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A Hanafi Defense of Salman Rushdie

The Hanbali legal school (henceforth “the prosecution”) charges Salmon Rushdie with apostasy. To convict, they must prove, beyond any chance of innocence,¹ either 1) that Salmon Rushdie was a practicing Muslim at some point in the past, has since converted from the religion of Islam, and subsequently refused an official call to repent,² or 2) that Salmon Rushdie, in “The Satanic Verses,” maligned the name of Allah or his prophet.³ The prosecution, with little demonstrable evidence, will argue that both statements are true. Should they prevail, and Rushdie be found guilty, the suggested punishment will be death.

The prosecution’s case is defective for the following reasons: First, a failure to follow proper procedure; second, a lack of Qur’anic justification for the punishment of apostates by Muslims, and an inability to provide applicable Ahadith in lieu; third, factual inaccuracies regarding Rushdie’s faithlessness and the focus of “The Satanic Verses;” and fourth, a disregard for the detrimental consequences of a guilty verdict — namely, transformation of Rushdie into a martyr for western liberalism, global dissemination of his otherwise neglected western ideas, and an effective admission that modern, conservative Islam is intellectually weak.⁴ As a result, Rushdie must be found innocent. The only action to be taken is the composition of a formal refutation of his work.

The prosecution’s procedural errors are grounds for dismissal.

Regardless of the merits of the case, the prosecution has not followed proper procedure for apostate criminal trials with respect to 1) the choice of court, 2) the presence of the defendant, and 3) the prerequisite call for repentance. First, the prosecution has brought criminal proceedings to Shari’a court, an institution historically limited in scope to issues of family law and religious endowment.⁵ Criminal cases, and deliberations on matters of penal law, are entrusted *solely* to the Grievance courts.⁶ As a result, the present court does not have the legal authority to decide this case, and should not allow it to move forward. There is precedent for such a dismissal; Sheikh Mahmoud al-Shanqiti threw out a similar apostasy case against Toujan al-Faisal because “Islamic Sharia court had no jurisdiction to deal with the case.”⁷

In addition, precedent requires a defendant be present for criminal proceedings, and an official call for repentance be issued before the charge of apostasy can be levied.⁸ The prosecution has made no attempt to meet either of these conditions. Salmon Rushdie has not been notified of this trial, let alone invited to attend; and the

prosecution has not provided evidence of any correspondence with Salman Rushdie, public or otherwise, to initiate a call for repentance. Each of the three procedural errors above is grounds for dismissal.

Nevertheless, in an attempt to disregard standard process and proceed without Rushdie's presence, the prosecution will provide the following isolated example—that the Mufti of Saudi Arabia “reportedly was prepared to recommend that Mr. Rushdie be put on trial in absentia.”⁹ The text of the Islamic Council of Europe’s 1981 Declaration precludes any such proceedings: “No person shall be adjudged guilty except after a fair trial and after reasonable opportunity for defense has been provided to him.”¹⁰ No trial held in absentia can be considered fair unless the defendant has consented, which Rushdie has not. Furthermore, the prosecution will argue that repentance is not permitted in the case of those who slander against God¹¹ or pretend to be a Muslim¹². These arguments are not supported by the Qur'an or the Ahadith, and should be disregarded. Even conceding the issue of authority, Rushdie has never claimed to be a Muslim, and “The Satanic Verses” does not slander God or His prophet. See the third section for details.

The punishment of apostates has no Qur'anic basis, and relevant Ahadith are inapplicable.

Freedom of religion is strongly articulated in the Qur'an,¹³ along with the command that “There shall be no compulsion in religion.”¹⁴ Taken together, these two verses imply that apostasy cannot be criminalized; all people, even Muslims, must be free to change their religion, and to do so without compulsion. Indeed, many other Qur'anic verses discuss apostates, all of which describe punishments doled out by God,¹⁵ and none of which prescribe earthly punishment to be enacted by humans. Just one verse pertaining to apostasy calls for believers to act, but only to “announce...to such hypocrites [apostates] that grievous suffering awaits them,”¹⁶ nothing more. The criminalization of apostasy, therefore, contradicts the Qur'an and cannot be permitted by the judiciary.¹⁷ Furthermore, for Muslim society to adapt to a modern world in which most countries support religious tolerance, the removal of the death penalty for apostates is necessary, and just.¹⁸

The prosecution may argue that the sword verse provides a basis for apostates to be put to death. This is not standard practice, and for good reason. The sword verse commands *Polytheists* to be killed, not apostates.¹⁹ Because Rushdie is nonreligious, this verse does not apply.²⁰

The primary justification for the criminalization of apostasy is founded not in the Qur'an, but in three hadith. These hadith, already overridden by the text of the Qur'an, are not relevant to the current case. Each of

them provides additional conditions that must be met before a death sentence is justified—none of which are fulfilled here. Addressing them in turn: First, it is said the “blood of any Muslim is unlawful, except for … the one who leaves his religion, dividing the community.”²¹ Salman Rushdie has never been a Muslim—has never been religious at all—therefore he cannot leave “his religion.”^{22 23} Second, it is said “a blind man had a *umm walad* who reviled the Prophet and disparaged him. He forbad her, but she did not stop. One night he … killed her.” “The Prophet … said ‘…her blood is shed with impunity.’²⁴ The application of this hadith relies upon two factors. The defendant must revile “the Prophet and … [disparage] him,” as well as reject an official call to repent (“He forbad her…”). Salman Rushdie does not revile the Prophet; He studied Islam at Cambridge University. The idea that “The Satanic Verses” constitutes disparagement will be refuted in the next section, and no call for repentance has been made, let alone rejected. Third, it is said “He who comes to you and you are united, and wants to divide your community, kill him.”²⁵ The question, “did Rushdie want to divide the Muslim community by publishing ‘The Satanic Verses?’” can only be answered by Rushdie himself: “Let’s remember that the book isn’t actually about Islam, but about migration, metamorphosis, divided selves, love, death, London and Bombay.”²⁶ It appears not.

For context, historical death sentences for apostasy were handed down only in cases of egregious transgressions against Islamic Law. Notably, “Kabiz … claim[ed] that Jesus was superior to Muhammad,” and was *still* offered the opportunity to repent before his death²⁷. Olgan Seyh … “[caused] his disciples to say… [a phrase that,] depending on the [syllabic] stress … [could mean] ‘My God, my God’ or ‘I am God, I am God’” (emphasis added). Seyh was not given the opportunity to repent, a controversial decision.²⁸ Rushdie’s “The Satanic Verses,” with its somewhat misguided naming conventions but not a single explicit mention of Islam or Allah, is not to be taken seriously in comparison.

Rushdie’s lack of faith, and the contents of “The Satanic Verses,” do not justify the charge of apostasy.

Should the case be allowed to move forward despite the flaws set forth above, the prosecution must still fail because of two factual inaccuracies at the core of their argument: Rushdie has, in fact, never practiced Islam; and his book, “The Satanic Verses,” does not seek to mislead Muslims or to lie about Islam, instead to highlight and discuss the plight of immigrants.

Rushdie’s lack of faith is irrefutable. In his words: “Unable to accept … religion, I have tried to fill up the hole with literature.”²⁹ With respect to “The Satanic Verses,” the prosecution will argue that the title, and the

characters' names, are disparaging to Islam and to the Prophet. They are not. The title, "The Satanic Verses," is based on one of the "canonical Islamic sources," al-Tabari³⁰. It is history, not slander. The name "Mahound," used in "The Satanic Verses," was historically employed as a pejorative, but Rushdie does not intend that connotation. The introduction of "Mahound" in "The Satanic Verses" reads: "To turn insults into strengths, whigs, tories, Blacks all chose to wear with pride the names they were given in scorn; likewise, our mountain-climbing, prophet-motivated solitary is to be ... Mahound." In this passage, Rushdie does not attack Islam—the opposite! He suggests that Muslims are more powerful than the groups that oppress and malign them. Today we are asked to prove that fact again. Even if Rushdie's book is taken to be a criticism of modern religious structures, let us refute it with the *words* of Islam, not the sword, and use this as an opportunity to demonstrate the power of modern Muslim thought to the world. To those who claim Rushdie attacks Islam directly, and cannot be fought with reason, perhaps Rushdie's defense of himself is most convincing: "The section of the book in question ... deals with a prophet – who is not called Mohammed – living in a highly fantastical city made of sand ... this entire sequence happens in a dream, the fictional dream of a fictional character ... and one who is losing his mind, at that. How much further from history could one get?"³¹ Lastly, as a testament to the veracity of the arguments above, the Indian government found that "The Satanic Verses" is not "blasphemous or objectionable in itself."³²

As it was in India, the fate of "The Satanic Verses," also, is in question at this trial. There, the book was "banned as a pre-emptive measure... [because] passages had been identified as susceptible to distortion or misuse."³³ This ruling was a mistake, and the court today must hold that a ban runs contrary to the spirit of Islam. Not only does the book pose no danger to Muslim society, for "the harm befalling people from demonstrative books is lighter, because ... only those with superior ... dispositions take [them] up,"³⁴ but the act of banning philosophy "bars people from the door through which the law calls them to cognizance of God — namely, the door ... leading to true cognizance of him" and constitutes "extreme ignorance and estrangement from God."³⁵

A death sentence signals Islamic intellectual weakness, and is counterproductive.

The Qur'an commands: "Whoever transgresses against you, respond *in kind*"³⁶ (emphasis added). The wisdom of this verse is evident. To fight pen with sword is to concede intellectual inferiority—to suggest that the Qur'an, the rich history of Islamic literature, and the vibrant community of modern Muslim scholars cannot offer

up one counterargument... cannot refute the ramblings of a single man, and must resort, instead, to brutality and violence in a war of ideas. That is unacceptable.³⁷

Nevertheless, if violence might protect the Muslim community as a whole, we must consider it. The consequences of a death sentence against Rushdie are not difficult to foresee, because the present case is not the first legal proceeding against Salmon Rushdie. He has been found guilty, and condemned to death, before. The Ayatollah Khomeini, in 1989, announced a fatwa calling all Muslims to actively pursue Salmon Rushdie's demise.³⁸ That order failed. Six assassination attempts were thwarted by western governments³⁹ and, as a result, "The Satanic Verses" has been translated into more than fifteen languages, and has sold over a million copies. Salman Rushdie has, in his own words, become a "martyr for liberalism,"⁴⁰ and the fatwa has only served to "confirm, in the Western mind, all the worst stereotypes of the Muslim world."⁴¹ A prudent alternative to the death penalty has been suggested by Egyptian scholars, the Secretary General of the Muslim World League, and the Shaikh of al-Azhar. Namely, "a published refutation."⁴² This is the only action that the defense recommends.

If In light of the arguments above, the prosecution's case for apostasy is insupportable. The prosecution fails to follow preliminary procedures, they do not justify the punishment of apostates by human hands, nor prevail regarding the facts of the case, and they seek a guilty verdict which, in the past, has backfired spectacularly.⁴³ Why, then, does the prosecution bring this case today? Perhaps they claim their goal is to enforce the law, or to protect the sanctity of the Muslim community from corruption. This proceeding, however, has nothing to do with the Law, with Salmon Rushdie, or with any corruption within the "The Satanic Verses." If pressed, the prosecution will surely admit they have not read a single chapter from "The Satanic Verses."⁴⁴ In truth, the motivation for this case is political.⁴⁵ The prosecution wishes only to *appear* active in the eyes of the Muslim community—as though they are fighting evil—without ever dedicating the effort required to be so—and to do so—in reality. The ruling on this case must therefore reinforce the truth: that the aim of Islamic Law is to promote justice and ensure peace within the Muslim community⁴⁶, not to advance political agendas at the expense of innocent individuals.

Regardless of motivation, and despite some of us who might want the conflict between Islam and the West to be ongoing, the best interest of all is to lay it to rest, and to find Salmon Rushdie innocent. Free discussion on matters of dogma is central to *ijtihad*, and therefore to the longevity of Islam in the modern world.^{47 48}

¹ Packet, 12.

² Ibid, 6; Ibid, 8.

³ Ibid, 9.

⁴ Rushdie, *Knife*, 200.

⁵ Packet, 17; Esposito, *Islam the Straight Path*, 112.

⁶ Esposito, *Islam the Straight Path*, 125-126.

⁷ Packet, 18.

⁸ Ibid, 8.

⁹ Ibid, 13.

¹⁰ Ibid, 21.

¹¹ Ibid, 9.

¹² Ibid, 8.

¹³ *The Qur'an*, 18:29.

¹⁴ Packet, 6.

¹⁵ *The Qur'an*, 9:74.

¹⁶ Packet, 6.

¹⁷ Akyol, *A letter Concerning Muslim Toleration*.

¹⁸ Esposito, *Islam the Straight Path*, 160.

¹⁹ *The Qur'an*, 9:5.

²⁰ Rushdie, *Knife*, 181.

²¹ Packet, 6.

²² Ibid, 4.

²³ Rushdie, *Knife*, 90.

²⁴ Packet, 6.

²⁵ Ibid, 7.

²⁶ Ibid, 3.

²⁷ Ibid, 11.

²⁸ Ibidem.

²⁹ Ibid, 4.

³⁰ Ibidem.

³¹ Ibid, 3.

³² Ibidem.

³³ Ibidem.

³⁴ Averroes, *The Decisive Treatise*, 22.

³⁵ Ibidem.

³⁶ *The Qur'an*, 2:294.

³⁷ Soroush, *Reason, Freedom & Democracy in Islam*, 160.

³⁸ Packet, 1.

³⁹ Rushdie, *Knife*, 90.

⁴⁰ Ibid, 200.

⁴¹ Packet, 5.

⁴² Ibid, 13.

⁴³ Averroes, *Jihad in Classical and Modern Islam*, 55.

⁴⁴ Packet, 3.

⁴⁵ Ibid, 16.

⁴⁶ Esposito, *Islam the Straight Path*, 158.

⁴⁷ Akyol, *A letter Concerning Muslim Toleration*.

⁴⁸ Shariati, *Critical Attitude Toward the West and the Idea of Western Decadence*, 323.