أَبُو النَّضْرِ حَدَّثَنَا سُلَيْمَانٌ وَهُوَ ابْنُ الْمُغِيرَةِ عَنْ ثَابِتٍ عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ كَانَ مِنَّا رَجُلٌ مِنْ بَنِي النَّجَّارِ قَدْ قَرَأَ الْبَقْرَةَ وَالْإِمْرَانَ وَكَانَ يَكْتُبُ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَانْطَلَقَ هَارِبًا حَتَّى لَحِقَ بِأَهْلِ الْكِتَابِ قَالَ فَرَفَعُوهُ قَالُوا هَذَا قَدْ كَانَ يَكْتُبُ لِمُحَمَّدٍ فَأَعْجَبُوا بِهِ فَمَا لَبِثَ أَنْ قَصَمَ اللَّهُ عُقْبَهُ فِيهِمْ فَحَفَرُوا لَهُ فَوَارَوْهُ فَأَصْبَحَتْ الْأَرْضُ قَدْ نَبَذَتْهُ عَلَى وَجْهِهَا ثُمَّ عَادُوا فَحَفَرُوا لَهُ فَوَارَوْهُ فَأَصْبَحَتْ الْأَرْضُ قَدْ نَبَذَتْهُ عَلَى وَجْهِهَا ثُمَّ عَادُوا فَحَفَرُوا لَهُ فَوَارَوْهُ فَأَصْبَحَتْ الْأَرْضُ قَدْ نَبَذَتْهُ عَلَى وَجْهِهَا فَتَرَكُوهُ مَبْنُودًا

Muhammad bin Rafi‘ related to us: Abu Nadr related to us: Sulayman (ibn al-Mughirah) related to us from Thabit from Anas bin Malik who said: There was among us a man from Banu al-Najjar who had read Surah al-Baqarah and Al ‘Imran and used to write for the Messenger of God but later on he departed in flight and joined the people of the book. They gave him lift saying, This is he who used to write for Muhammad. And they felt good about him. He did not live for long when God struck his neck among them. They dug for him and buried him. By the morning the earth threw him on its top. They again dug for him and buried him but by the morning the earth again threw him on its top. They dug for him yet again and buried him but by the morning the earth threw him again on its top. So they left him discarded. (Muslim 6/360 = 4987; Ahmad 12846 also from Sulayman with the same isnad and very similar wording)

D-II)

حَدَّثَنَا أَبُو مَعْمَرٍ حَدَّثَنَا عَبْدُ الْوَارِثِ حَدَّثَنَا عَبْدُ الْعَزِيزِ عَنْ أَنَسِ بْنِ رَضِيَ اللَّهُ عَنْهُ قَالَ كَانَ رَجُلٌ نَصْرَانِيًّا فَأَسْلَمَ وَقَرَأَ الْبَقْرَةَ وَالْإِمْرَانَ فَكَانَ يَكْتُبُ لِلنَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَعَادَ نَصْرَانِيًّا فَكَانَ يَقُولُ مَا يَدْرِي مُحَمَّدٌ إِلَّا مَا كَتَبْتُ لَهُ فَأَمَاتَهُ اللَّهُ فَدَفَنُوهُ فَأَصْبَحَ وَقَدْ لَفَظَتْهُ الْأَرْضُ فَقَالُوا هَذَا فِعْلُ مُحَمَّدٍ وَأَصْحَابِهِ لَمَّا هَرَبَ مِنْهُمْ نَبَشُوا عَنْ صَاحِبِنَا فَأَلْقَوْهُ فَحَفَرُوا لَهُ فَأَعْمَقُوا فَأَصْبَحَ وَقَدْ لَفَظَتْهُ الْأَرْضُ فَقَالُوا هَذَا فِعْلُ مُحَمَّدٍ وَأَصْحَابِهِ نَبَشُوا عَنْ

صَاحِبِنَا لَمَّا هَرَبَ مِنْهُمْ فَالْتَفَوْهُ فَحَفَرُوا لَهُ وَأَعَمَّقُوا لَهُ فِي الْأَرْضِ مَا اسْتَطَاعُوا فَأَصْبَحَ وَقَدْ لَفَظَتْهُ الْأَرْضُ فَعَلِمُوا أَنَّهُ لَيْسَ مِنَ النَّاسِ فَالْتَفَوْهُ

Abu Ma'mar related to us: 'Abd al-Warith related to us: 'Abd al-'Aziz related to us from Anas: There was a Christian who embraced Islam and read Surah al-Baqarah and Al 'Imran. He used to write for the Prophet but later on he reverted to Christianity and started to say: "Muhammad knows nothing but what I have written for him." Then God caused him to die, and the people buried him, but by the morning the earth had thrown his body out. They said, "This is the act of Muhammad and his Companions. They dug the grave of our companion and took his body out of it because he had run away from them." They again dug the grave for him, making it deep, but by the morning the earth had thrown his body out. They said, "This is an act of Muhammad and his Companions. They dug the grave of our companion and threw his body outside it, for he had run away from them." They once again dug the grave for him as deep as they could, but by the morning the earth had again thrown his body out. So they believed that what had befallen him was not done by human beings and so left him (thrown on the ground). (Bukhari 4/814 = 3348)

D-III)

حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ أَخْبَرَنَا حُمَيْدٌ عَنْ أَنَسٍ أَنَّ رَجُلًا كَانَ يَكْتُبُ لِلنَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَقَدْ كَانَ قَرَأَ الْبَقَرَةَ وَالْإِمْرَانَ وَكَانَ الرَّجُلُ إِذَا قَرَأَ الْبَقَرَةَ وَالْإِمْرَانَ جَدَّ فِينَا يَعْنِي عَظُمَ فَكَانَ النَّبِيُّ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ يُمْلِي عَلَيْهِ غَفُورًا رَحِيمًا فَيَكْتُبُ عَلَيْهِ حَكِيمًا فَيَقُولُ لَهُ النَّبِيُّ عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ اكْتُبْ كَذَا وَكَذَا اكْتُبْ كَيْفَ شِئْتَ وَيُمْلِي عَلَيْهِ عَلَيْهِ حَكِيمًا فَيَقُولُ اكْتُبْ سَمِيعًا بَصِيرًا فَيَقُولُ اكْتُبْ اكْتُبْ كَيْفَ شِئْتَ فَارْتَدَّ ذَلِكَ الرَّجُلُ عَنِ الْإِسْلَامِ فَلَحِقَ بِالْمُشْرِكِينَ وَقَالَ أَنَا أَعْلَمُكُمْ بِمُحَمَّدٍ إِنَّ كُنْتُ لَأَكْتُبُ مَا شِئْتُ فَمَاتَ ذَلِكَ الرَّجُلُ فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّ الْأَرْضَ لَمْ تَقْبَلْهُ وَقَالَ أَنَسٌ فَحَدَّثَنِي أَبُو طَلْحَةَ أَنَّهُ أَتَى الْأَرْضَ الَّتِي مَاتَ فِيهَا ذَلِكَ الرَّجُلُ فَوَجَدَهُ مُنْبُوذًا فَقَالَ أَبُو طَلْحَةَ مَا شَأْنُ هَذَا الرَّجُلِ قَالُوا قَدْ دَفَنَاهُ مَرَارًا فَلَمْ تَقْبَلْهُ الْأَرْضُ حَدَّثَنَا عَبْدُ اللَّهِ بْنُ بَكْرٍ السَّهْمِيُّ حَدَّثَنَا حُمَيْدٌ عَنْ أَنَسٍ قَالَ كَانَ رَجُلٌ يَكْتُبُ بَيْنَ يَدَيْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَدْ قَرَأَ الْبَقَرَةَ وَالْإِمْرَانَ وَكَانَ الرَّجُلُ إِذَا قَرَأَ الْبَقَرَةَ وَالْإِمْرَانَ جَدَّ فِينَا عَظِيمًا فَذَكَرَ مَعْنَى حَدِيثِ يَزِيدَ

Yazid bin Harun related to us: Humayd informed us from Anas that a man used to write for the Prophet. He had read al-Baqarah and Al 'Imran. And the man when he read al-Baqarah and Al 'Imran became important among us. But when the Prophet would dictate to him "forgiving, merciful" he would write "knowing, wise". The Prophet would say, Write thus and thus. Write as you like. He would dictate to him, "knowing, wise" and he would say, I will write "hearing, seeing". He would say: Write. Write as you want. Then this man turned away from Islam and joined the *mushrikun*. And he said I know Muhammad more than you do. I used to write what I wanted. Then this man died. The Prophet said, the earth will not accept this man. Anas said, Abu Talha told me that he went to the land where this man died and found him thrown out. So Abu Talha said (to the people), What is the matter with this man. They said, We buried him many times, but the earth does not accept him. (Ahmad 11769; see also Ahmad 13084)

The narrators Yazid bin Harun (d. 206) and Humayd (d. 142) are trustworthy, at least to the extent that they are acceptable to Bukhari. Yet the narration has obvious problem: the Prophet seems to be willing to let the man write what he wanted, something clearly impossible and very insulting to the Prophet.

In the above three narrations a man clearly commits apostasy but no order of his execution or punishment in any other way is given by the Prophet. He only predicts that the man will be rejected by the earth. In Bukhari and Muslim he does not even make this prediction. He says nothing about the man and lets God deal with him.

D-IV)

حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ الْمَرْوَزِيُّ حَدَّثَنَا عَلِيُّ بْنُ الْحُسَيْنِ بْنِ وَاقِدٍ عَنْ أَبِيهِ عَنْ يَزِيدَ النَّخَوِيِّ عَنْ عِكْرَمَةَ عَنْ ابْنِ عَبَّاسٍ قَالَ كَانَ عَبْدُ اللَّهِ بْنُ سَعْدٍ بْنُ أَبِي سَرْحٍ يَكْتُبُ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَرْزَلَهُ الشَّيْطَانُ فَلَحِقَ بِالْكَفَّارِ فَأَمَرَ بِهِ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ يُقْتَلَ يَوْمَ الْفَتْحِ فَاسْتَجَارَ لَهُ عُثْمَانُ بْنُ عَفَّانٍ فَأَجَارَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

Ahmad bin Muhammad al-Marwazi related to us: ‘Ali ibn al-Husayn bin Waqid related to us from his father from Yazid al-Nahwi from ‘Ikrimah from Ibn ‘Abbas who said: ‘Abd Allah bin Abi Sarh used to write for the Messenger of God but Shaytan made him slip and he joined the disbelievers. The Messenger of God ordered his execution on the day of the conquest (of Makkah). But ‘Uthman bin ‘Affan sought protection for him and the Messenger of God granted it to him. (Abu Da’ud 3792, see also Nasa’i 4001)

D-V)

حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ حَدَّثَنَا أَحْمَدُ بْنُ الْمُفَضَّلِ حَدَّثَنَا أَصْبَاطُ بْنُ نَصْرٍ قَالَ زَعَمَ السُّدِّيُّ عَنْ مُصْعَبِ بْنِ سَعْدٍ عَنْ سَعْدٍ قَالَ لَمَّا كَانَ يَوْمُ فَتْحِ مَكَّةَ اخْتَبَأَ عَبْدُ اللَّهِ بْنُ سَعْدٍ بْنُ أَبِي سَرْحٍ عِنْدَ عُثْمَانَ بْنِ عَفَّانٍ فَجَاءَ بِهِ حَتَّى أَوْقَفَهُ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ يَا رَسُولَ اللَّهِ بَايِعْ عَبْدَ اللَّهِ فَرَفَعَ رَأْسَهُ فَنَظَرَ إِلَيْهِ ثَلَاثًا كُلُّ ذَلِكَ بِأَبْيَ فَبَايَعَهُ بَعْدَ ثَلَاثٍ ثُمَّ أَقْبَلَ عَلَى أَصْحَابِهِ فَقَالَ أَمَا كَانَ فِيكُمْ رَجُلٌ رَشِيدٌ يَقُومُ إِلَى هَذَا حَيْثُ رَأَيْتُ كَفَفْتُ يَدِي عَنْ بَيْعَتِهِ فَيَقْتُلُهُ فَقَالُوا مَا نَدْرِي يَا رَسُولَ اللَّهِ مَا فِي نَفْسِكَ إِلَّا أَوْمَاتِ إِلَيْنَا بِعَيْنِكَ قَالَ إِنَّهُ لَا يَنْبَغِي لِنَبِيِّ أَنْ تَكُونَ لَهُ خَائِنَةٌ الْأَعْيُنُ

‘Uthman bin Abi Shaybah related to us: Ahmad bin al-Mufaddal related to us: Asbat bin Nasr related to us saying: al-Suddi claimed (za’ama) from Mus’ab bin Sa’d from Sa’d who said: On the day of the Conquest of Makkah ‘Abd Allah bin Abi Sarh hid himself with ‘Uthman bin ‘Affan. He came with him and made him stand before the Prophet and then said: O Messenger of God! Accept the allegiance of ‘Abd Allah. He raised his head three times, each time refusing him. Then he accepted his allegiance after the third time. He then turned to his Companions and said: “Was not there among you a right-minded man who would have stood to this one when I had withheld my hand from accepting his allegiance and killed him?” They said: “We did not know what you were thinking in your heart, O Messenger of God! Why did you not give us a signal with your eye?” He said: “It is not fitting for a prophet to hoodwink by the eyes.” (Abu Da’ud 3793; see also Nasa’i 3999)

Is ‘Abd Allah bin Abi Sarh mentioned in the two narrations, D-IV and D-V, the same man as the previous three narrations? In favor of the identity of the two men is the fact that both are said to write for the Prophet. It is not likely that the Prophet, a very good judge of characters, would twice choose such bad characters to write the word of God. Against the identity of the two men is the fact that the stories about the two men are very different and that in D-V it is not mentioned that ‘Abd Allah bin Abi Sarh used to write for the Prophet.

In any case the narrations do not support the death penalty for apostasy for the following reasons:

a) In D-IV the Prophet orders the execution of ‘Abd Allah bin Abi Sarḥ but it is not clear whether this order is for apostasy or for some other actions also. Moreover, the order was not executed, since man was given protection. For a prescribed penalty there is no such protection. The Prophet’s attitude towards a prescribed penalty reportedly was that he would apply it even if his daughter Fatimah committed the crime.

b) In D-V the Prophet does not order the execution; only hoped that someone would kill the man. This is no way to establish and execute penalties for crimes.

c) Both narrations are weakened by the obvious contradictions between them and by the fact that both have narrators who are not very strong.

In D-IV, one narrator is ‘Ali who is described by some scholars as *ḍa‘if al-ḥadīth*. Another narrator is ‘Ikrimah whose weakness we have already documented.

In D-V also there are two narrators who have received negative comments:

Ahmad bin al-Mufaddal – *munkar al-ḥadīth*.

Al-Suddi – *fi ḥadīth hi ḍu‘f*. And Abu Da‘ud himself does not seem to trust al-Suddi. He uses the word “claimed” for him rather than “said” or “related”.

‘Ikrimah Again

As we noted earlier, in D-V the Prophet does not order the execution of ‘Abd Allah bin Abi Sarḥ while in D-IV he does. It is of great interest to note that D-IV comes from ‘Ikrimah from Ibn ‘Abbas. This is of course the same ‘Ikrimah who transmitted the only ḥadīth in which the Prophet prescribes the death penalty for apostasy. Thus once again ‘Ikrimah is associated with the death penalty for apostasy. It is reasonable to think that in earlier narration there was no order by the Prophet to execute ‘Abd Allah bin Abi Sarḥ. But ‘Ikrimah, ever keen to attribute the death penalty for apostasy to the Prophet, has changed the earlier story and introduced a prophetic order to execute ‘Abd Allah bin Abi Sarḥ. It is also possible that some later narrator – ‘Ali or his father -- has introduced the order for ‘Abd Allah’s execution and attributed the ḥadīth to ‘Ikrimah because he knew that ‘Ikrimah narrated aḥadīth prescribing the death penalty for apostasy. After the introduction of ‘Ikrimah into the isnad, it was easy to bring along Ibn ‘Abbas because ‘Ikrimah often attributed his aḥadīth to Ibn ‘Abbas.

Appendix

Full Text of the Ḥadīth of Abu Qilabah

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ حَدَّثَنَا أَبُو بَشْرِ بْنُ إِسْمَاعِيلَ بْنُ إِبْرَاهِيمَ الْأَسَدِيُّ حَدَّثَنَا الْحَجَّاجُ بْنُ أَبِي عُمَرَ حَدَّثَنَا أَبُو رَجَاءٍ مِنْ آلِ أَبِي قِلَابَةَ حَدَّثَنَا أَبُو قِلَابَةَ أَنَّ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ أَمَرَ سَرِيرَهُ يَوْمًا لِلنَّاسِ ثُمَّ إِذِنْ لَهُمْ فَدَخَلُوا

فَقَالَ مَا تَقُولُونَ فِي الْقَسَامَةِ قَالَ نَقُولُ الْقَسَامَةَ الْقَوْدُ بِهَا حَقٌّ وَقَدْ أَقَادَتْ بِهَا الْخُلَفَاءُ قَالَ لِي مَا تَقُولُ يَا أَبَا قِلَابَةَ وَنَصَبَنِي لِلنَّاسِ فَقُلْتُ يَا أَمِيرَ الْمُؤْمِنِينَ عِنْدَكَ رُءُوسُ الْأَجْنَادِ وَأَشْرَافُ الْعَرَبِ أَرَأَيْتَ لَوْ أَنَّ خَمْسِينَ مِنْهُمْ شَهِدُوا عَلَى رَجُلٍ مُحْصَنٍ بِدَمَشَقٍ أَنَّهُ قَدْ زَنَى لَمْ يَرَوْهُ أَكُنْتَ تَرْجُمُهُ قَالَ لَا قُلْتُ أَرَأَيْتَ لَوْ أَنَّ خَمْسِينَ مِنْهُمْ شَهِدُوا عَلَى رَجُلٍ بِحِمَصٍ أَنَّهُ سَرَقَ أَكُنْتَ تَقْطَعُهُ وَلَمْ يَرَوْهُ قَالَ لَا قُلْتُ فَوَاللَّهِ مَا قَتَلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَحَدًا قَطُّ إِلَّا فِي أَحَدَى ثَلَاثِ خِصَالٍ رَجُلٌ قَتَلَ بِجَرِيرَةٍ نَفْسَهُ فَقَتِلَ أَوْ رَجُلٌ زَنَى بَعْدَ إِحْصَانٍ أَوْ رَجُلٌ حَارَبَ اللَّهَ وَرَسُولَهُ وَارْتَدَّ عَنِ الْإِسْلَامِ فَقَالَ الْقَوْمُ أَوَلَيْسَ قَدْ حَدَّثَ أَنَسُ بْنُ مَالِكٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَطَعَ فِي السَّرَقِ وَسَمَرَ الْأَعْيُنِ ثُمَّ نَبَذَهُمْ فِي الشَّمْسِ فَقُلْتُ أَنَا أُحَدِّثُكُمْ حَدِيثَ أَنَسٍ حَدَّثَنِي أَنَسٌ أَنَّ نَفَرًا مِنْ عُكْلٍ ثَمَانِيَّةٍ قَدِمُوا عَلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَبَايَعُوهُ عَلَى الْإِسْلَامِ فَاسْتَوْخَمُوا الْأَرْضَ فَسَقَمَتْ أَجْسَامُهُمْ فَشَكُوا ذَلِكَ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ أَفَلَا تَخْرُجُونَ مَعَ رَاعِيْنَا فِي إِبِلِهِ فَتُصَيَّبُونَ مِنْ أَلْبَانِهَا وَأَبْوَالِهَا قَالُوا بَلَى فَخَرَجُوا فَشَرِبُوا مِنْ أَلْبَانِهَا وَأَبْوَالِهَا فَصَحُّوا فَقَتَلُوا رَاعِي رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَطْرَدُوا النِّعَمَ فَبَلَغَ ذَلِكَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَرْسَلَ فِي آثَارِهِمْ فَأَدْرَكُوا فَجَاءَ بِهِمْ فَأَمَرَ بِهِمْ فَقَطَّعَتْ أَيْدِيَهُمْ وَأَرْجُلُهُمْ وَسَمَرَ أَعْيُنَهُمْ ثُمَّ نَبَذَهُمْ فِي الشَّمْسِ حَتَّى مَاتُوا قُلْتُ وَأَيُّ شَيْءٍ أَشَدُّ مِمَّا صَنَعَ هَؤُلَاءِ ارْتَدُّوا عَنِ الْإِسْلَامِ وَقَتَلُوا وَسَرَقُوا فَقَالَ عَنَبَسَةُ بْنُ سَعِيدٍ وَاللَّهِ إِنْ سَمِعْتُ كَالْيَوْمِ قَطُّ فَقُلْتُ أَتُرَدُّ عَلَيَّ حَدِيثِي يَا عَنَبَسَةُ قَالَ لَا وَلَكِنْ جِئْتُ بِالْحَدِيثِ عَلَى وَجْهِهِ وَاللَّهِ لَا يَزَالُ هَذَا الْجُنْدُ بِخَيْرٍ مَا عَاشَ هَذَا الشَّيْخُ بَيْنَ أَظْهَرِهِمْ قُلْتُ وَقَدْ كَانَ فِي هَذَا سُنَّةٌ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ دَخَلَ عَلَيْهِ نَفَرٌ مِنَ الْأَنْصَارِ فَتَحَدَّثُوا عِنْدَهُ فَخَرَجَ رَجُلٌ مِنْهُمْ بَيْنَ أَيْدِيهِمْ فَقَتِلَ فَخَرَجُوا بَعْدَهُ فَإِذَا هُمْ بِصَاحِبِهِمْ يَنْشَحُطُ فِي الدَّمِ فَارْجِعُوا إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالُوا يَا رَسُولَ اللَّهِ صَاحِبُنَا كَانَ تَحَدَّثُ مَعَنَا فَخَرَجَ بَيْنَ أَيْدِينَا فَإِذَا نَحْنُ بِهِ يَنْشَحُطُ فِي الدَّمِ فَخَرَجَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ بِمَنْ تَطُنُّونَ أَوْ مَنْ تَرَوْنَ قَتَلَهُ قَالُوا نَرَى أَنَّ الْيَهُودَ قَتَلْتَهُ فَأَرْسَلَ إِلَى الْيَهُودِ فَدَعَاهُمْ فَقَالَ أَنْتُمْ قَتَلْتُمْ هَذَا قَالُوا لَا قَالَ أَتَرْضَوْنَ نَفْلَ خَمْسِينَ مِنَ الْيَهُودِ مَا قَتَلُوهُ فَقَالُوا مَا يُبَالُونَ أَنْ يَقْتُلُونَا أَجْمَعِينَ ثُمَّ يَنْتَفِلُونَ قَالَ أَفَتَسْتَحِقُّونَ الدِّيَةَ بِأَيِّمَانِ خَمْسِينَ مِنْكُمْ قَالُوا مَا كُنَّا لِنُخْلِفَ قَوْدَاهُ مِنْ عِنْدِهِ قُلْتُ وَقَدْ كَانَتْ هَذِهِ خَلَعُوا خَلِيعًا لَهُمْ فِي الْجَاهِلِيَّةِ فَطَرَقَ أَهْلُ بَيْتٍ مِنَ الْيَمَنِ بِالْبَطْحَاءِ فَأَنْتَبَهَ لَهُ رَجُلٌ مِنْهُمْ فَحَذَفَهُ بِالسَّيْفِ فَقَتَلَهُ فَجَاءَتْ هَذِهِ فَأَخَذُوا الْيَمَانِيَّ فَرَفَعُوهُ إِلَى عُمَرَ بِالْمَوْسِمِ وَقَالُوا قَتَلَ صَاحِبَنَا فَقَالَ إِنَّهُمْ قَدْ خَلَعُوهُ فَقَالَ يُقْسِمُ خَمْسُونَ مِنْ هَذِهِ مَا خَلَعُوهُ قَالَ فَأَقْسَمَ مِنْهُمْ تِسْعَةٌ وَأَرْبَعُونَ رَجُلًا وَقَدِمَ رَجُلٌ مِنْهُمْ مِنَ الشَّامِ فَسَأَلُوهُ أَنْ يُقْسِمَ فَأَفْتَدَى يَمِينَهُ مِنْهُمْ بِالْفِ دَرَاهِمٍ فَأَدْخَلُوا مَكَانَهُ رَجُلًا آخَرَ فَدَفَعَهُ إِلَى أَخِي الْمَقْتُولِ فَفَرَنْتَ يَدَهُ بِيَدِهِ قَالُوا فَانْطَلَفَا وَالْخَمْسُونَ الَّذِينَ أَقْسَمُوا حَتَّى إِذَا كَانُوا بِنَخْلَةٍ أَخَذَتْهُمْ السَّمَاءُ فَدَخَلُوا فِي غَارٍ فِي الْجَبَلِ فَأَنْهَجَمَ الْغَارُ عَلَى الْخَمْسِينَ الَّذِينَ أَقْسَمُوا فَمَاتُوا جَمِيعًا وَأَقْلَتِ الْقَرِينَانِ وَاتَّبَعَهُمَا حَجَرٌ فَكَسَرَ رَجُلٌ أَخِي الْمَقْتُولِ فَعَاشَ حَوْلًا ثُمَّ مَاتَ قُلْتُ وَقَدْ كَانَ عَبْدُ الْمَلِكِ بْنُ مَرْوَانَ أَقَادَ رَجُلًا بِالْقَسَامَةِ ثُمَّ نَدِمَ بَعْدَ مَا صَنَعَ فَأَمَرَ بِالْخَمْسِينَ الَّذِينَ أَقْسَمُوا فَمَحُوا مِنَ الدِّيَانِ وَسَيَّرَهُمْ إِلَى الشَّامِ

Qutaybah bin Sa'id related to us: Abu Bishr Isma'il bin Ibrahim al-Asadi related to us: al-Hajjaj bin Abi 'Uthman related to us: Abu Raja` from the family of Abu Qilabah related to me: Abu Qilabah related to me:

Once 'Umar bin 'Abd al-'Aziz sat on his throne for the people. When he admitted them, they entered. He said, "What do you think of *al-qasamah*?" They said, "We say that it is lawful to depend on *al-qasamah* (in *qisas*), as the (previous) *khulafa'* depended on it." Then he said to me, "O Abu Qilabah! What do you say about it?" He let me appear before the people and I said, "O Chief of the Believers! You have the chiefs of the army staff and the nobles of the Arabs. If fifty of them testified that a married man had committed illegal sexual intercourse in Damascus but they had not seen him (doing so), would you stone him?" He said, "No." I said, "If fifty of them testified that a man had committed theft in Hums, would you cut (off his hand) though they did

not see him?" He replied, "No." I said, "By God, the Messenger of God never killed anyone except in one of the three situations:

- (1) A person who killed somebody unjustly, was killed (in *qisas*)
- (2) A married person who committed illegal sexual intercourse.
- (3) A man who fought against God and his Messenger and deserted Islam."

Then some people said, "Didn't Anas bin Malik narrate that God's Messenger cut off (the hands of some people) for theft, branded their eyes and then, threw them in the sun?" I said, "I relate to you the hadith of Anas. Anas related to me that eight persons from the tribe of 'Ukl came to God's Messenger and gave the pledge of allegiance for Islam. The climate of the place (Medina) did not suit them, so they became sick and complained about that to God's Messenger. He said (to them), "Won't you go out with the shepherd of our camels and drink of the camels' milk and urine (as medicine)?" They said, "Yes." So they went out and drank the camels' milk and urine, and after they became healthy, they killed the shepherd of God's Messenger and took away all the camels. This news reached God's Messenger, so he sent (men) to follow their traces and they were captured and brought (to the Prophet). He then ordered to cut their hands and feet, and their eyes were branded (with heated pieces of iron), and then he threw them in the sun till they died." I said, "What can be worse than what those people did? They deserted Islam, committed murder and theft."

Then 'Anbasah bin Sa'id said, "By God, I never heard (this narration) of today." I said, "O 'Anbasah! You deny my narration?" He said, "No, but you have related the narration in the way it should be related. By God, these people will stay in a good condition as long as this Shaykh (Abu Qilabah) is among them." I added, "Indeed in this event there has been a tradition set by God's Messenger. The narrator added: Some Ansari people came to the Prophet and discussed some matters with him; a man from amongst them went out and was murdered. Those people went out after him, and behold, their companion was swimming in blood. They returned to God's Messenger and said to him, "O God's Messenger, we have found our companion who had talked with us and gone out before us, swimming in blood." God's Messenger went out and asked them, "Whom do you suspect or who do you think has killed him?" They said, "We think that the Jews have killed him." The Prophet sent for the Jews and asked them, "Did you kill this (person)?" They replied, "No." He asked al-Ansar, "Do you agree that I let fifty Jews take an oath that they have not killed him?" They said, "It matters little for the Jews to kill us all and then take false oaths." He said, "Then would you like to receive the *diyyah* (blood-money) after fifty of you have taken an oath (that the Jews have killed your man)?" They said, "We will not take the oath." Then the Prophet himself paid them the *diyyah*."

The narrator added, "The tribe of Hudhayl repudiated one of their men (for his evil conduct) in the pre-Islamic period of ignorance. Then, (at a place called) al-Bath^ha', the man attacked a Yemenite family at night to steal from them, but a man from the family noticed him and struck him with his sword and killed him. The tribe of Hudhayl came and captured the Yemenite and brought him to 'Umar during the (hajj) season and said, "He has killed our companion." The Yemenite said, "But these people had repudiated him." 'Umar said, "Let fifty persons of Hudhayl swear that they had not repudiated him." So forty-nine of them took the oath and then a person

belonging to them, came from Sham and they requested him to swear, but he paid one-thousand dirhams instead of taking the oath. They called another man instead of him and this man went to the brother of the murdered man and shook hands with him. Some people said, "We and those fifty men who had taken the (false) oath set out, and when they reached (a place called) Nakhlah, it started raining. So they entered a cave in the mountain, and the cave collapsed on those fifty men who took the oath, and all of them died except the two persons who had shaken hands with each other. But a stone fell on the leg of the brother of the deceased and broke it, whereupon he survived for one year and then died." I further said, "Abd al-Malik bin Marwan sentenced a man to death on the basis of *al-qasamah*, but later on he regretted that judgment and ordered that the names of the fifty persons who had taken the oath, be erased from the register, and he exiled them in Sham." (Bukhari 9/37 = 6390)

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