

REVIEW ARTICLE

# “He Said-Raping Me Is His Prayer to God...”- Rape and Slavery in the Isis Caliphate That Never Was

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## Abstract

In October 2014, the Committee in charge of issuing *Fatawa* (Islamic decrees and edicts) regarding the day-to-day activities of members of the Islamic State in Iraq and Syria (ISIS) released a pamphlet on how members of its army can relate to and “lawfully” take advantage of female conquered subjects it referred to as *Al-Sab* and *al-Riqaq*. While the *Daesh*’s “Caliphate” is seen by majority of the Muslim world as an invalid prototype of those known to Islamic history, the groups’ constant invocation of the Sharī‘ah law as premise for its ‘war’ against women has reinforced existing negative notions about Islam in critical circles. In exploring this perspective, this paper pays close attention to, among others, the works of Ibn Taymiyyah whose interpretations of Islamic law is said to be the foundation for the ISIS violent treatment of women and minorities under its hegemony. It situates the above against contemporary approaches to Islamic Law on and for minorities that are evident in for example, Taha Jabir al-Alwani, Jasser Auda, Hashim Kamali among others. Is it true in Islamic law that rape could be a weapon of war and an act of worship? What conditions and parameters are established by Islam for the establishment of Islamic state? In other words, what is “Salafi”, “Wahabi” and indeed “Islamic” in a State which thrives in unwarranted bloodshed and destruction of innocent lives and properties?

**Keywords:** Rape, Caliphate, ISIS, Slavery, Islamic Law.

## 1. Introduction

Islamic state is predicated on the *hijrah* (migration) of the holy Prophet Muhammad (pbuh) from Makkah to Madinah in the 7th century. The *hijrah* was also necessitated by the rejection of the new worldview in Makkah and its acceptance in Madinah coupled with the divine design. At the arrival of the Prophet (pbuh) and his companions in Madinah, the first thing that was done was the entrenchment of the constitution that would guide the day-to-day activities of the people of the city. Sequel to this was the pledge by Yathribites to protect the honor and integrity of the Prophet (pbuh) if he agreed to migrate to Yathrib and became their leader. This pledge was taken under the tree of *al-Aqaba* in Taif near Makkah. The Madinan charter therefore, became the first organized set of guiding principles to be written and agreed upon by

diverse people in the 7<sup>th</sup> century. In the Madinan charter, the interest of both the majority and the minority were adequately taken care of, and the Prophet was recognized as the spiritual, economic, as well as political leader. Having to serve in many aspects of human engagements and successfully too, the Prophet exhibited the feature of the perfection and universality of the Islamic worldview/law. That was the exact reason why the immediate generation after him and that of his companions were in dire need of those who could give exact correct interpretations of Islamic law for continuity. Corroborating this, Attia says:

The Apostle received from God the most consummate of all laws, one that offers benefit which human beings alone would not be able to realize. In one way or another, the people

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of his time recognized the nobility of what he had brought with the result that its truths began to find their way into their daily conversations and orations. When their era drew to a close, however, there arose a need in the Ummah for those who could clarify the various aspects of this type of inimitability, as well as the utterances of the Prophet and his companions which provides evidence that his law was the most perfect and complete of all laws. People likewise needed to be reminded that the fact that someone like him had brought something on this order of perfection was itself a miracle of such grandeur and renown as not to require further mention<sup>1</sup>.

The need for *Ijtihad* (juristic deduction) was encouraged to give room for continuation and sustainability of the message of Islam. However, it is evident that the dynamism put in place by Islamic worldview and as demonstrated by the Prophet and his companions have been greatly misunderstood by elements presumed to be working for its entrenchment. Over the time, different interpreters of Islamic law have emerged and some have done serious damages to the *Maqāsid* (the intent of the *Sharī'ah*). It must be emphasized that the intent of the *Sharī'ah* (*Maqāsid*) according to Attia, are basically to achieve five objectives in the world: i) to achieve mutual understanding, cooperation and integration, ii) realizing human vicegerency on earth, iii) achieving world peace based on justice, iv) international protection for human rights and, v) dissemination of the Islamic Message<sup>2</sup>. The interpretations/understanding of the juristic rulings of some contemporary scholars have called to question the validity of the claim of all-inclusiveness and all-encompassing nature of the message of the Qur'an. This has in turn generated many questions such as is there a problem with Islamic law or the Muslims? Be that as it may, an objective reading of the sources of the *Sharī'ah* will reveal that there is actually nothing wrong with the Islamic law. It is actually the Muslims who have subjected themselves to the selfish interpretation of the law and have projected this as the real essence of Islam. In other words, the *Sharī'ah* is a comprehensive and perfect code of conducts if strictly adhere to and read with objectivity otherwise the human existence become chaotic. Therefore, in order to grasp the correct interpretation of the *Sharī'ah*, it must feature the following elements in line with Auda:

<sup>1</sup>Gamal Eldin Attia, *Towards Realization of the Higher Intents of Islamic Law, Maqāsid al-Sharī'ah: A Functional Approach* (London-Washington: The International Institute of Islamic Thought, 2007), 153-154.

<sup>2</sup>Ibid

...if you mean by the 'Islamic law' *fatwa*, (Islamic edict) then the answer is: it depends on how the *fatwa* is issued! Some *fatawa* are manifestations of Islam and its moral values, and some others are simply wrong and un-Islamic. If the *fatwa* is copied verbatim from some classic book in the Islamic law, then it is quite possibly flawed because it is quite probably addressing a different world with different circumstances. If the *fatwa* is based on some sort of twisted interpretation of a script, with an aim to serve the political interests of some powerful people, then it is wrong and un-Islamic. If the *fatwa* is allowing people to commit an act of injustice, discrimination, harm, or immorality, even if it were to be based on some sort of 'interpretation,' then it is also wrong and un-Islamic. If the *fatwa* is issued, based on the Islamic authentic sources on the one hand, while keeping people's welfare and the principal values/purposes of the Islamic law in mind on the other hand, then it is correct and valid *fatwa*<sup>3</sup>.

Many scholars have engaged the issue of minorities and their treatment in an Islamic state relying on the instructions from the texts. The concept of slavery and 'those that your right hands possess' have both been taken as license to be interpreted to suit various situations including the "unimagined" by various Muslim extremist groups including the ISIS. The incidences of rape and force marriages that took place within the ISIS camp are very relevant here. Female captives of war have been subjected to inhuman treatment of rape and temporary/forced marriages by the ISIS elements who claim their actions are sanctioned by the *Sharī'ah*. Thus, within the camp of the ISIS, two types of violence were perpetrated against the female captives of war: textual versus cultural. It is textual because, the ISIS fighters derive their justifications from the text based on their own interpretation. It is also cultural when attention is paid to the sustained patriarchy within the ISIS circles. The juristic rulings by the ISIS scholars about the treatment of the female captives of war, is seeking serious engagement and interrogation. Many questions are yet unanswered within the ISIS circles. One of such questions is exactly how were the captives of Badr treated by the Prophet and his companions if indeed the actions of the ISIS are sanctioned by the Qur'an?

<sup>3</sup>Jasser Auda, *Maqasi Al-Shariah As Philosophy of Islamic Law, A Systems Approach* (London-Washington: The International Institute of Islamic Thought, 2008), xxiv.

It must be recalled that the circumstances of the Muslims as at the time necessitated that they could choose to mistreat the captives. Many of the companions left Makkah without their wives, children and material belongings in the face of the oppression from the unbelievers of Makkah. Instead, the captives were humanely treated and were given the options of monetary or provision of service as ransoms and there was no forceful conversion to Islam. This will bring us back to the point that fundamental human relations of Islam have been put to question by ISIS and their cohorts who holds the views that the female captives of war can be raped to serve as a fulfillment of religious obligation. In exploring how these are implicated, this paper begins its engagement with the concept of slavery and rape practices under the Shari'ah, it brings to fore the implied meanings of the *fatawa* given by the ISIS scholars on the treatment of the female captives of war. The paper also interrogates the concept of *khilafah* in relation to state or nation/governance, the legitimacy of the Islamic state as explicated by the ISIS is examined, put into critical perspectives and the paper concludes that the Islamic state founded by the Prophet and his companions could not have been renowned for positive legacies were it to be built on forceful conversion, rape, ill-treatment of captives and minorities in the conquered lands as demonstrated by the ISIS.

## 2. Slavery and Rape in the Shari'ah

Slavery and rape were some of the characteristics of the decadent society in which a new dawn of Islam was born. A society where women and girl-child were treated as commodities-that could be bought and discarded at will. Women were both sold and bought into slavery by their parents and used as desired by their masters--as sex objects while also serving as servants. At the advent of Prophet Muhammad (pbuh) in the 7<sup>th</sup> century, all acts of indecencies that were the order of the day in Arabian Peninsula were condemned and preached against. Some of which was the condemnation of slavery and the entrenchment of good treatment of women and girl-child. It took a whole of twenty-three years for the entrenchment of virtues back into a decadent society in which the Prophet (pbuh) was born. In other words, the moral and spiritual evolution of the Arabian Peninsula was through a gradual and adaptive path. There are numerous examples pointing to this fact. The issue of the treatment of slaves among others is one of the reforms brought about by Islam. The Qur'an therefore, treats slavery as a form of injustice towards those who

were either sold into it or are captured by wars. This is the reason it equals the reward of freeing of slaves to the feeding of the poor and needy in the society. There are various *ayāt* (signs) in the Qur'an where references are made with regards to slaves and slavery<sup>4</sup>. Though, there is no explicit statement abolishing slavery but the Qur'an does provide a number of regulations<sup>5</sup> designed to ameliorate the situation and condition of slaves particularly if they have believed<sup>6</sup>. In fact, manumission of slave is mentioned in the Qur'an as a requirement for expiation of sins<sup>7</sup> and in another place, masters are told to allow their slaves to pay for their own ransom<sup>8</sup>. The Qur'an also suggests certain means of integrating slaves, some of whom were enslaved after they were captured in war, into the Muslim community. It allows slaves to marry<sup>9</sup> (either other slaves or free persons), and prohibit owners from having intimate relations with female slaves without consent<sup>10</sup>.

However, despite the numerous instructions for the good treatment of slaves from the Qur'an and Sunnah of the Prophet (pbuh), sexual violence is still perpetrated against the female slaves by their captors. In line with Wood<sup>11</sup>, there are three reasons for why sexual violence occurs; first, it is taken as a strategy; second, as an opportunity; and third, as a practice. This article inclines to this categorization primarily for analytical purposes. Wood argued further that conflict-related sexual violence is an inherently complex phenomenon, and so it is unlikely that a single theory can fully explain the observed patterns of violence<sup>12</sup>.

Proceeding from the above categorization, the first can be explained by assuming that the perpetrators of violence uses sexual violence intentionally to create fear in the hearts of their captives as well as use coercion for compliance by all and sundry or the citizenry. This strategy can also be deployed to produce new generation of fighters when women captives are forcefully impregnated. Not only that, it can at the same time be used to generate incomes

<sup>4</sup>Qur'an 2:178, 16:75, 30:28.

<sup>5</sup>Qur'an 2: 177.

<sup>6</sup>Kecia Ali, online material (2004), retrieved from: <https://www.brandeis.edu> last accessed on 20/11/2023.

<sup>7</sup>Qur'an 4:92, 58:3.

<sup>8</sup>Qur'an 24: 33.

<sup>9</sup>Qur'an 24:32, 2:221, 4: 25.

<sup>10</sup>Qur'an 24:33

<sup>11</sup>Elisabeth Jean Wood, "Conflict-related Sexual Violence and the Policy Implications of Recent Research," *International Review of the Red Cross* 96, no. 894 (2014): 462.

<sup>12</sup>-----"Rape as a Practice of War: Toward a Typology of Political Violence," *Politics & Society* 46, no. 4 (2018):1-25.

by exchanging the captives for money through slave trade<sup>13</sup>. According to Seedat<sup>14</sup>, the option of slave trade is informed by the fact that sexual violence may be employed as a strategy in an attempt to secure and expand social, ideological and territorial control.

Contrary to the above is the second claim that sexual violence takes place spontaneously. This is ridden with the opportunities provided through the enabling climate of impunity<sup>15</sup>. In this instance, sexual violence occurs not due to an established strategy but rather because of self-motivations, sexual needs at the spur of the moment, or the collapse of the legal systems of a nation<sup>16</sup>. In furtherance to this conflict-related sexual violence argued Brownmiller, war provides men with a tacit license to rape<sup>17</sup>. In other words, masculinity foster the incentives for sexual violence to take place while conflicts serves as facilitating agent for favourable conditions under which sexual violence may be perpetrated.

The third argument holds that conflict-related sexual violence can occur as a practice. This is when sexual violence is seen as a product of social interactions and pressures rather than individual motivations or biological needs. This argument asserts that sexual violence is neither an adopted strategy nor limited to individual actions. This position, contrary to the two preceding ones, gives a significant role to socialization process in the occurrence of sexual violence<sup>18</sup>. In other words, social construct of a society on what sexual activities and its indices are, plays a major role.

If all the above arguments about sexual violence are true, then it calls to question the position of the ISIS fighters claiming their actions are sanctioned by the Sharī‘ah through their adoption of sexual violence as a tactic of war. An objective reading of the sources of Sharī‘ah would reveal that the ISIS fighters have not only misinterpreted the law but as well arrogated illegitimate powers to themselves. This is the more reason, it is better to refer to the ISIS fighters as political agitators rather than Mujāhidūn. Whereas the ideals

of Islam celebrate the inclusion and accommodation of minority groups under its sovereignty, and as well recognizes the rights of every member of the society whether they are Muslims or not, the political agitators would prefer to subject the minority particularly women and girls into inhuman treatments such as rape, slavery and forced marriages having been taken as spoils of war. It should also be understood deriving from the socialization and cultural background of the majority of the ISIS fighters that patriarchy is well entrenched and celebrated. The position and roles assigned to women in such societies also has a long way to determine how they are treated whenever there are conflicts.

### 3. The Islamic Concept of *Khilaafah* and the ISIS Caliphate

The concept of *khilaafah* is a divine prerogative. It was at the instance of the creation of humankind that the word *khalifah* was first used by the almighty<sup>19</sup> signifying vicegerent, agent, etc. in its literary sense. Broadly defined, it is the title of a civil and religious leader of a Muslim state that is considered to be a representative of Allah on earth. This is deriving from its primordial use by Allah at the creation of humankind. The word *khalifah* (agent) is repeated severally in the Qur’an referring to humankind as God’s stewards or vicegerents on earth. It is noteworthy that the word did not denote a distinct political or religious institution during the lifetime of the Prophet. It started to gain its later meaning after the death of the Prophet and at the instant appointment of Abubakr in 632 A.D as the successor of the Prophet (*khalifat rasul Allah*). It has since then became both a political and religious institution<sup>20</sup>. Viewed from a similar perspective, Everett<sup>21</sup>, is of the view that *khalifah* implies successor or follower. In the Islamic societies, the caliph (*khalifah*) was the temporal successor to the Prophet Muhammad who, in theory at least, succeeded to all Muhammad’s authority except that of the (institution) of prophethood. To be caliph meant to be a successor of the Prophet of God. The concept of the caliphate therefore, offers an idea of leadership which is about the just ordering of Muslim society according to the will of God<sup>22</sup>.

The term caliph (*khalifah*) is normally restricted to the Sunnite branch of Islam. The concept of a

<sup>13</sup>Ariel Ahram, “Sexual Violence, Competitive State Building, and Islamic State in Iraq and Syria,” *Journal of Intervention and Statebuilding* 13, no. 2 (2019):180-196.

<sup>14</sup>Fatima Seedat, “Sexual Economies of War and Sexual Technologies of the Body: Militarised Muslim Masculinity and the Islamist Production of Concubines for the Caliphate,” *Agenda* 30, no. 3 (2016):25-38.

<sup>15</sup>Dara Kay Cohen, “Explaining Rape During Civil War: Cross-National Evidence (1980-2009)” *American Political Science Review* 107, no. 3 (2013): 461-477.

<sup>16</sup>Jonathan Gottschall, “Explaining Wartime Rape,” *Journal of Sex Research* 41, no. 2 (2004):122, see also; Dara Kay Cohen, “Explaining Rape During Civil War: Cross-National Evidence (1980-2009),” *American Political Science Review* 107, no. 3 (2013): 462.

<sup>17</sup>Susan Brownmiller, *Against Our Will: Men, Women and Rape* (New York: Simon and Schuster, 1975), 33.

<sup>18</sup>Nadje Al-Ali, “Sexual violence in Iraq: Challenges for Transnational Feminist Politics,” *European Journal of Women’s Studies* 25, no. 1 (2018): 13.

<sup>19</sup>Qur’an 2: 30

<sup>20</sup>Asma Afsaruddin, online material retrieved from <https://www.britannica.com> last accessed on 10/01/2024.

<sup>21</sup>Everett, Jenkins JR., *The Muslim Diaspora, A Comprehensive Reference to the Spread of Islam in Asia, Africa, Europe and the Americas* Volume 1, 570-1500 (Jefferson, North Carolina, and London: McFarland & Company, Inc. Publishers, 1996): 20.

<sup>22</sup>Shadi Hamid, “What a Caliph really is—and how the Islamic State is not one,” online material retrieved from <https://www.brookings.edu> last accessed on 25/02/2024.

successor to the prophet Muhammad is also found among the Shi‘ites, but generally referred to by the term “Imam”. The appointment to this highly referred position is neither through contest nor imposition but rather by consultations (*shūrah*) and consensus of the jurists (*ulama’*). Examples of this can be found in the appointment of the four rightly-guided caliphs (Abubakr, ‘Umar, ‘Uthman and ‘Ali). Therefore, any other connotation aside from what is obtainable in the Qur’an and the Sunnah of the Prophet may be considered an innovation/imposition as it occurred during the subsequent regimes after the rightly-guided caliphs. Here, the question of importance is, how might the ISIS caliphate align with the laid down principles or features of *khilaafah* as projected by the early Muslims?

With the collapse of the Ottoman Empire in 1922, the caliphate system of governance was put to a stop by the Turkish government under the rule of Mustapha Kemal ending 1,342 years of Ottoman caliphate<sup>23</sup>. This was as a result of weakling power of the Muslims and the creation of nation states by the European powers. It must be recalled that the institution of *khilaafah* in Islam is an all-inclusive one—it covers spiritual, political, economic, and military aspect of governance. It is a universal form of governance which does not recognize the border system or nation states. In other words, a *khalifah* in Islam is a universal leader whose authority solely depend on the dictates of the sources of the Sharī‘ah and the acceptance through the pledge of allegiance (*Bi‘ah*) to the leader by the members of the universal community is an indices for validity of caliphacy. Therefore, to answer the question posed previously on the validity of the caliphacy of the ISIS, there is need for an engagement of one or two of the intent of the Sharī‘ah (*Maqāsid al-Sharī‘ah*). The most important at this juncture are, the dissemination of Islamic message, and achievement of peace/benefit and prevention of harm. It can be argued that the concept of *khilaafah* as projected by the ISIS has really suffered misinterpretation by the elements canvassing for its legitimacy. This is true, when what constitutes benefit and harm is clearly understood. This understanding is put into perspective by Abd al-Salam as follows:

...if we investigate the *Maqāsid* manifested in the Qur’an and the Sunnah, we will realize that God has enjoined all that is good, from the most trilling to the most momentous, and that He has forbidden all that is evil, from the most insignificant to the most heinous. In speaking of

‘good’, He is referring to the pursuit of benefit and the prevention of harm, and in speaking of ‘evil’, He is referring to the pursuit of harm and the prevention of what is beneficial<sup>24</sup>.

Elsewhere on the same subject, Ibn al-Qayyim says:

Islamic Law is structured and founded upon wise purposes and the best interest of God’s servants both in this world and the next. The Law is pure justice, pure benefit, pure wisdom. Hence, anything which embodies injustice rather than justice, cruelty rather mercy, harm rather than benefit, or folly rather than wisdom does not originate from the Law, even if it happen to have been interpolated therein by means of interpretation<sup>25</sup>.

Deriving from the above, questions that are probably important are; how has the Sharī‘ah addressed the issue of dissemination of Islamic message given its universal outlook? Exactly how might the contemporary world benefit from this universal outlook without perpetration of harm by its advocates? What is the place of other religious adherents within the universality of Islam? If indeed the concept of *khilaafah* is about fear and just ordering of human society, it is arguable to say that the caliphacy of the ISIS fighters lacked both legitimacy and validity.

#### 4. ISIS and its Sexual Ideology

“He said raping me is his prayer to God”. I said to him, ‘what you’re doing to me is wrong, and it will not bring you closer to God’. And he said, ‘No, it’s allowed. It’s halal’. ‘He kept telling me this is ‘ibadah’. Before raping his preteen victim, the ISIS fighter took his time to explain to his victim that what he was about to do was not a sin, because the preteen girl was not a Muslim, the Qur’an not only gave him the right to rape her—it condoned and encouraged it. He bound her hands and gagged her, then, he knelt beside the bed and prostrated himself in prayer before getting on top of her. “I kept telling him it hurts—please stop”. “He told me that according to Islam he is allowed to rape an unbeliever—he said that by raping me, he is drawing closer to God”. When it was over, he knelt to pray again, marking the end of rape with act of religious devotion<sup>26</sup>. Such was the narrative of a Yazidi girl who was a victim of sexual abuse among others under captivity in the den of the ISIS.

Given the above narration, it can arguably be stated

<sup>24</sup>Cf. Gamal Eldin Attia, *Towards Realization of the Higher Intents of Islamic Law, Maqāsid al-Sharī‘ah*. Nancy Roberts (trans.) (London-Washington: The International Institute of Islamic Thought, 2007):5.

<sup>25</sup>cf Gamal Eldin Attia:7

<sup>26</sup>Peter Jansen, “ISIS Enshrines a Theology of Rape,”(2015), online material retrieved from <https://www.nytimes.com> last accessed on 17/02/2024.

<sup>23</sup>Malcom Edward Yapp, & Stanford Jay Shaw, online material retrieved from <https://www.britannica.com> last accessed on 17/02/2024.

that the ISIS fighters have over the years developed a body of legislation that suits their purposes. In their reckoning, captives of war who are non-believers can be subjected to inhuman treatments such as rape and slavery. This is because, the sin of unbelief, attracts death sentences in some instances, hence, raping and enslaving them (unbelievers) may not be considered as a sin. Thus, in line with Donald Holbrook<sup>27</sup>, militant Islamist ideologues and propagandists seek to supplement their message with references to the Qur’an, framing the narrative in a religious setting and adding perceived religious purpose and legitimacy to the prescribed campaign of jihadist militancy through perpetration of oppression and injustice.

Numerous verses and sections of the Qur’an that call for good treatment of captives of war and minority people under the sovereignty of the Muslim Ummah in order to foster peaceful co-existence and mutual respect, counter-balancing many of the verses used to justify (terrorist) violence, are ignored and excluded from their one sided narrative. This is typical of the tailored, politically motivated foundation upon which much of the militant jihadist discourses are rested. Quoting from the Qur’an is shamelessly selective in order to serve their propaganda objectives<sup>28</sup>. From the narrative of the preteen girl above, it shows clearly that the Qur’an is taken as source very selectively interpreted to suit the jihadists’ particular strategic and political agenda and to strengthen the accompanying narrative set forth by proponents of militant Islamism. Statements/justifications such as “this is halal”, “this is ‘Ibadah” from the ISIS fighters is further explained by Donald Holbrook:

(Their posture) relies heavily on the repeated use of a limited number of Qur’anic verses to justify political violence. Their arguments appear to rely on truncated rather than complete passages from the Qur’an and are designed to fit their strategic narrative rather than being in conformity with the nuances of meanings of the Qur’an. The same ‘doctored’ use can be found in some of the abridged translations of medieval texts and more recent seminal works edited by jihadist publishing and distributing networks, which are also meant to serve contemporary jihadist propaganda<sup>29</sup>.

<sup>27</sup>Donald Holbrook, “Using the Qur’an to Justify Terrorist Violence: Analysing Selective Application of the Qur’an in English-Language Militant Islamist Discourse,” *Perspectives on Terrorism* vol. 4, no 3 (2010):15 Stable URL: <https://www.jstor.org/stable/26298457> last accessed on 15/02/2024.

<sup>28</sup>Donald Holbrook: 16

<sup>29</sup>Donald Holbrook:17

Just as it has been mentioned previously, that the ISIS’s sexual ideology can be said to be strategic, this is true when attention is paid to how this is used in the pursuit of religious and political legitimacy to increase the group’s ideological and territorial influence<sup>30</sup>. As a jihadi-salafi organization, the ISIS hold strictly to patriarchal interpretation of the texts thereby considers gender relations between men and women as a concluded debate. In other words, under the caliphate of the ISIS, women have no voice whatsoever. The above is showcased in the group’s genocide against the Yazidis. In August 2014, ISIS fighters took the control over the Sinjar region, seized and enslaved approximately 7,000 Yazidi women and subject them to series of abuse<sup>31</sup>. Incidentally, until 2017, ISIS treated Yazidi women and girls brutally. Captives were subjected to daily rape, severe physical and emotional abuse, forced abortion, and forced marriage<sup>32</sup>. The group also regulated its slavery through trading markets within and across the Syrian and Iraqi borders. To sustain this trafficking system and to facilitate routine rape, Yazidi women were forced to take contraceptives to avoid unwanted pregnancies<sup>33</sup>. Those slaves that were classified as economically most valuable, for example young girls who were virgins were given as gifts to the group’s commanders<sup>34</sup>.

Not only this, the group on a regular basis also gave out Yazidi women to its members as rewards<sup>35</sup>. The group at the same time belief that capturing and enslavement of the Yazidi women and young girls is an established practice in the Shari‘ah, hence, no offence is committed<sup>36</sup>. Several documents were published by the ISIS claiming they are derived from the Qur’an and Hadith to justify their enslavement of the Yazidis. These rules determine when it is lawful to have sexual intercourse with slaves, provide guidelines for their treatment, and regulate the punishments that apply when slaves do not behave according to the ISIS terms

<sup>30</sup>Mara, Revkin and Elisabeth, Jean Wood, “The Islamic State’s Pattern of Sexual Violence: Ideology and Institutions, Policies and Practices”. *Journal of Global Security Studies* 6, no. 2 (2021):6.

<sup>31</sup>Ariel Ahram, “Sexual Violence and the Making of ISIS”. *Survival* 57, no. 3 (2015): 58.

<sup>32</sup>Amnesty International, *Escape from Hell: Torture and Sexual Slavery in Islamic State Captivity in Iraq* (2014): 6 online material Retrieved from: <https://www.amnesty.org/download/Documents/MDE140212014ENGLISH.pdf>. Last accessed on 20/02/2024.

<sup>33</sup>Gina Vale, “Liberated, not free: Yazidi women after Islamic State Captivity,” *Small Wars & Insurgencies* 31, no. 3 (2020):522-523.

<sup>34</sup>Fatima Seedat, “Sexual Economies of War and Sexual Technologies of the Body: Militarised Muslim Masculinity and the Islamist Production of Concubines for the Caliphate”. *Agenda* 30, no. 3 (2016):28.

<sup>35</sup>United Nations Human Rights Council, 2015:9

<sup>36</sup>Jessica Stern, “The Islamic State of Iraq and Syria, “The Revival of Slavery Before the Hour,” *Dabiq*, no. 7 (2015):17.

of conduct<sup>37</sup>. For example, ISIS prohibits its fighters to have sexual intercourse with pregnant women or to engage in sexual relations with slaves of whom it is not the exclusive owner. Finally, it is worth noting that although ISIS refrained from enslaving other minorities on a similar scale to the Yazidis, the group targeted other social groups with other forms of sexual violence, such as rape and forced marriage<sup>38</sup>.

Deriving from the foregoing, the pertinent point is that women and children are usually at the receiving end of conflicts and wars from time to time. They are the major sufferers of human inhumanity towards other humans. Perhaps because, they are presumed as the “weaker” sex or maybe they constantly serve as means of relieve towards the psychological, physical, emotional, as well as biological needs of men in the face of war and conflicts. The ISIS fighters’ choice of subjecting their captives to rape, forced marriage, and slavery must have been imbedded in the cultural orientation that is deep-rooted in their society. Indeed, ascribing acts of brutality to Islam and its sources is vague and cannot be substantiated with concrete evidence/s. This is true because in line with Alwani<sup>39</sup>, legislation, whether divine or man-made, is both influenced by the cultural and social elements of any society that produces it and also plays a certain role in shaping these cultural and social aspects.

The contextualization of circumstances according to Emine<sup>40</sup>, as an inseparable principle necessitates developing a synthetic, flexible, and holistic legal approach that relies more on the values of the Qur’an and the objectives of Islamic law. For instance, if the Qur’an alludes to justice and tolerance as the main principle in engaging with non-Muslims, this Qur’anic principle takes precedence over all other sources of the Sharī‘ah including the statements of the Prophet. Expanding the scope of the maqāṣid al sharī‘ah, given its dynamic and all-encompassing nature, Alwani seeks to formulate a more comprehensive methodology for his views on minorities that examines human actions and their influences through deep Qur’anic analysis<sup>41</sup>. Doing this, Alwani classified existence into three

values: tawhid, tazkiya and ‘umrān. This is explained as follows:

In the first instance, tawhīd precisely defines the relationship between humanity and the Creator and then transforms submission into a dynamic activity that helps humanity to fulfill its duties as God’s vicegerent (*khalīfa*) on the earth. In the second instance, tazkiya enables humanity to purify the universe and society from adversities. This opens a way to build a civilisation grounded upon God consciousness (*taqwā*). In the last instance, ‘umrān provides an outline of developing a value-based civilisation with the intention of achieving congruity between humanity and the universe. Applying these three values and linking them to the three levels of classical Islamic legal structure of maqāṣid al-sharī‘a necessities (*darūrāt*), needs (*hājīyyāt*) and luxuries (*taḥsīniyyāt*) – open ‘wide doors for scholars who are capable of including all new situations under these levels’<sup>42</sup>.

Muslims are saddled with the responsibility of establishing justice as well as preserving the earth from corruption. While describing the nature of the relationship between Muslims and non-Muslims, Alwani mentioned four fundamental principles that are grounded upon some ayāt in the Qur’an and some earlier Muslim scholars’ interpretations regarding those verses. The first principle refers to Qur’an 60:8-9. The main ethical and legal principle to which Muslims must conform in their engagements with non-Muslims is advised ‘to be kind and just towards all non-belligerent communities’<sup>43</sup>. The second principle is identified in the ummah of Islam representing the “best nation ever evolved for humankind” as indicated in Qur’an 3:110. Alwani posits that the assigned role of the Muslim nation is to take mankind out of the darkness and bring them to the light (from servitude to man to submission to God). Muslims are therefore entrusted with conveying the Qur’anic values and Islamic legal principles to others by representing Islam in the best way. Concerning the last two principles, he identifies them as ‘to stand up for (non-Muslims’) rights’ and ‘to be tolerant’ respectively<sup>44</sup>.

<sup>37</sup>-----, “The Islamic State of Iraq and Syria, Questions and Answers on Taking Captives and Slaves,” (2015b) retrieved from: <https://www.hrw.org/news/2015/09/05/slavery-isis-rules> last accessed on 20/11/2023.

<sup>38</sup>Mara, Revkin and Elisabeth, Jean Wood, “The Islamic State’s Pattern of Sexual Violence: Ideology and Institutions, Policies and Practices”. *Journal of Global Security Studies* 6, no. 2 (2021): 3.

<sup>39</sup>Taha Jabir al-Alwani, *Issues in Contemporary Islamic Thought* (London: The International Institute of Islamic Thought, 2005): 56.

<sup>40</sup>Yakar, Emine Enise, Yakar Sumeysra, “The Critical Analysis of Taha Jabir al-Alwani’s Concept of Fiqh al-Aqalliyyāt”, *Hitit İlahiyat Dergisi* 20/1 (2021):378.

<sup>41</sup>Ibid:379.

<sup>42</sup>Taha Jabir al-Alwani, *Towards a Fiqh for Muslim Minorities Some Basic Reflections*, (trans.) Ashur A. Shamis, (London: The International Institute of Islamic Thought, 2003): 42

<sup>43</sup>Ibid: 12, 26-27.

<sup>44</sup>Yakar, Emine Enise, Yakar Sumeysra, “The Critical Analysis of Taha Jabir al-Alwani’s Concept of Fiqh al-Aqalliyyāt”, *Hitit İlahiyat Dergisi* 20/1 (2021):20.

In other words, for Muslims to be on the defensive and constantly bows to humiliation, constant adoption of negative attitudes towards others, and withdrawal from proactive interaction with other members of society clash explicitly with the integrative and constructive principles of the Qur'an with regard to the relationship between Muslims and non-Muslims. According to Alwani's approach, if the proactive interaction and engagement with non-Muslims entail certain courtesies and concessions that do not affect the fundamentals of faith, tolerance should be practiced for the benefit of the greater good in accordance with the Qur'anic principles. This is because the Qur'an recognizes the freedom of religions and emphasizes differences in human thoughts and views in quite a number of places in the Qur'an, hence the supreme principles of Islamic law. In his understanding, the freedom of belief and the freedom of expression emerge as the types of freedom which the Qur'an confers upon every human being and which it enjoins Muslims to preserve this right from corrupting.

## 5. Conclusion

The concept of *khilaafah* (vicegerency) within the framework of the Sharī'ah is the premise upon which discourse in this paper is based. This is followed by the ISIS understanding of the establishment of an Islamic state and its indices. Under the sovereignty of the ISIS, the legacy of peaceful coexistence (among other religious practitioners and minorities) in Islamic administration has been gravely abused. The appropriation of power and misinterpretation of selected ayāt of the holy Qur'an has caused the ISIS fighters to subject women and girls in their camp under captivity particularly the Yazidis to inhuman treatments in form of rape, forced marriage and slavery. Whereas, the Islamic state established by the Prophet and his companions was based on fairness, justice, and peaceful co-existence, the caliphacy of the ISIS is characterized with banditry, brigandage, rape, as well as reintroduction of slavery under the guise of permissibility of the Sharī'ah.

Given the departure of the ISIS fighters from the core values of Islam, the conclusion becomes urgent that jihadi-salafism which is the current trend is one of the challenges confronting Islam and the Muslims in the contemporary world and should be confronted through intellectual engagements such as this to nip the menace in the bud. Otherwise, the holistic worldview of Islam would continue to suffer misinterpretations from such elements as ISIS.

## Actionable Policies

This paper will like to propose the following policies for better human societies:

- The Muslim intellectuals should not relent on the responsibility of projecting Islam in its egalitarian form
- The actions of the ISIS and the likes should be condemned in its totality by all and sundry regardless of the school of thought.
- The contemporary Muslims should adopt pacifist rather than jihadi ideology in order to spread peace in the world.

## 6. References

1. Alwani Taha Jabir al-. 2003. Towards a Fiqh for Muslim Minorities Some Basic Reflections, trans. Ashur A. Shamis. London: The International Institute of Islamic Thought.
2. -----, 2005. Issues in Contemporary Islamic Thought. London: The International Institute of Islamic Thought.
3. Amnesty International. 2014. *Escape from Hell: Torture and Sexual Slavery in Islamic State Captivity in Iraq*. Online material Retrieved from: <https://www.amnesty.org/download/Documents/MDE140212014ENGLISH.pdf>. Last accessed on 20/02/2024.
4. Ariel Ahram. 2015. "Sexual Violence and the Making of ISIS". *Survival* 57, no. 3: 57-78.
5. -----, 2019. "Sexual Violence, Competitive State Building, and Islamic State in Iraq and Syria". *Journal of Intervention and Statebuilding* 13, no. 2:180-196.
6. Asma Afsaruddin, online material retrieved from <https://www.britannica.com> last accessed on 10/01/2024.
7. Carlo Koos. 2017. "Sexual violence in Armed Conflicts: Research Progress and Remaining Gaps". *Third World Quarterly* 38, no 9:1935-1951.
8. Dara Kay Cohen, Amelia Hoover Green, and Elisabeth Jean Wood. *Wartime Sexual Violence*. USIP Special Report. Retrieved from: <https://www.usip.org/sites/default/files/resources/SR323.pdf>. Last accessed on 20/02/2024.
9. Dara Kay Cohen. 2013. "Explaining Rape During Civil War: Cross-National Evidence (1980-2009)". *American Political Science Review* 107, no. 3: 461-477.
10. Donald Holbrook. 2010. "Using the Qur'an to Justify Terrorist Violence: Analysing Selective Application



- of the Qur'an in English-Language Militant Islamist Discourse". *Perspectives on Terrorism*, vol. 4, no (3):15-28. Retrieved from Stable URL: <https://www.jstor.org/stable/26298457> last accessed on 15/02/2024.
11. Elisabeth, Jean Wood. 2006. "Variation in Sexual Violence During War". *Politics & Society* 34, no. 3:307-342.
  12. ----- . 2009. "Armed Groups and Sexual Violence: When is Wartime Rape Rare?". *Politics & Society* 37, no. 1:131-161.
  13. ----- . 2018. "Rape as a Practice of War: Toward a Typology of Political Violence". *Politics & Society* 46, no. 4:1-25.
  14. Everett, Jenkins JR. 1996. *The Muslim Diaspora, A Comprehensive Reference to the Spread of Islam in Asia, Africa, Europe and the Americas. Volume 1, 570-1500.* Jefferson, North Carolina, and London: McFarland & Company, Inc., Publishers.
  15. Fatima Seedat. 2016. "Sexual Economies of War and Sexual Technologies of the Body: Militarised Muslim Masculinity and the Islamist Production of Concubines for the Caliphate". *Agenda* 30, no. 3:25-38.
  16. Gina Vale. 2020. "Liberated, not free: Yazidi women after Islamic State Captivity". *Small Wars & Insurgencies* 31, no. 3:511-539.
  17. Jasser Auda. 2008. *Maqāsid Al-Shariah As Philosophy of Islamic Law, A Systems Approach.* London-Washington: The International Institute of Islamic Thought.
  18. Jessica Stern. 2015. "The Islamic State of Iraq and Syria, "The Revival of Slavery Before the Hour". *Dabiq*, no. 7:14-17.
  19. ----- . 2015b. "The Islamic State of Iraq and Syria, Questions and Answers on Taking Captives and Slaves". Retrieved from: <https://www.hrw.org/news/2015/09/05/slavery-isis-rules> last accessed on 20/11/2023.
  20. Jonathan Gottschall. 2004. "Explaining Wartime Rape". *Journal of Sex Research* 41, no. 2:129-136.
  21. Kecia Ali. 2004. Online material retrieved from: <https://www.brandeis.edu> last accessed on 20/11/2023.
  22. Klaus Schlichte and Ulrich Schneckener. 2015. "Armed Groups and the Politics of Legitimacy". *Civil Wars* 17, no. 4:409-424.
  23. Malcom Edward Yapp, & Stanford Jay Shaw. Online material retrieved from <https://www.britannica.com> last accessed on 17/02/2024.
  24. Mara, Revkin and Elisabeth, Jean Wood. 2021. "The Islamic State's Pattern of Sexual Violence: Ideology and Institutions, Policies and Practices". *Journal of Global Security Studies* 6, no. 2:1-20.
  25. Maria Eriksson Baaz and Maria Stern. 2013. *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond.* London: Zed Books Ltd.
  26. Mia Bloom and Hillary Matfess. 2016. "Women as Symbols and Swords in Boko Haram's Terror". *Prism* 6, no.1:104-121.
  27. Nadje Al-Ali. 2018. "Sexual violence in Iraq: Challenges for Transnational Feminist Politics". *European Journal of Women's Studies* 25, no. 1: 10-27.
  28. Gamal Eldin Attia. 2007. *Towards Realization of the Higher Intents of Islamic Law, Maqāsid al-Sharī'ah.* Nancy Roberts (trans.) London-Washington: The International Institute of Islamic Thought.
  29. Paul Kirby, "How is Rape a Weapon of War? Feminist International Relations, Modes of Critical Explanation and the Study of Wartime Sexual Violence". *European Journal of International Relations* 19, no. 4:797-821.
  30. Peter Jansen. 2015. "ISIS Enshrines a Theology of Rape". Online material retrieved from <https://www.nytimes.com> last accessed on 17/02/2024.
  31. Sarah Al Boukhary. 2018. "Daesh, or the Islamic State of Ultrapatriarchy: Analysing the Sexual and Gender-Based Violence Manifestations in the Self-Proclaimed Caliphate". *Women against War System*, no. 4.
  32. Shadi Hamid. 2016. "What a Caliph really is—and how the Islamic State is not one". Online material retrieved from <https://www.brookings.edu.com> last accessed on 25/02/2024.
  33. Susan Brownmiller. 1975. *Against Our Will: Men, Women and Rape.* New York: Simon and Schuster.
  34. Yakar, Emine Enise, Yakar Sumeyra. 2021. "The Critical Analysis of Taha Jabir al-Alwani's Concept of Fiqh al-Aqalliyāt", *Hitit İlahiyat Dergisi* 20/1:377-404.