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DIVORCE, BANKING, AND WAR IN ISLAM:
EVALUATING THE RELIABILITY AND COVERAGE OF
COMMON WORLD RELIGION RESEARCH TOOLS

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DIVORCE, BANKING, AND WAR IN ISLAM:
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COMMON WORLD RELIGION RESEARCH TOOLS

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For the glory of God

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PREFACE

I set out on this journey because I loved people who were different from me, people who lived in different parts of the world, people who grew up worshipping at a temple, mosque, synagogue, gurdwara, or elsewhere. I am happy to say my heart still longs for these people. I love learning about their cultures, eating their foods, and hearing their stories. I long for them to know the one true God. My heart's desire is for people to have a relationship with the God who loved us so much his sent his son to rescue us.

No one has played a larger role in the completion of this project than my wife, Jaclyn (Proverbs 18:22). Our children, Sofia and Hudson, also played significant roles, sometimes lovingly and at other times begrudgingly. My dad read many drafts of seminar papers, my prospectus, and this dissertation. I can never repay the feedback, support, and encouragement he provided on this journey. My mom, father-in-law, and mother-in-law also provided much needed encouragement, each in his or her own way. Many others supported me along the way, including Mike, Justin, Philip, Chris, Bart, Elizabeth, Ben, Phil, Brian, Luke, Nick, and Kelly (Proverbs 13:20). I would like to say a special thanks to my supervisor, Dr. George Martin, who made the World Religions program more than just academic. While the seminars were rigorous and demanding, he and his wife, Donna, opened their home and hearts to me and my fellow students.

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Rockford, Michigan

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CHAPTER 1

INTRODUCTION

“Stay away from Google.” “Be wary of what you find on the internet.” Every student hears these statements or something similar. In academia, Google results are often considered a wasteland. Sure, pertinent information can be found, but how would one know if it is valid or legitimate? Peer-reviewed journals and publishers serve as gatekeepers, supposedly only letting through their doors the truly informed. Because the internet appears to lack these gatekeepers, Google results are often not trusted. As an example, William Badke, in *Research Strategies*, makes three claims about a search tool like Google: most of what one wants is probably not there for free, keyword searches lead to many sites one will not be interested in, and it is hard to determine the quality of what one finds on the internet.¹ Yet, Google is continually queried, not only for everyday questions but also for academic research. Google does not refuse to proffer results to these queries simply because the academic community claims better information can be found elsewhere.

Statement of the Problem

Google is involved in projects from self-driving cars to high-speed internet access. However, the core of its business is still the internet search. Search has become the second most common activity on the internet.² The roles of a dominant general search

¹William B. Badke, *Research Strategies: Finding Your Way Through the Information Fog*, 4th ed. (Bloomington, IN: iUniverse.com, 2011), 146.

²Ralph Schroeder, “Does Google Shape What We Know?” *Prometheus* 32, no. 2 (June 2014): 150, accessed October 7, 2016, <http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=100628340>.

engine, such as Google, are gatekeeper,³ co-producer of content,⁴ and deep expert.⁵

Ralph Schroeder (research fellow at the Oxford Internet Institute) argues the algorithms behind general search engines, such as Google, perform the function of a gatekeeper.⁶ However, a general search engine functions differently than a traditional gatekeeper as it does not directly produce content, but selects which content to provide access to. Schroeder observes, “Google determines online visibility and prominence. . . . Google shapes access, while users shape the information that is being sought.”⁷ This gatekeeping role is substantial because, “how visible they [content providers] are or how much their web pages are accessed depends to a large extent on search engines.”⁸

Since Google ranks and provides visibility of information it virtually determines what information a searcher sees and prioritizes, so, Google does not merely play the role of gatekeeper. Echoing a point Schroeder makes, Max Kemman, Martijn Kleppe, and Stef Scagliola state, “Search engines do not simply retrieve information, but co-produce information by ranking and indicating the importance of information.”⁹ This co-production is often done with little to no explanation about the manner in which results are ranked and prioritized. Though Kemman, Kleppe, and Scagliola point out that, before the rise of digital information, the rationale for information being indexed in

³Schroeder, “Does Google Shape What We Know?,” 149.

⁴Max Kemman, Martijn Kleppe, and Stef Scagliola, “Just Google It: Digital Research Practices of Humanities Scholars,” *Proceedings of the Digital Humanities Congress 2012* (September 10, 2013), 4, accessed October 10, 2016, <http://arxiv.org/abs/1309.2434>.

⁵Thomas W. Simpson, “Evaluating Google as an Epistemic Tool,” *Metaphilosophy* 43, no. 4 (July 1, 2012): 429, accessed October 7, 2016, <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9973.2012.01759.x/abstract>.

⁶According to Schroeder, “gatekeeper” is “a term that comes from a tradition in the study of media and political communication that has been concerned with who decides what news is being watched or read or heard, and which has begun to be applied to the Internet/Web.” Schroeder, “Does Google Shape What We Know?” 149.

⁷Schroeder, “Does Google Shape What We Know?,” 149.

⁸Schroeder, “Does Google Shape What We Know?,” 155.

⁹Kemman, Kleppe, and Scagliola, “Just Google It,” 4.

specific ways was not always clear, the vast amount of digital information available to be indexed makes the co-producer role of Google more important.¹⁰ Schroeder seems to highlight what Kemman, Kleppe, and Scagliola call co-production, arguing Google focuses our attention on certain data sources.¹¹ Google takes the quagmire of data, sorts the data, and makes the data usable and accessible.

Thomas Simpson (professor of philosophy and public policy, University of Oxford) argues general search engines such as Google are “epistemically significant because they play the role of a surrogate expert.”¹² Simpson claims people could attempt to locate information concerning a subject entirely themselves, but often consult an expert either to point them in the right direction or to provide the information. According to Simpson, experts can be divided into two groups: shallow and deep. A shallow expert can only offer information about a subject. However, deep experts,

[b]ecause of their comprehensive knowledge . . . are able to provide testimony which meets the diverse informational needs of different enquirers. As well as giving testimony, they can teach enquirers about how to understand their domain of expertise. This is because they can orient enquirers to what is important. They are able to do so both because of their comprehensive knowledge and their ability to make a judgment of relevance.¹³

Though search engines typically do not offer direct answers to problems (except in the case of elementary questions) they “do perform the function of guiding the enquirer to sources of testimony which are supposed to be relevant to their information retrieval task, and which were previously unknown to the enquirer.”¹⁴ Therefore, search engines perform some of the tasks of a deep expert.

Who can deny Google often plays an unprecedented role in the search for

¹⁰Kemman, Kleppe, and Scagliola, “Just Google It,” 4.

¹¹Schroeder, “Does Google Shape What We Know?,” 153.

¹²Simpson, “Evaluating Google as an Epistemic Tool,” 428.

¹³Simpson, “Evaluating Google as an Epistemic Tool,” 428.

¹⁴Simpson, “Evaluating Google as an Epistemic Tool,” 429.

knowledge? In the modern world, Google functions as gatekeeper, co-producer, and expert. The first two roles support and aid the function of the third, and because of this third role, this study is significant. Simply put, searchers use Google as an expert. So it is wise to compare the information Google provides against a trusted source like JSTOR. Google's role as an expert inescapably influences the view of religion and religious issues, including Islamic ethics. The goal of this study is to evaluate the role of Google as an expert in religious studies using three case studies in Islamic ethics.

Background

I cannot track the rise of my interest in ethics; it evolved. Before I applied to the world religions PhD program at The Southern Baptist Theological Seminary, I was interested in religious ethics. Religion meddles. Religious ethics has ideas about what makes a person good and how one ought to live. These topics have long fascinated me. Though many choose to focus on religious ritual or doctrine, I want to know how a religion attempts to shape the person and the world ethically. Questions of orthopraxy more than orthodoxy interest me. In my seminars, I chose to write papers on topics such as “Theravada Buddhist ethics” and “just war in Islam.”

My fascination with ethics led to an independent study of religious ethics in my second semester of doctoral study. I wanted to know more about religious ethics and how the conversation was framed. I found a field with a still emerging framework. Perhaps the most formative work I discovered was David Little and Sumner Twiss' *Comparative Religious Ethics*.¹⁵ It was apparent the field was concerned with action-guides (the reason an action was considered “right”) and determining a goal of ethical inquiry.

Little and Twiss describe three types of action-guides: moral action-guide,

¹⁵David Little and Sumner B. Twiss, *Comparative Religious Ethics* (New York: Harper & Row, 1978).

religious action-guide, and legal action-guide. They say identifying these action-guides in the ethical structure of a given society is the starting place for comparative ethics.

A moral action-guide aims to resolve the problem of cooperation by claiming a distinctive sort of superiority based on a characteristic type of legitimacy that satisfies certain general conditions for justifiability and certain special conditions of other-regardingness. In other words, we take a *moral statement* to be a *statement expressing the acceptance of an action-guide that claims superiority, and that is considered legitimate, in that it is justifiable and other-regarding*.¹⁶

Concerning religious action-guides they state, “For convenience, we may call the contextual implications regarding the attitudinal and behavioral aspects of a basic religious claim ‘religious action-guides.’”¹⁷ Little and Twiss “conclude that distinctions among criteria and overlappings between religious action-guides and moral action-guides as we have indicated them are of the greatest importance in identifying many of the central issues involved in the study of religious ethics.”¹⁸ They claim legal action-guides are “accepted for legal reasons; no further nonlegal justification is needed.”¹⁹ Though a legal action-guide may have been initially based upon a different type of action-guide, once it becomes a legal-action guide it moves into a different realm.

By these definitions Little and Twiss attempted to develop a standard for identifying and determining action-guides. Though they spurred significant discussion about religious ethics and action-guides, the field did not wholeheartedly embrace one set of terms. Yet, some writers, such as Darrell Fasching, still use some elements of these definitions²⁰ Fasching attempts to differentiate between morality and ethics. According to Fasching, morality refers to sacred customs, whereas ethics is the questioning of morality

¹⁶Little and Twiss, *Comparative Religious Ethics*, 28–29.

¹⁷Little and Twiss, *Comparative Religious Ethics*, 63.

¹⁸Little and Twiss, *Comparative Religious Ethics*, 70.

¹⁹Little and Twiss, *Comparative Religious Ethics*, 81.

²⁰Darrell J. Fasching, “Authority and Religious Experience,” in *The Blackwell Companion to Religious Ethics*, ed. William Schweiker (Malden, MA: Wiley-Blackwell, 2008), 61–68.

(sacred customs) to determine its authority. Therefore, ethics does not determine morality but instead evaluates what others consider to be morality by looking at the authoritative reason for the action to be considered moral. Fasching states, “the essence of the ethical life lies in challenging authority in order to promote justice and compassion for all.”²¹ Of course, this evaluation must rest upon some “morality” regardless of whether Fasching acknowledges it.

The ethic of other-centeredness is evident in work by Fasching and Dell Dechant.²² This other-centeredness is built upon their distinction between the concept of the sacred and the holy. For them, the sacred centers ethics on the person acting as the agent, while the holy centers on the stranger. The sacred imputes worth based on the sameness of others. For example, those of one’s community, race, or sex. On the other hand, the holy ascribes worth to those who are different. The sacred believes god is in the group’s image, while the holy believes humans are made in the image of god. The sacred believes “is” equals “ought” while the holy posits “is” and “ought” in a tension that continually needs questioning.

The sacred/holy distinction of Fasching and Dechant is similar, though not the same, as the moral action-guide/religious action-guide distinction of Little and Twiss. However, Fasching and Dechant’s definitions leave no room for overlap, while Little and Twiss allow overlap with their terms.

While contemplating the action-guides, I began to see the determination of “other-oriented” might be far more difficult than the authors claim. This difficulty arises because most religious traditions believe that when the religious system’s commands (Little and Twiss’ religious action-guide and Fasching and Dechant’s sacred) are obeyed

²¹Fasching, “Authority and Religious Experience,” 62 This “challenging” really focuses on the move from “is” to “ought” in that Fasching sees the value of the ethical life moving from what “is” to what “ought.”

²²Darrell J. Fasching and Dell Dechant, *Comparative Religious Ethics: A Narrative Approach to Global Ethics* (Malden, MA: Wiley-Blackwell, 2001).

the world is a better place. Therefore, though specific commands may not be explicitly oriented around the “other”, following them should produce a better-lived experience for all others. There is an inextricable connection between what ought to be done and what is good for all.

Given the limited ability to ever accurately discern the altruistic nature of an act prescribed by a religion, the categories proved only partially helpful. These imperfect categories explained why the religious ethics field failed to settle on definitions for action-guides. Nevertheless, the debate demonstrates the perceived importance of interaction with those who are different, commonly known as the *other*, in the field of religious ethics. In particular, one of the areas to note about a religion’s ethical system is its function in regulating interpersonal relationships. Regardless of how one delineates action-guides, it is clearly important to recognize the impetus for ethical action.

Another area of debate in the religious ethics field has to do with the goal of the study of religious ethics. Scholars seem to have a plethora of ideas about the proper goal of the study of the ethics of religious traditions manner in which ethics should be studied. John Kelsay (professor of religion at Florida State University) outlines this lack of a common goal, asking, “What is distinctive about the contributions of scholars of ethics to the study of religion? What sort of knowledge are we after, and how do we distinguish good work from work that is less so?”²³ While scholars have recognized the shortcomings of a merely descriptive approach to religious ethics,²⁴ I agree with the approach Kelsay takes. He states, “Observing and attempting to describe or explain the

²³John Kelsay, “The Present State of the Comparative Study of Religious Ethics: An Update,” *Journal of Religious Ethics* 40, no. 4 (December 2012): 590, accessed September 5, 2014, <http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=82371079&site=ehost-live>.

²⁴T. A. Lewis claims descriptive ethics fail to address the is/ought question. Thomas A. Lewis, “Ethnography, Anthropology, and Comparative Religious Ethics: Or Ethnography and the Comparative Religious Ethics Local,” *Journal of Religious Ethics* 38, no. 3 (September 2010): 395–403, accessed September 5, 2014, <http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=52950882&site=ehost-live>.

procedures of argument by which behaviors are judged legitimate or not—this, I claim, is the identifying feature of studies of ethics.”²⁵ This is not to make ethics relative—that there is no true “ought”. But it recognizes an important aspect of the study of ethics.

How do we study what others say is ethical? How can we know without information? Employing a descriptive approach requires information that can be described. This information must be gathered on the field or collected from an expert. Where will we find an expert? Is one readily available with Google?

My interest in studying Google as an expert arose from my experience as a doctoral student in a modular program at The Southern Baptist Theological Seminary. Living six and a half hours away from the seminary’s library required me to complete research in a much different manner than I did while working on my master’s degree. The library’s distance-student services were a huge help, but not having a reference librarian to consult face-to-face changes the dynamic involved in deep research.

Thankfully, there has never been a better time to conduct research without a research library as a home base. The rise of the internet and digitization of vast amounts of resources aided my studies significantly. Yet, in many ways, I was still tied to the traditional library. My first few semesters, I used the distance student services to check out numerous books each semester. This service proved incredibly helpful, though some downsides were present. For example, if another student requested one of the books, I had to mail the book back within six days. If the seminary library did not own the book, the inter-library loan checkout period usually required that the book be mailed back to the seminary’s library in about a month so the book could be returned to the lending library, giving me less time to use it and proving costly.

During my third semester, I discovered the Michigan eLibrary, which allowed me to use my local library branch to check out almost any book held by a library in the

²⁵Kelsay, “The Present State of the Comparative Study of Religious Ethics,” 592.

state of Michigan. This resource proved very valuable.

Still, as I progressed in my studies and began to narrow my focus for research papers, moving from the topic of Hindu goddesses in my first semester to that of Jesus People USA in my final semester, specificity required me to adapt my research methods. Typically, at this point, I would consult a reference librarian to help guide me to the appropriate resources. Lacking a reference librarian, I realized my greatest ally was the internet. While I used sources such as JSTOR, EBSCO, and online catalogs, often I found myself using Google.

I realized Google became the go-to resource in two situations. First, Google provided quick information about a topic before diving into more in-depth research. Google results helped shape the initial stages of research projects. Second, Google often became the most useful resource tool the more specialized the content became. When EBSCO failed to come through with anything meaningful for a topic like “Sikh ethics,” I found myself turning to Google. Sometimes my Google searches led me to traditional resources I would track down using the Michigan eLibrary or the distance student services, but other times the link itself directed me to a full-text resource I needed.

As I conducted these Google searches and watched the world unfold around me, I began to realize the role of Google in shaping the information everyone uses to describe almost anything. If I were going to employ Google either to gain basic working knowledge about a subject or to research specialized content, I wondered if others were doing the same. If so, then I wondered whether anyone had considered the value of Google as a tool (or expert) for research in world religions and religious ethics. If the average person consults Google to understand a topic in the religious studies field (such as Islamic ethics), it seemed necessary to determine what information was being provided and the reliability of the information. If a well-known expert in the religious studies field was consulted by even 25 percent of people with a religious question, it would be imperative for someone to evaluate the answers that expert gave. Though Google is not

one person, the importance of treating it like an expert and evaluating its worth is essential.

While conducting preliminary research, I discovered some prior research, primarily in the library sciences, testing and treating Google as a source of knowledge. However, though these studies included Google's results for various fields, they answered surface-level questions such as how many results were provided or the matter of comparing the coverage of Google against another source. This study attempts not only to replicate what other studies that examined Google have done for the field of religious ethics but to proceed beyond the surface level study by actually analyzing the information Google provides using three case studies in Islamic ethics. It is this analysis of the content of the actual Google results that helps evaluate Google's role as an expert in the field of world religions and present any bias, lack of coverage, or other issues present. If there is evidence of bias, whether in a radical, conservative, or liberal direction, in the religious field, it would be important to know. Though Google is an algorithm, since people constantly use it as an expert, it is necessary to examine it like one.

Limitations and Delimitations

I recognize that this study is limited by several factors. Primarily, Google now attempts to personalize results based on location and previous search history. Though I attempt to negate this limitation as much as possible by using an incognito browser, the IP location was still available to Google. Google also changes the order of its results based on an unpublished algorithm. Google's algorithm is regularly updating, and the JSTOR database is frequently updated. Therefore, the generalization of this research is limited by the possibility Google and/or JSTOR have changed the search results or rankings after the research has been conducted.

I make relevance determinations qualitatively to attempt to produce

quantitative results. This qualitative nature, coupled with the sample size of three case studies in Islamic ethics limit the ability of the research to be generalized toward the broader field of religious studies.

This study is delimited by the decision to compare Google and JSTOR to primarily academic works. Chapter 4 attempts to determine a consensus of these academic works concerning the three case study areas. This study intends to evaluate Google as an expert, choosing to use academic resources to establish a baseline. The study, therefore, cannot engage divergent voices within the fields of the three case studies, unless the academic publishers have chosen to give these divergent views a voice. This delimitation recognizes that it is unlikely the academic publishers give a significant number of divergent views a voice. Furthermore, it is possible the consensus provided by the academic resources presents an entirely different picture of Islam than divergent or even less academic sources might portray. While the choice to use primarily academic sources delimits the study, including divergent sources from the different locales is too broad for the current study to undertake and would appear to change the focus of the study. In essence, the baseline literature has been delimited to primary sources and academic resources to provide a standard against which to judge Google's role as an expert. While it would be incredibly valuable to assess Google's ability to represent divergent views, that assessment is a different, though valuable, project or it would at least test Google's ability as an expert in a different manner.

The research is further delimited. The research was conducted entirely in the English language. Some search results led to pages in Arabic or another language. However, this study did not consider those results or at least the section in those languages.²⁶ Moreover, the research was conducted from one location. Searches from

²⁶Since the study attempts to treat Google as an epistemic tool for someone seeking information in the religious studies field, using a user-oriented approach, it does not seem necessary to consider results in other languages.

other locations may result in different results.

Though these delimitations are real and must be taken into account, the project still has merit given the prominent role of Google in the field of research. While it is true Google is continually updating, as is JSTOR, the results still show any biases or areas lacking coverage. Experts can change their biases or improve their coverage of a field, yet it does not preclude significant research being carried out based on their work.

While location can factor into results, the numerous searches should help mitigate the impact of location. The principal effect of location is for searches which would be improved by knowing a location, such as a search for something like pizza.²⁷

The nature of a case study limits the capacity to generalize results. However, it does not entirely eliminate the ability to draw conclusions and is a regular tool in the researcher's tool belt. Though the study will not prove that the conclusions drawn apply to other areas in the field of religious study, it will shed light on how Google serves as an expert in the broader field.

This study does not attempt an all-encompassing literature review on Islamic ethics. Instead, it surveys literature in the field to identify the crucial issues in three areas of Islamic ethics (divorce, banking, war) to provide a baseline for evaluation of Google and JSTOR in the second level comparison. This baseline aided in not only the comparison, but also in determining any bias present.

This study did not consider other search engines. Google is the dominant player in search engines, while Bing and Bing-powered searches handle most of the remaining searches.²⁸ This study did not consider other electronic or traditional databases.

²⁷“How Location May Influence Search Results in Google,” *Go Fish Digital*, last modified February 19, 2016, accessed September 14, 2017, <https://gofishdigital.com/location-search-results/>.

²⁸“ComScore Releases February 2016 U.S. Desktop Search Engine Rankings,” *ComScore, Inc*, accessed December 9, 2016, <http://www.comscore.com/Insights/Rankings/comScore-Releases-February-2016-US-Desktop-Search-Engine-Rankings>.

Methodology

This study is a two-level evaluation of Google's role of expert in world religions, specifically the topic of Islamic ethics, using JSTOR as the primary point for comparison and the surveys as the information baseline. Why Google and JSTOR? With a single, specific reference, Kemman, Kleppe, and Scaglioli's research offers a compelling case: "Our main conclusion that digital research practices of Humanities scholars in the Netherlands can be condensed to three words: Just Google it."²⁹ Google is by far the most popular general search engine.³⁰ Furthermore, a recent report demonstrates researchers in the humanities are split between starting their searches on JSTOR and on Google.³¹ Given the prevalence of these two electronic resources in the humanities, they appear to be a natural point of comparison.

Three topics within the field of Islamic ethics were used as case studies: the rights of women in divorce, *mudaraba* banking, and just war. These were chosen in order to provide a diverse range within the field of Islamic ethics. The rights of women in divorce touch upon an issue only gaining importance in modern societies. *Mudaraba* banking is an important issue often overlooked in the West. Just war is often the issue most thought of by the public when considering any ethical evaluation of Islam. These three topics provide a broad cross-section of topics that were addressed in the rise of

²⁹Kemman, Kleppe, and Scagliola, "Just Google It," 15.

³⁰Jamali states, "there is no doubt that Google has had considerable impact on the information seeking habits of people." Hamid R. Jamali and Asadi Saeid, "Google and the Scholar: The Role of Google in Scientists' Information-Seeking Behaviour," *Online Information Review* 34, no. 2 (February 2010): 283.

³¹According to Gibbs, Google is the most cited starting point, closely followed by JSTOR. Fred Gibbs and Trevor Owens, "Building Better Digital Humanities Tools: Toward Broader Audiences and User-Centered Designs," *Digital Humanities Quarterly* 6, no. 2 (2012): 10. Kemman claims Google and JSTOR dominate the search practices of scholars in the humanities. Kemman, Kleppe, and Scagliola, "Just Google It - Digital Research Practices of Humanities Scholars," 15. Bulger found most respondents started their search for new information on Google. Monica E. Bulger et al., *Reinventing Research? Information Practices in the Humanities*, SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, March 1, 2011), 70, accessed October 11, 2016, <http://papers.ssrn.com/abstract=1859267>. Wolff states faculty in the humanities are "equally as likely to begin with a general purpose search engine as they are with a specific electronic research resource/database." Christine Wolff, Alisa B. Rod, and Roger C. Schonfeld, *Ithaca S+R US Faculty Survey 2015*, April 4, 2016, 6, accessed October 10, 2016, <http://dx.doi.org/10.18665/sr.277685>.

Islam and remain significant today.

The first level comparison is based upon a user-oriented evaluation method devised by Jan Brophy to assess the similarities, differences, and weaknesses of search results of two systems.³² This approach uses qualitative, micro-evaluation methods to quantify the results. As outlined below, this first level comparison makes surface-level evaluations of the search engine by scoring each result to provide quantitative (coverage) scores for comparison. The second level comparison sought to move beyond the surface-level evaluation of Brophy's method by conducting a more in-depth direct comparison, primarily expanding on the quality and coverage questions of the first level.

Brophy's method compares relevance, quality, accessibility, and coverage. Based upon research that demonstrates that the majority of users rarely click past the first page of results,³³ and keeping with the level of evaluation of previous studies, this study considers only first-page search results.³⁴

³²Jan Brophy, "Is Google Good Enough? A Study Comparing a Major Search Engine with Academic Library Research" (MSc diss., City University, London, 2004); Jan Brophy and David Bawden, "Is Google Enough? Comparison of an Internet Search Engine with Academic Library Resources," *Aslib Proceedings* 57, no. 6 (December 2005): 498–512. Bawden affirmed that Brophy's evaluation method "is still a reasonable first approach to this kind of question." David Bawden, email correspondence with me, April 2, 2017.

³³Bing Pan et al., "In Google We Trust: Users' Decisions on Rank, Position, and Relevance," *Journal of Computer-Mediated Communication* 12, no. 3 (April 1, 2007): 813–816, accessed October 7, 2016, <http://onlinelibrary.wiley.com/doi/10.1111/j.1083-6101.2007.00351.x/abstract>; In a study from 2000, Jansen claims the majority of Google inquiries do not proceed past the first page. Bernard J. Jansen, Amanda Spink, and Tefko Saracevic, "Real Life, Real Users, and Real Needs: A Study and Analysis of User Queries on the Web," *Information Processing & Management* 36, no. 2 (March 1, 2000): 214, accessed October 7, 2016, <http://www.sciencedirect.com/science/article/pii/S0306457399000564>.

³⁴Zhao argues the top Google results are fairly stable. Lisa Zhao, "Jump Higher: Analyzing Web-Site Rank in Google," *Information Technology & Libraries* 23, no. 3 (September 2004): 110, accessed May 27, 2016, <http://search.ebscohost.com/login.aspx?direct=true&db=a9h&AN=14782334>; In a study from 2000, Jansen claims only 58 percent of all Google inquiries proceed past the first page. Jansen, Spink, and Saracevic, "Real Life, Real Users, and Real Needs," 214. Rieger found most do not go beyond the first page or two of results based not only on convenience, but also prior search experience. Oya Y. Rieger, "Search Engine Use Behavior of Students and Faculty: User Perceptions and Implications for Future Research," *First Monday* 14, no. 12 (November 29, 2009): 16. In a 2014 study, Georgas found the majority of students used only first page Google results and an overwhelming majority of students only used first page results from a library federated search tool. She states, "No matter which search tool students use, what comes up on the first page is crucial." Helen Georgas, "Google vs. the Library (Part II): Student Search Patterns and Behaviors When Using Google and a Federated Search Tool," *portal: Libraries & the Academy* 14, no. 4 (October 2014): 516, 524.

I judged relevance based upon the question of whether results are topical, pertinent, and have utility. Topical results match the subject matter of any aspect of the search. Pertinent results are results considered to be informative. Results were scored for utility if they were useful for providing needed information.³⁵ Results that were topical, pertinent, and of utility were scored relevant. If the results were judged to only have two out the three of topical, pertinent, or of utility, the results were scored partially relevant. If the results were judged to be only either topical, pertinent, or of utility alone, or to not be topical, pertinent, or of utility at all, they were scored not relevant.³⁶ Precision of relevant documents is factored by the following formula: Precision = Set of relevant retrieved documents/set of all texts retrieved.

All relevant results were assessed for quality. Brophy uses a framework from Lyn Robinson, which assesses the Context (authority, provenance, and objectivity), Content (currency, accuracy, and coverage) and Resource Type (the nature of the resource itself).³⁷ Brophy uses the following criteria to determine quality:

Documents from reputable sources such as scholarly journals, quality news services, respected organisations or educational establishments, which contained sufficient information about the author, publication date and contact details, were considered to be of good quality. Documents were considered to be of adequate quality if they were from a more general or commercial source, whilst still maintaining dates, contact information and author where appropriate. Documents with no information

³⁵Brophy, "Is Google Good Enough?" 35. Brophy developed these categories based on the following works: Tefko Saracevic, "Relevance Reconsidered," *Information Science: Integration in Perspectives* (1996): 201–18; Carol L. Barry and Linda Schamber, "Users' Criteria for Relevance Evaluation: A Cross-Situational Comparison," *Information Processing & Management* 34, no. 2/3 (March 1998): 219–36; Howard Greisdorf, "Relevance Thresholds: A Multi-Stage Predictive Model of How Users Evaluate Information," *Information Processing and Management* 39 (2003): 403–23.

³⁶Brophy developed these categories based off the work of Chu and Rosenthal. They scored search results relevant, partially relevant, and not relevant, assigning the research a numerical value of 1, .5, and 0 in their study. Heting Chu and Marilyn Rosenthal, "Search Engines for the World Wide Web: A Comparative Study and Evaluation Methodology," *Proceedings of the ASIST Annual Meeting* 33 (1996): 15, accessed December 8, 2016, <https://www.learntechlib.org/p/83947/>.

³⁷Lyn Robinson, "A Strategic Approach to Research Using Internet Tools and Resources," *Aslib Proceedings* 52, no. 1 (February 1, 2000): 11–19, accessed November 17, 2016, <http://www.emeraldinsight.com/doi/abs/10.1108/EUM000000006997>.

regarding origin, no contact information, or broken/inaccessible links (websites) were regarded as being of poor quality.³⁸

All relevant results were scored on accessibility. For the purposes of this study, all results were accessible, since the current study considered only the contents of the search results.³⁹

All relevant results were tested for coverage. Brophy conducted a first-level failure review to determine if results produced by only one system are available in the other. Coverage is first factored by the following formula: Coverage = Total number of relevant documents in one system/total number of relevant documents in both systems. Coverage was also determined by looking at the relevant unique results of each system. The current study does not utilize a first-level failure review, instead focusing on the coverage of the contents of the search results.

Brophy acknowledges one of the weaknesses of the 2004 study is the inability to provide in-depth analysis of the results in the study. I make a second-level comparison that moves beyond the surface-level evaluation of Brophy by conducting a more in-depth direct comparison, primarily expanding on the quality and coverage questions of the first level. This second-level comparison essentially asks the question of whether or not the quality and coverage Google provides is as good as the quality and coverage JSTOR provides, helping evaluate the value of Google to religious studies.

I use a point-by-point approach to compare the information provided by Google and JSTOR (compared to the baseline and to each other) about three aspects of Islamic ethics I selected. In addition to the basic information, this point-by-point approach demonstrates whether each tool identifies the critical action-guides of these

³⁸Brophy, "Is Google Good Enough?," 42.

³⁹This accessing of the full text is keeping with the results of research carried out by Haglund and Olsson, who claim that many researchers describe themselves as lazy and will not retrieve a resource if the full-text is not available electronically. Lotta Haglund and Per Olsson, "The Impact on University Libraries of Changes in Information Behavior among Academic Researchers: A Multiple Case Study," *Journal of Academic Librarianship* 34, no. 1 (January 2008): 56.

three topics of Islamic ethics. An evaluation of the coverage of both systems is included in this comparison using the baseline literature survey in Islamic ethics to determine essential areas both Google and JSTOR may have missed. This evaluation sheds light on any biases, highlighting certain action-guides or altruistic concepts above other action guides, Google exhibits in its role as expert.

CHAPTER 2

ADAPTING, EXPANDING, AND EMPLOYING BROPHY'S METHODOLOGY

Jan Brophy's September 2004 master's dissertation for the degree of MSc in Library and Information Studies is titled "Is Google Good Enough? A Study Comparing a Major Search Engine with Academic Library Research."¹ The current study employs an adapted and expanded version of the methodology Brophy utilized. This chapter provides a necessary expansion upon the methodology of the previous chapter; it first outlines Brophy's study and methodology, then presents how the current study expands and adapts the methodology for its purposes.

This study adapts and expands Brophy's methodology to facilitate bringing it out of the field of library and information studies and into the field of world religions, specifically in the area of Islamic ethics. This adaptation and expansion allows a more in-depth analysis and comparison of the results of the different searches. This study primarily uses Brophy's methodology, expanded and adapted, as a tool for collecting data inside the field of world religions.

Brophy's Methodology

Brophy recognized the impact the proliferation of personal computers and the near-universal access to the internet made on the research process of the average student. Though Brophy wrote before the rise of the smartphone, with the iPhone not being

¹Brophy's work was later turned into an article co-authored by his supervisor and subsequently cited at least 192 times. Jan Brophy and David Bawden, "Is Google Enough? Comparison of an Internet Search Engine with Academic Library Resources," *Aslib Proceedings* 57, no. 6 (December 2005): 498–512"

released until 2007, he nonetheless understood the impact of having easy access to information. Brophy stated, “computers have made it possible for library users to search for information on their own. . . . [and] Information retrieval is no longer a domain reserved for the information specialist.”² So Brophy set out to answer the question “how does Google compare to the academic library when used to address specific information needs?”³ He believed this question was important because of the widely various views of Google as a research tool among researchers, both those tasked with helping people research and those requiring the research.⁴ Fourteen years later, the ubiquitous presence of Google, and its increased role as an expert accessible at almost any time and anyplace on a smartphone, only makes the question he asked and the analysis he conducted more critical.

Brophy presented five specific objectives of the study.

To demonstrate whether the academic library is always superior to Google . . . To show whether a Google search always means low precision and poor results . . . to show whether Google can always find something useful . . . To determine whether information found in the library can be retrieved from Google by searching in a different way . . . To conduct a full literature review to enable sufficient background knowledge of the situation.⁵

These objectives demonstrate Brophy’s goal of evaluating Google’s place as a research tool.

Because of Google’s prominence in the internet search category, Brophy limited the study to the search engine Google.⁶ He built his project around four case

²Jan Brophy, “Is Google Good Enough? A Study Comparing a Major Search Engine with Academic Library Research” (MSc diss., City University, London, 2004), 7.

³Brophy, “Is Google Good Enough?,” 12.

⁴As an example, Laurence states, “Library patrons expect to find it all in cyberspace . . . for the purposes of academic research, such expectations are unrealistic and even dangerous.” Helen Laurence, “Introduction,” *Journal of Library Administration* 30, no. 1/2 (December 5, 2000): 1, http://dx.doi.org/10.1300/J111v30n01_01.

⁵Brophy, “Is Google Good Enough?,” 13.

⁶Oya Y. Rieger, “Search Engine Use Behavior of Students and Faculty: User Perceptions and

studies. He used multiple case studies to “avoid problems with generalization. . . . This will allow the various topics to be evaluated independently of each other and allow patterns of similarities and inconsistencies to be identified.”⁷ The four case studies were from different fields: environmental science, music, education, and law. To negate the chance bias might manifest itself by choosing a field where one search system might be knowingly more valuable, Brophy had an independent librarian chose the four fields. Which four fields were chosen is not of any particular importance, only that the four fields provide a diverse assortment to analyze Google against traditional library research methods. Brophy developed research questions in each of these fields to determine the usefulness of Google as a research tool.

While some information retrieval research is undertaken through usability studies, Brophy employed a user-oriented approach, stating, “This method of evaluation attempts to evaluate a system from a user’s perspective, allowing contextual information to be considered alongside topicality.”⁸ User-oriented evaluation is not a prescriptive methodology, but “a general style of evaluation.”⁹ This user-oriented evaluation allows Brophy to approach the research questions from the perspective of someone attempting to conduct research in the specific field.¹⁰ The current study also employs a user-oriented approach.

A user-oriented approach utilizes qualitative analysis. Brophy writes, “the preference is for the user-oriented evaluation using predominantly qualitative methods in

Implications for Future Research,” *First Monday* 14, no. 12 (November 29, 2009): 1.

⁷Brophy, “Is Google Good Enough?,” 26.

⁸Brophy, “Is Google Good Enough?,” 15.

⁹David Bawden, *User-Oriented Evaluation of Information Systems and Services* (Brookfield, VT: Gower Publishing Company, 1990), 91.

¹⁰For more information on a user-oriented approach, see David Bawden, “Users, User Studies and Human Information Behaviour: A Three-decade Perspective on Tom Wilson’s ‘On User Studies and Information Needs,’” *Journal of Documentation* 62, no. 6 (November 1, 2006): 671–79, <http://www.emeraldinsight.com/doi/abs/10.1108/00220410610714903>.

order to understand the complexities of IR systems in the real-life setting . . . the method of research considered to be the most suitable is the case study.”¹¹ Brophy notes that “this type of qualitative study can reveal issues regarding the wider picture of the area under investigation.”¹² The user-oriented evaluation retains a pragmatic approach to evaluation, allowing it to use multiple techniques when necessary.¹³

Brophy employed a method of micro-evaluation to draw conclusions regarding the information found. Micro-evaluation is a phrase coined by Donald W. King and Edward C. Bryant in their 1971 work, *The Evaluation of Information Services and Products*. They differentiate between macro-evaluation and micro-evaluation, with macro-evaluation looking at a whole system, while micro-evaluation “may be likened to the testing of parts, components, and subassemblies.”¹⁴ Conducting a macro-evaluation on a system like Google would be unreasonable. Employing a micro-evaluation approach works toward the strength of the method, which is diagnosis.¹⁵ Brophy attempts to diagnose the capabilities of Google against the research library, while this study attempts to diagnose Google’s strength as an expert.

Regarding the appropriateness of a user-oriented approach, using micro-evaluation, Brophy writes, “For specific information on system performance which can be used to make recommendations and ultimately improvements, the micro-evaluation is essential.”¹⁶ A combination of micro-evaluation and user-oriented evaluation allows the

¹¹Brophy, “Is Google Good Enough?,” 25.

¹²Brophy, “Is Google Good Enough?,” 15.

¹³Bawden, *User-Oriented Evaluation of Information Systems and Services*, 96.

¹⁴Donald W. King and Edward C. Bryant, *The Evaluation of Information Services and Products* (Washington, DC: Information Resources Press, 1971), 37.

¹⁵King and Bryant, *The Evaluation of Information Services and Products*, 88.

¹⁶Brophy, “Is Google Good Enough?,” 16.

research the flexibility and pragmatism to conduct an analysis of something like Google in a field such as world religions.

Brophy's case studies are internet search based, so he must define important terms, including Session, Query, Term and Result Pages.

A session is an entire set of queries made by the same user It should reflect a single user's attempt to satisfy an information need All sessions are composed of Queries. These are sets of one or more search terms . . . A term is a string of characters separated by delimiter such as a space or a colon. Terms include words, abbreviations, numbers and operators (AND, OR, NOT) . . . [Result Pages] are pages of results which are presented to the user following a query.¹⁷

This study uses the terms as defined by Brophy.

Choosing research-based tasks instead of fact-based tasks, Brophy developed research tasks without a target answer. Instead, information was collected from numerous sources to construct an idea of a concept. The current study employs the same idea of research-based tasks. However, instead of posing questions with a specific answer, it attempts to understand what the resource says about a subject.

Because of the user-orientated evaluation, the research-based tasks were designed to resemble research projects undergraduate students would be assigned within those fields.¹⁸ Brophy fleshed out each research area with "task information." The "task information" for the four fields included the following components: domain, topic, task, description, narrative, and concepts. The domain is the general field in which the search is to be conducted. The topic is the specific area of the domain to be researched. The task lays out the questions to be answered by the research. The description helps the researcher understand which documents would be helpful to complete the research task. The narrative helps provide the background for the hypothetical assignment the task information is attempting to portray. The concepts help the researcher further understand

¹⁷Brophy, "Is Google Good Enough?," 28.

¹⁸Brophy, "Is Google Good Enough?," 30.

the topics relevant documents would need to cover. “These ‘task information’ breakdowns were then used as a guideline for searching both the academic library service and the search engine Google.”¹⁹

For Brophy’s research in the field of law, the task information consists of the domain of law, and the topic is internet piracy. The task is “The Internet has changed the way people obtain music. Does file sharing hurt the music industry, and can record companies take legal action against illegal downloaders? Can any additional measures be taken to deter potential ‘pirates’?”²⁰ Brophy’s description has a list of problems the documents (from the search results) should solve, such as how the internet changes the way people obtain music, whether the industry is losing money, what legislation has been put in place and what can be done to deter pirating of music. The narrative states the documents must be in English and relevant to a student in a field other than law. A few of the concepts outlined are piracy, file sharing, legislation, Napster, and record companies.²¹ Brophy’s task information allowed research and surface-level evaluations to be made without any previous research in the field.

Brophy conducted no preliminary preparation and did not restrict the number of searches in each session. However, both systems (Google and the academic library services) “were tested in the same day, with each session lasting no longer than two hours.”²² It was important to test both systems in close proximity due to the constantly changing nature of the internet and research databases. After the session concluded, “The results of each search were saved and stored to allow evaluation to take place at a later

¹⁹Brophy, “Is Google Good Enough?,” 31.

²⁰Brophy, “Is Google Good Enough?,” 30.

²¹Brophy, “Is Google Good Enough?,” 31.

²²Brophy, “Is Google Good Enough?,” 32.

stage.”²³ These parameters allowed for an adequate but not exhaustive search of Google and the academic library services.

Brophy then compared the results of each search session to “discover which was the most effective searching service or strategy for that particular task.”²⁴ As mentioned above, Brophy evaluated the results for quality, relevance, accessibility, and coverage.²⁵ Brophy based his relevance criteria upon Robinson’s framework.²⁶ Robinson’s framework covers four areas of context: relevance, authority, provenance, and objectivity. It also covers three areas of content: currency, accuracy, and coverage.²⁷ Though Brophy based his evaluation of quality upon Robinson’s framework,

It was not however, intended that every question would be answered in relation to every source. . . . It was intended that the framework would allow an overall impression of each resource to be created and as such it is not a requirement of this research to evaluate each resource rigidly for every separate issue.²⁸

Brophy’s analysis evaluated only the overall impression of the source, it did not go deeper.

Brophy evaluated only the top ten results from both Google and other sources which contained a ranking system. For sources without a ranking system, Brophy considered all the results. Evaluating the top ten results is sufficient for the current project, because as Pan notes, “In summary, the findings here show that college student subjects are heavily influenced by the order in which the results are presented.”²⁹

²³Brophy, “Is Google Good Enough?,” 32.

²⁴Brophy, “Is Google Good Enough?,” 32.

²⁵Supporting his user-oriented approach, Brophy essentially completed the tasks Rieger states all search engine users do regularly, claiming, “When searchers review retrieved results, they not only make relevance judgments but also have to make authority and quality judgments.” Rieger, “Search Engine Use Behavior of Students and Faculty,” 19.

²⁶Lyn Robinson, “A Strategic Approach to Research Using Internet Tools and Resources,” *Aslib Proceedings* 52, no. 1 (February 1, 2000): 11-19.

²⁷Brophy, “Is Google Good Enough?,” 33.

²⁸Brophy, “Is Google Good Enough?,” 34.

²⁹Bing Pan et al., “In Google We Trust: Users’ Decisions on Rank, Position, and Relevance,”

Furthermore, Georgas claims, “No matter which search tool students use, what comes up on the first page is crucial, even when the number of results is manageable.”³⁰ In addition, Badke, in a book geared toward helping students research, claims students do not go past one or two pages and “most don’t look beyond the first five results.”³¹ Primarily, researchers rarely move past the first page of results, so a user-oriented approach is consistent with limiting results to the top ten.

Brophy judged results based on topicality, pertinence, and utility. Brophy writes, “A document is considered topical if it matches the subject matter of any aspect of the query. . . . A document is considered pertinent if it can be considered to be informative. . . . A positive mark for utility means that the document is considered useful for satisfying the information need.”³²

Brophy conducted the relevance judgments, and the judgments were not reviewed by any independent judges due to the significant amount of items involved (over 700).³³ The current study employs the relevance judgments Brophy developed. The relevance judgments of the current study will also not be reviewed by any independent judges for the same reason.

Brophy provided a summary of the stages of evaluation,

Journal of Computer-Mediated Communication 12, no. 3 (April 1, 2007): 816.

³⁰Helen Georgas, “Google vs. the Library (Part II): Student Search Patterns and Behaviors When Using Google and a Federated Search Tool,” *portal: Libraries & the Academy* 14, no. 4 (October 2014): 524.

³¹William B. Badke, *Research Strategies: Finding Your Way Through the Information Fog*, 4th ed. (iUniverse.com, 2011), 133.

³²Brophy, “Is Google Good Enough?” 35.

³³As noted above, Relevance was judged based upon the question of whether results are topical, pertinent, and have utility. Topical results match the subject matter of any aspect of the search. Pertinent results are results considered to be informative. Results were scored for utility if they were useful for providing needed information. Results that were topical, pertinent and of utility were scored relevant. If the results were only judged to have two out the three of topical, pertinent or of utility, the results were scored partially relevant. If the results were only judged to be either topical, pertinent or of utility alone, or to not be topical, pertinent or of utility at all they were scored not relevant. Precision of relevant documents is factored by the following formula: Precision=Set of relevant retrieved documents/set of all texts retrieved. Brophy, “Is Google Good Enough?” 35.

Four task information breakdowns were constructed. Each of these was used to search Google [and] City University Library services. Results for each session were ‘pooled’ to form one set of documents. A failure review was carried out. Relevance judgements were made for every document in all 8 sets. Each set of relevant documents was assessed using the quality framework. Each set of relevant documents was assessed for accessibility. Precision measurements were made. The level of coverage and proportion of unique documents were measured.³⁴

Brophy’s Google search sessions “consisted of between 9 and 12 separate queries. . . . Each of the Library search sessions involved using an average of 14 queries to interrogate a variety of IR systems.”³⁵ These queries resulted in 723 documents from the four sessions.

Of the 723 documents, 237 documents were deemed relevant from Google and 163 from the Library. Of these documents, “52% of Google results were found to be good quality whilst the library recorded a much higher figure of 84% . . . Google had a significantly higher number of adequate results (44%) . . . Indeed, the results of this research clearly demonstrate that only a very small percentage of top-ranked Google results (4%) were poor quality.”³⁶ Brophy found that “in three of the four cases, the results were surprisingly similar, suggesting that the top ranked results from a Google search are in no way any less relevant than a set of results obtained using Library IR systems.”³⁷

Brophy also assessed the accessibility of the results. Results were judged immediately accessible if the items were available to view instantly, demand through a service, or readily accessible in a hard copy. Of Google results, 90 percent results were immediately accessible to only 65 percent of the library. Accessibility of documents was an essential element of Brophy’s study given the lack of resources available

³⁴Brophy, “Is Google Good Enough?” 37.

³⁵Brophy, “Is Google Good Enough?” 39.

³⁶Brophy, “Is Google Good Enough?” 43.

³⁷Brophy, “Is Google Good Enough?” 41.

electronically in 2004 compared to today. Though accessibility is still an issue today, more and more resources are available electronically.

Given the nature of the study in the field of library and information studies, Brophy conducted a failure review to determine whether each system had some of the resources the other system provided, but that did not show up in the initial search sessions. The failure review demonstrated “the higher number of unique results obtained from the Google search sessions. . . . The indication from this small-scale study is that Google is indexing more unique items than the Library system.”³⁸ Brophy acknowledged this failure review was unable to be completed in as much detail as desired. Nonetheless, the failure review did demonstrate many of the resources not initially found in one source could be found using the right keyword search.

According to Brophy, Google produced good quality results 52 percent of the time, adequate quality results 44 percent of the time and poor quality results 4 percent of the time. The library produced good quality results 84 percent of the time, adequate quality results 16 percent of the time, and poor quality results 0 percent of the time.³⁹

Brophy found, “The argument that research carried out by Google must always contain a large proportion of poor quality data is not confirmed in this research. Far from having to discard a large majority of Google results due to their lack of quality, the majority of high-ranked relevant results (top 10) were found to be of good or adequate quality.”⁴⁰ Brophy wrote, “Overall however, this study found that Google can be highly successful at finding the most important results.”⁴¹ In essence, Brophy’s study found the

³⁸Brophy, “Is Google Good Enough?,” 50.

³⁹Brophy, “Is Google Good Enough?,” 53.

⁴⁰Brophy, “Is Google Good Enough?,” 52.

⁴¹Brophy, “Is Google Good Enough?,” 55.

library to be a useful tool for research, providing resources of quality and relevance.

Brophy summarized his findings,

For the Library, this research finds: a high proportion of relevant documents retrieved; an ability to retrieve a fairly precise set of documents; a high proportion of high quality results; a significant proportion of unique documents; [and] potential problems with accessibility. For Google, this research finds: a high proportion of relevant documents retrieved; an ability to retrieve a fairly precise set of documents; a high proportion of adequate or good quality results; a high proportion of unique documents; [and] no problems with accessibility.⁴²

In the reflection section, Brophy concludes, “The results may appear to be more general than would perhaps be required in research focusing on only one of the areas concerned. . . . For a totally comprehensive picture of relevance, quality or accessibility a larger and more in-depth study would be required.”⁴³

Expanding and Adapting Brophy’s Methodology

Though perhaps not exactly how Brophy envisioned a larger and more in-depth study, the current study expands and adapts Brophy’s method to provide more depth. Brophy devised his methodology to compare how Google functions as an academic research tool compared to an academic library. His work rests squarely in the fields of information technology and library sciences. However, it is often beneficial to bring a methodology from one field into another to undergird a research project.⁴⁴ Brophy’s research methodology provides a solid starting point for a research project like the current study. When attempting to evaluate the information presented by Google and JSTOR, Brophy provides a methodology for collecting the data and quickly evaluating it to determine the relevant sources for further analysis.

⁴²Brophy, “Is Google Good Enough?,” 55.

⁴³Brophy, “Is Google Good Enough?,” 57.

⁴⁴Barbara E. Lovitts and Ellen L. Wert, *Developing Quality Dissertations in the Humanities: A Graduate Student’s Guide to Achieving Excellence* (Sterling, VA: Stylus Publishing, 2008), 4.

The current study moves beyond merely collecting and quickly analyzing search result data. It not only collects the data and analyzes its relevance, but also analyzes the content of the search results to compare the content from the two search tools. Moreover, the survey of literature, coupled with the comparison, provides the information needed to assess Google's function as an expert in the field of world religions, specifically in the three areas of Islamic ethics.

This study expands Brophy's methodology by interpreting and analyzing the content of the search results, conducting a point-by-point comparison, and surveying material from the field of world religions in the three areas of Islamic ethics. This study adapts Brophy's methodology by changing its objective, focusing on Google and JSTOR, using case studies from the same field instead of unrelated fields, restricting the number of queries, eliminating the assessment of accessibility, and not conducting a failure review. These expansions and adaptations are necessary to assess the function of Google as an expert in world religions, specifically the three areas of Islamic ethics.

Expanding Brophy's Methodology

Brophy acknowledges the general nature of his 2004 study and the need for a more in-depth study. I attempt to accomplish that more in-depth study in the field of Islamic ethics. Therefore, this study expands upon Brophy's method in three significant areas.

First, the study not only assesses each result's overall impression but also analyzes and interprets the data of the relevant results. Whereas Brophy attempted to only get an impression of the quality and relevance of the source, this study attempts to analyze the actual content of the search results.⁴⁵ Much like compiling three seminar

⁴⁵Adapting this methodology to look at the content of the search results is paramount. Research based in Tamil Nadu, India, shows that. "Around 75% of the faculty members, research supervisors and students are depending on Google search for materials rather than on books." Arumugam Balasubramanian, B. A. Sabarish, and B. A. Sabarish, "A Study on the Impact of Google Search on the Reading Habits of

research papers strictly from the search results, this expansion of Brophy's method attempts to sort through the various relevant results and provide a picture of what Google and JSTOR individually present about the three case study topics, within the field of world religions, specifically Islamic ethics. This expansion is essential to evaluating Google's role as an expert, a function Brophy does not address. This expansion undergirds the current study, placing it squarely in the field of world religions. By using Brophy's method as primarily a data collection tool, the expansion analyzes the data collected.

After compiling the relevant data into three sections similar to seminar research papers, the current study further expands Brophy's work by comparing the essential aspects of the three areas of Islamic ethics identified in the seminar-style paper using a point-by-point comparison. This comparison helps the study begin to analyze Google as an expert in the field. If an aspect is found in both the Google and JSTOR results, the current study will compare how it is addressed. If an aspect is found in only one of the results, the current study will note it. While Brophy made only overall impression assessments of the quality of the material, this study provides a better analysis of the quality through a more robust analysis.

Finally, the current study expands upon Brophy's method by incorporating a survey of relevant world religions literature, specifically in areas related to the topics of the three case studies in Islamic Ethics, to develop a baseline understanding of each area. The survey consists of a survey of both primary and secondary sources. Bawden hints at the importance of a step such as this baseline in his work on user-oriented evaluation, stating user-oriented evaluation "needs a single, considered judgment, from someone who truly knows the subject area."⁴⁶ This baseline understanding provides a second way to

Academicians," *Indian Journal of Science and Technology* 9, no. 21 (June 17, 2016): 1–4.

⁴⁶Bawden, *User-Oriented Evaluation of Information Systems and Services*, 99.

evaluate Google's role as an expert in the field. In some ways, this baseline understanding directly contradicts Brophy's lack of preliminary preparation. However, the baseline understanding does allow for an expansion of the failure review Brophy attempted. The current study's failure review does not consider whether a specific result is missing from either Google or JSTOR but instead allows the researcher to determine whether the information provided by Google or JSTOR falls within a certain interpretive stream. Further, the baseline understanding helps determine whether Google or JSTOR ultimately fail to address a topic in their top-ranked search results.

These three significant expansions upon Brophy's methodology place the study firmly into the field of world religions. These expansions allow the study to move beyond the overall impression of the quality of the results, to actually evaluate the content of the results. Moreover, adding a literature survey provides a useful baseline with which to judge whether the contents of the results adequately address the topics. The expansion provides the apparatus by which to evaluate Google's role as an expert in world religions. Brophy's method provides the data; the expansion uses the data.

Adapting Brophy's Methodology

Whenever one takes a methodology from one study and brings it into another study, especially in a different field, the process will inevitably require adaptation. This section outlines the adaptations made and the reasons behind them.

The first significant adaptation is a change in the objective. While Brophy had a fivefold objective centered around the value of Google as a research tool, this study, recognizing Google's role as an expert, primarily analyzes Google's ability to perform as an expert. The current study's objectives could be delineated: to gain a baseline understanding of the three aspects of Islamic ethics, to collect data from Google and JSTOR on the three aspects of Islamic ethics, to compare the value of the data collected from Google and JSTOR against the other system, and using the three sets of data, to

analyze Google's strengths, weaknesses, and biases as an expert in the field of world religions.

This study adapts the two systems being compared. Brophy compared Google to traditional library systems, while this study compares Google to JSTOR. This adaptation is made given the increased rise of electronic databases and their use in research. Further, as noted above, JSTOR and Google are the research tools most frequently consulted by scholars in the humanities.⁴⁷ Finally, JSTOR provides access to full-text journal articles, enabling a researcher who is attempting to seek data outside of a traditional library instant access to any pertinent results. While the study adapts the two systems being compared, it does not change the reason for conducting the comparison. Both studies recognize the importance of the role Google plays and the need to analyze that role by comparing it to an already established system.

This study adapts Brophy's method by using case studies within the same field instead of from disparate fields. This adaptation is necessary because the aim of the current study is significantly different from the aim of Brophy's study. This study evaluates the substantive quality of the content of the search results, not primarily to determine the relevance or quality of the search results through overall impression. Brophy had a third party provide the case studies, while this study selected three case studies within the same field, with an attempt toward diversity within that field. Brophy's case studies were built around the needs of a traditional undergraduate, while this study attempts to build the case studies around a less specific demographic. Instead of building specific research tasks as Brophy did, this study instead focuses on obtaining information about the topics like one would seek out an expert for information or resources about a topic.

⁴⁷Fred Gibbs and Trevor Owens, "Building Better Digital Humanities Tools: Toward Broader Audiences and User-Centered Designs," *Digital Humanities Quarterly* 6, no. 2 (2012): 20.

This study adapts Brophy's method by restricting the number of queries in each session. This study places a cap of three queries in each session for a total of thirty results for each resource per case study. This cap was chosen to limit the searches to three based on research from Bernard J. Jansen, Amanda Spink, and Tefko Saracevic showing, "The average session length, ignoring identical queries, was 1.6 queries per user." Three searches are almost twice as many queries as the average search for information.⁴⁸ In this study, three Google searches and three JSTOR searches were conducted, for each of the three areas of Islamic ethics, for a possible total of sixty sources for each area. This adaptation is necessary to allow for a reasonable amount of resources to be analyzed in the second-level comparison.⁴⁹ While Brophy evaluated the overall impression of the search results, this study will progress beyond overall impression to content evaluation. Three searches allow for a diversity of search terms while capping the possible resources from search results at 180.

This study adapts Brophy's method by minimizing the importance of accessibility, though it will be noted if a resource was not accessible or some form other than text, such as video. Generally, both Google and JSTOR provide immediately accessible information. Their ability to provide immediate information is a large part of what makes them the two most popular research tools in the humanities. The nature of the two search tools and the goal of the current study discounts the importance of using accessibility as a metric.

⁴⁸Amanda Spink and Tefko Saracevic, "Real Life, Real Users, and Real Needs: A Study and Analysis of User Queries on the Web," *Information Processing & Management* 36, no. 2 (March 1, 2000): 816. Limiting the research to three keyword searches is also supported by Rieger's research showing, "Both students and faculty prefer simple keyword searches while rarely using tools that are designed to increase the precision of search results." Rieger, "Search Engine Use Behavior of Students and Faculty," 12. Furthermore, Regalado also claims, "To the chagrin of librarians and instructors alike, students often perceived any results as search success." Mariana Regalado, "Research Authority in the Age of Google: Equilibrium Sought," *Library Philosophy & Practice* 1, no. 6 (June 1, 2007), http://academicworks.cuny.edu/bc_pubs/1.

⁴⁹Bawden points out that user-oriented evaluation "is usually carried out on a relatively small scale." Bawden, *User-Oriented Evaluation of Information Systems and Services*, 97.

This study adapts Brophy's method by not conducting a failure review of the search results. Since this study is primarily interested in an evaluation of the content of the top search results of each query and not the performance of the search tool to locate specific sources, no attempt will be made to determine whether a resource would be available in the other search tool using different search terms. The value of this information for the current study is negligible if any exists at all. However, though it does not conduct a failure review of the nature conducted by Brophy, the baseline literature survey serves as a type of failure review, as noted above.

Conclusion

Brophy's methodology for his study in the field of library and information studies provides a sound foundation for analyzing Google as an expert in the field of world religions. Though the current study expands and adapts Brophy's method, it retains the core of what Brophy developed to collect relevant search results for the current study's analysis of the contents of those search results.

The current study adopts Brophy's methodology by centering the research around Google, employing a user-oriented approach, working with qualitative evaluation, utilizing case studies, using research-based questions, and evaluating for relevance based upon the criteria developed by Brophy. The current study leverages these aspects of Brophy's methodology with little to no adaptation.

The current study expands Brophy's methodology in that it interprets and analyzes the contents of the search results, conducts a point-by-point comparison of the contents of the search results, and surveys material from the field of world religions in the three areas of Islamic ethics for a baseline. These expansions allow the current study to move beyond the analysis Brophy provides and place the study in the field of world religions.

This study adapts Brophy's methodology by changing the objective from an analysis of Google's ability to find resources to an evaluation of Google's role as an expert in a field. The current study also adapts the methodology by focusing on Google and JSTOR instead of Google and traditional library resources, by using case studies from the same field instead of unrelated fields, by restricting the number of queries, by eliminating the assessment of accessibility, and by not conducting a failure review in the manner of Brophy. These adaptations allow the methodology to fit the current study while maintaining the core of the methodology Brophy developed and employed.

The collection of relevant information for research is paramount. Brophy's methodology provides a data collection tool from within the field of library and information studies. Given Google's prominent role in this field, such a tool is essential. This tool allows the collection of data in the field of world religions to be analyzed as outlined above. Expanding and adapting the methodology demonstrates the usefulness of the tool, but also recognizes the need to adapt the current study to place it within the field of world religions, looking specifically at Islamic ethics. It is this expansion and adaptation that the next two chapters attempt. Chapters 3 and 4 adapt the methodology significantly by providing an important baseline of knowledge, while Chapter 5 expands and adapts the evaluation of the search results.

CHAPTER 3

A SURVEY OF SELECTED PRIMARY SOURCES RELATED TO ISLAMIC ETHICS: THE RIGHTS OF WOMEN IN DIVORCE, *MUDARABA* BANKING, AND JUST WAR

Islam is rooted in the qur'anic revelation to Muhammad and the experiences of his life. The Qur'an is the foundational text in Islam. It is for Muslims "the Book of God. It is the eternal, uncreated, literal word of God, sent down from heaven, revealed one final time to the prophet Muhammad as a guidance for humankind."¹ The words and actions of Muhammad and his companions compose the penultimate authoritative texts of Islam. These words and actions are contained in the *Sunnah*.² This chapter provides an overview of the qur'anic texts related to the rights of women in divorce, *mudaraba* banking, and just war.

The survey of the qur'anic texts is aided by consulting two important hadith collections, *Sahih al-Bukhari* and *Sahih Muslim*.³ *Sahih al-Bukhari* and *Sahih Muslim* are considered the two most authoritative hadith collections in Sunni Islam.⁴ Together they

¹Peter Von Sivers et al., "Islam," in *The Oxford Encyclopedia of the Modern Islamic World*, edited by John L. Esposito, Oxford Islamic Studies Online, n.d., accessed August 13, 2018, <http://www.oxfordislamicstudies.com/article/opr/t236MIW/e0383>.

²According to the *Oxford Dictionary of Islam*, *Sunnah* is "established custom, normative precedent, conduct, and cumulative tradition, typically based on Muhammad's example." "Sunnah," in *Oxford Dictionary of Islam*, edited by John L. Esposito, Oxford Islamic Studies Online, n.d., accessed August 14, 2018, <http://www.oxfordislamicstudies.com/article/opr/t125/e2279>.

³According to the *Oxford Dictionary of Islam* the *hadith* are comprised of the "Report of the words and deeds of Muhammad and other early Muslims; considered an authoritative source of revelation, second only to the Quran (sometimes referred to as sayings of the Prophet).", "Hadith," in *The Oxford Dictionary of Islam*, John L. Esposito, ed., Oxford Islamic Studies Online, n.d., accessed August 14, 2018, <http://www.oxfordislamicstudies.com/article/opr/t125/e758>. All citations from *Bukhari* are from Muhammed Al-Bukhari, *The Translation of the Meanings of Sahih Al-Bukhari: Arabic-English*, trans. Muhammad M. Khan, 9 vols. (Riyadh, Saudi Arabia: Darussalam Publishers and Distributors, 1997). All citations from *Muslim* are from Imam Abul-Husain Muslim, *Sahih Muslim*, trans. Nasiruddin Al-Khattab, 7 vols. (Riyadh, Saudi Arabia: Darussalam Publishers and Distributors, 2007).

⁴"Sahih Al-Bukhari," in *The Oxford Dictionary of Islam*, edited by John L. Esposito, n.d.,

are known as the *al-Sahihayn*.⁵ *Sahih al-Bukhari* is a collection of oral traditions compiled by Muhammad al-Bukhari in the ninth century. *Sahih Muslim* is a collection of oral traditions compiled by Muslim ibn al-Hajjaj in the ninth century. *Sahih al-Bukhari* and *Sahih Muslim* are the “most respected *ḥadith* collections, which have a canonical status second only to the Qur‘an.”⁶

Furthermore, two *tafsir* will be consulted to aid in understanding the meaning of the Qur‘anic texts: the *tafsir* of ‘Ibn Abbas and the *Tafsir al-Jalalayn*.⁷ ‘Ibn Abbas was the cousin of Muhammad, and the work *Tanwir al-Miqbas* is attributed to him.⁸ ‘Ibn Abbas is considered “the foremost authority on Qur‘anic exegesis.”⁹ *Tafsir al-Jalalayn*, a fifteenth century *tafsir*, is considered to be the most popular abridged commentary and is the work of Jalal al-din al-Maḥalli that, after his death, was completed by Jalal al-din al-Suyuṭi, his student.¹⁰ In addition to the two *ḥadith* and two *tafsir*, a more recent work, *The Study Quran*, is used.¹¹

accessed August 13, 2018, <http://www.oxfordislamicstudies.com/article/opr/t125/e2056>.

⁵Asma Afsaruddin, *Contemporary Issues in Islam* (Edinburgh: Edinburgh University Press, 2015), 49.

⁶Ahmad Mousalli and Gordon D. Newby, “Muhammad,” in *The Oxford Encyclopedia of the Islamic World*, Oxford Islamic Studies Online, n.d., accessed August 13, 2018, <http://www.oxfordislamicstudies.com/article/opr/t236/e0550>. “The collection of [al-Bukhari] is the most highly regarded work of *ḥadith* literature.” Leaman also writes that “six works became recognized as authoritative in Sunni Islam, especially the *Sahih al-Bukhari* and the *Sahih Muslim*. The adjective *Sahih* actually means accredited.” Oliver Leaman, “*Ḥadith*,” in *The Qur‘an: An Encyclopedia*, edited by Oliver Leaman, (New York: Routledge, December 16, 2005), 229–30.

⁷According to the *Oxford Dictionary of Islam*, *tafsir* is “Qur‘anic exegesis. Elucidation, explanation, interpretation, and commentary carried out in order to understand the Quran and its commandments.” “*Tafsir*,” in *The Oxford Dictionary of Islam*, edited by John L. Esposito, Oxford Islamic Studies Online, n.d., accessed August 14, 2018, <http://www.oxfordislamicstudies.com/article/opr/t125/e2298>. *Tafsir* “is a noun derived from a verb . . . meaning explanation, exposition, elucidation, explication, interpretation and commentary.” Adnan Demircan and Atay Rifat, “*Tafsir* in Early Islam,” in *The Qur‘an: An Encyclopedia*, Leaman, 624.

⁸Mohamad Nasrin, “Qur‘anic Exegesis in Southeast Asia,” in *Oxford Islamic Studies Online*, n.d., accessed August 13, 2018, <http://www.oxfordislamicstudies.com/article/opr/t343/e0017>.

⁹Mahmoud Ayoub, *The Qur‘an and Its Interpreters* (Albany, NY: SUNY Press, 1984), 1:27.

¹⁰Mahmoud M. Ayoub et al., “Qur‘an,” in *The Oxford Encyclopedia of the Islamic World*, Oxford Islamic Studies Online, n.d., accessed August 13, 2018, <http://www.oxfordislamicstudies.com/article/opr/t236/e0661>.

¹¹Seyyed Hossein Nasr et al., eds., *The Study Quran: A New Translation and Commentary*

This survey intentionally delimits the primary literature referenced to these texts to begin to build the baseline from which the second-level evaluation of Google and JSTOR will be completed. This chapter, together with the literature survey of the next chapter, provides this baseline.

The Rights of Women in Divorce

This section provides an overview of selected qur'anic texts related to the rights of women in divorce.¹² The interaction with the qur'anic texts and other primary sources related to those texts shed light on the rights of women in divorce in the primary literature.

The Qur'an and the hadith allow divorce but "view it as a last resort."¹³ The hadith make clear that a divorce must be stated to take effect. A divorce only thought and not pronounced is not considered a divorce. Bukhari recounts, "Narrated Abu Huraira: The Prophet said, 'Allah has forgiven my followers the evil thoughts that occur to their minds, as long as such thoughts are not put into action or uttered.' And Qatada said, 'If someone divorces his wife just in his mind, such an unuttered divorce has no effect'" (*Bukhari* 7:63:194).

(New York: HarperOne, 2015). Inclusion of this source should not be perceived as granting the source authoritative status within the Muslim community. The source is included due to its attempt to bring together over forty commentators. The source is not without its critics, though the reviewers, like David S. Powers, typically take issue with specifics, such as the translation of a word or commentary on a person or event (such as Zayd), but generally conclude that, as Powers does, *The Study Quran* will "serve as a key reference work and resource for scholars and students, specialists and non-specialists, Muslims and non-Muslims, for years to come." David S. Powers, "Review of The Study Quran," *Review of Qur'anic Research* 4, no. 6 (2018).

¹²The qur'anic texts examined in this section were selected from the "divorce" entry in the index to Droge's Qur'an. Those texts deemed relevant to the rights of women in divorce were selected. Droge's index contains the following texts: 2:228-32, 236, 241; 33:49; 65:1-7; 58:1-4; and 66:5. A. J. Droge, trans., *The Qur'an: A New Annotated Translation*, Comparative Islamic Studies (Bristol, CT: Equinox Publishing, 2013), 467.

¹³"Divorce," in *The Islamic World: Past and Present*, edited by John L. Esposito, Oxford Islamic Studies Online, n.d., accessed August 13, 2018, <http://www.oxfordislamicstudies.com/article/opr/t243/e92>.

Arbitration

Because of the seriousness of divorce, the Qur'an provides a process for preserving the marriage, including appointing arbiters, stating, "If you fear a breach between the two, send an arbiter from his family and an arbiter from her family. If they both wish to set (things) right, God will effect a reconciliation between the two. Surely God is knowing, aware" (Qura'an 4:35). *Tafsir al-Jalalayn* states, "The two arbiters do their best and bid the one guilty of the injustice to desist or they suggest separation if they see fit" (*Tafsir al-Jalalayn* 4:35n). According to *The Study Quran*, "The arbiters are charged with determining, if possible, which spouse is at fault and recommending either terms of reconciliation or a mutually agreed-upon divorce" (*The Study Quran* 4:35n).

Reconciliation

The Qur'an even desires reconciliation after the divorce, allowing the couple to be married after the first two divorces, stating, "Their husbands have a better right to take them back in that (period), if they wish to set (things) right" (Qur'an 2:228). According to *The Study Quran*, "Husbands, being the party who initiated the divorce, retain the right to resume the marriage before the waiting period is over" (*The Study Quran* 2:228n). In another text concerning divorce, the Qur'an states, "When they reach their term, either retain them rightfully, or part from them rightfully" (Qur'an 65:2). The couple may be reconciled because, as 'Ibn Abbas notes, Allah may bring back the "love between the husband and wife" ('Ibn Abbas 65:1n). *The Study Quran* notes "retain them rightfully" should come from a "a genuine desire to continue the marriage rather than harming them by taking them back just before the waiting period is over and then beginning the divorce process again" (*The Study Quran* 65:2n). The Qur'an instructs that couples should not be prevented from reuniting after one or two divorces (Qur'an 2:232). Bukhari provides the context for the qur'anic text,

Narrated Al-Hasan: concerning the Verse: "Do not prevent them." (2.232) Ma'qil bin Yasar told me that it was revealed in his connection. He said, "I married my sister to a man and he divorced her, and when her days of 'Idda (three menstrual

periods) were over, the man came again and asked for her hand, but I said to him, “I married her to you and made her your bed (your wife) and favored you with her, but you divorced her. Now you come to ask for her hand again? No, by Allah, she will never go back to you (again)!” That man was not a bad man and his wife wanted to go back to him. So Allah revealed this Verse: “Do not prevent them.” (2.232) So I said, “Now I will do it (let her go back to him), O Allah's Apostle.” So he married her to him again. (*Bukhari* 7:62:61)

Irreconcilable Divorce

The primary literature notes the couple cannot reunite after the third instance of divorce. The couple can remarry only if the wife marries and has sexual relations with another man first, stating “If he divorces her [the third time], she is not permitted to him (to marry) after that, until she marries another husband” (Qur’an 2:230). *The Study Quran* states, “The prohibition against the couple remarrying each other after the third divorce declaration unless and until the woman marries and divorces another man is an extension of the logic of limiting declarative divorce” (*The Study Quran* 2:230n). *Tafsir al-Jalalayn* provides clarity on what it means to remarry, writing, “She shall not be lawful to him after the third utterance of divorce until she marries another husband who has sexual intercourse with her” (*Tafsir al-Jalalayn* 2:230n). ‘Ibn Abbas states, “This was revealed about ‘Abd al-Rahman Ibn al-Zubayr” (‘Ibn Abbas 2:230n). The account ‘Ibn Abbas references is included by Bukhari,

The wife of Rifa’a Al-Qurazi came to the Prophet and said, “I was Rifa’a’s wife, but he divorced me and it was a final irrevocable divorce. Then I married Abdur Rahman bin Az-Zubair but he is impotent.” The Prophet asked her “Do you want to remarry Rifa’a? You cannot unless you had a complete sexual relation with your present husband.” Abu Bakr was sitting with Allah’s Apostle and Khalid bin Said bin Al-‘As was at the door waiting to be admitted. He said, “O Abu Bakr! Do you hear what this (woman) is revealing frankly before the Prophet?” (*Bukahari* 3:48:807)¹⁴

¹⁴Muslim also provides the same account, “Aisha (Allah he pleased with her) reported: There came the wife of Rifa’a to Allah's Apostle (may peace be upon him) and said: I was married to Rifa’a but he divorced me, making my divorce irrevocable. Afterwards I married Abd al-Rahman b. al-Zubair, but all he possesses is like the fringe of a garment (i.e. he is sexually weak). Thereupon Allah's Messenger (may peace be upon him) smiled, and said: Do you wish to return to Rifa’a. (You) cannot (do it) until you have tasted his sweetness and he (‘Abd al-Rahman) has tasted your sweetness. Abu Bakr was at that time near him (the Holy Prophet) and Khalid (b. Sa’id) was at the door waiting for the permission to be granted to him to enter), He (Khalid) said: Abu Bakr, do you hear what she is saying loudly in the presence of Allah's Messenger (may peace be upon him)?” *Muslim* 008:3354.

The hadith provide clarity around the question of irrevocable divorces. A hadith from Muslim notes that three pronouncements of divorce at one time were considered one divorce until the time of Umar, who stipulated that three pronouncements of divorce at one time would be treated as three divorces. Muslim writes,

Ibn ‘Abbas (Allah be pleased with them) reported that the (pronouncement) of three divorces during the lifetime of Allah’s Messenger (may peace be upon him) and that of Abu Bakr and two years of the caliphate of Umar (Allah be pleased with him) (was treated) as one. But Umar b. Khattab (Allah be pleased with him) said: Verily the people have begun to hasten in the matter in which they are required to observe respite. So if we had imposed this upon them, and he imposed it upon them. (*Muslim* 009:3491)

***Iddah* Period**

The Qur’an provides a three menstrual cycle waiting period (*iddah*)¹⁵ to ensure the wife is not pregnant and to allow for reconciliation, stating, “(Let) the divorced women wait by themselves for three periods. It is not permitted to them to conceal what God has created in their wombs, if they believe in God and the Last Day” (Qur’an 2:228). ‘Ibn Abbas makes it clear it is “three menstruation periods” (‘Ibn Abbas 2:228n).¹⁶ Furthermore, the hadith specify when a husband can and cannot divorce his wife in relation to the woman’s cycle. Muslim recounts,

Ibn ‘Umar (Allah be pleased with them) reported that he divorced his wife while she was menstruating during the lifetime of Allah’s Messenger (may peace be upon him). ‘Umar b. Khattab (Allah be pleased with him) asked Allah’s Messenger (may peace be upon him) about it, whereupon Allah’s Messenger (may peace be upon him) said: Command him (‘Abdullah b. ‘Umar) to take her back (and keep her) and

¹⁵*The Oxford Dictionary of Islam* describes the *iddah* as “The waiting period a woman must observe after the death of her spouse or a divorce, during which she may not remarry, based on the Quran 2:228 and 2:238. The waiting period after a divorce is three months, and after the death of a spouse it is four months and ten days. Any pregnancy discovered during this period is assumed to be the responsibility of the former husband.” “*Iddah*,” in *The Oxford Dictionary of Islam*, edited by John L. Esposito, Oxford Islamic Studies Online, n.d., accessed August 14, 2018, <http://www.oxfordislamicstudies.com/article/opr/t125/e971>.

¹⁶*Tafsire al-Jalalayn* provides further information here, writing, “This stipulation applies to those who have been sexually penetrated but not to those otherwise on account of His saying there shall be no waiting period for you to reckon against them Q. 3349. The waiting period for immature or menopausal women is three months; pregnant women on the other hand must wait until they give birth as stated in the sarat al-Talaq Q. 654 while slavegirls must wait two months according to the Sunna.” *Tafsir al-Jalalayn* 2:228n.

pronounce divorce when she is purified and she again enters the period of menstruation and she is again purified (after passing the period of menses), and then if he so desires he may keep her and if he desires divorce her (finally) before touching her (without having an intercourse with her), for that is the period of waiting ('Idda) which God, the Exalted and Glorious, has commanded for the divorce of women. (*Muslim* 009:3473)

The Wife Ransoming Herself

While the husband can merely pronounce divorce, the Qur'an does not appear to give the wife equal access to this type of divorce.¹⁷ However, it mentions the wife ransoming herself, stating "But if you fear that they cannot maintain the limits (set by) God, (there is) no blame on either of them in what she ransoms (herself) with" (Qur'an 2:229). *The Study Quran* notes, "In the other main type of divorce, called *khul'* divorce, the wife initiates the divorce and can give a ransom as part of obtaining the divorce" (*The Study Quran* 2:229n). 'Ibn Abbas claims, "This verse was revealed about Thabit Ibn Qays Ibn Shammās whose wife Jamilah was the daughter of 'Abdullah Ibn Ubayy Ibn Salul, chief of the hypocrites. This woman ransomed her divorce from her husband by giving him back what he gave her as dowry" ('Ibn Abbas 2:229n). Bukhari provides the account 'Ibn Abbas references,

Narrated Ibn 'Abbas: The wife of Thabit bin Qais came to the Prophet and said, "O Allah's Apostle! I do not blame Thabit for defects in his character or his religion, but I, being a Muslim, dislike to behave in un-Islamic manner (if I remain with him)." On that Allah's Apostle said (to her), "Will you give back the garden which your husband has given you (as Mahr)?" She said, "Yes." Then the Prophet said to Thabit, "O Thabit! Accept your garden, and divorce her once." (*Bukhari* 7:63197)

¹⁷Masud claims that conservative groups argue, "There is no clear text in the Qur'an and Hadith providing a wife the right to divorce her husband. The Qur'an is clear that men have authority over women (4:33) and the right of divorce belongs only to men as the right to contract marriage belongs to men (2:237). The Qur'an allows women only *khul'* type of divorce but on under certain conditions." Muhammad Khalid Masud, "Interpreting Divorce Laws in Pakistan: Debates on Shari'a and Gender Equality in 2008," in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 47. Motzki writes, "According to the Qur'an, divorce is a means by which the man purposely bring his marriage to an end." Harald Motzki, "Marriage and Divorce," in *Encyclopaedia of the Quran*, ed. Jane Dammen McAuliffe, (Boston: Brill Academic Publishers, 2003), 3:279.

Therefore, though the wife does not have equal access to divorce through merely pronouncing it, as is the prerogative of the husband, the wife is given the ability to ransom herself out of her marriage using her dowry.¹⁸

Support of the Divorced Woman

The Qur'an allows for support for a wife during her *iddah* period and following that, if pregnant. For a pregnant woman, the *iddah* period is the course of the pregnancy, "(As for) those who are pregnant, their term (is) when they deliver what they bear" (Qur'an 65:4). Ibn Abbas makes it clear that the term referenced here is "their waiting period" ('Ibn Abbas 65:4n). The Qur'an goes on to outline what support during the *iddah* period looks like, stating, "Let them reside where you are residing, according to your means, and do not treat them harshly, so that you cause distress for them. If they are pregnant, support them until they deliver what they bear. If they nurse (the child) for you, give them their payment, and consult together rightfully" (Qur'an 65:6). Ibn Abbas gives insight about the harsh treatment, stating, "Do not harass the women you divorce regarding expenditure and lodgement" ('Ibn Abbas 65:6n). *The Study Quran* states, "During the prescribed waiting period, men are to continue to provide for their wives as they provided for them while married" (*The Study Quran* 65:6n). Concerning the support of divorced women, the Qur'an states, "For divorced women (there is) a rightful provision - (it is) an obligation on the ones who guard (themselves)" (Qur'an 2:241). Ibn Abbas states concerning the obligation to the righteous person that "it is in surplus to the dowry and done out of generosity" ('Ibn Abbas 2:241n). *Tafsir al-Jalalayn* makes it clear the obligation concerns those who fear God (*Tafsir al-Jalalayn* 2:241n). Bukhari, by recounting the story of Fatima, provides further information on the support of a divorced

¹⁸According to *The Study Quran*, "Opinions vary over the upper limit to be negotiated. Some say it should not exceed the amount of the bridewealth. Others say it can be any amount, since no figure is given in this verse [2:229]. But even those who allow the amount to exceed the bridewealth think that it is shameful and reprehensible to accept it." *The Study Quran* 2:229n.

woman: “Narrated Al-Qasim: Aisha said, ‘What is wrong with Fatima? Why doesn't she fear Allah?’ by saying that a divorced lady is not entitled to be provided with residence and sustenance (by her husband)” (*Bukhari* 7:63:243).

Summary

The overview of the selected qur’anic texts provides information concerning the rights of women in divorce. This survey identifies the pronouncing of divorce, the arbitration process, the ability to reconcile, irreconcilable divorce, the *iddah* period, the wife ransoming herself, and the support of the divorce woman as areas covered by the primary literature.

Mudaraba Banking

This section summarizes and provides an overview of selected qur’anic texts related to *mudaraba* banking within Islamic finance. The term *mudaraba* is not found in the Qur’an. However, the primary literature covers *riba*, the foundational prohibition for Islamic finance.¹⁹ The survey of the selected qur’anic texts and other primary sources related to those texts provides an overview of *riba* in the primary literature.²⁰

Prohibition

The Qur’an directly prohibits *riba*, stating, “Those who devour usury will not stand, except as one stands whom Satan has overthrown by (his) touch. That is because they have said, ‘Trade is just like usury,’ though God has permitted trade and forbidden usury” (*Bukhari* 7:63:243). *Tafsir al-Jalalayn* provides commentary here, stating that

¹⁹“Riba is forbidden by the Quran, the Sunna, and the consensus of the jurists.” Wahba Al Zuhayli, “The Juridical Meaning of Riba,” in *Interest in Islamic Economics: Understanding Riba*, ed. Abdulkader S. Thomas (New York: Routledge, 2006), 26.

²⁰The qur’anic texts examined in this section were taken from the section on *riba*-related verses in the chapter “*Riba* and Interest” in Saeed’s work. Saeed identifies the following texts as being revealed about *riba*: 2:275-77; 3:130-34; and 30:37-39. Abdullah Saeed, *Interpreting the Qur’an: Towards a Contemporary Approach* (New York: Routledge, 2005), 160–63.

usury “is an excess levied in transactions of money or foodstuffs either on their value or on credit” (*Tafsir al-Jalalayn* 2:275n). ‘Ibn Abbas states usury is “the increase at the beginning of a transaction when the sale is deferred” (‘Ibn Abbas 2:275n).

The hadith provide further direct prophetic prohibitions against *riba*.

Narrated ‘Aun bin Abu Juhafa: My father bought a slave who practiced the profession of cupping. (My father broke the slave’s instruments of cupping). I asked my father why he had done so. He replied, “The Prophet forbade the acceptance of the price of a dog or blood, and also forbade the profession of tattooing, getting tattooed and receiving or giving *Riba*, (usury), and cursed the picture-makers.” (Bukhari 3:34:299)

Bukhari also contains a hadith noting the significance of the prohibition against *riba* by placing it in the seven destructive sins.

Narrated Abu Huraira: The Prophet said, “Avoid the seven great destructive sins.” The people enquire, “O Allah’s Apostle! What are they?” He said, “To join others in worship along with Allah, to practice sorcery, to kill the life which Allah has forbidden except for a just cause, (according to Islamic law), to eat up *Riba* (usury), to eat up an orphan’s wealth, to give back to the enemy and fleeing from the battlefield at the time of fighting, and to accuse, chaste women, who never even think of anything touching chastity and are good believers.” (Bukhari 4:51:28)

Punishment

Though the Qur’an and other prophetic texts prohibit *riba*, the Qur’an does not provide a concise definition of *riba*.²¹ Surah two gives warnings about accepting *riba* and claims punishment awaits those who accept *riba*: “You who believe! Guard (yourselves) against God, and give up the usury that is (still) outstanding, if you are believers. If you do not, be on notice of war from God and His messenger” (Qur’an 2:278-279). According to ‘Ibn Abbas, this text encourages a group to give up any claims to *riba* owed them by the Banu Makhzum (‘Ibn Abbas 2:278n).²² *Tafsir al-Jalalayn* notes, “this was revealed

²¹“[*Riba*] is one of the most complex and multifaceted aspects of Islamic Law.” *The Study Quran* 2:275n.

²²According to Jonathan Brown, the Banu Makhzum were one of the three most powerful clans within the Quraysh, the most wealthy and powerful tribe in Mecca. Jonathan A. C. Brown, *Muhammad: A Very Short Introduction* (New York: Oxford University Press, 2011), 6.

when some of the Companions after the prohibition wanted to reclaim some of the usury from before” (*Tafsir al-Jalalayn* 2:278n). ‘Ibn Abbas notes the significance of the threat of war from God and His messenger, noting those who disobey this command should “be ready for a torment from God in the Hereafter by means of the Fire and its chastisement and also be ready for the sword from His Messenger in the life of this world” (‘Ibn Abbas 2:279n). *The Study Quran* claims “To practice *riba* can be a cause for taking up arms against violators”(The Study Quran 2:278-279n).

The hadith expound upon the punishment of those who accept *riba*. Bukhari recounts,

Narrated Samura bin Jundab: Whenever the Prophet finished the (morning) prayer, he would face us and ask, “Who amongst you had a dream last night?” So if anyone had seen a dream he would narrate it. The Prophet would say: “Masha’a-lla” (An Arabic maxim meaning literally, ‘What Allah wished,’ and it indicates a good omen.) One day, he asked us whether anyone of us had seen a dream. We replied in the negative. The Prophet said, “But I had seen (a dream) last night that two men came to me, caught hold of my hands, and took me to the Sacred Land (Jerusalem). There, I saw a person sitting and another standing with an iron hook in his hand pushing it inside the mouth of the former till it reached the jawbone, and then tore off one side of his cheek, and then did the same with the other side; in the meantime the first side of his cheek became normal again and then he repeated the same operation again. I said, ‘What is this?’ They told me to proceed on and we went on till we came to a man. . . . So we proceeded on till we reached a river of blood and a man was in it, and another man was standing at its bank with stones in front of him, facing the man standing in the river. Whenever the man in the river wanted to come out, the other one threw a stone in his mouth and caused him to retreat to his original position; and so whenever he wanted to come out the other would throw a stone in his mouth, and he would retreat to his original position. I asked, ‘What is this?’ They told me to proceed on and we did so till . . . I said to them (i.e. my two companions), ‘You have made me ramble all the night. Tell me all about that I have seen.’ They said, ‘Yes. As for the one whose cheek you saw being torn away, he was a liar and he used to tell lies, and the people would report those lies on his authority till they spread all over the world. So, he will be punished like that till the Day of Resurrection. . . . And those you saw in the river of blood were those dealing in *Riba* (usury). . . .” (Bukahri 2:23:468)

Muslim recounts “Abdullah (b. Mas’ud) (Allah be pleased with him) said that Allah’s Messenger (may peace be upon him) cursed the one who accepted interest and the one who paid it. I asked about the one who recorded it, and two witnesses to it. He (the narrator) said: We narrate what we have heard” (Muslim 010:3880).

Descriptions of *Riba*

While the Qur'an does not define *riba*, it does specifically mention doubling and redoubling of debts, "You who believe! Do not devour usury, (making it) double and redouble, but guard (yourselves) against God, so that you may prosper" (Qur'an 3:130). According to 'Ibn Abbas' comments on the text, this doubling occurred at the time of repayment ('Ibn Abbas 3:130n). *Tafsir al-Jalalayn* notes the reference is to increasing the loan to be repaid when the loan payment is due or intentionally delaying payment of the loan to increase the amount due (*Tafsir al-Jalalayn* 3:130n).

The Qur'an contrasts *riba* with charity: "Whatever you give in usury, in order that it may increase on the wealth of the people, does not increase with God, but what you give in alms, desiring the face of God – those are the ones who gain double" (Qur'an 30:39). 'Ibn Abbas says this text refers to those who "increase your wealth at the expense of people's wealth" ('Ibn Abbas 30:39n). *Tafsir al-Jalalayn* provides a longer definition here, writing of usury, "such as when something is given as a gift or a present for the purpose of demanding more in return; if the practice of usury *riba* is referred to by the same noun denoting that illicit 'extra' *ziyada* requested in the financial transaction" (*Tafsir al-Jalalayn* 30:39n).

The hadith provide ways to avoid *riba*. In a text from Bukhari, a kind for kind transaction is the acceptable way to avoid *riba*.

Narrated 'Umar bin Al-Khattab: Allah's Apostle said, "The bartering of gold for silver is *Riba*, (usury), except if it is from hand to hand and equal in amount, and wheat grain for wheat grain is usury except if it is from hand to hand and equal in amount, and dates for dates is usury except if it is from hand to hand and equal in amount, and barley for barley is usury except if it is from hand to hand and equal in amount." (Bukhari 3:34:344)

Muslim includes a similar account, noting the kind for kind transaction must also include the same quantity of goods and must not sell something to be obtained in the future.

Abu Salid al-Khudri reported Allah's Messenger (may peace be upon him) as saying: Do not sell gold for gold, except like for like, and don't increase something of it upon something; and don't sell silver unless like for like, and don't increase

some thing of it upon something, and do not sell for ready money something to be given later. (Muslim 010:3845)

Furthermore, the state of the item must be the same, such as prohibiting the trade of fresh dates for dried dates according to an account in Muslim.

Bashair b. Yasir reported on the authority of some of the Companions of Allah's Messenger (may peace be upon him) among the members of his family among whom one was Sahl b. Abu Hathma that Allah's Messenger (may peace be upon him) forbade buying of fresh dates against dry dates and that it is Riba and this is Muzabana, but he made an exemption of 'ariyya (donations) of a tree or two in which case the members of a family sell dry dates and buy fresh dates for eating them. (Muslim 010:3687)

Another way to avoid *riba* is by selling an item for gold and then buying another item. An account from Bukhari, demonstrates this.

Narrated Abu Said Al-Khudri and Abu Huraira: Allah's Apostle employed someone as a governor at Khaibar. When the man came to Medina, he brought with him dates called Janib. The Prophet asked him, "Are all the dates of Khaibar of this kind?" The man replied, "(No), we exchange two Sa's of bad dates for one Sa of this kind of dates (i.e. Janib), or exchange three Sa's for two." On that, the Prophet said, "Don't do so, as it is a kind of usury (*Riba*) but sell the dates of inferior quality for money, and then buy Janib with the money." The Prophet said the same thing about dates sold by weight. (Bukhari 3:38:499)

The sale of gold when payment is to be made in the future is also considered *riba*, according to an account in Muslim.

Abu Minhal reported: My partner sold silver to be paid in the (Hajj) season or (in the days of) Hajj. He (my partner) came to me and informed me, and I said to him: Such transaction is not desirable. He said: I sold it in the market (on loan) but nobody objected to this. I went to al-Bara' b. 'Azib and asked him, and he said: Allah's Apostle (may peace be upon him) came to Medina and we made such transaction, whereupon he said: In case the payment is made on the spot, there is no harm in it, and in case (it is sold) on loan, it is usury. You better go to Zaid b. Arqam, for he is a greater trader than I; so I went to him and asked him, and he said like it. (Muslim 010:3859)

An account in Bukhari makes it clear that one must not take a gift from a debtor when operating in a land where *riba* is lawful as the gift would be considered *riba*.

Narrated Abu Burda: When I came to Medina. I met Abdullah bin Salam. He said, "Will you come to me so that I may serve you with Sawiq (i.e. powdered barley) and dates, and let you enter a (blessed) house that in which the Prophet entered?" Then he added, "You are in a country where the practice of *Riba* (i.e. usury) is prevalent; so if somebody owes you something and he sends you a present of a load

of chopped straw or a load of barley or a load of provender then do not take it, as it is *Riba*.” (Bukhari 5:58:159)

Lack of Definition

Though the hadith provide examples of *riba*, emphasizing kind for kind transactions and the need to sell one kind for money before buying another kind, like the Qur’an, they do not provide a precise definition of *riba*.²³ In fact, one hadith pertains to Umar wishing Muhammad had given more clarity concerning *riba*.

Narrated Ibn ‘Umar: ‘Umar delivered a sermon on the pulpit of Allah’s Apostle, saying, “Alcoholic drinks were prohibited by Divine Order, and these drinks used to be prepared from five things, i.e., grapes, dates, wheat, barley and honey. Alcoholic drink is that, that disturbs the mind.” Umar added, “I wish Allah's Apostle had not left us before he had given us definite verdicts concerning three matters, i.e., how much a grandfather may inherit (of his grandson), the inheritance of Al-Kalala (the deceased person among whose heirs there is no father or son), and various types of Riba (usury).” (Bukhari 7:69:453)

Summary

The overview of the selected Qur’anic texts provides information concerning *mudaraba* banking. While the texts do not use the term *mudaraba*, they identify the central provision of Islamic banking, the avoidance of *riba*. This survey outlined the prohibition, identified the punishment for those who collect *riba*, noted descriptions of *riba*, and identified the lack of a definition of *riba* as covered by the primary literature.

Just War

This section provides an overview of selected Qur’anic texts related to the concept of just war within Islam. The summary of the selected Qur’anic texts and other primary sources related to those texts sheds light on the concept of just war in the primary literature.²⁴

²³*The Study Quran* states the “passage dealing with *riba* was one of the last or even the last to be revealed. . . . This fact is sometimes cited as a reason for the relative paucity of *ahadith* regarding the actual workings of *riba*, especially when considering how intricate and subtle the laws on *riba* and related questions would come to be.” *The Study Quran* 2:275-281n.

²⁴The Qur’anic texts examined in this section were selected from the “fighting” and “killing” entries in the index to Droge’s Qur’an. Those texts deemed relevant to just war were selected. Droge’s

Fighting and Peace

On the surface, the Qur'an appears to paint contradictory pictures of fighting.²⁵ The Qur'an makes statements claiming there is no compulsion in religion.²⁶ In contrast to some peaceful verses, there are texts in which Muslims are commanded to kill nonbelievers, unless they decide to follow Allah. One such example is: "Then, when the sacred months have passed, kill the idolaters wherever you find them, and seize them, and besiege them, and sit (in wait) for them at every place of ambush. If they turn (in repentance), and observe the prayer and give the alms, let them go their way. Surely God is forgiving, compassionate" (Qur'an 9:5). *The Study Quran* notes different interpretations exist for why the idolaters needed to be fought, including that all treaties are now cancelled, that they should be fought because of their status as idolaters, and that they should be fought because they had and would continue to oppose the Muslims (*The Study Quran* 9:5n).

Texts, such as, "Fight those who do not believe in God or the Last Day, and do not forbid what God and His messenger have forbidden, and do not practice the religion of truth – from among those who have been given the Book – until they pay tribute out of hand, and they are disgraced," (Qur'an 9:29) appear to make it clear even those referenced in Q2:256 should be fought. 'Ibn Abbas states Q9:29 is directed at "the Jews

entry for "fighting" contains the following texts: 2:154, 190, 216-218, 244, 246; 3:142, 157, 169, 195; 4:71, 95; 5:35, 54; 8:39, 65, 72, 74; 9:12-14, 19-20, 24, 29-31, 36, 38, 41-42, 49, 73, 86, 123; 22:39-40, 87; 47:4-6, 20; 49:15; 61:11; and 66:9. Droge's entry for "killing" contains the following texts: 4:29, 89, 92-93; 5:32; 6:137, 140; 9:5; 17:33; and 60:12. Droge, *The Qur'an*, 468.

²⁵The Qur'an states there is no compulsion in religion (Q2:256). 'Ibn Abbas states, concerning this text, that "no one from among the people of the Book and the Magians should be coerced to believe in the divine Oneness of Allah after the Arabs' embrace of Islam." 'Ibn Abbas note on 2:256. The Qur'an also contains a text in which unbelievers are told to worship what they worship and Muslims will worship Allah (Q109:1-6). Concerning this text, 'Ibn Abbas claims, "The verses of fighting then abrogated this and the Prophet (pbuh) did fight them." 'Ibn Abbas 109:6n. *Tafsir al-Jalalayn* supports this assertion, writing, "this was revealed before he was commanded to wage war against the idolaters." *Tafsir al-Jalalayn* 109:6n. In essence, the peaceful texts seem to have been abrogated (*naskh*) by later warlike texts according to *Tafsir al-Jalalayn*.

²⁶Qur'an 2:256 states, "(There is) no compulsion in religion. The right (course) has become clearly distinguished from error. Whoever disbelieves in *al-Taghut*, and believes in God, has grasped the firmest handle, (which) does not break. God is hearing, knowing."

and Christians” (‘Ibn Abbas 9:29n). Other texts, such as “Say to those who disbelieve (that) if they stop, whatever is already past will be forgiven them, but if they return, the customary way of those of old has already passed away. Fight them until (there) is no persecution and the religion – all of it – (belongs) to God. If they stop – surely God sees what they do,” (Qur’an 8:38-39) can be interpreted to mean fighting will cease only when the unbelievers believe. Concerning Q8:38-39, ‘Ibn Abbas implies the disbelievers should be fought until “disbelief, idolatry, idol worship and fighting against Muhammad” cease (‘Ibn Abbas 8:38n). *The Study Quran* notes, “This verse orders the believers to fight until this strife or trial is gone” (*The Study Quran* 8:39n). Later in that same surah, Muhammad is instructed to “Urge on the believers to the fighting” (Qur’an 8:65). ‘Ibn Abbas makes it clear this passage was intended for the Battle of Badr (Ibn Abbas 8:65n).²⁷

Fight in the Way of God

The Qur’an states the believers are to fight in the way of God (Qur’an 2:244). They are to fight the fight due God (Qur’an 22:78). Those who die fighting will enter “the Garden” (Qur’an 47:6). The hadith note that those who fight in the way of God receive a great reward. Bukhari recounts,

Narrated Abu Huraira: The Prophet said, “The person who participates in (Holy battles) in Allah's cause and nothing compels him to do so except belief in Allah and His Apostles, will be recompensed by Allah either with a reward, or booty (if he survives) or will be admitted to Paradise (if he is killed in the battle as a martyr). Had I not found it difficult for my followers, then I would not remain behind any sariya going for Jihad and I would have loved to be martyred in Allah's cause and

²⁷According to Hodaya Ziad, “The Battle of Badr took place in the month of Ramadan in 634 (AH 2) and involved a Meccan caravan returning from Syria, led by Abu Sufyan ibn Harb, chief of Banu Umayyah. . . . Badr strengthened Muhammad's authority within his community, and signaled to surrounding tribes that a new regional power had appeared. Over time, Badr took on cosmic significance as the Muslim community's coming-of-age and proof of its blessed status in the eyes of God, and veterans of the battle were granted special status in early Islamic narratives and in Muslim memory.” Hodaya Ziad, “Badr, Battle Of,” in *The Oxford Encyclopedia of the Islamic World*, Oxford Islamic Studies Online, n.d., accessed August 27, 2018, <http://www.oxfordislamicstudies.com/article/opr/t236/e1012>.

then made alive, and then martyred and then made alive, and then again martyred in His cause.” (Bukhari 1:2:35)

Muslim also notes the reward offered.

Abu Dharr reported: I said: Messenger of Allah, which of the deeds is the best? He (the Holy Prophet) replied: Belief in Allah and Jihad in His cause. I again asked: Who is the slave whose emancipation is the best? He (the Holy Prophet) replied: One who is valuable for his master and whose price is high. I said: If I can't afford to do it? He (the Holy Prophet) replied: Help an artisan or make anything for the unskilled (labourer). I (Abu Dharr) said: Messenger of Allah, you see that I am helpless in doing some of these deeds. He (the Holy Prophet) replied: Desist from doing mischief to the people. That is the charity of your person on your behalf. (Muslim 001:0149)

Where Fighting Can Occur

There are limits to when and where fighting was to occur, though these limits could be broken when attacked. The Qur'an states,

Fight in the way of God against those who fight against you, but do not commit aggression. Surely God does not love the aggressors. And kill them wherever you come upon them, and expel them from where they expelled you. . . . But do not fight them near the Sacred Mosque until they fight you there. If they fight you, kill them – such is the payment for the disbelievers. But if they stop (fighting) – surely God is forgiving, compassionate. (Qur'an 2:190-192)

‘Ibn Abbas makes it clear this text refers to fighting against those who start fights and that fighting can even occur in the sacred area (Ibn Abbas 2:190n).²⁸ *The Study Quran* notes “that when the Makkans heard that Muslims had been forbidden to fight during the sacred months, they thought they could take advantage of their quiescence” (*The Study Quran* 2:190-194n). While the Muslims were instructed to not fight during the sacred months, they could defend themselves during that time.²⁹

²⁸*Tafsir al-Jalalayn* states concerning the occasion of the text that, “after the Prophet was prevented from visiting the House in the year of the battle of Hudaibiyya he made a pact with the disbelievers that he would be allowed to return the following year at which time they would vacate Mecca for three days. Having prepared to depart for the Visitation ‘umra he and the believers were concerned that Quraysh would not keep to the agreement and instigate fighting. The Muslims were averse to becoming engaged in fighting while in a state of pilgrimage inviolability in the Sacred Enclosure al-haram and during the sacred months and so the following was revealed.” *Tafsir al-Jalalayn* 2:190n.

²⁹Qur'an 2:216-218 also address fighting during the sacred month. It acknowledges the seriousness of fighting during that time, but also recognizes that not being able to worship is more serious.

Defensive Fighting

The Qur'an includes texts concerning defensive fighting, such as "Permission is given to those who fight because they have been done evil . . ." (Quran 22:39).³⁰ Ibn 'Abbas says of Q22:39-40 that the Muslims were told to fight because they had been wronged by the Meccans (Ibn Abbas 22:39n). *The Study Quran* claims, "This is the verse most frequently thought to be the first in permitting the believers to use force to defend themselves" (*The Study Quran* 22:39n). The reason cited by the text for the fighting is the wrong done to them.

Broken Treaties

The Qur'an allows for fighting against those who have brokered a treaty and then broken the treaty. It states, "But if they break their oaths, after their treaty, and vilify your religion, fight the leaders of disbelief. . . . So that they stop (fighting)" (Qur'an 9:12). 'Ibn Abbas identifies the leaders in the text as "Abu Sufyan and his hosts" ('Ibn Abbas 9:12n).³¹ *The Study Quran* notes two ways this text has been interpreted. Some read the text as giving permission for fighting for either breaking the treaty or vilifying the religion, while others believe just vilifying the religion is not enough to precipitate fighting if the treaty is kept (*The Study Quran* 9:12n).

Disbelievers and Hypocrites

The Qur'an instructs Muhammad to "Struggle against disbelievers and hypocrites" (Qur'an 9:73). *Tafsir al-Jalalayn* and 'Ibn Abbas make it clear that the

³⁰The rest Q22:39-40 states, "and surely God is indeed able to help them - those who have been expelled from their homes without any right, only because they said, 'Our Lord is God.' But if God had not repelled some of the people by the means of others, many monasteries, and churches, and synagogues, and mosques, in which the name of God is mentioned often, would indeed have been destroyed. God will indeed help the ones who helps Him – surely God is indeed strong, mighty."

³¹Abu Sufyan was a "Wealthy and powerful seventh-century leader of Mecca and tribe of Quraysh. Led caravan that fought and was defeated by forces of Muhammad in the Battle of Badr. Also led forces opposed to and victorious over Muhammad at the Battle of Uhud and those defeated by Muslims at the Battle of the Trench." "Abu Sufyan," *The Oxford Dictionary of Islam*, edited by John L. Esposito, Oxford Islamic Studies Online, n.d., accessed August 27, 2018, <http://www.oxfordislamicstudies.com/article/opr/t125/e37>.

struggling against the disbelievers should be with swords and against the hypocrites with words (*Tafsir al-Jalalayn* 9:73n; ‘Ibn Abbas 9:73n). *The Study Quran* acknowledges the interpretation of the two *tafsir* noted above while also claiming there are those who “note that there is nothing in the word *strive* that limits it to either the use of force or any other type of ‘striving’” (*The Study Quran* 9:73n). In a similar passage to Q9:73, the Qur’an again instructs fighting against “the disbelievers and the hypocrites” (Qur’an 66:9).

The Qur’an also instructs fighting against “the disbelievers who are close to you” (Qur’an 9:123) ‘Ibn Abbas notes this instruction refers to the tribes situated around the Muslim community (‘Ibn Abbas 9:123n). *Tafsir al-Jalalayn* hints at the text containing a strategy of fighting those closest and then the next closest (*Tafsir al-Jalalayn* 9:123n). *The Study Quran* notes that both interpretations of the text refer to a specific group of people and a general principle of warfare (*Tafsir al-Jalalayn* 9:123n).

The Qur’an does instruct, concerning a group of hypocrites and disbelievers, “If they turn back, seize them and kill them wherever you find them” (Qur’an 4:89). ‘Ibn Abbas and *Tafsir al-Jalalayn* claim this concerns a group of people who might outwardly act like Muslims and emigrate, but then turn away (‘Ibn Abbas 4:89n; *Tafsir al-Jalalayn* 4:89n). *The Study Quran* provides the explanation found in the two *tafsir* noted above. It also notes two other explanations. The first concerns a group of people who deserted from a battle. The second regards a group of people who claimed to be Muslim but aided the idolaters. *The Study Quran* makes it clear that “it is God who has *cast them back* from their claims of belief and returned them to the status of disbelievers because of their deeds; thus neither the Prophet nor the Muslims can expect to be able to guide them back” (*The Study Quran* 4:88-89n).

Those who do not Fight

Those who do not fight are also addressed in the Qur’an. Concerning a group of people who said they would have fought had the battle not been so far away, it reads,

“(In this way) they destroy themselves. But God knows: ‘Surely they are liars indeed!’” (Qur’an 9:42). ‘Ibn Abbas notes this text concerned the battle of Tabuk (‘Ibn Abbas 9:42n).³² *Tafsir al-Jalalayn* notes this text was revealed regarding “the hypocrites who stayed behind away from the campaign” (*Tafsir al-Jalalayn* 9:42n). Another text says “woe to them!” concerning those who refuse to fight or were hypocrites about fighting (Qur’an 47:20). ‘Ibn Abbas states the text “is a threat to them with Allah’s chastisement” (‘Ibn Abbas 47:20n).

Captives

The Qur’an instructs fighting against “those who disbelieve” until they are able to be taken captive. Then, they are to be set free or ransomed (Qur’an 47:4). ‘*Tafsir al-Jalalayn* makes it clear the point is to kill the opponent until they surrender or are taken captive. Then, they can either be freed or ransomed (*Tafsir al-Jalalayn* 47:4n). *The Study Quran* notes that “prisoners should only be taken after the victory has definitely been achieved” (*The Study Quran* 47:4n).

Further Information from the Hadith

The hadith provide more insight into the concept of just war in Islam. The hadith claims that that which makes a person’s life sacred is his belief in Allah (Bukhari 1:8:387). The hadith claim fighting is to be conducted until people acknowledge Allah (Muslim 31:5917-5918; Bukhari 4:52:196). Because of the centrality of acknowledging Allah, the hadith require the commander to extend an invitation to submit to Islam before fighting (Muslim 019:4292-4293; 31:5917-5918). The hadith place restrictions upon the fighters. They are not to mutilate the dead or kill children (Muslim 019:4294-4296), kill women (Muslim 019:4319-4320; Bukhari 4:52:256-258), or burn their enemies with fire (Bukhari 4:52:259-260). However, the hadith provide that if one does kill a woman

³²Ibn Abbas makes it clear the battle would have required a lengthy journey to Syria.

unintentionally in fighting it is not significant as the women are from the enemy (Muslim 019:4321-4323). The hadith provide opportunity for scorched earth tactics through the necessity of burning down trees (Muslim 019:4324-4326). The hadith also make the taking of booty from those who fight against a Muslim army legal (Bukhari 4:53:351).

Summary

These texts provide insight into the foundation from which jurists built Islamic just war theory, though the texts do not contain a systematic theory. The texts address the concept of fighting and peace, fighting in the way of God, where fighting can occur, defensive fighting, broken treaties, disbelievers and hypocrites, those who do not fight, captives, and further information from the hadith.

Conclusion

This chapter interacts with the selected texts from the Qur'an regarding the rights of women in divorce, *mudaraba* banking, and just war. The two most significant hadith collections in Sunni Islami, Bukhari and Muslim, coupled with the tafsir of 'Ibn Abbas and *Tafsir al-Jalalayn*, and a modern resource, *The Study Quran*, provide insight into the qur'anic texts.

Concerning the rights of women in divorce, the primary texts value marriage, but allow for divorce. A marriage can be reconciled after the first two divorces, but the third divorce is irrevocable. The texts provide for a waiting period and support for the wife during that period. While divorce is the realm of the husband, the wife may ransom herself from the marriage.

The primary texts provide no precise definition of *riba*. Despite the lack of definition, the texts present *riba* as a form of unearned increase that can be avoided with kind for kind transactions or selling goods for gold to purchase other goods.

The Qur'an presents a picture of a willingness to fight and who can be fought. The hadith provide more insight into the idea of just war and what to do with those who

are captured or survive the fighting.

These overviews of the qur'anic texts play a significant role in the development of a baseline in the three areas of Islamic ethics. First, the overviews provide a check upon the contents of the literature to determine if the academic sources are building upon the primary sources or deviating from them. Second, coupled with the literature survey in the following chapter, this baseline will enable the current study to evaluate the results of the Google and JSTOR searches.

CHAPTER 4

A LITERATURE SURVEY OF ISLAMIC ETHICS: THE RIGHTS OF WOMEN IN DIVORCE, *MUDARABA* BANKING, AND JUST WAR

Divorce, banking, and war are three significant topics in Muslim life. Divorce touches upon one of the most foundational elements of society—the family. Islamic banking practices dictate the manner in which Islamic lands should function economically. War is perhaps the hottest topic in Islam with the rise of fundamental Islam and jihadism, yet it also has historical importance given the early expansion of Islam through conquest.

This chapter plays a vital role in accomplishing the objectives of the current study by developing a baseline understanding of the three areas of Islamic ethics, firmly within the field of world religions. This chapter surveys academic literature related to each of the three respective topics, forming a baseline understanding from which to evaluate the contents of the search results of both Google and JSTOR. This baseline understanding aids in analyzing Google’s strengths, weaknesses, and biases as an expert in the field of world religions.

This survey was conducted using traditional library methods, consisting of only books. Due to the nature of the literature survey in contrast to a literature review, the survey does not claim to include all voices in the three areas. It does include a significant number of those who have published in the respective fields. To provide a baseline to evaluate the role of Google and JSTOR as an expert, the chapter attempts to survey others who are recognized experts, demonstrated minimally by the ability of the author to publish material, with a strong emphasis on academic publications. This emphasis on academic publications means other types of resources were not included. Most likely, and

perhaps most importantly, the presence of divergent or local views are not included in this chapter unless identified in the academic sources. While it is acknowledged the academic sources may include some of these divergent sources or local views, the academic sources likely leave out beliefs and views outside what the academic publishers consider to be important views. Despite this delimitation, this survey is necessary for the baseline to function sufficiently in its role as a tool through which one can evaluate the contents of the search results of both Google and JSTOR. As this study's primary goal is the comparison and evaluation of two electronic resources for religious research, the baseline for the evaluation of the electronic resources has not consulted electronic resources. Instead, the baseline relies entirely upon published material in the form of books and monographs.

Important Issues Concerning the Rights of Women in Divorce

A woman's rights in divorce have been a topic of debate inside Islam for as long as Islam has existed. Contrasting views exist today. In general, Islam is typically considered to allow the male to dominate the divorce process.¹ In contrast to this common position, some paint Islam as a progressive force in the rights of women in divorce. One example is Indian social reformer Asghar Ali Engineer. He states, "Women's interests have been taken into account as far as possible in matters of divorce, even by the classical jurists of Islam in the formulation of Shari'ah injunctions."² In another text, Engineer even goes so far as to state, "The Qur'an has been more than fair

¹Ziba Mir-Hosseini states, "The Shari'a model is based on an ideology of male dominance, expressed and sustained through the rules regulating marriage and its dissolution." Ziba Mir-Hosseini, *Marriage on Trial: A Study of Islamic Family Law*, 2nd ed. (New York: I.B. Tauris, 2000), 192. Willy Jansen, "Divorce and Custody: Contemporary Practices," in *Encyclopedia of Women and Islamic Cultures: Family, Law and Politics*, ed. Suad Joseph, vol. 2 (Boston: Brill Academic Publishers, 2005), 99.

²Asghar Ali Engineer, *Rights of Women in Islam*, 2nd ed. (Elgin, IL: New Dawn Press, 2004), 168. Asma Barlas notes that the Qur'an is seeking to limit the rate of divorce that was present in Arabia at the time. Asma Barlas, "Believing Women" in *Islam: Unreading Patriarchal Interpretations of the Qur'an* (Austin: University of Texas Press, 2002), 192.

to women in matters of divorce. . . . [and] were a great improvement on the prevailing practices. . . . these measures are quite just even from modern standards. Every attempt has been made to protect divorced women's interests."³ Zeenat Ali, director of the World Institute of Islamic Studies for Dialogue, Organization Mediation, and Gender Justice, makes a similar claim that the Qur'an gave women access to divorce not available in the prevailing Arab culture.⁴ As with many things, the interpretation and practice of women's rights has varied from century to century and culture to culture.⁵ Some would argue the equal right to divorce has been completely overlooked throughout history despite the attempt by jurists to address legal divorce, Mehdi, Menski and Nielsen state, "There has been little or no discussion on the question that Muslim women have in fact equal right to divorce in accordance with the Quran and Sunnah."⁶

This section attempts to outline broadly the current state of a Muslim woman's rights in divorce. Yet, as this section will show, while the four major schools of Islamic jurisprudence demonstrate a certain consensus on divorce, differences exist in the way the rulings are applied,⁷ let alone the actual experiences of women in divorce. Given the relationship between Islam and civil law, the actual practice of divorce by Muslims and in Muslim countries is considered in this survey. This section introduces marriage in

³Asghar Ali Engineer, *The Qu'ran, Women and Modern Society*, 2nd ed. (Elgin, IL: New Dawn Press, 2005), 94.

⁴Zeenat Shaukat Ali, *Marriage and Divorce in Islam: An Appraisal* (Bombay: Jaico Publishing House, 1987), 210.

⁵Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen, eds., *Interpreting Divorce Laws in Islam* (Copenhagen: Djoeff Publishing, 2012), 20; Jansen, "Divorce and Custody," 98.

⁶Mehdi, Menski, and Nielsen, *Interpreting Divorce Laws in Islam*, 35. Maaïke Voorhoeve notes some of the flaws of the work, while also noting the "interesting contributions and ideas." Voorhoeve critiques some of the methodology and imprecise language, implying the work could use better editing. Maaïke Voorhoeve, "Review of Interpreting Divorce Laws in Islam," *Islamic Law & Society* 22, no. 1/2 (January 2015): 153–56. Kecia Ali claims the rights women are given in the texts are "flouted" in practice. Kecia Ali, "Marriage in Classical Islamic Jurisprudence: A Survey of Doctrines," in *The Islamic Marriage Contract: Case Studies in Islamic Family Law*, ed. Asifa Quraishi and Frank E. Vogel (Cambridge, MA: Harvard University Press, 2008), 11.

⁷Julie MacFarlane, *Islamic Divorce in North America: A Shari'a Path in a Secular Society* (New York: Oxford University Press, 2012), 10.

Islam, provides a sample of the qur'anic texts regarding divorce, outlines the three primary methods of Islamic divorce without cause, addresses others means of Islamic divorce, and considers other issues pertinent to the rights of women in divorce in Islam. This survey is provided to create a baseline understanding of the essential issues related to the rights of women in divorce in Islam to provide a second layer of evaluation for the contents of the Google and JSTOR searches.

The Structure of Marriage in Islam and Its Relationship to Divorce

Marriage in Islam is both religious and contractual. However, in legal texts, “the contractual dimensions of marriage take precedence over its broader significance or ethical merit.”⁸ The marriage contract is known as the *nikah*.⁹ The primary purpose of the marriage contract is to recognize and legitimize sexual relations.¹⁰ The husband and the wife, or a representative of the wife, agree to the terms before the wedding and finalize the marriage contract.¹¹

Since the contractual dimensions take precedence in Islamic marriage, like other contracts, the marriage contract can be dissolved anytime, providing the necessity for regulating this dissolution (divorce).¹² The ability to dissolve the contract at any time

⁸Ali, “Marriage in Classical Islamic Jurisprudence,” 11. B. F. Musallam claims marriage is not considered to be a permanent relationship in Islam. B. F. Musallam, *Sex and Society in Islam: Birth Control Before the Nineteenth Century* (New York: Cambridge University Press, 1986), 11.

⁹MacFarlane, *Islamic Divorce in North America*, 32.

¹⁰Mona Siddiqui, *The Good Muslim: Reflections on Classical Islamic Law and Theology* (New York: Cambridge University Press, 2012), 12; Judith E. Tucker, *Women, Family, and Gender in Islamic Law* (New York: Cambridge University Press, 2008), 41.

¹¹Susan Spector, trans., *Chapters on Marriage and Divorce: Responses of Ibn Hanbal and Ibn Rahwayh* (Austin: University of Texas Press, 2010), 9. A marriage contract did not mean immediate consummation. Tucker, *Women, Family, and Gender in Islamic Law*, 43.

¹²Anika Liversage, “Muslim Divorces in Denmark: Findings from an Empirical Investigation,” in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 183; Riffat Hassan, “Marriage: Islamic Discourses,” in *Encyclopedia of Women and Islamic Cultures: Family, Body, Sexuality and Health*, ed. Suad Joseph, vol. 3 (Boston: Brill Academic Publishers, 2005), 247.

does not mean the process to dissolve the contract lacks rules and regulations, only that the contractual nature allows it to be dissolved. Because marriage is a transaction with a contract, the entering into and dissolution of the contract requires consideration, in the case of marriage, typically the transfer of some type of property.¹³ This property transfer is a significant issue in the divorce process.

Though the *nikah* is often a boilerplate document,¹⁴ the *nikah* can contain customized elements. Typically the *nikah* spells out the names of the parties involved, the amount of the *mahr*, or dowry, and often includes a list of the assets each party brings into the marriage. The *mahr* “is understood in Islamic jurisprudence as a form of contractual consideration, payable by the husband to the wife. The *mahr* may be immediate (given at the time of the marriage) or deferred and payable at the time of the husband’s death or if the couple divorce.”¹⁵ In Islamic marriages, traditionally, jurisprudence has recognized no concept of common property,¹⁶ so an accounting of the different assets of the couple is a vital piece of the marriage contract, especially when considering the dissolution of the contract through a divorce. The lack of family assets makes tracking who owns what asset a critical element of marriage. When a woman fails to adequately document her property, she can often suffer in the divorce process because of her limited ability to claim ownership of assets in the marital home. Her lack of assets

¹³Kate O’Shaughnessy, *Gender, State and Social Power in Contemporary Indonesia: Divorce and Marriage Law* (New York: Routledge, 2009), 48. The property exchanged when getting married is the dower, which gives access to the woman, Mir-Hoseini states, “They [medieval jurists] defined and regulated [marriage], a contract based on inequality and domination, through which a man acquires exclusive access to the sexual and reproductive faculties of a woman and consequently to the issue of such a contract: the children.” Mir-Hosseini, *Marriage on Trial*, 197.

¹⁴MacFarlane, *Islamic Divorce in North America*, 10.

¹⁵MacFarlane, *Islamic Divorce in North America*, 32. The *mahr* is so important that Tucker refers to it as a component that makes the contract “valid.” Tucker, *Women, Family, and Gender in Islamic Law*, 46.

¹⁶Aicha El Hajjami, “The Religious Arguments in the Debate on the Reform of the Moroccan Family Code,” in *Gender and Equality in Muslim Family Law: Justice and Ethics in the Islamic Legal Tradition*, ed. Ziba Mir-Hosseini et al. (New York: I.B. Tauris, 2017), 97.

can directly impact her social status when divorced.

Traditionally, the right to divorce in Islam is the prerogative of men.¹⁷ Modernists argue this patriarchal dominance of divorce developed over the course of Islamic history.¹⁸ Regardless of whether man's dominance of divorce came directly from the time of Muhammad or developed over the course of Islamic history, the husband's almost exclusive right to divorce is a reality for Muslim women throughout the world, whether through limited access to divorce or societal pressures.

***Talaq* Divorce**

The most well-known and frequently used form of divorce among Muslims is *talaq*, or “repudiation of the wife by the husband.”¹⁹ This action is a pronouncement by the husband that he is divorcing the wife. This right is unilateral and extra-judicial, and it can be done without grounds.²⁰ In the *fiqh* (classical jurisprudential texts) “the exclusive right to divorce (*talaq*) rests with the husband.”²¹

Talaq is practiced unevenly across the Islamic world and in Muslim communities worldwide. Some countries recognize a verbal *talaq* while others require registration of any pronouncement of *talaq*.²² Others require a husband to provide proof,

¹⁷Ziba Mir-Hosseini, “The Politics of Divorce Laws in Iran: Ideology versus Practice,” in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 68; Jansen, “Divorce and Custody,” 99.

¹⁸Mehdi, Menski, and Nielsen, *Interpreting Divorce Laws in Islam*, 20. Ahmed claims there were two competing ideals in early Islam, egalitarianism and patriarchalism. However, the patriarchalism of early Islam became enshrined as prescriptive through the Abbasid era at the cost of the egalitarian ideal. Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven, CT: Yale University Press, 1993), 67.

¹⁹Mir-Hosseini, *Marriage on Trial*, 36.

²⁰Mulki Al-Sharmani, “Egyptian Khul: Legal Reform, Courtroom Practices, and Realities of Women,” in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 85; Jansen, “Divorce and Custody,” 99.

²¹Mir-Hosseini, “The Politics of Divorce Laws in Iran,” 65.

²²Juan Campo claims codification of Islamic family law did not begin until the twentieth century and the family laws vary across the Muslim world. Juan Eduardo Campo, “Divorce,” in *Encyclopedia of Islam*, ed. Juan Eduardo Campo, Encyclopedia of World Religions (New York: Checkmark Books, 2009), 199. According to MacFarlane, Iran and Malaysia require registration to reduce

not only that he pronounced *talaq*, but that he did it correctly, if he claims to have exercised his right to *talaq* sometime in the past.²³ Some Western countries that do not recognize *talaq* may recognize it as a valid divorce if conducted in a country that recognizes *talaq*.²⁴ Recognition of *talaq* in individual countries and not in others can lead to abuses. One such instance of abuse is the following story:

Sheeba and her husband returned to their native Pakistan for a vacation with their two young sons. When they arrived at the airport in Karachi, Sheeba's husband suggested that she and the boys spend the night at her family home, saying that he would meet her again the following morning. Sheeba noticed that he was separating their luggage; she told me that she wondered at the time why he was doing this if they were to meet again in the morning. The next morning Sheeba did not hear from her husband. She called the hotel where he had stayed the night before, but the staff told her that he had checked out. That night a divorce paper—stating *talaq*—was delivered to her family house from the court office. Over the next few days, Sheeba was unable to locate her husband. His family would not tell her where he was . . . She later learned that her husband had been moving and hiding money . . . presumably in preparation for the divorce he was planning. Unable to persuade her husband to speak with her, Sheeba eventually returned to the United States with her sons. She found that everything had been sold—her home, her car and her possessions.²⁵

Talaq is traditionally regulated in a few ways. It is only supposed to be pronounced when the woman is in a state of purity and not menstruating.²⁶ The marriage must enter a period of waiting (*idda*), which involves refraining from sexual activity for

impulsive divorces or those committed under intoxication, while Tunisia has banned triple *talaq* divorces entirely. MacFarlane, *Islamic Divorce in North America*, 164. Egypt also requires registration before a *talaq* divorce is considered official. Al-Sharmani, "Egyptian Khul," 85. According to Welchman, "The current laws in Jordan and Yemen, for example, require registration of the *talaq* at court, with criminal sanctions applicable in the event of an out-of-court *talaq* not being registered within the set deadline." Lynn Welchman, *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam: Amsterdam University Press, 2007), 122.

²³Tahir Mahmood, "Muslim Divorce Law Reform in Secular India," in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 295.

²⁴Ralph D. Grillo, "In the Shadow of the Law: Muslim Marriage and Divorce in the UK," in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 217.

²⁵MacFarlane, *Islamic Divorce in North America*, 166–67.

²⁶Yossef Rapoport, *Marriage, Money and Divorce in Medieval Islamic Society* (New York: Cambridge University Press, 2007), 97.

three menstruation cycles.²⁷ The divorce is revocable until finalized at the end of the three-month waiting period. When the three months have elapsed, the divorce is finalized. However, the third time a husband pronounces *talaq*, the divorce becomes irrevocable and the two cannot remarry.²⁸ During the waiting period, the husband may resume sexual relations with the wife, revoking the divorce or verbally revoke the divorce.²⁹ Shia Islam attaches additional formal requirements to *talaq*, including requiring “the pronouncement of *talaq* to take place orally in the presence of two male witnesses; the exact term *talaq* or one of its derivatives must be used.”³⁰

One of the important elements of *talaq* is the stipulation that, when a husband exercises his right to *talaq*, he is giving up his right to certain property. Traditionally, he gives up his right to the *mahr*, or dower, and “the dower becomes a powerful limitation on the possibly capricious exercise of the *talaq* as well as a form of compensation to the wife once the marriage has been dissolved.”³¹

The triple *talaq* is extremely relevant to the rights of women in divorce. This version of divorce involves the husband declaring the divorce three times in succession. Though triple *talaq* is traditionally deemed an innovation and “is the most frowned-upon

²⁷Marion Katz claims women could use this three-menstruation cycle to their advantage through self-reporting. If the woman wanted the divorce finalized quickly she would claim three menstruation cycles happened quickly. If the woman did not want the divorce finalized, she could claim the cycles had not occurred yet. Marion Katz, “Scholarly versus Women’s Authority in the Islamic Law of Menstrual Purity,” in *Gender in Judaism and Islam: Common Lives, Uncommon Heritage*, ed. Firoozeh Kashani-Sabet and Beth S. Wenger (New York: NYU Press, 2014), 84–87.

²⁸Siddiqui, *The Good Muslim*, 20.

²⁹Keith Hodkinson, *Muslim Family Law: A Sourcebook* (London: Croom Helm, 1984), 220. Women told Maria Platt that if a husband wished to reconcile the wife had no real option but to reconcile regardless of desire. Maria Platt, *Marriage, Gender and Islam in Indonesia: Women Negotiating Informal Marriage, Divorce and Desire* (New York: Routledge, 2017), 130.

³⁰Mir-Hosseini, *Marriage on Trial*, 37.

³¹Pascale Fournier, Aida Setrakian, and Pascal McDougall, “No-Fault Talaq: Islamic Divorce in Canadian Immigration and Family Law,” in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 248. Hassan states, “Parents of daughters with high eligibility demand excessive dower as a safeguard against unilateral divorce by the husband.” Hassan, “Marriage: Islamic Discourses,” 247.

form of divorce under Sharia,³² it is still often used. Shia Islam does not recognize the triple *talaq* as legitimate.³³ According to the Indian reformist Asghar Ali Engineer, of the four major Sunni schools, the Hanifah, Maliki, and Hanbali schools believe triple *talaq* to be an innovation. Only the Shafi'i school dissents.³⁴ However, both the Hanifah and Maliki schools "maintain that permissible or not, once pronounced thrice in one sitting, the divorce would be valid."³⁵ Ibn Taymiyyah's treatment of triple *talaq* in the fourteenth century demonstrates the continuing nature of the debate. Ibn Taymiyyah took the position that a triple *talaq* divorce was not valid; instead it constituted only one revocable divorce.³⁶ Despite the position of many legal experts, triple *talaq* is popular and still viewed by many as legitimate.³⁷ One study found the perception was that imams not only accepted triple *talaq*, but promoted it regardless of the consequences for women.³⁸

The difficulty of triple *talaq* is not just a modern problem. In fact, its

³²Chitra Raghavan, James P. Levine, and Yuksel Sezgin, eds., "Triangulating Reform in Family Law: The State, Religion, and Women's Rights In Comparative Perspective," in *Self-Determination and Women's Rights in Muslim Societies* (Waltham, MA: Brandeis University Press, 2012), 250.

³³Mufti Samiya Tabasum, *Status of Muslim Women in India* (New Delhi: Regal Publications, 2013), 141; Kecia Ali, *Marriage and Slavery in Early Islam* (Cambridge, MA: Harvard University Press, 2010), 136.

³⁴Engineer, *Rights of Women in Islam*, 148. Kecia Ali states multiple repudiations, according to most Sunnis, could be combined into a statement like "You are triply divorced." Ali goes on to claim that "early authorities express varying degrees of reservation about its use, particularly when women were not at fault. But men's unilateral and unrestricted exercise of *talaq* was entirely valid, legally speaking. Shafi'i opposes triple divorces less strongly than Malik." Ali, *Marriage and Slavery in Early Islam*, 136, 143. Rapoport states, "While [revocable] divorces are preferable, all the orthodox schools recognize the validity of [revocable and triple *talaq*] divorces." Rapoport, *Marriage, Money and Divorce in Medieval Islamic Society*, 97.

³⁵Engineer, *Rights of Women in Islam*, 148–49. Rapoport states that Taymiyya "claimed that several contemporary North African Maliki jurists . . . shared his view on the expiable nature of divorce oaths." Rapoport, *Marriage, Money and Divorce in Medieval Islamic Society*, 97–98.

³⁶Josief Rapoport, "Ibn Taymiyyah on Divorce Oaths," in *The Mamluks in Egyptian and Syrian Politics and Society*, ed. Michael Winter and Amalia Levanoni (Boston: Brill Academic Publishers, 2004), 204. Al-Ghazali also criticized triple divorce. Rapoport, *Marriage, Money and Divorce in Medieval Islamic Society*, 99.

³⁷Coulson makes the case that triple *talaq* has been limited by governments because of its lack of support in the Quran and *sunna*. Noel Coulson, *Conflicts and Tensions in Islamic Jurisprudence* (Chicago: University of Chicago Press, 1969), 47.

³⁸MacFarlane, *Islamic Divorce in North America*, 165.

acceptance stretches back to the second caliph, Umar.³⁹ Umar moved away from the practice of considering three utterances as one utterance in the time of Muhammad.

Josief Rapoport (reader in Islamic history at London University) states,

The law was changed by the second caliph, ‘Umar b al-Khattab. ‘Umar was troubled by the fickleness with which Muslim men were divorcing their wives, and wanted to deter them from issuing unnecessary repudiations. He therefore decided to hold men to their word, and ruled that the utterance of a triple repudiation would, from now on, actually evoke triple divorce.⁴⁰

Furthermore, court records from the 1540s show women having to sue their former husbands as a result of a triple *talaq* divorce and not receiving the dower.⁴¹ However, some women have learned to use the husband’s right of *talaq* as a bargaining tool. Rachel Newcomb (professor of anthropology at Rollins College) points out,

It is not uncommon to see women in Pakistani law courts, not necessarily belonging to the upper educated strata of society, accusing their husbands of domestic violence, but ready at the same time to use their own prerogatives as a bargaining tool and negotiating the withdrawal of their accusations in exchange of a triple *talaq* with payment of the *mahr* in land titles.⁴²

***Talaq-i-tafwid* Divorce**

Muslim jurisprudence allows the man to delegate to the woman his right to divorce in the *nikah*. It is important to note this delegation does not acknowledge a woman’s right to divorce under Islamic law, but instead delegates the man’s right of

³⁹Ahmed claims Umar “was harsh toward women in both private and public life; he was ill-tempered with his wives and physically assaulted them, and he sought to confine women to their homes and to prevent their attending prayers at mosques.” Ahmed, *Women and Gender in Islam*, 66.

⁴⁰Rapoport, “Ibn Taymiyyah on Divorce Oaths,” 204. Ahmed makes a similar point, writing, “Pronouncement of three divorces at one and the same time was considered tantamount to one divorce in the time of the Prophet (peace be on him) and Abu Bakr, and during the first two or three years of the caliphate of Umar. People, however, used to wantonly repeat the pronouncement many times simultaneously thereby ignoring the seriousness of divorce. Umar considered it necessary to discourage this practice and held that repetition of three pronouncements at the same time would amount to three divorces.” K. N. Ahmed, *The Muslim Law of Divorce* (Islamabad: Islamic Research Institute, 1972), 8.

⁴¹Leslie Peirce, “She Is Trouble . . . and I Will Divorce Her: Orality, Honor, and Representation in the Ottoman Court of ‘Aintab,” in *Women in the Medieval Islamic World*, ed. Gavin R. G. Hambly (New York: St. Martin’s Press, 1998), 282.

⁴²Rachel Newcomb, “Justice for Everyone? Implementation of Morocco’s 2004 Mudawana Reforms,” in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 147.

divorce to his wife, while still retaining the right himself. According to F. Ruby Tabasum's research in India, delegated divorce "is perhaps the most potent weapon in the hands of a Muslim wife to obtain her freedom."⁴³ This right is recognized in at least the Maliki and Shi'a schools.⁴⁴ Arguments continue about whether a woman delegated the right of divorce under the marriage contract can pronounce a triple *talaq* and whether a divorce pronounced under a delegated right is revocable by the husband.⁴⁵ One example of a clause from a toolkit designed to help women insert *talaq-i-tafwid* in a *nikah* in South Asia is as follows:

THAT after marriage a delegated right of divorce (*haq talaq ba tafweez*) shall vest in the Wife and the Husband undertakes never and in no circumstances to revoke this right. Before exercising this right the Wife shall be bound by the provisions of the Holy Quran, IV-35, namely: "And if ye fear a breach between man and wife, appoint an arbiter from his folk and one from her folk; if they incline to reconciliation God will unite them. He is aware of all things."⁴⁶

However, *talaq-i-tafwid*, though utilized throughout history, has not been popular. Primarily, *talaq-i-tafwid* lacks popularity in many regions where women entering marriage are simply ignorant of the option.⁴⁷ Often women simply do not know to include a *talaq-i-tafwid* clause in the marriage contract. In addition, some, like Lucy Carroll and Harsh Kapoor, editors of the toolkit referenced above, believe *talaq-i-tafwid* is not practiced because of the patriarchal corruption of the original message concerning divorce, placing all the power over the marriage and divorce in the hands of men, both the husband and the family.⁴⁸ These two reasons, coupled with the widespread use of a standard form of the *nikah* employed in the marriage ceremony (lacking the *talaq-i-*

⁴³Tabasum, *Status of Muslim Women in India*, 165.

⁴⁴Mir-Hosseini, *Marriage on Trial*, 39.

⁴⁵Ali, "Marriage in Classical Islamic Jurisprudence," 25.

⁴⁶Lucy Carroll and Harsh Kapoor, eds., *Talaq-i-Tafwid: The Muslim Woman's Contractual Access to Divorce* (Grabels, France: Women Living Under Muslim Laws, 1996), 21.

⁴⁷Grillo, "In the Shadow of the Law," 216.

⁴⁸Carroll and Kapoor, *Talaq-i-Tafwid*, 9.

tafwid clause), result in an underutilized tool for women to leave a marriage. Carroll and Kapoor note that often the women who most need the provision, those who are poor, almost trafficked into marriage, and exploited by relatives, are the ones who do not have a *talaq-i-tafwid* provision inserted into the marriage contract.⁴⁹

Somewhat ironically, a modern obstacle has arisen to the insertion of *talaq-i-tafwid* provisions in the *nikah*. Stephanie Willman Bordat and Saida Kouzzi found that in places like the Maghreb, “women often voiced their belief that current laws protected their rights and that there was no need to stipulate additional conditions.”⁵⁰ The progress in family law reform to women’s access to divorce seems to have eliminated the desire of some to insert a provision into the *nikah*. These women believed the progress aided them enough to not need the clause, despite the benefit *talaq-i-tafwid* provides. However, some Islamic countries, such as Iran, as an attempt to provide equal access to divorce, require the insertion of a stipulation delegating the right of divorce to the wife into the *nikah*.⁵¹

Khul’ Divorce

The method of terminating Islamic marriage most available to women is known as *khul’*. *Khul’* comes from the verb *khala’a*, which means “to dispossess.”⁵² While the wife may initiate *khul’*, *khul’* is not the equivalent to the husband’s right to *talaq*. *Khul’* is typically considered to be a judicial option and some believe *khul’* requires the husband’s consent.⁵³ If *khul’* does require the consent of the husband, it

⁴⁹Carroll and Kapoor, *Talaq-i-Tafwid*, 94.

⁵⁰Stephanie Willman Bordat and Saida Kouzzi, “The Marriage Contract in the Maghreb: Challenges and Opportunities for Women’s Rights,” in *Self-Determination and Women’s Rights in Muslim Societies*, ed. Chitra Raghavan and James P. Levine (Waltham, MA: Brandeis University Press, 2012), 205.

⁵¹Mir-Hosseini, “The Politics of Divorce Laws in Iran,” 68.

⁵²Corinne Fortier, “The Right to Divorce for Women (*Khul’*) in Islam: Comparative Practices in Mauritania and Egypt,” in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 162. Ahmed claims it means “to put off.” Ahmed, *The Muslim Law of Divorce*, 219.

⁵³Newcomb points out that Pakistani law allows *khul’* without the consent of the husband,

serves very little recourse for the wife and seems insignificant. Fundamentally, the wife is buying herself out of the marriage.⁵⁴ Essentially, “in classical *shari’a*, *khul’* is an agreement to allow the dissolution of a marriage if the wife seeks it by paying an amount of money in compensation or as consideration to her husband.”⁵⁵ Umar Barakat, in his notes in *The Reliance of the Traveller*, states, “A release for payment means a separation in return for remuneration given to the husband.”⁵⁶ Typically, the compensation paid by the wife is a renouncing of a right to the *mahr*. In some areas, the term *khul’* is not used; rather, a term denoting the concept of giving back the “bridewealth” substitutes for the same idea.⁵⁷

Khul’ is typically

based on the Prophetic Hadith in which Jamila, the wife of Thabit Ibn Qays went to the prophet and told him that she found no fault with her husband but loathed living with him and asked to be freed from the marriage. And the prophet granted her a divorce after instructing her to return the dower (a garden) which she received from her husband.⁵⁸

Because Jamila went to the prophet to get divorced, it is argued women need approval from a judge to exercise *khul’*.⁵⁹

However, *khul’*, despite being based on a hadith, is not without its detractors.

Two hadith, recounted by Ibn Kathir, though widely considered as not authentic, draw

while Indian law requires the consent. Newcomb, “Justice for Everyone?,” 145.

⁵⁴Spectorsky, *Chapters on Marriage and Divorce*, 50.

⁵⁵Mehdi, Menski, and Nielsen, *Interpreting Divorce Laws in Islam*, 25.

⁵⁶Nuh Ha Mim Keller, ed., *Reliance of the Traveller: A Classic Manual of Islamic Sacred Law*, rev. ed. (Beltsville, MD: Amana Corporation, 1994), 562.

⁵⁷Fortier, “The Right to Divorce for Women (Khul’) in Islam,” 162.

⁵⁸Al-Sharmani, “Egyptian Khul,” 87.

⁵⁹Anne Sofie Roald, *Women in Islam: The Western Experience* (New York: Routledge, 2001), 220. Jane I. Smith notes some technical issues with Roald’s work and highlights the theoretical and detailed nature. However, Smith states that as the work moves from “theory to the opinions of real people, both known and unknown, the work takes on a quite vibrant life.” Jane I. Smith, “Review of Women in Islam: The Western Experience,” *Journal of the American Academy of Religion* 71, no. 3 (September 2003): 717–20.

shame to a woman initiating *khul'*. The first claims a woman who initiates divorce without cause against her husband will not enter paradise, while the second claims women who use *khul'* are hypocrites. Though the authenticity of these two ahadith is greatly suspect, Islamists have used them to inform their views on divorce.⁶⁰ In Syria, despite women having a *khul'* option, a version of one of these ahadith hung in a courtroom in Damascus declaring, "The Prophet (peace be upon him) said: If any woman asks her husband for divorce without some strong reason, the sweet odour of paradise will be forbidden to her."⁶¹ In some locations, such as Egypt, assumptions are often made about women who resort to *khul'*, as "most Egyptians consider *khul'* as an option to be taken only by 'loose,' westernized women."⁶²

Khul' takes various forms based upon the location of the one seeking the divorce. Court records from the sixteenth century demonstrate the practice of *khul'* in Islamic courts. In fact, the practice, though not mentioned by name, seems to have been somewhat typical since, "In the majority of *khul'* divorce cases, the women's statements regarding compensation were virtually identical: 'I give up my dower, my waiting-period support, and all other of my rights.' The formulaic quality of their statements . . . would appear to reflect a kind of court shorthand."⁶³ In countries with laws based on *shari'a*, the process is typically integrated into the courts. For example, in Morocco, a woman can seek *khul'* without the consent of her husband, but she cannot give her husband something which her children have a right to for her freedom.⁶⁴ For women seeking

⁶⁰Roald, *Women in Islam*, 219.

⁶¹Esther van Eijk, "Divorce Practices in Muslim and Christian Courts in Syria," in *Family Law in Islam: Divorce, Marriage and Women in the Muslim World*, ed. Maaike Voorhoeve (New York: I.B. Tauris, 2012), 159.

⁶²Raghavan, Levine, and Sezgin, "Triangulating Reform in Family Law," 255.

⁶³Peirce, "She Is Trouble...and I Will Divorce Her," 284.

⁶⁴Mir-Hosseini, *Marriage on Trial*, 39.

release from their *nikah* in other countries, the process may run through unofficial *shari'a* councils. One such council is in Leyton, England. There, “the *khul* procedures are more protracted involving a series of letters to the husband (who may be abroad) informing him that his wife has applied for a (religious) divorce, and a meeting with the couple and a Council representative to mediate and if possible seek a reconciliation. The case then goes to a panel that may issue a certificate of divorce.”⁶⁵ *Khul'* is an important option for women because it traditionally does not require justification. As Ahmed concludes, based on three examples from history (Jamilah before Muhammad, a case in front of Umar, and a case in front of Uthman), “It is no concern of the *Qadi* to see if the ground on which a wife seeks a *Khul* is reasonable or not.”⁶⁶

Other Means of Divorce Available to Women

Talaq, *talaq-i-tafwid*, and *khul'* are the most significant forms of divorce concerning women's rights in divorce. However, other forms of divorce still impact the rights of women in divorce. This section briefly addresses those forms: divorce for cause and *mubaraat* (mutual consent).

Divorce for cause. A woman has a right to seek divorce on the basis of cause, and it is typically agreed upon that a court can grant it without the consent of the husband.⁶⁷ Divorce for cause is either an annulment of the marriage (*fask*) or separation by decree of the court (*tatliq*).⁶⁸ The four primary schools of Sunni Islamic jurisprudence define cause differently, and various countries have developed their own standards as

⁶⁵Grillo, “In the Shadow of the Law,” 219.

⁶⁶Ahmed, *The Muslim Law of Divorce*, 229–30.

⁶⁷Fortier, “The Right to Divorce for Women (*Khul'*) in Islam,” 160.

⁶⁸Hafiz Nazeem Goolam, “Gender Equality in Islamic Family Law: Dispelling Common Misconceptions and Misunderstandings,” in *Understanding Islamic Law: From Classical to Contemporary*, ed. Hisham M. Ramadan (Lanham, MD: AltaMira Press, 2006), 121.

well. Keica Ali (professor of religion, Boston University) summarizes the differences among the four schools:

The grounds range from being nearly non-existent in the Hanafi school (limited to such things as long-term abandonment, until the husband would have reached the end of his presumed life-span) to extensive in the Maliki school (including abandonment, non-support, and ‘harm’ or injury, which can be broadly interpreted) with the Shafi’i and Hanbali schools falling in the middle of the spectrum.⁶⁹

Countries have developed their standards based on cultural norms and Islamic law. A study of divorce in Egypt found women who filed for fault-based divorces cited the following reasons: harm, abandonment, a husband’s remarriage, and imprisonment of the husband.⁷⁰ Morocco allows a wife to file for divorce for the following reasons: the husband breaking the marriage contract, harm, a lack of maintenance, the absence of the husband, a defect in the husband, abstinence in the marriage, or abandonment.⁷¹ Iran recognizes the following as grounds for divorce: an absence of the husband for more than six months, a husband’s addiction to drugs, a husband’s incurable disease that potentially endangers the wife, a husband’s refusal to maintain the wife, a husband’s infertility, maltreatment, taking another wife with whom he cannot deal equally, engaging in a profession that dishonors his family, and a conviction of a crime that dishonors the family.⁷² In India, any second marriage by a husband is considered harm, and the wife is considered to have grounds for divorce.⁷³ In Tunisia, if a wife is found to have cause for a divorce based on a type of harm, the husband is required to pay damages.⁷⁴

Carl F. Petry (professor of Middle East Studies, Northwestern University)

⁶⁹Ali, “Marriage in Classical Islamic Jurisprudence,” 24.

⁷⁰Al-Sharmani, “Egyptian Khul,” 98.

⁷¹Newcomb, “Justice for Everyone?,” 118.

⁷²Mir-Hosseini, “The Politics of Divorce Laws in Iran,” 74.

⁷³Mahmood, “Muslim Divorce Law Reform in Secular India,” 294.

⁷⁴Maaïke Voorhoeve, *Gender and Divorce Law in North Africa: Sharia, Custom and the Personal Status Code in Tunisia* (New York: I.B. Tauris, 2014), 42.

notes that divorce for cause is found not only in modern records. As an example, he uncovered an instance of divorce for harm in Mamluk Cairo when a judge sided with a woman whose conjugal rights were violated and the husband brought a false claim against her.⁷⁵

However, women often find it difficult to convince a judge of cause.⁷⁶ One study in Egypt showed only sixteen of the fifty-one cases seeking a divorce for harm were granted.⁷⁷ Spousal abuse can be difficult to prove as some judges require a criminal conviction before considering it as a valid cause, and divorce for adultery is granted to the husband far more frequently than to the wife.⁷⁸ Because of the difficulties often associated with filing and obtaining a divorce for harm, some women with legitimate cause still avail themselves of *khul'* instead.⁷⁹ In fact, common reasons for filing for *khul'* include “spousal abuse, husband’s polygamy, spousal abandonment.”⁸⁰

***Mubaraat* divorce.** *Mubaraat* is an agreed upon divorce and seen by some as the most gender-equal form of divorce in Islam.⁸¹ *Mubaraat* is used in situations in which the couple desires to mutually divorce and depending on the country, can, at times, be accomplished outside a courtroom. This divorce typically involves both parties waiving financial considerations.⁸² Though some Islamic family codes do not even mention

⁷⁵Carl F. Petry, “Conjugal Rights Versus Class Prerogatives: A Divorce Case in Mamluk Cairo,” in *Women in the Medieval Islamic World*, ed. Gavin R. G. Hambly (New York: St. Martin’s Press, 1998), 236.

⁷⁶Mir-Hosseini, “The Politics of Divorce Laws in Iran,” 72.

⁷⁷Sarah Vincent-Grosso, “Maktub: An Ethnography of Evidence in a Tunisian Divorce Court,” in *Family Law in Islam: Divorce, Marriage and Women in the Muslim World*, ed. Maaïke Voorhoeve (New York: I.B. Tauris, 2012), 182.

⁷⁸Voorhoeve, *Gender and Divorce Law in North Africa*, 147, 189.

⁷⁹Al-Sharmani, “Egyptian Khul,” 90.

⁸⁰Al-Sharmani, “Egyptian Khul,” 89.

⁸¹Mehdi, Menski, and Nielsen, *Interpreting Divorce Laws in Islam*, 27.

⁸²Muhammad Khalid Masud, “Interpreting Divorce Laws in Pakistan: Debates on Shari’a and Gender Equality in 2008,” in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and

mubaraat,⁸³ most have some process for mutual divorce. In Syria, one researcher witnessed some mutual consent divorce cases being settled in a matter of minutes.⁸⁴ Both partners must agree to the terms of *mubaraat*. Negotiation of the terms may include involvement by the community.

Post-Divorce Issues Important to Women

While a woman's access to divorce is one of the most significant issues concerning the rights of women in divorce, other issues are relevant as well. Women often encounter three rights-related issues after a divorce: custody, support, and limping marriages.

Custody. Custody of the children is a pressing concern for mothers in divorce procedures. After divorce, children typically reside with the mother, though the father retains visitation rights.⁸⁵ Unless the mother cannot reasonably be entrusted with them, she retains custody over the young children.⁸⁶ Islamic law gives women the right to nurse the children (*hadana*). The interpretation and codification of what the right to nurse means varies from country to country and by Islamic school. Lynn Welchman (senior lecturer in Islamic and Middle Eastern Laws at the School of Oriental and African Studies, University of London) claims the goal is for a male to go to the father when he needs to learn the ways of men and for girls to go when they hit puberty or start to gain

Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 48. Women may often bargain away their rights to get their husbands to grant a divorce. Welchman, *Women and Muslim Family Laws in Arab States*, 111.

⁸³Mir-Hosseini notes Mubarat is recognized in Iran, but not in Morocco. Mir-Hosseini, *Marriage on Trial*, 39. Tunisia grants the right to divorce by mutual consent. Voorhoeve, *Gender and Divorce Law in North Africa*, 41.

⁸⁴van Eijk, "Divorce Practices in Muslim and Christian Courts in Syria," 160.

⁸⁵Voorhoeve, *Gender and Divorce Law in North Africa*, 232.

⁸⁶Mahmoud Hoballah, "Marriage, Divorce and Inheritance in Islamic Law," in *Understanding Islamic Law: From Classical to Contemporary*, ed. Hisham M. Ramadan (Lanham, MD: AltaMira Press, 2006), 114.

interest from the opposite sex so the father can protect them.⁸⁷ In Syria, women have custody of the male children until the age of thirteen and the female children until the age of fifteen.⁸⁸ In the Shafi'i school, the child gets to choose which parent to live with at the age of seven or eight.⁸⁹ In the Hanafi school, the boy remains with the mother until age seven and the girl until age nine.⁹⁰ In the Maliki school, the boy goes to live with his father at puberty, while the girl stays with the mother until she is married. In the Hanbali school, the age is seven; the boy gets the right to choose at that time, while the girl goes to live with the father.⁹¹

Support. The support of the divorced wife is another pressing issue for women in divorce procedures. Traditionally, support for the divorced woman only extends through the three-month *idda* period.⁹² Yet, if the wife is caring for the child, the husband (if able) is required to support the child and the person caring for the child.⁹³ A court record from 1540 shows a woman asking for a divorce and a piece of gold, presumably as a form of support.⁹⁴ However, the dower and any property taken into the divorce should return to the woman in the event the husband initiates the divorce. Many times the *mahr* is deferred and serves as an insurance policy in the case of divorce, if it can be collected.⁹⁵ Modern countries have a diverse range of laws regulating the wife's support

⁸⁷Welchman, *Women and Muslim Family Laws in Arab States*, 134.

⁸⁸van Eijk, "Divorce Practices in Muslim and Christian Courts in Syria," 149.

⁸⁹Roald, *Women in Islam*, 233.

⁹⁰John L. Esposito and Natana J. DeLong-Bas, *Women in Muslim Family Law*, 2nd ed. (Syracuse, NY: Syracuse University Press, 2001), 35.

⁹¹Roald, *Women in Islam*, 232.

⁹²Ahmed, *The Muslim Law of Divorce*, 719.

⁹³Hoballah, "Marriage, Divorce and Inheritance in Islamic Law," 115.

⁹⁴Peirce, "She Is Trouble...and I Will Divorce Her," 269.

⁹⁵MacFarlane, *Islamic Divorce in North America*, 32.

after divorce. In Tunisia, a woman granted a divorce for cause has the option of choosing between a one-time payout or a monthly amount because of the loss of the breadwinner in her life.⁹⁶ Syria grants alimony up to three years. Jordan, Kuwait, and Yemen offer alimony up to one year. In Algeria, the decision to grant alimony and the duration of the alimony payments is up to the judge. In Libya and the Ismaili Khoja areas of Yemen, the wife is compensated when the divorce is the fault of the husband. Iraq and Malaysia allow the wife to remain in the home if the husband initiates a divorce at no fault of the wife.⁹⁷ In Indonesia, any wealth acquired during the marriage is considered common property and split evenly in the case of a divorce.⁹⁸ Some argue a high dowry actually works against a woman's best interests as it discourages a husband from leaving a marriage because he is unwilling to relinquish the dowry.⁹⁹

Limping marriage. Another problem many divorced Muslim women in the West deal with is being trapped in a limping marriage. A marriage is limping when a civil divorce has taken place, but not a Muslim divorce. Limping marriages primarily occur in parts of the world without Muslim law. A woman who is civilly divorced but who has not received a Muslim divorce is pressured by the community to seek a Muslim divorce. The woman may also suffer emotional duress at the thought of still being married and seek to resolve the issue. Julie MacFarlane (faculty of law, University of Windsor) states about two women she interviewed,

Both women felt that they needed an Islamic divorce in order to release them from their *nikah*. This allowed them to feel that they were released from their marriage vows in the eyes of God and that they had met their Islamic obligations. Just like the

⁹⁶Voorhoeve, *Gender and Divorce Law in North Africa*, 114.

⁹⁷Esposito and DeLong-Bas, *Women in Muslim Family Law*, 97.

⁹⁸Platt, *Marriage, Gender and Islam in Indonesia*, 139.

⁹⁹Roald, *Women in Islam*, 230.

nikah, Islamic divorce is a system of private ordering, running parallel to, but outside of, the formal system of laws and courts.¹⁰⁰

These religious divorces are accomplished through the local imam or a *shari'a* council. One researcher found that seventy percent of all cases at a *shari'a* council in Leyton, England involved women seeking religious divorces with uncooperative husbands.¹⁰¹ Another researcher found that women described the divorce process through a *shari'a* council as complex, lengthy, protracted, and complicated.¹⁰²

If a woman in a limping marriage is unable to convince an imam or *shari'a* council in her country of residence to give her a divorce, she is considered by most Muslims still to be married. She may also be accused of adultery in her home country, when on a visit, if she chooses to remarry.¹⁰³ A limping marriage is typically only a female issue and not a male issue for two reasons. First, Islamic law allows men to have multiple wives. So, even if their divorces are not considered legitimate, they are not committing adultery by marrying someone else. Second, men can accomplish extra-judicial divorce. They do not need a court or Sharia council to authorize their divorces; they can simply pronounce *talaq*.

Many in the West have attempted to rectify the problem presented by limping marriages. The European Council for Fatwa and Research issued a fatwa stating that an uncontested civil divorce dissolved the *nikah*.¹⁰⁴ Anika Liversage found a Middle Eastern imam in Denmark who believed a husband who signed civil divorce papers dissolved the

¹⁰⁰MacFarlane, *Islamic Divorce in North America*, 144.

¹⁰¹Grillo, "In the Shadow of the Law," 220.

¹⁰²Samia Bano, "Muslim Women, Divorce and Shari'ah Councils in Britain," in *Interpreting Divorce Laws in Islam*, ed. Rubya Mehdi, Werner Menski, and Jorgen S. Nielsen (Copenhagen: Djoef Publishing, 2012), 272.

¹⁰³Mehdi, Menski, and Nielsen, *Interpreting Divorce Laws in Islam*, 29.

¹⁰⁴MacFarlane, *Islamic Divorce in North America*, 235.

nikah as well.¹⁰⁵

Summary

While some argue Islamic divorce affords women significant rights, it is apparent those rights are not equal to the rights enjoyed by men and at times are not accessible. Islamic divorce's tie to the financial considerations surrounding the marriage causes considerable difficulty for a woman seeking a divorce, as her husband either has to give up funds to divorce her himself or the woman has to give up funds to seek a divorce herself. Therefore, Islamic divorce is intricately tied to the contractual nature of Islamic marriage.

Three types of divorce are important to understand when considering women's rights in divorce: *talaq*, *talaq-i-tafwid*, and *khul'*. Each of these types presents challenges and benefits for women in divorce. Women can also request divorce for cause through the court system (for cause and by mutual consent), though civil and social elements often make obtaining divorce for cause difficult.

Women also struggle in the modern world through limping marriages in which they are divorced civilly, but not religiously. While access to divorce for women is on the rise, it is still not as accessible as it is for men. Societal pressures seem to skew toward men, and other issues like child custody and support seem to favor the husband in the end. Nonetheless, many Islamic governments, as well as religious leaders, are attempting to equalize access to divorce and the rights afforded to women.

The consensus of the secondary literature appears to follow the primary sources. The secondary literature notes *talaq* and *khul'*. The secondary literature identifies the value Islam places upon marriage and the process of appointing arbiters, also found in the primary sources. The secondary literature does recognize other instances

¹⁰⁵Liversage, "Muslim Divorces in Denmark," 190.

of divorce practiced throughout the Muslim world particularly important to the rights of women in divorce, primarily *talaq-i-tafwid*, not found directly in the primary sources.

The secondary sources seem to spell out the revocable and irrevocable nature of divorce evident in the primary sources, while also noting the rise of triple *talaq* in the time of Umar. The secondary sources identify the primary sources provision of support for a divorced wife and the lack of provision for support after an irrevocable divorce. The secondary sources proceed to expound upon the implications of the primary sources' interaction with support for the divorced woman. In summary, the secondary sources appear to correctly identify the relevant primary texts, interact with them fairly, and trace their impact upon the current practice.

This section presents the key issues concerning the rights of women in divorce. The issues outlined in this section are essential issues any search should provide when dealing with the topic of the rights of women in divorce within the field of Islamic ethics.

Mudaraba Banking within Islamic Finance

Modern Islamic finance has primarily revolved around one simple concept: the prohibition of *riba*, which is considered an outright ban on interest. Though the understanding of *riba* as interest is a foundational concept in Islamic finance, there is no agreement that *riba* is properly understood as interest.¹⁰⁶ The prohibition of *riba* comes directly from the Qur'an.¹⁰⁷

¹⁰⁶M. Kabir Hassan and Mervyn K. Lewis, "Islamic Banking: An Introduction and Overview," in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 2. Abdullah Saeed notes, "Lending money at interest is *riba*; transactions and economic activity should be free of interest." Abdullah Saeed, "Economics," in *The Encyclopaedia of the Qur'an*, ed. Jane Dammen McAuliffe, vol. 1 (Boston: Brill, 2001), 9. Others offer a more nuanced reading of *riba*, such as a fatwa issued by Al-Azhar's Institute of Islamic Jurisprudence in 2002 which argued some forms of interest were legal. El-Gamal argues the prohibition relates to efficiency and has been changed to make the economy less efficient, losing the purpose of the prohibition. Mahmoud A. El-Gamal, *Islamic Finance: Law, Economics, and Practice* (New York: Cambridge University Press, 2006), 9. Though widely commended, as Farhad Nomani notes, "El-Gamal's scholarly arguments are controversial among shari'a board jurists and lawyers as well as shari'a scholars." Farhad Nomani, "Review of Islamic Finance: Law, Economics, and Practice," *International Journal of Middle East Studies* 40, no. 2 (2008): 349–51. Coulson, *Conflicts and Tensions in Islamic Jurisprudence*, 70.

¹⁰⁷Latifa Algaoud and Mervyn K. Lewis, "Islamic Critique of Conventional Financing," in

The prohibition of interest is further supported by ahadith, such as one recounted by Muslim, “The Messenger of Allah (Allah bless him and give him peace) cursed whoever eats of usurious gain (riba), feeds another with it, writes an agreement involving it, or acts as a witness to it” and another from Hakim, “Usurious gain is of seventy kinds, the least of which is as bad as a man marrying his mother.”¹⁰⁸ According to Muhammad al-Shaybani, when Abu Yusuf was asked,

If a Muslim entered into a transaction with a harbi involving usury (riba), wine, or corpses (dead animals), do you think that such a transaction would be rejected as null and void? [Abu Yusuf] replied: Yes, if it took place in dar al-Islam. If it were in the dar al-harb, it should not be regarded as null and void, according to the opinions of Abu Hanifa and Muhammad [b. al-Hasan].¹⁰⁹

Islamic law differentiates two types of interest: interest from trade (*riba al-fadl*) and interest from loans (*riba al-qurad*) and both are prohibited.¹¹⁰ Essentially, while prohibiting interest, Islamic finance is rooted in the ideas that the investor and the entrepreneur share the risk associated with the endeavor¹¹¹ and that no deal should have a predetermined return.¹¹² Therefore, while Islam prohibits interest, Islam promotes profiting from one’s labor, investments, or trade.¹¹³ In fact, Muslim scholars argue profit-and-loss contracts stabilize financial markets in a way interest-based contracts do not.¹¹⁴

Handbook of Islamic Banking, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 41.

¹⁰⁸Keller, *Reliance of the Traveller*, 384.

¹⁰⁹Muhammad al-Shaybani, *The Islamic Law of Nations: Shaybani’s Siyar*, trans. Majid Khadduri (Baltimore: Johns Hopkins Press, 1966), 173.

¹¹⁰Algaoud and Lewis, “Islamic Critique of Conventional Financing,” 43.

¹¹¹Munawar Iqbal and Philip Molyneux, *Thirty Years of Islamic Banking: History, Performance and Prospects* (New York: Palgrave Macmillan, 2005), 28.

¹¹²Algaoud and Lewis, “Islamic Critique of Conventional Financing,” 46.

¹¹³Abbas Mirakhor and Zaidi Iqbal, “Profit-and-Loss Sharing Contracts in Islamic Finance,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 51.

¹¹⁴Mirakhor and Iqbal, “Profit-and-Loss Sharing Contracts in Islamic Finance,” 50.

Though Islam appears to prohibit the predetermined return, Islamic financing has been attempting to develop investment tools to provide a predetermined return, but that are *shari'a* compliant. In fact, some divide Islamic investment tools into two categories: “Islamic modes of financing are classified into fixed-return (such as murabah, ijara, salm and istisnaa) and variable-return (mainly mudaraba and musharaka).”¹¹⁵

A second prohibition also guides Islamic finance: the prohibition on *gharar* or trading in risk.¹¹⁶ This prohibition on certain types of risky deals attempts to keep the buyer from suffering damage due to a lack of knowledge. This lack of knowledge typically covers three categories: knowledge regarding the existence of what is involved in the transaction; knowledge regarding the characteristics, identification, quantity, or date expected; and knowledge regarding the control of the things involved in the transaction.¹¹⁷ One example of the manner in which *gharar* is factored is that of a cow with an unborn calf. If the object of the sale is the cow, the necessary information can be known, and the sale is valid since the object is the cow itself. If the object of the sale is the unborn calf, the sale would be deemed to have excessive *gharar* and be prohibited because the risk is too high, given what cannot be known about an unborn animal.¹¹⁸ A contract can be voided if the *gharar* involved in the transaction is deemed excessive. Sometimes *gharar* is deemed necessary, such as transactions involving agricultural harvests.¹¹⁹

¹¹⁵Humayon Dar, “Incentive Compatibility of Islamic Financing,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 85.

¹¹⁶El-Gamal, *Islamic Finance*, 47.

¹¹⁷Nabil A. Saleh, *Unlawful Gain and Legitimate Profit in Islamic Law: Riba, Gharar, and Islamic Banking*, 2nd ed., Arab & Islamic Laws (Boston: Brill Academic Publishers, 1992), 66; Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Usul Al-Fiqh* (New York: Cambridge University Press, 1999), 108.

¹¹⁸El-Gamal, *Islamic Finance*, 58.

¹¹⁹El-Gamal, *Islamic Finance*, 58. According to Ibrahim Warde, not all agricultural deals need to involve risk. However, Islam does allow *gharar* “when it cannot be avoided without great difficulty.” Ibrahim Warde, *Islamic Finance in the Global Economy*, 2nd ed. (Edinburgh: Edinburgh University Press,

A Brief Description of Islamic Financial Products

This section provides a summary of typical Islamic financial products.¹²⁰

Mudaraba is a profit-and-loss contract where one party provides the capital, and the other provides the labor. Any profits are divided at a ratio agreed upon in the contract.

Murabaha is a type of contract used in place of a line of credit. If a business or person requires funds to purchase an asset, the Islamic financial institution will purchase the asset, mark it up a percentage and resell it to the business or person either to be paid at a later date or paid in installments. *Salam* is a type of contract in which the Islamic financial institution will purchase not yet ready goods from a person or business. *Salam* often involves the Islamic financial institution reselling said goods under another *salam* contract right away. *Ina* is a type of contract in which the Islamic financial institution will purchase already existing assets or inventory from a person or business. The person or business will then repurchase the assets or inventory at a marked up price and at an agreed upon time or through installment payments. Similar to the *salam*, *itisna* involves installment payments over the course of the production of specific items, typically keyed to the progress of the production of the items. *Ijara* is a leasing tool used when the Islamic financial institution purchases an asset needed by a person or business and leases it to that person or business. The contract often, but not always, includes a requirement for the person or business to purchase the asset at the end of the lease. *Qirad* is a form of municipal bond in which investors are paid back from the revenue of a project, such as a

2010), 56–57. Though Warde's work lacks a bibliography and according to Rodney Wilson his treatment of "strategic, managerial and cultural issues confronting banks is somewhat cursory," Warde's book fills a niche because of the lack of work by social scientists in the area. Wilson also notes that "Warde is correct in pointing out that what is important with the rise of Islamism is not so much the fundamentalist movements with relatively few followers that have attracted attention in the West, but rather a widespread populist demand for an enhanced role for religion in political and economic life." Rodney Wilson, "Review of Islamic Finance in the Global Economy," *Journal of Islamic Studies* 12, no. 1 (January 2001): 115–19.

¹²⁰Frank E. Vogel and Samuel L. Hayes, *Islamic Law and Finance: Religion, Risk, and Return*, Arab & Islamic Laws 16 (Boston: Kluwer Law International, 1998), 181–200. These products are found in the chapter "Islamic Financial Instruments: A Primer" from Vogel and Hayes. Vogel and Hayes served as professors at Harvard, with Vogel the founding director of the Harvard Islamic Legal Studies Program.

toll bridge. Often a local government will guarantee repayment. *Musharaka* is a profit-sharing contract in which all parties provide capital and management.

Status and History of Islamic Finance

When Islamic finance was in its infancy, *mudaraba* and *musharaka* were envisioned as the dominant forms of transactions. Yet, because of the risk inherent in *mudaraba* and *musharaka*, coupled with the competition of regular returns from conventional banks, “banks now lean toward modes of financing which have less risk and involve predetermined returns on capital.”¹²¹ Furthermore, as most bankers who began working in Islamic finance came out of conventional banks, the *mudaraba* and *musharaka* modes were unfamiliar.¹²²

In the midst of the already created forms of investment, some hold hope that additional *shari'a* investment modes will be created as needs and opportunities arise.¹²³ Others believe Islamic finance has not been able to break away from the categories of conventional finance in a meaningful manner.¹²⁴ In fact, many Islamic investment devices are priced using prevailing interest rates as a guide. M. Fahim Khan (president of the Islamic Society of Institutional Economics at the International Institute of Islamic Economics) states, “It may seem an anomaly from a *shari'a* point of view that Islamic

¹²¹Fuad Abdullah Al-Omar and Mohammed Kayed Abdel Haq, *Islamic Banking: Theory, Practice and Challenges* (Atlantic Highlands, NJ: Zed Books, 1996), 114. Al-Omar serves as the Vice President of Finance and Administration at the Islamic Development Bank in Jeddah, Saudi Arabia. Haw is Chairman of the Centre for Islamic Finance at the University of Bolton.

¹²²Mahmoud A. El-Gamal, “Mutualization of Islamic Banks,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 310–311.

¹²³M. Umer Chapra, “Challenges Facing the Islamic Financial Industry,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 326.

¹²⁴Chapra, “Challenges Facing the Islamic Financial Industry,” 327. El-Gamal argues, “Islamic finance is not constructively built from classical jurisprudence. Rather, Islamic alternatives or modifications of conventional practice are sought whenever the latter is deemed forbidden.” El-Gamal, *Islamic Finance*, 8.

securities are being priced with reference to an interest rate. There is, however, undisputed *shari'a* opinion, from scholars of all schools, that it is permissible to use an interest rate as a reference point.”¹²⁵ Furthermore, due to government regulations, some contracts in the United States “contain terms such as ‘note,’ ‘loan,’ ‘borrower,’ and ‘interest.’ However, jurists have argued, the contract remains one of permissible trade rather than forbidden borrowing with interest.”¹²⁶

While interest is the primary factor and risk plays an important secondary role in Islamic finance, other issues play roles as well. The most pronounced is an investment in prohibited industries.¹²⁷ Further, Islamic financial institutions must participate in *zakat* and include a *shari'a* board to advise them of the legality of their investment offerings.¹²⁸

While no global institution is empowered to police Islamic finance, the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) provides standards for those Islamic financial institutions looking for legitimacy and guidance for conducting business. The AAOIFI provides standards for the establishment of a *shari'a* board. The AAOIFI standards state that the *shari'a* board,

is an independent body of specialized jurists in Islamic commercial jurisprudence; should direct, review and supervising the activities of the bank to ensure they are sharia compliant; can issue fatwas and rules which shall direct the bank; At least three members appointed by the shareholders; shall prepare a report on compliance; shall state ‘the allocation of profit and charging of losses related to investment accounts conform to the basis that has been approved’; shareholders can authorize the directors to fix the payment to the supervisory board.¹²⁹

¹²⁵M. Fahim Khan, “Islamic Methods for Government Borrowing and Monetary Management,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 299.

¹²⁶El-Gamal, *Islamic Finance*, 5.

¹²⁷Sam R. Hakim, “Islamic Money Market Instruments,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 161.

¹²⁸Algaoud and Lewis, “Islamic Critique of Conventional Financing,” 38.

¹²⁹Volker Nienhaus, “Governance of Islamic Banks,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 136.

However, despite the work of the AAOIFI, Islamic finance does not always strictly adhere “to instruments and techniques of the traditional Islamic business law,”¹³⁰ but instead tends to model instruments and techniques around modern conventional finance.

One of the pragmatic roles of the *shari'a* board is to aid in the conversion of conventional products to Islamic products. The reliance on conventional finance is troubling to some as they see Islamic finance chasing past returns by developing products based on what is successful in conventional finance. This chasing involves *shari'a* compliance boards, lawyers, and bankers looking at successful conventional products, reworking them to tweak un-Islamic components to be *shari'a* compliant, and then attempting to categorize it under a pre-modern Arabic term to give it legitimacy.¹³¹

Abul Al Mawdudi and Sayyid Qutb are recognized for playing a formative role in the discipline of Islamic economics,¹³² and according to Mahmoud A. El-Gamal (professor of economics, Rice University), “most Islamic economists attribute the vision of the Islamic bank structure to the work of Mohammad Uzair in the mid-twentieth century.”¹³³ Volker Nienhaus claims the first real Islamization of banking began in 1979 by order of the military government in Pakistan.¹³⁴ The first period of modern Islamic banking started in the 1970s.¹³⁵ During this period, the Organization of Islamic Conference instituted the inter-governmental Islamic Development Bank, that is

¹³⁰Nienhaus, “Governance of Islamic Banks,” 140.

¹³¹El-Gamal, *Islamic Finance*, 11.

¹³²Bill Maurer, *Mutual Life, Limited: Islamic Banking, Alternative Currencies, Lateral Reason* (Princeton, NJ: Princeton University Press, 2005), 29.

¹³³El-Gamal, “Mutualization of Islamic Banks,” 310.

¹³⁴Nienhaus, “Governance of Islamic Banks,” 134. Though Mit Ghamr engaged in a form of interest-free banking in Egypt in 1963 for those opposed to conventional banks on religious grounds. It was closed in 1967. Mervyn Lewis and Latifa M. Algaoud, *Islamic Banking* (Northampton, MA: Edward Elgar Publishing, 2001), 5.

¹³⁵Warde breaks the history of Islamic finance into three periods: 1973-89, 1990-2001, and post 9/11. Ibrahim Warde, “Global Politics, Islamic Finance and Islamists Politics Before and After 11 September 2001,” in *The Politics of Islamic Finance*, ed. Clement Henry and Rodney Wilson (Edinburgh: Edinburgh University Press, 2004), 37.

considered one of the most important multinational institutions in Islamic finance.¹³⁶ The Dubai Islamic Bank, created in 1975, was a pioneer as the first private Islamic Bank.¹³⁷ In 1977, the *Handbook of Islamic Banking* was created by the International Association of Islamic Banks to guide banking practices.¹³⁸ During this period Muslim majority countries began to wrestle with the apparent conflict between conventional finance based on interest and the rise of Islamic finance.¹³⁹ The first period of modern Islamic finance sees the rise of Islamic financial institutions and attempts at prescribing best practices.

By 1990, Islamic finance was considered a feasible alternative to traditional banking.¹⁴⁰ The second period of modern Islamic finance begins in the early 1990s. This era of globalization marks “a departure from the early ideals. Islamic institutions moved toward more pragmatism and started focusing on ways of replicating conventional finance, albeit through Shariah-compliant contracts.”¹⁴¹ In addition, this period sees the rise of a Malaysian Islamic financial system. Up to this point, Arab based Islamic finance had focused on managing wealth created from oil revenue. The Malaysian model strategically sought to promote Islam (by incorporating Islam into the financial sector), generate finance for the economy (by drawing in investors looking for Islamic financial

¹³⁶ Iqbal and Molyneux, *Thirty Years of Islamic Banking*, 59; Warde, *Islamic Finance in the Global Economy*, 71.

¹³⁷ Warde, *Islamic Finance in the Global Economy*, 72; Iqbal and Molyneux, *Thirty Years of Islamic Banking*, 37.

¹³⁸ Warde, *Islamic Finance in the Global Economy*, 73.

¹³⁹ One example is the fatwa issued in 1989, by Sheikh Mohammed Sayed Tantawi, Mufti of Egypt, declaring interest as practiced in conventional finance lawful from a religious perspective. Samer Soliman, “The Rise and Decline of the Islamic Banking Model in Egypt,” in *The Politics of Islamic Finance*, ed. Clement Henry and Rodney Wilson (Edinburgh: Edinburgh University Press, 2004), 272.

¹⁴⁰ Iqbal and Molyneux, *Thirty Years of Islamic Banking*, 37. Warde identifies at least four ways Islamic and conventional finance begins to converge. First, conventional banks begin to open Islamic subsidiaries. Second, banks outside the Islamic world begin to offer Islamic options. Third, Islamic financial institutions begin to target their products at non-Muslims. Fourth, outside the Muslim majority world Islamic banks begin to be established. Warde, *Islamic Finance in the Global Economy*, 83–84.

¹⁴¹ Warde, *Islamic Finance in the Global Economy*, 3. Vikør claims some of the products “are only camouflage for taking interest.” Knut S. Vikør, *Between God and the Sultan: A History of Islamic Law* (New York: Oxford University Press, 2006), 329.

options), and transform the country into an industrial nation.¹⁴²

The aftermath of the events of September 11, 2001,¹⁴³ ushered in the third period of Islamic finance, including the blending of the Arab and Malaysian models. Many Arab Muslims pulled their assets from banks in the United States due to the uncertainty caused by the freezing of assets by the United States government and put them into Islamic financial institutions, often investing significantly into Malaysia. This period and the years immediately before it saw the rise of investment screens at the Dow Jones, S&P, and FTSE.¹⁴⁴ The market for *sukuk*, rose from practically nothing in 2000 to over \$100 billion by 2008. The Islamic insurance market matured during this period.¹⁴⁵

The period also saw the global economy suffer a significant recession. While Islamic finance weathered the recession in better shape than conventional finance, it did not prove to be immune, especially when the market for real property became significantly impacted, “though its inherent conservatism somewhat mitigated the effects of the economic downturn.”¹⁴⁶ While recognizing Islamic finance is not immune to recession or market swings and will not solve all the world’s financial problems, some view its ability to better weather the storm as an indication of its value.¹⁴⁷

The amount invested in Islamic finance to today approaches two trillion.¹⁴⁸

¹⁴²Warde, *Islamic Finance in the Global Economy*, 82.

¹⁴³Iqbal and Molyneux claim, “No evidence has ever been produced to [link Islamic banks in the financing of terrorism].” Iqbal and Molyneux, *Thirty Years of Islamic Banking*, 117. Warde claims there has been found “no credible evidence of any connection between Islamic banks and terror networks.” Warde, *Islamic Finance in the Global Economy*, 228.

¹⁴⁴Iqbal and Molyneux, *Thirty Years of Islamic Banking*, 64.

¹⁴⁵Warde, *Islamic Finance in the Global Economy*, 85–86, 150–54.

¹⁴⁶Warde, *Islamic Finance in the Global Economy*, 89.

¹⁴⁷Elfakhani, Hassan, and Sidani observe, “Islamic mutual funds might be a good hedging investment for any equity investor, if used to hedge against market downturns and recessions.” Said M. Elfakhani, M. Kabir Hassan, and Yusuf M. Sidani, “Islamic Mutual Funds,” in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 271.

¹⁴⁸Clement Henry, “Islamic Finance in Movement: Public Opinion in the Arab Region,” in *Handbook of Empirical Research on Islam and Economic Life*, ed. M. Kabir Hassan (Northampton, MA:

This investment is triggered by the desire of many Muslims to invest their money in *shari'a* compliant ways.¹⁴⁹

Islamic finance is not restricted to Muslim majority nations, as London, along with Bahrain and Kuala Lumpur are considered important Islamic financial centers.¹⁵⁰ Given its international standing, Islamic finance has encountered some difficulties operating in non-Muslim majority countries, specifically when dealing with conventional finance laws. One example is the difficulty with the United States' Truth in Lending Act and its required disclosures concerning terms and costs.¹⁵¹

Despite the growth of Islamic finance, the current system does not show any progress in moving to a system beyond the conventional banking system which relies upon interest.¹⁵² This lack of progress may be linked to Islam's focus not on what should be prescribed or permitted in financial transactions, as Islam instead focuses on what is prohibited.¹⁵³ However, the lack of progress may also be linked to an emphasis "on contract mechanics and certification of Islamicity by 'Shari'a Supervisory Boards'" instead of efficiency and fair pricing.¹⁵⁴

Edward Elgar Publishing, 2017), 72.

¹⁴⁹Masudul Alam Choudhury, "Development of Islamic Economic and Social Thought," in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 31.

¹⁵⁰Ricardo Baba, "Islamic Financial Centres," in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 384.

¹⁵¹Warde, *Islamic Finance in the Global Economy*, 205.

¹⁵²Choudhury, "Development of Islamic Economic and Social Thought," 31.

¹⁵³Iqbal and Molyneux, *Thirty Years of Islamic Banking*, 6.

¹⁵⁴El-Gamal, *Islamic Finance*, 1. Walid Hegazy believes there are inherent conflict of interests in the current role of *shari'a* boards given their dual role as auditor and consultant. Walid Hegazy, "Fatwas and the Fate of Islamic Finance: A Critique of the Practice of Fatwa in Contemporary Islamic Financial Markets," in *Islamic Finance: Current Legal and Regulatory Issues*, ed. S. Nazim Ali (Cambridge, MA: ILSP Harvard, 2005), 133.

Mudaraba within Islamic Finance

Mudaraba is a form of Islamic finance contract and considered to be the “cornerstone of Islamic banking.”¹⁵⁵ The word comes from the Arabic meaning “those ‘who journey through the earth seeking the bounty of Allah.’”¹⁵⁶ *Mudaraba* contracts were widely in use in the pre-Islamic Middle East along with other forms of finance including interest-bearing loans.¹⁵⁷ *Mudaraba* contracts have no direct references in the Qur’an or authentic ahadith.¹⁵⁸ However, it was a *mudaraba* style contract through which Muhammad conducted business for Khadija before their marriage.¹⁵⁹

The *mudaraba* contract is a profit-and-loss sharing contract between two parties. In a traditional *mudaraba* contract “one party provides the capital, while the other party brings its labour to the partnership, and the profit is to be shared between them according to an agreed ratio.”¹⁶⁰ Neither party realizes any profit until the transaction is completed.¹⁶¹ The *mudaraba* contract has influenced other cultures as the French word *commandite* is related to the concept and it is believed Columbus’ voyage upon which he discovered the new world was financed under a *mudaraba* contract and drawn up by Islamic scholars.¹⁶²

The party providing the capital in a *mudaraba* contract is the *rab al-mal*. The

¹⁵⁵Amr Mohamed El Tiby, *Islamic Banking: How to Manage Risk and Improve Profitability* (Hoboken, NJ: Wiley, 2011), 54. Mudaraba “is the most ideal way for an Islamic bank to give a ‘loan’.” Vikor, *Between God and the Sultan*, 329. Warde comments, “In the early days of Islamic finance, a lot of enthusiasm was generated by the prospect of implementing the ideal of profit-and-loss sharing finance.” Ibrahim Warde, “Corporate Governance and the Islamic Moral Hazard,” in *Islamic Finance: Current Legal and Regulatory Issues*, ed. S. Nazim Ali (Cambridge, MA: ILSP Harvard, 2005), 20.

¹⁵⁶Lewis and Algaoud, *Islamic Banking*, 41.

¹⁵⁷Hassan and Lewis, “Islamic Banking,” 3.

¹⁵⁸ Abdullah Saeed, *Islamic Banking and Interest: A Study of the Prohibition of Riba and Its Contemporary Interpretation* (Boston: Brill Academic Publishers, 1996), 51–52.

¹⁵⁹Lewis and Algaoud, *Islamic Banking*, 41.

¹⁶⁰Mirakhor and Iqbal, “Profit-and-Loss Sharing Contracts in Islamic Finance,” 55.

¹⁶¹Keller, *Reliance of the Traveller*, 437.

¹⁶²Warde, *Islamic Finance in the Global Economy*, 147.

party receiving the capital is the *mudarib*. The *mudarib* is in the position of agent and contributes his or her labor.

A traditional *mudaraba* contract outlines the terms of the investment. The *rab al-mal* may impose restrictions upon the activities of the *mudarib* in the contract, but has no right to interfere in the day-to-day operations.¹⁶³ The *mudarib* is expected to handle the operations and reports with honesty and integrity. The *mudarib* is not liable for losses, but is also not allowed to extend the liability over the capital contributed by the *rab al-mal*, so the *rab al-mal*'s liability is limited to the capital contribution. The *mudarib* may use the capital funds for business expenses, but not personal expenses. Unless specifically spelled out in the contract, the contract may be terminated at any time by either party.¹⁶⁴ The liabilities must be completely paid before any profit is realized by either the *rab al-mal* or the *mudarib*.¹⁶⁵

Given the rise of modern financing instruments, some of the traditional *mudaraba* contract elements have been retained while others have been tweaked for specific situations. Many Islamic financial institutions insert significant restrictions into the contract and conduct regular auditing and verification activities.¹⁶⁶ Auditing is required to confirm the *mudarib* is accurately reporting the status of the business or contract activity. Moreover, Islamic financial institutions limit what the *mudarib* may do with the capital, how it is to conduct the business,¹⁶⁷ the *mudarib*'s ability to refinance,

¹⁶³Most schools view the *mudaraba* contract as being open to restriction, while Maliki and Shafi'i jurists claim the *mudaraba* should be unrestricted with the *mudarib* free to use the capital as necessary. El-Gamal, *Islamic Finance*, 121.

¹⁶⁴The Malikis are the exception to this view, claiming once the *mudarib* begins the project, the partnership is binding. El-Gamal, *Islamic Finance*, 121.

¹⁶⁵Iqbal and Molyneux, *Thirty Years of Islamic Banking*, 21.

¹⁶⁶Abdel-Fattah A.A. Khalil, Colin Rickwood, and Victor Murinde, "Evidence of Agency-Contractual Problems in Mudarabah Financing Operations by Islamic Banks," in *Islamic Banking and Finance: New Perspectives on Profit Sharing and Risk*, ed. Munawar Iqbal and David T. Llewellyn (Northampton, MA: Edward Elgar Publishing, 2002), 60.

¹⁶⁷Michael J. T. McMillen, "Islamic Project Finance," in *Handbook of Islamic Banking*, ed. M.

and its ability to consolidate or merge businesses or transactions.¹⁶⁸ Despite these restrictions, the Islamic financial institution is unable to collateralize the capital except for occurrence of negligence or fraud, as the *rab al-mal* must bear risk.¹⁶⁹ The profit-sharing ratio of modern *mudaraba* contracts is typically based on the prevailing interest rate.¹⁷⁰ Disagreement exists on whether the profit sharing ratio must be tied to the profit or if it can be tied to the initial capital investment. When tied to the initial capital investment the profit sharing ratio begins to look more like interest and is generally prohibited.¹⁷¹

Islamic financial institutions use the *mudaraba* contract on both the asset and liability side. Most Islamic financial institutions receive capital from depositors and investors through *mudaraba*.¹⁷² The Islamic financial institution acts as the *mudharib* investing the capital for a share of the profits. At many Islamic financial institutions, depositors can choose between restricted and unrestricted accounts. A restricted account allows the depositor to control when and how the Islamic financial institution invests the funds, while an unrestricted account functions as a typical deposit account allowing the Islamic financial institution the freedom to invest the funds as it sees fit.¹⁷³

Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 222.

¹⁶⁸Khalil, Rickwood, and Murinde, "Evidence of Agency-Contractual Problems in Mudarabah Financing Operations by Islamic Banks," 70.

¹⁶⁹McMillen, "Islamic Project Finance," 221.

¹⁷⁰Habib Ahmed and Tariqullah Khan, "Risk Management in Islamic Banking," in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 145.

¹⁷¹El-Gamal, *Islamic Finance*, 142.

¹⁷²Khalil and Wilson claim if Islamic financial institutions offered different types of deposit accounts it would diversify the portfolio of their clients by giving them greater choice. Abdel-Fattah A.A. Khalil and Rodney Wilson, "The Interface between Islamic and Conventional Banking," in *Islamic Banking and Finance: New Perspectives on Profit Sharing and Risk*, ed. Munawar Iqbal and David T. Llewellyn (Northampton, MA: Edward Elgar Publishing, 2002), 2016.

¹⁷³Hajah Salma Latiff, "The Risk Profile of Mudaraba and Its Accounting Treatment," in *Current Issues in Islamic Banking and Finance: Resilience and Stability in the Present System*, ed. Angelo M. Venardos (Hackensack, NJ: World Scientific Publishing Company, 2010), 68.

Because of the risk involved to the *rab al-mal* in the *mudaraba* contract, Islamic financial institutions developed tools to smooth the fluctuations naturally arising from the risk. Islamic financial institutions typically employ one or both of a profit-equalization reserve or an investment risk reserve. The profit-equalization reserve

is funded by setting aside a portion of gross income before deducting the bank's own share as agent. The reserve is used as a tool to align the rate of return offered by Islamic banks to the market rate of return offered by conventional banks, by eliminating or at least reducing the sharp fluctuations of returns on investment deposits and preventing future shocks.¹⁷⁴

Essentially this smoothing occurs by setting aside a share of the *mudarib* profit to ensure future profit for the *rab al-mal* (depositors) even when the investments of the Islamic financial institution may not be providing the desired profit. An investment risk reserve “is funded by a portion of the income of investor-depositors after allocating the bank's share to offset the risk of future investment losses.”¹⁷⁵ This reserve sets aside a portion of the *rab al-mal* income to ensure a steadier return in times when the investments of the Islamic financial institution may not be providing the desired profit. One utilizes the profit from the *mudarib* (Islamic financial institution); the other utilizes the profits from the *rab al-mal* (depositors). These tools are necessary to maintain deposits in competition with conventional banks. Mervyn Lewis (professor of banking and finance, retired, University of South Australia) makes maintaining deposits in competition with conventional banks clear:

There is a general recognition with the Islamic financial services industry that the declaration of losses to be shared with depositors under a *mudaraba* investment account would do much damage to the reputation of the bank, and that in a dual banking system such a scenario would see future deposits flow to the fixed return, principal guaranteed deposits offered by conventional banks. Hence the presence of investment risk reserve (IRR) and profit equalization reserve (PRR) in Islamic banking balance sheets.¹⁷⁶

¹⁷⁴El Tiby, *Islamic Banking*, 55.

¹⁷⁵El Tiby, *Islamic Banking*, 55.

¹⁷⁶Mervyn K. Lewis, “A Theoretical Perspective on Islamic Banking,” in *Risk and Regulation of Islamic Banking*, ed. Mervyn K. Lewis, Mohamed Ariff, and Shamsher Mohamad (Northampton, MA:

Some Islamic financial institutions operate as two-tiered *mudaraba* with a profit and loss contract for both depositors and those receiving capital.¹⁷⁷ Along with traditional *mudaraba* contracts, Islamic financial institutions have developed other investment tools along the principles of *mudaraba*. *Mudaraba* certificates give an investor ownership, but no management or voting rights in a company.¹⁷⁸ The *mudaraba* form has been used to develop bonds based on housing debt.¹⁷⁹ *Mudaraba* has also been rolled into other *sukuk* (Islamic bond) offerings, but typically will not comprise the majority of a bond.¹⁸⁰ Islamic financial products aid the *mudarib* in not simply limiting the *mudaraba* contract to one disbursement, but being able to issue *mudaraba* certificates at different times with different profit-sharing agreements.¹⁸¹ Islamic financial institutions have also developed a form of *mudaraba*, called *sharika-wa-mdaraba* by the Hanbalis, which allows the *mudarib* to provide equity in addition to labor to the project.¹⁸² The AAOIFI standards are clear that any nonmonetary assets (whether provided by the *mudarib* or *rab al-mal*) must be considered contributed at fair market value.¹⁸³ While the profit-sharing ratio is agreed upon in the contract, the contract may contain variable percentages of profit-sharing based upon the success of the project.¹⁸⁴

Edward Elgar Publishing, 2014), 36.

¹⁷⁷Mirakhor and Iqbal, "Profit-and-Loss Sharing Contracts in Islamic Finance," 51.

¹⁷⁸Hakim, "Islamic Money Market Instruments," 164.

¹⁷⁹Hakim, "Islamic Money Market Instruments," 167.

¹⁸⁰McMillen, "Islamic Project Finance," 229; Munawar Iqbal, "Development, History and Prospects of Islamic Banking," in *The Foundations of Islamic Banking: Theory, Practice and Education*, ed. Mohamed Ariff and Munawar Iqbal (Northampton, MA: Edward Elgar Publishing, 2012), 73.

¹⁸¹Ridha Saadallah, "Trade Financing in Islam," in *Handbook of Islamic Banking*, ed. M. Kabir Hassan and Mervyn K. Lewis (Northampton, MA: Edward Elgar Publishing, 2007), 168.

¹⁸²Saadallah, "Trade Financing in Islam," 179.

¹⁸³This standard seems to be based on the Hanafi, Maliki, and Hanbali schools' practice that the listing of "prevalent market prices of nonmonetary properties as the capitals of silent partnerships." El-Gamal, *Islamic Finance*, 122.

¹⁸⁴McMillen, "Islamic Project Finance," 223.

However, since the prevailing view is that “the *mudaraba* contract is essentially a skewed contract that favours the user of funds more than the capital provider,”¹⁸⁵ many Islamic financial institutions deploy *mudaraba* primarily on the liabilities side of the ledger, while using other Islamic means on the assets side. The primary type of contract employed on the liability side is some form of a markup instrument. In contrast to a profit-sharing contract such as *mudaraba*, the markup instrument functions by the Islamic financial institution buying an asset then reselling the asset in installments immediately to the person or business seeking financial assistance. The primary form is known as *murabaha*. Lewis and Mohamed Ariff claim “*Murabaha* and other markup instruments represent 86 percent of financing in Islamic banks in the Middle East and North Africa, 70 percent in East Asia, 92 percent in South Asia and 56 percent in sub-Saharan Africa.”¹⁸⁶

Furthermore, Islamic financial institutions are often adverse to using the *mudaraba*. This aversion is due to the risk of failure and lack of a venue to resolve disputes involved in the contract. One such dispute tribunal does exist in Pakistan, but the lack of recourse in other areas of the world heightens the risk of the *mudaraba* contract as a way to provide capital to an entrepreneur.¹⁸⁷

The risk to the Islamic financial institution when utilizing the *mudaraba* contract intensifies the need for the entrepreneur to have high character. One study found banks recognized that reputation, experience, and a desire to comply with Islamic rules “are the most important variables in accepting or rejecting *mudaraba* decisions.”¹⁸⁸ The

¹⁸⁵Dar, “Incentive Compatibility of Islamic Financing,” 85.

¹⁸⁶Mervyn K. Lewis and Mohamed Ariff, “Similarities and Differences in Islamic and Conventional Banking,” in *Risk and Regulation of Islamic Banking*, ed. Mervyn K. Lewis, Mohamed Ariff, and Shamsher Mohamad (Northampton, MA: Edward Elgar Publishing, 2014), 61.

¹⁸⁷Lewis, “A Theoretical Perspective on Islamic Banking,” 36.

¹⁸⁸Khalil, Rickwood, and Murinde, “Evidence of Agency-Contractual Problems in Mudarabah Financing Operations by Islamic Banks,” 66.

Islamic financial institution must vigilantly monitor the terms of the *mudaraba* contract if they lack trust in the *mudharib*, but understand the creditworthiness of the *mudharib* can even lead to a reduced need for reporting by the *mudharib*.¹⁸⁹

The *mudaraba* contract does provide the basis for other elements of Islamic finance. Interbank loans are often regulated on a *mudaraba* basis. The *mudaraba* period can be from overnight to a year. The profit-sharing ratio is negotiable, with the *mudharib* as the financial institution needing funds and the *rab al-mal* the financial institution providing the funds.¹⁹⁰ Umer Chapra argues the compensation of the board members of Islamic financial institutions should be based on *mudaraba* principles.¹⁹¹ *Mudaraba* is also employed by some Islamic insurance companies. The insurance provider operates as the *mudharib* with the investors considered to be the *rab al-mal*.¹⁹² Islamic microfinance programs use *mudaraba* to generate funds for poverty alleviation.¹⁹³

Summary

Modern Islamic finance arose late in the twentieth century with the rise in Islamism. Islamic finance came from a desire to have a financial system in line with *shari'a* principles and matured to a place where Islamic finance is present not only in Muslim majority countries, but internationally.

Though profit sharing devices like *mudaraba* were predicted to be the

¹⁸⁹Khalil, Rickwood, and Murinde, "Evidence of Agency-Contractual Problems in Mudarabah Financing Operations by Islamic Banks," 84.

¹⁹⁰Hakim, "Islamic Money Market Instruments," 166.

¹⁹¹Chapra, "Challenges Facing the Islamic Financial Industry," 340.

¹⁹²Syed Othman Alhabshi and Shaikh Hamzah Razak, "Takaful Insurance: Concept, History and Development Challenges," in *The Foundations of Islamic Banking: Theory, Practice and Education*, ed. Mohamed Ariff and Munawar Iqbal (Northampton, MA: Edward Elgar Publishing, 2012), 194.

¹⁹³Mohammad Ashraf Mobin and Abu Umar Faruq Ahmad, "Achieving Sustainable Economic Development through Islamic Microfinance and Potential of Proposed Two Tier Mudarabah Waqf Business Model," in *Handbook of Empirical Research on Islam and Economic Life*, ed. M. Kabir Hassan (Northampton, MA: Edward Elgar Publishing, 2017), 203.

cornerstone of Islamic finance, resale and markup devices offer less risk and have come to dominate the marketplace. Yet, many financial institutions collect funds on a *mudaraba* basis with depositors acting as *rab al-mal* and the financial institution functioning as the *mudarib*. The *mudaraba* contract serves as the basis for a diverse array of financial products. *Mudaraba* will continue to be an essential element of Islamic finance as Islamic finance continues to mature and develop *shari'a*-compliant products.

The consensus of the secondary literature appears to identify the major elements noted in the primary sources. The secondary literature notes the unclear definition of *riba*, though the secondary literature also makes it clear that the interpretation of *riba* as interest is one of the foundations of Islamic Finance. The secondary literature provided examples of *riba* from the primary sources that convey the essence of what the primary sources say about *riba*. The secondary sources noted the lack of direct references to *gharar* in the Qur'an. The secondary sources draw examples from the primary sources that encapsulate the concept. The secondary sources seem to treat the primary sources in a consistent and fair manner, while demonstrating how the texts are applied in practice.

The section on *mudaraba* banking highlights the key issues concerning *mudaraba*. The section introduces Islamic financial products and the history of Islamic finance. This introduction is necessary to understanding the role of *mudaraba* in Islamic finance. The section outlines the prohibition of both *riba*, commonly understood as interest, and *gharar*, unnecessary risk, and the central role they play in Islamic finance and to understanding *mudaraba*. The section goes on to address the classical *mudaraba* contract, including its different elements. The section explores the role of the *mudaraba* concept in Islamic financial institutions along with how the *mudaraba* contract is a vital element in modern Islamic financial instruments. All the topics covered in this section are necessary elements to understand *mudaraba* and the place of *mudaraba* in Islamic finance.

Major Questions Concerning Just War in Islam

Islam's rapid rise from localized persecuted religion to world superpower presented jurists with the opportunity to consider the role of war in the religion. Included in this discussion are the components of what makes a war just. Traditionally, two significant questions pertain to just war. First, what conditions are required to make engaging in war just? Second, how should war be carried out to make the actions of war just? Throughout history, Islamic jurists have attempted to answer these questions, at times emphasizing one question or the other.

The circumstances surrounding Islam's rise, primarily its emergence as a regional military superpower provided an early opportunity for these two questions to be discussed. Sohail H. Hashmi (professor of Asian studies, Mount Holyoke) and James Turner Johnson (professor of religion, Rutgers) label the answer to these two questions in the Islamic world as jihad thinking.¹⁹⁴ As Islam continued its expansion in its first few centuries, jihad took on an ever important role in the religion.¹⁹⁵ Jihad literally means to exert oneself or strive to do one's best.¹⁹⁶ Two types of jihad exist, an individual moral struggle and an armed struggle, respectively the greater jihad and lesser jihad.¹⁹⁷

Jurists' discussions concerning jihad depended significantly upon their contexts.¹⁹⁸ As Fred Donner (professor of near eastern history, University of Chicago)

¹⁹⁴Sohail H. Hashmi and James Turner Johnson, introduction to *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*, ed. Sohail H. Hashmi (New York: Oxford University Press, 2012), 4.

¹⁹⁵John Kelsay, *Arguing the Just War in Islam* (Cambridge, MA: Harvard University Press, 2007), 38. Most of the *Journal of Church and State*, 53, no.1, (January 2011), is dedicated to reviews of Kelsay's book and his response to the reviews. One concept noted in the reviews is the "exceptions" to Islamic just war and Kelsay's response to that concept.

¹⁹⁶Hilmi M. Zawati, *Is Jihad a Just War? War, Peace and Human Rights Under Islamic and Public International Law*, Studies in Religion and Society 53 (Lewiston, NY: The Edwin Mellen Press, 2001), 13–14.

¹⁹⁷Zawati, *Is Jihad a Just War?*, 29.

¹⁹⁸Wael B. Hallaq claims this is true for all Shari'a interpretation. He states, "The Shari'a then was not only a judicial system and a legal doctrine whose function was to regulate social relations and resolve and mediate disputes, but also a pervasive and systemic practice that structurally and organically tied itself to the world around it in ways that were vertical and horizontal, structural and linear, economic and social, moral and ethical, intellectual and spiritual, epistemic and cultural, and textual and poetic,

argues, “The Qur’anic text as a whole conveys an ambivalent attitude toward violence . . . deciding whether the Qur’an actually condones offensive war for the faith, or only defensive war, is really left to the judgment of the exegete.”¹⁹⁹ Because of the different statements concerning war in the Qur’an, jurists have significant texts from which to argue a multitude of approaches to war and decide what is a legitimate or good war and what is not legitimate or bad. Classical jurists wrote primarily in a context of imperial expansion, with their writings influenced by a need to justify the current conquests.²⁰⁰ Modern arguments typically desire to situate Islam as a religion of peace²⁰¹ or justify military action.²⁰²

Jihad thinking is rooted in the first few centuries of Islam in a way the Western just war tradition is not. Hashmi writes,

The difference between the two traditions is seen in the fact that few modern international lawyers would feel bound by the writings of Hugo Grotius, whereas expositors of Islamic laws of war and peace ineluctably turn to the eighth-century jurist Muhammad al-Shaybani as an authority.²⁰³

among much else. The Shari’a was as much a way of living and of seeing the world as it was a body of belief and intellectual play.” Wael B. Hallaq, *An Introduction to Islamic Law* (New York: Cambridge University Press, 2009), 163. Al-Dawoody states, “The Islamic law of war has been interpreted and developed throughout its history by independent individual Muslim jurist scholars.” Ahmed Al-Dawoody, *The Islamic Law of War: Justifications and Regulations* (New York: Palgrave Macmillan, 2011), 197. Ibrahim states, “It appears that the Muslim exegetes, medieval and modern, are more concerned with the needs of their day than with the text itself.” Ayman S. Ibrahim, *The Stated Motivations for the Early Islamic Expansion (622-641)*, Crosscurrents: New Studies on the Middle East (New York: Peter Lang, 2017), 223.

¹⁹⁹Fred M. Donner, “The Sources of Islamic Conceptions of War,” in *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions*, ed. James T. Johnson and John Kelsay, Contributions to the Study of Religion 28 (New York: Greenwood Press, 1991), 47. Ibrahim writes, “The Qur’an contains different groups of verses regarding fighting non-Muslims. When relying on the text alone, these groups of verses seem contradictory.” Ibrahim, *The Stated Motivations for the Early Islamic Expansion (622-641)*, 212.

²⁰⁰John Kelsay, *Islam and War: A Study in Comparative Ethics* (Louisville, KY: Westminster John Knox Press, 1993), 60.

²⁰¹According to Cory Stephen, Muslim pacifists use Q 22:78 as support for their views. Stephen Cory, “Jihad,” in *Encyclopedia of Islam*, ed. Juan Eduardo Campo, Encyclopedia of World Religions (New York: Checkmark Books, 2009), 398.

²⁰²Hallaq argues the modern Shari’a is a result of modern identity. He states, “The Shari’a has indeed become a marker of modern identity, engulfed by notions of culture and politics but, ironically, much less by law.” Hallaq, *An Introduction to Islamic Law*, 170.

²⁰³Sohail H. Hashmi, “Jihad and the Geneva Conventions: The Impact of International Law on

However, though many Muslims feel bound by the writings of al-Shaybani or other jurists, the context of the time still makes a significant difference in how Muslims jurists interpreted prophetic instructions concerning war.²⁰⁴

What Is Just Cause?

Classical jurists divided the world into two spheres, the sphere of Islam and the sphere of war.²⁰⁵ Any land not under Islamic rule was considered to be in the territory of war. These two spheres were both religious and political.²⁰⁶ The domain is religious because belief in Islam was necessary, but also political because true peace could be achieved only in a land governed by a just Islamic ruler. War waged inside of these two domains was treated differently, both in the cause and conduct.²⁰⁷

Islamic Theory,” in *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*, ed. Sohail H. Hashmi (New York: Oxford University Press, 2012), 330. Johnson claims that the classical position “still has normative force with the Islamic community.” James Turner Johnson, *The Holy War Idea in Western and Islamic Traditions* (University Park: The Pennsylvania State University Press, 1997), 127.

²⁰⁴Donner, “The Sources of Islamic Conceptions of War,” 32.

²⁰⁵R. Bonney, *Jihad: From Qur’an to Bin Laden* (New York: Palgrave Macmillan, 2004), 8. Khaled El Fadl claims that Islam divides the world into three realms: The realm of Islam, the realm of war, and the realm of peace or non-belligerence. While Islam did adapt and incorporate diplomacy as its military might decreased, classical jurists included only the two spheres. Khaled Abou El Fadl, “Islam and the Theology of Power,” in *With God on Our Side: Politics and Theology of the War on Terrorism*, ed. Aftab Ahmad Malik, 2nd ed. (Bristol, UK: Amal Press, 2006), 301.

²⁰⁶Richard C. Martin, “The Religious Foundations of War, Peace, and Statecraft in Islam,” in *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions*, ed. James T. Johnson and John Kelsay, Contributions to the Study of Religion 28 (New York: Greenwood Press, 1991), 98. Michael Bonner claims a central theme of jihad in the hadith is “the propagation of the Faith through combat.” Michael Bonner, *Jihad in Islamic History: Doctrines and Practice* (Princeton, NJ: Princeton University Press, 2006), 49. David Cook critiques Bonner’s work for weak coverage of contemporary jihad, an issue Cook believes should be significantly addressed in a work like Bonner’s. David Cook, “Review of Jihad in Islamic History: Doctrines and Practice,” *Middle East Journal* 61, no. 1 (Winter 2007): 176–7.

²⁰⁷While these were the two primary realms for war, various jurists have identified different types of war, breaking them down further. Johnson provides one example, “In the Aphorisms Farabi lists eleven kinds of war (harb) that may occur and the ends for which they are waged, distinguishing the unjust forms of war from the rest. His list begins with five kinds of warfare: that for defense, acquiring a good the city deserves, reforming others, subjecting those suited for it, and retaking what is rightfully the city’s but has been taken from it, declaring that all these types of war serve two purposes: acquiring some good for the city and establishing justice. To this initial list he then adds two other types of war, arguing that they serve these same two ends: warfare to punish those who have committed some crime and warfare against implacable enemies of the city ‘to destroy them in their entirety and to extirpate them thoroughly because their survival is a harm for the people of the city.’” Johnson, *The Holy War Idea in Western and Islamic Traditions*, 73. Zawati claims, “Ibn Taymiyya marks out the following motive behind jihad: to defend Muslims against real or anticipated attacks; to guarantee and extend freedom of belief; and to defend the

Reasons to go to war. War could not be waged inside the sphere of Islam without certainty of a rebellion. This certainty is required because, as Hilmi Zawati claims, “Quranic verses and Prophetic traditions exhort Muslims to disobey the *Imam*, and even wage jihad against him if he deviates from the right path.”²⁰⁸ This tradition of rebellion caused jurists to carefully consider when the Islamic state was justified in putting down a rebellion. Only when a rebellion actually materialized was waging war against the rebels considered just.

War in the sphere of war was justified merely because the fighting was conducted against those in the sphere of war.²⁰⁹ According to Majid Khadduri (professor of Middle East studies, John Hopkins University), “It was Shafi’i who first formulated the doctrine that the jihad had for its intent the waging of war on unbelievers for their disbelief and not merely when they entered into conflict with Islam.”²¹⁰ Classical Islam understood justice to be a result of peace. A peace that can only be found under Islamic rule. Therefore, actual justice could occur only in the sphere of Islam. Because justice can occur only in the sphere of Islam, one is justified to conduct war to expand the sphere of Islam, thus expanding the sphere of peace and justice.²¹¹ John Kelsay states, “According to the Sunni jurists, war or jihad by means of ‘killing’ (*qital*) is justified when a people resists or otherwise stands in opposition to the legitimate goals of Islam.”²¹²

mission of Islam.” Zawati, *Is Jihad a Just War?*, 12.

²⁰⁸Zawati, *Is Jihad a Just War?*, 35.

²⁰⁹Bonner states, “The two [Abode of Islam and Abode of War] are in a permanent condition of war.” Bonner, *Jihad in Islamic History*, 92.

²¹⁰al-Shaybani, *The Islamic Law of Nations*, 58.

²¹¹Kelsay, *Arguing the Just War in Islam*, 40. Al-Dawoody claims, “The Qur’anic justifications for recourse to war remain aggression and religious persecution.” Therefore, in places where Muslims experience oppression or religious persecution, there is reason to go to war. Al-Dawoody, *The Islamic Law of War*, 69.

²¹²John Kelsay, “Islam and the Distinction between Combatants and Noncombatants,” in *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition*, ed. James T. Johnson and John Kelsay (New York: Praeger, 1990), 201.

Authority to go to war. Though justified, fighting against those in the sphere of war was not a required action for the Islamic ruler. Johnson states, “Jurists allowed the *imam* of the community a certain latitude in choosing when, where, and against what enemy to wage jihad.”²¹³ War was therefore justified when the fighting was waged in the sphere of war and authorized by a legitimate authority, the caliph or imam.²¹⁴ However, the imam should be able to demonstrate the war is not merely for financial or territorial benefits, but “for the purpose of ushering in the type of world order envisioned by the Qur’an.”²¹⁵ Therefore, war can be to expand territory, but not merely for the sake of territory, but to expand the realm where peace and justice reign through the order provided by an Islamic state.²¹⁶ This expansion did not have to be entirely religious or result in conversion, as the interests of the state were wrapped up with the interests of the religion.²¹⁷ However, beyond the basic idea of waging war against those in the sphere of war, classical jurists “relegated the decision to make war or peace to political authorities.”²¹⁸

The concept of legitimate authority has been an issue not only historically, but

²¹³Johnson, *The Holy War Idea in Western and Islamic Traditions*, 63.

²¹⁴Johnson, *The Holy War Idea in Western and Islamic Traditions*, 98; Hallaq states, “In all juristic discussions, it is assumed that jihad is organized and conducted by the imam. . . . The imam, or his deputy, has the exclusive powers to call for jihad, to prepare and equip the army, give orders, decide how the attack is to be carried out and how the booty is to be distributed, and whether or not a peace treaty should be struck and under what terms.” Wael B. Hallaq, *Shari’a: Theory, Practice, Transformations* (New York: Cambridge University Press, 2009), 327.

²¹⁵Abdulaziz A. Sachedina, “The Development of *Jihad* in Islamic Revelation and History,” in *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition*, ed. James T. Johnson and John Kelsay (New York: Praeger, 1990), 44.

²¹⁶Ibrahim argues the actual stated motivations of these leaders were not religious, but primarily political and economic. Ibrahim, *The Stated Motivations for the Early Islamic Expansion (622-641)*, 7, 99.

²¹⁷A. Nuri Yurdusev, “Ottoman Conceptions of War and Peace in the Classical Period,” in *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*, ed. Sohail H. Hashmi (New York: Oxford University Press, 2012), 199. Though the two are hard to separate. According to al-Shaybani, Khadduri states, “Islam prohibited war in every form save in the fulfilment of a religious purpose, *jihad*.” al-Shaybani, *The Islamic Law of Nations*, 17.

²¹⁸El Fadl, “Islam and the Theology of Power,” 301. Khadduri states, “The Imam was empowered to decide when *jihad* was to commence or stop.” al-Shaybani, *The Islamic Law of Nations*, 17.

also in modern times. Shi'a jurists require a divinely appointed imam for offensive jihad.²¹⁹ Sunni jurists on the other hand, "argue that any de facto Muslim authority ought to carry out the purposes of God in the jihad."²²⁰ The Ottomans viewed themselves as the proper authority to wage war, considering themselves the defenders of Islam.²²¹

In the modern era, according to Kelsay, "two types of writing have been predominant in modern discussions of jihad: one is apologetic and seeks to indicate to the world that Islam is not a 'religion of the sword.' The other is revolutionary and seeks to indicate the justice of Islamic struggle against Imperialism."²²² In the twentieth century, as Islamic lands found themselves ruled by colonial powers and Islamic groups became more militant to what they see as westernized Islamic rulers or rulers whom they consider to be puppets of the West, the notion of authority has gained prominence. During this period the fundamentalist position rises to prominence. The question of importance for fundamentalists and those who interact with the movement is who exactly has the right to declare jihad.

As Muslim hegemony began to dissipate, a necessary shift in the issue of authority occurred. Hashmi and Johnson explain, "In Muslims states . . . sultans or warlords quickly usurped the caliph's prerogative to initiate jihad, and instead of proper authority validating the waging of jihad, the waging of jihad came to be viewed as a way of validating authority."²²³ This theme is picked upon by modern jihadists as they attempt

²¹⁹About whether or not there can be legitimate *jihad* for many Shi'a without the return of the hidden Imam, Lawrence states, "For many, especially illiterate or semiliterate Iranian peasants, the answer to that question was and remains No." Bruce Lawrence, "Holy War (*Jihad*) in Islamic Religion and Nation-State Ideologies," in *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions*, ed. James T. Johnson and John Kelsay, Contributions to the Study of Religion 28 (New York: Greenwood Press, 1991), 158.

²²⁰Sachedina, "The Development of *Jihad* in Islamic Revelation and History," 41.

²²¹Yurdusev, "Ottoman Conceptions of War and Peace in the Classical Period," 198.

²²²Kelsay, "Islam and the Distinction between Combatants and Noncombatants," 209.

²²³Hashmi and Johnson, introduction to *Just Wars, Holy Wars, and Jihads*, 17.

to validate their calls to jihad and their authority, as many fundamentalists are not those traditionally with authority to call for jihad. Those who would typically have the authority are entrenched, often considered to be the problem by the fundamentalists, while those willing to fight are typically outsiders with no traditional position from which to declare jihad.²²⁴ Primarily, the issue fundamentalists consider is that of defensive jihad. When the French were the colonial rulers of Morocco, many Sunni Muslims considered the French presence in Morocco to be that of infidels, stoking a call for a defensive jihad.²²⁵ Unlike the Ottomans, who though they were outsiders occupying Morocco, but were still Muslims, the French had to be resisted.²²⁶ For militant fundamentalists, this situation is a defensive jihad and therefore is seen as an individual requirement for all Muslims.²²⁷

The apologetic position has been labeled the modernist position²²⁸ and argues “If the two basic sources for Islamic law and ethics, the Qur’an and hadith, are properly analyzed . . . jihad cannot be understood as a war to spread Islam or subjugate unbelievers.”²²⁹ Modernists reinterpret jihad to apply only to defensive wars in an attempt to conform Islamic law to international law.²³⁰ Martin goes so far as to claim if “we

²²⁴David Cook, “Fighting to Create the Just State: Apocalypticism in Radical Muslim Discourse,” in *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*, ed. Sohail H. Hashmi (New York: Oxford University Press, 2012), 379.

²²⁵Lawrence, “Holy War (*Jihad*) in Islamic Religion and Nation-State Ideologies,” 149.

²²⁶Benjamin Claude Brower, “Just War and *Jihad* in the French Conquest of Algeria,” in *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*, ed. Sohail H. Hashmi (New York: Oxford University Press, 2012), 236.

²²⁷Zawati, *Is Jihad a Just War?*, 15; Kelsay, *Islam and War*, 61.

²²⁸One example of the modernist position is that of Chiragh Ali who downplays the role of warfare in the life of Muhammad and argues all the wars of Muhammad were defensive, therefore making *jihad* defensive. Omar Khalidi, “Muslim Debates on *Jihad* in British India: The Writings of Chiragh Ali and Abu Al-Ala Mawdudi,” in *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*, ed. Sohail H. Hashmi (New York: Oxford University Press, 2012), 311.

²²⁹Sohail H. Hashmi, ed., *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges* (New York: Oxford University Press, 2012), 13.

²³⁰Ann Elizabeth Mayer, “War and Peace in the Islamic Tradition and International Law,” in *Just War and Jihad: Historical and Theoretical Perspectives on War and Peace in Western and Islamic*

choose to accept the preponderance of recent judgments by Muslim scholars on this issue, offensive war is not sanctioned by Islam.”²³¹

Jihad is often used as a tool for those desiring to end exploitation and oppression or to liberate people from colonial powers. As an example, perhaps no event had a more significant impact on modern jihad than the establishment of the state of Israel. Bruce Lawrence (professor of religion, Duke University) states, “It seems impossible to exaggerate the impact that the Arab-Israeli conflict and especially the 1967 Israeli conquest of Old Jerusalem with its Islamic holy places has had on Muslims’ perceptions of the relevance of jihad principles to their present situation.”²³² Of course, other organizations like the Muslim Brotherhood and Nasser’s assassins played a significant role in liberation struggles. Yet, these liberation movements still must deal with the issue of establishing the legitimacy of their jihad and particularly their authority to wage jihad.²³³ Therefore, one of the most critical issues in the just cause of war is who has the authority to declare war.

Though war waged against those in the sphere of war is justified, classical jurists outlined the steps required before going to war. First, a recognized leader must declare the intention to go to war. Individuals were not able to declare war on their own. Then, a declaration must be made to the opposing side offering them the chance to submit and become part of the sphere of Islam. Only when the other side refuses to submit to at least the political reign of Islam, may war be conducted.²³⁴ Traditionally submission to

Traditions, ed. James T. Johnson and John Kelsay, Contributions to the Study of Religion 28 (New York: Greenwood Press, 1991), 203.

²³¹Martin, “The Religious Foundations of War, Peace, and Statecraft in Islam,” 108.

²³²Lawrence, “Holy War (*Jihad*) in Islamic Religion and Nation-State Ideologies,” 215.

²³³Kelsay, *Arguing the Just War in Islam*, 129; Lawrence, “Holy War (*Jihad*) in Islamic Religion and Nation-State Ideologies,” 210.

²³⁴Martin, “The Religious Foundations of War, Peace, and Statecraft in Islam,” 99.

the religion of Islam was not required, but merely submission to be incorporated into the realm of Islam. If the offer of submission is rejected, the war is conducted to bring the sphere of war under the sphere of Islam by “subduing the forces of unbelief rather than of uprooting unbelief through the conversion of individuals or groups to Islam.”²³⁵

What Is Just Conduct?

Like many aspects of Islamic life, just conduct is based on prophetic instruction. Before entering a battle, Muhammad is alleged to have told his troops not to cheat, be treacherous, mutilate, or kill children.²³⁶ This statement encompasses the two aspects of just conduct. First, the tactics which can be utilized in the battle and second, how to treat those captured in the battle.

Tactics. Islamic jurists, like al-Shaybani, have traditionally allowed Islamic fighters to conduct war in a harsh manner, as long as the fighters do not resort to treachery to obtain victory.²³⁷ Hashmi and Johnson summarize the basic concepts of permitted and prohibited conduct:

The jurists permitted the use of all types of weapons or military tactics that were necessary to overcome the enemy, including laying siege to fortresses, firing incendiary devices, cutting off the water supply, or flooding. A few practices were categorically prohibited, based on injunctions attributed to the Prophet; these included killing by mutilation or torture, burning individuals alive, and violating oaths or grants of security to soldiers or envoys.²³⁸

²³⁵Sachedina, “The Development of *Jihad* in Islamic Revelation and History,” 40.

²³⁶Johnson, *The Holy War Idea in Western and Islamic Traditions*, 69. Al-Shaybani writes that according to Abu Sulayman, “And [the Apostle] said: Fight in the name of God and in the ‘path of God’ [i. e., truth]. Combat [only] those who disbelieve in God. Do not cheat or commit treachery, nor should you mutilate anyone or kill children.” According to Muhammad al-Hasan “Whenever the Apostle of God sent forth a detachment he said to it: ‘Do not cheat or commit treachery, nor should you mutilate or kill children, women, or old men.’” al-Shaybani, *The Islamic Law of Nations*, 76, 91–92.

²³⁷Johnson, *The Holy War Idea in Western and Islamic Traditions*, 70.

²³⁸Hashmi and Johnson, “Introduction to *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*,” 11.

Almost any type of force was permitted, while only treachery, burning alive, and mutilation were prohibited.²³⁹ Al-Shaybani states, “The army may launch the attack [on the enemy] by night or by day and it is permissible to burn [the enemy] fortifications with fire or to inundate them with water.”²⁴⁰

The permitted tactics of war do not provide significant protection for noncombatants. Noncombatants are not to be targeted. Sieging, burning, flooding, and other such tactics may result in noncombatant deaths, and are wholly justified according to Islamic tradition.²⁴¹ Muhammad is alleged to have said, “They are from them,” when told women and children died in a battle.²⁴² According to Kelsay, classical Islam understood and argued, “The leaders of the people of war are at fault for the death of their ‘innocents’.”²⁴³

This mindset of the acceptability of just tactics is carried forward into modern fundamental jihad tradition as David Cook (professor of religion, Rice University) states

²³⁹Khadduri states, “Although the jurists accepted in principle the doctrine of unnecessary destruction, based on Abu Bakr’s instructions, they disagreed on certain matters of detail.” Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore: Johns Hopkins Press, 1979), 102–3.

²⁴⁰Like many Islamic laws, the permissibility of destruction is based on an event from the life of Muhammad. According to al-Shaybani, when asked about destroying towns in the territory of war, Abu Yusuf states, “I think that this would be commendable. For do you not think that it is in accordance with God’s saying, in his Book: ‘Whatever palm trees you have cut down or left standing upon their roots, has been by God’s permission, in order that the ungodly ones might be humiliated.’ So I am in favor of whatever they did to deceive and anger the enemy.” al-Shaybani, *The Islamic Law of Nations*, 95.

²⁴¹According to al-Shaybani when asked, “Would it be permissible to inundate a city in the territory of war with water, to burn it with fire, or to attack [its people] with mangonels even though there may be slaves, women, old men, and children in it? [Abu Yusuf replied]: Yes, I would approve of doing all of that to them.” There does not seem to be much difference even if the noncombatants are Muslims. When asked, “If the Muslims besieged a city, and its people [in their defense] from behind the walls shielded themselves with Muslim children, would it be permissible for the Muslim [warriors] to attack them with arrows and mangonels? [Abu Yusuf] replied: Yes, but the warriors should aim at the inhabitants of the territory of war and not the Muslim children.” al-Shaybani, *The Islamic Law of Nations*, 101, 117.

²⁴²“Narrated As-Sa’b bin Jaththama: The Prophet passed by me at a place called Al-Abwa or Waddan, and was asked whether it was permissible to attack the [pagan] warriors at night with the probability of exposing their women and children to danger. The Prophet replied, ‘They (i.e. women and children) are from them (i.e. pagans).’” Muhammed Al-Bukhari, *The Translation of the Meanings of Sahih Al-Bukhari: Arabic-English*, trans. Muhammad M. Khan, vol. 4 (Riyadh, SB: Darussalam Publishers & Distributors, 1997), 157–58.

²⁴³Kelsay, *Islam and War*, 67.

of fundamental arguments, “Because the present-day conflict between Islam and its enemies is total war and so much rides on its outcome, one is permitted to use any and all weapons against the demonic enemy.”²⁴⁴ This form of total war has made its way into other modern proclamations of terrorism. Kelsay argues the classical tradition is what someone like Osama Bin Laden uses when Bin Laden attempts to make a case for indiscriminate terrorism, killing both civilian and military personnel.²⁴⁵ Bin Laden has also made the case for using human shields, even Muslims for this purpose.²⁴⁶ In fact, the rise of terrorism in the twentieth century has caused an increase in the concern of the just conduct of war in the Islamic tradition.²⁴⁷

Noncombatants. Muslims are instructed to treat noncombatants differently than combatants from very early in the classical literature.²⁴⁸ This differentiation is not solely based on who engages in war, but on who could engage in war.²⁴⁹ A hadith claims Muhammad said, “He [of the enemy] who has reached puberty should be killed, but he who has not should be spared” and “You may kill the adults of the unbelievers, but spare their minors—the youth.”²⁵⁰ Noncombatants were not to be directly targeted when

²⁴⁴Cook, “Fighting to Create the Just State: Apocalypticism in Radical Muslim Discourse,” 337.

²⁴⁵Kelsay, *Arguing the Just War in Islam*, 143.

²⁴⁶Jonathan Fine, *Political Violence in Judaism, Christianity, and Islam: From Holy War to Modern Terror* (Lanham, MD: Rowman & Littlefield Publishers, 2015), 200. Not that Muslims have not used human shields before. A report from 1229 and the city of Majorca states that Christians were used as human shields by Muslims “to prevent the use of trebuchets against the outside walls.” David J. Kagay, “The Essential Enemy: The Image of the Muslim as Adversary and Vassal in the Law and Literature of the Medieval Crown of Aragon,” in *Western Views of Islam in Medieval and Early Modern Europe: Perception of Other*, ed. M. Frassetto and D. Blanks (New York: Palgrave Macmillan, 1999), 123.

²⁴⁷Hashmi and Johnson, “Introduction to *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges*,” 14.

²⁴⁸Donner, “The Sources of Islamic Conceptions of War,” 52.

²⁴⁹“Once fighting ensues, all males who are capable of fighting are legitimate targets, although the jurists do not state the matter in these terms.” Hallaq, *Shari’a*, 328.

²⁵⁰Kelsay, “Islam and the Distinction between Combatants and Noncombatants,” 199.

conducting warfare,²⁵¹ though they could easily be killed as collateral damage. Women and children are the standard Islamic definition of noncombatant,²⁵² while monks, hermits, the aged, blind, and insane were often also considered noncombatants.²⁵³

The prohibition against killing noncombatants is interpreted differently in modern times. Khaled Abou El-Fadl (professor of Islamic Law, UCLA) argues these designations of noncombatants were not merely textual but sprung from ethical and moral concerns of the jurists.²⁵⁴ However, Johnson argues differently, stating, “Not that these [noncombatants] have rights of their own to be spared harm, rights derived either from nature or from considerations of fairness or justice, but rather that they are potentially of value to the Muslims.”²⁵⁵ The value of the noncombatants seems to be the key in their special status.

Hashmi states, “This notion of discrimination is not equivalent to the modern principle of noncombatant immunity.”²⁵⁶ Though noncombatants were to be spared from death, they were not spared from harm.²⁵⁷ Noncombatants became the property of the conquering Muslims, to be held for ransom or sold into slavery.²⁵⁸ Unlike

²⁵¹El Fadl, “Islam and the Theology of Power,” 302.

²⁵²Seyyed Hossein Nasr, “Islam and the Question of Violence,” in *With God on Our Side: Politics and Theology of the War on Terrorism*, ed. Aftab Ahmad Malik, 2nd ed. (Bristol, UK: Amal Press, 2006), 274.

²⁵³Johnson, *The Holy War Idea in Western and Islamic Traditions*, 116. When asked, “Do you think that the blind, the crippled, the helpless insane, if taken as prisoners of war or captured by the warriors in a surprise attack, would be killed? [Abu Yusuf] replied: [No], they should not be killed.” al-Shaybani, *The Islamic Law of Nations*, 101. “The great majority of jurists espouse the opinion that it is strictly forbidden to kill anyone who cannot fight, or is not trained in the use of weapons, such as women, children, farmers, the handicapped, the elderly, the chronically ill, hermaphrodites, monks and all ‘church folk’ of the monastic kind.” Hallaq, *Shari’a*, 328–329.

²⁵⁴El Fadl, “Islam and the Theology of Power,” 302.

²⁵⁵Johnson, *The Holy War Idea in Western and Islamic Traditions*, 122.

²⁵⁶Hashmi, “Jihad and the Geneva Conventions,” 333.

²⁵⁷Kelsay, “Islam and the Distinction between Combatants and Noncombatants,” 205.

²⁵⁸Hashmi, “Jihad and the Geneva Conventions,” 333. According to al-Shaybani, when considering what to do with captives, both combatants and noncombatants, who could not walk to dar al-Islam, Abu Yusuf states, “He [the Imam] should kill the men and spare the women and children, for whom

noncombatants, combatants were to be killed after the battle had concluded unless the imam had a more useful plan for them.²⁵⁹ Harm is allowed for both combatants and noncombatants because guilt has to do with both religious and political factors.²⁶⁰ Both the combatants and the noncombatants were guilty of being outside Muslim rule and Muslim belief.²⁶¹

Modernists reinterpret classical texts to support a just war tradition that seems to fall in line with a traditional western view of just conduct and human rights. Zawati provides an example, writing, “Islamic humanitarian law guarantees fair treatment of civilians who have not engaged in war, and prohibited random use of weapons in a manner that would affect warriors and civilians indiscriminately.”²⁶² Zawati goes on to argue the rightly guided caliphs followed Muhammad’s instructions not to kill women or children, kill animals, or burn vegetation, thus providing a foundation for an Islamic view of just war in line with modern thinking.²⁶³ Furthermore, others examine the classical sources of Islam and, conclude, as Tamara Sonn (professor of the history of Islam, Georgetown University) does, “It is difficult to find support for the use of irregular or

he should hire means for carrying them.” al-Shaybani, *The Islamic Law of Nations*, 98.

²⁵⁹Johnson, *The Holy War Idea in Western and Islamic Traditions*, 117. Al-Shaybani gives two examples. According to Abu Yusuf about whether to enslave or kill male captives, “The Imam is entitled to a choice between taking them to the territory of Islam to be divided [among the warriors] and killing them [while in the territory of war]. . . . [The Imam] should examine the situation and decide whatever he deems to be advantageous to the Muslims. . . . He should not kill them if they became Muslims;” While they could be either killed or enslaved, they were not to be ransomed. According to Muhammad al-Hasan, “[A commander] wrote to [the Caliph] Abu Bakr inquiring whether a prisoner of war taken from the Rum (the Byzantines) [might be ransomed]. He replied that he should not be ransomed, even at the price of two muds of gold, but that he should either be killed or become a Muslim.” al-Shaybani, *The Islamic Law of Nations*, 90–91, 100–01.

²⁶⁰When asked specifically about the Arab polytheists, “If the Muslims attacked them and took their women and children as captives and their men as prisoners of war, what would be the ruling concerning them? [Abu Yusuf] replied: The women and children would become fay’ and divided up as spoil, out of which the one-fifth [share] would be taken; but of the men, those who adopt Islam would be free (and nothing would be done against them), but those who refuse to adopt Islam would have to be executed.” al-Shaybani, *The Islamic Law of Nations*, 224.

²⁶¹Kelsay, *Islam and War*, 66.

²⁶²Zawati, *Is Jihad a Just War?*, 89.

²⁶³Zawati, *Is Jihad a Just War?*, 90.

terrorist tactics in the Islamic tradition.”²⁶⁴

Summary

Islamic discussions of just war started from the very beginning. During the time of Muhammad, the Muslim people engaged in war, and prophetic declarations concerning war were allegedly preserved. As the empire expanded, jurists considered the issue of war. Concerning the just cause for war, two issues were important. First, jurists sought to define exactly who was an opponent who could be fought. The classical position answered that engaging in war is justified anywhere outside of the realm of Islam. Second, what authority was required to initiate a war. Classically, only the recognized Islamic authority is authorized to take the community into an offensive war. Defensive war is a different matter. All Muslims were required to participate in a defensive war. Just conduct of war was limited only by the prohibition against treachery and the treatment of noncombatants. Muslim battles were to be conducted without resorting to treachery. Noncombatants were not to be directly targeted. Both combatants and noncombatants survived battles. From the survivors, men were allowed to be killed, while women, children, and possibly other noncombatants, were to be spared death, but could be ransomed or taken as slaves.

These four areas, reason to go to war, authority for war, tactics, and noncombatants, have proven to be important in modern Islamic discourse concerning war. Of central importance are the issue of authority and the treatment of noncombatants.

In line with the primary sources, the secondary literature survey notes the contradictory nature of religious compulsion in the Qur’an. The secondary literature recognizes that there are two interpretive streams. One stream views the peace texts as

²⁶⁴Tamara Sonn, “Irregular Warfare and Terrorism in Islam: Asking the Right Questions,” in *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition*, ed. James T. Johnson and John Kelsay (New York: Praeger, 1990), 145.

abrogated and one does not. However, the primary literature appears to support the view that the peace texts were abrogated. The secondary literature traces the history of the conversation to demonstrate that the majority of Islamic jurists have considered the peace verses abrogated and fighting as proscriptive.

The secondary literature identifies the prohibitions guiding the conduct of war found in the primary literature, including the killing of women and children. The secondary literature appears to treat the primary literature in a fair manner, identifying the important texts and tracing their interpretations through to modern practice.

The section outlines the key elements of just war in Islam. The section introduces both historical and modern elements of just war in Islam. Both historical and modern conversations revolve around the questions of just cause and just conduct. This section underscores the necessity of any study in the area of just war within Islamic ethics to interact with the four issues, related to the two questions, outlined above.

Summary of Key Elements According to the Literature Survey

The section on the rights of women in divorce presents the key issues concerning the rights of women in divorce. The baseline study starts with the understanding of marriage as a contract in Islam. The baseline then identifies three types of divorce especially pertinent to women's rights: *talaq*, *talaq-i-tafwid*, and *khul'*. Though often difficult for a woman to prove cause, this section also includes important information related to a woman's access to divorce for cause and introduces mutual divorce. The section concludes with a look at other crucial issues related to the rights of women in divorce, including child custody, support, and limping marriages. This baseline study identifies the issues outlined in this chapter as crucial issues any search should provide when dealing with the topic of the rights of women in divorce within the field of Islamic ethics. The ability of a set of searches to adequately address each of these issues determines the reliability of the source, either Google or JSTOR, to function as an expert.

The more the set of searches adequately addresses the issues the greater the reliability. The inability of a set of searches to adequately address each of these issues undermines the reliability of the source to function as an expert.

The section on *mudaraba* banking gives the key issues concerning *mudaraba*. The baseline study identifies the importance of a basic knowledge of Islamic financial products and the history of Islamic finance is necessary to understanding the role of *mudaraba* in Islamic finance. The baseline study outlines the prohibition of both *riba*, commonly understood as interest, and *gharar*, unnecessary risk, and the central role *riba* and *gharar* play in Islamic finance and to understanding *mudaraba*. The baseline goes on to explain the classical *mudaraba* contract, including its different elements. The section explores the role of the *mudaraba* concept in Islamic financial institutions along with how the *mudaraba* contract is an essential element in modern Islamic financial instruments. This baseline study shows all the topics covered in this section are necessary elements to understand *mudaraba* and the place of *mudaraba* in Islamic finance. The ability of a set of searches to adequately address each of these issues determines the reliability of the source, either Google or JSTOR, to function as an expert. The more the set of searches adequately addresses the issues the greater the reliability. The inability of a set of searches to adequately address each of these issues undermines the reliability of the source to function as an expert.

The section on just war outlines the key elements of just war in Islam. This baseline study introduces both historical and modern elements of just war in Islam. Both historical and modern conversations revolve around the questions of just cause and just conduct. Just cause focuses on the reasons to go to war and who can authorize fighting. Just conduct is concerned with the tactics of war and the treatment of noncombatants. While the conversations around each of the four issues are deeply rooted in prophetic statements and the arguments of classical jurists, the survey demonstrates the arguments reflect the context of the one making the argument. This baseline study demonstrates the

necessity of any study in the area of just war within Islamic ethics to interact with the four issues outlined in this section. The ability of a set of searches to adequately address each of these issues determines the reliability of the source, either Google or JSTOR, to function as an expert. The more the set of searches adequately addresses the issues the greater the reliability. The inability of a set of searches to adequately address each of these issues undermines the reliability of the source to function as an expert.

Conclusion

The survey consists primarily of academic resources. All three sections of this chapter provide an overview of the critical aspects of the topic, according to these academic resources, as well as important qur'anic texts addressing each issue. This survey does not claim to be a full literature review. In fact, the survey does not attempt to identify divergent or local views; instead, the survey is delimited to academic voices. This delimitation is significant as the survey attempts to provide a consensus understanding of the academic literature of the topic to establish a baseline.

The baseline understanding these three sections provide allows the current study to make the necessary relevancy judgments when conducting the searches utilized in the following chapters. The baseline fills a need identified by Bawden, when he wrote that the task of making relevancy judgments “needs a single, considered judgment, from someone who truly knows the subject area.”²⁶⁵ Essentially, conducting the baseline study gives the researcher the necessary information required to make a considered judgment on the content of the search results. The baseline also aids in the modified failure review to allow the researcher to determine whether the information provided by Google or JSTOR falls within a specific interpretive stream.

Furthermore, this chapter provides a crucial element to the study. This chapter

²⁶⁵David Bawden, *User-Oriented Evaluation of Information Systems and Services* (Brookfield, VT: Gower Publishing Company, 1990), 91.

allows this study to determine whether Google or JSTOR ultimately fails to address or only insufficiently treats a topic in their top-ranked search results. Essentially, this survey allows the following chapters' analysis of Google's role as an expert in world religions, particularly in the three areas of Islamic ethics, to have a baseline from which to start. The baseline understanding of the three areas provides an understanding of the key issues related to each of the three fields so this study can evaluate not only Google and JSTOR's ability to provide information related to each other, but as an expert in the field.

CHAPTER 5

FIRST-LEVEL COMPARISON OF GOOGLE AND JSTOR RESULTS

Chapter 5 presents the first-level comparison of Google and JSTOR results. This comparison employs an adapted and expanded version of Jan Brophy's methodology. The current study seeks to analyze Google's ability as an expert in the field of world religions using three case studies from the field of Islamic ethics,

The first-level comparison presented in this chapter employs an adapted and expanded version of Jan Brophy's methodology as outlined in chapter two. Simply put, Google and JSTOR were queried three times for each case study, for a total of nine searches for Google and nine for JSTOR. The search results were then assessed for relevance and quality. This chapter outlines the results of the assessment and the first-level comparison of those results.

The search sessions were conducted using predetermined search queries developed using a user-oriented approach. For each of the three topics of Islamic ethics, Google was queried first, then JSTOR. The search sessions were conducted from January 14-16, 2018. The Google and JSTOR sessions concerning the rights of women in divorce were completed on January 14, 2018. The sessions concerning *Mudaraba* banking were completed on January 15, 2018. The sessions concerning just war were completed on January 16, 2018. All searches were conducted in Rockford, Michigan, using the Google Chrome browser in the incognito setting. The Chrome browser was closed between conducting the Google and JSTOR sessions.

This study employed a user-oriented approach. This approach allowed the searches to be considered from the point of a researcher querying Google and JSTOR for

information. All three searches utilize a combination of natural language and keywords for the search terms making up the queries.¹ The following three keyword search queries were utilized for the rights of women in divorce: “Islam women and divorce,” “Islam rights of women divorce,” and “khul Islam.” These three keyword search queries were designed to simulate a user experience of a researcher seeking to understand the rights of women in divorce inside Islam. The three keyword search queries proceed from broader to more specific language. The following three keyword search queries were used for *mudaraba* banking: “Islamic finance,” “Mudaraba,” and “Islam interest.” Again, the keyword search queries were designed to mimic the terminology a researcher studying *mudaraba* banking would employ. These three keyword search queries were designed to start with a general concept, search *mudaraba* itself, and then key in on an important aspect of what *mudaraba* is trying to accomplish within Islamic finance. The following three keyword search queries were used for just war: “just war Islam,” “jihad,” and “noncombatants Islam.” Again, the keyword search queries were chosen to simulate what a researcher seeking to understand just war within Islam would use. These three keyword search queries were chosen in order to move from general to specific concepts in the area of just war. The move from general to specific concepts is an attempt to employ a user-oriented approach for the search sessions. While no researcher can predict precisely the search terms and queries any user might employ, these terms, queries, and sessions were designed with a user in mind.

The results of each search session were assessed for relevance and quality.

These two categories, relevance and quality, come directly from Brophy’s study.

¹Helen Georgas, “Google vs. the Library (Part II): Student Search Patterns and Behaviors When Using Google and a Federated Search Tool,” *portal: Libraries & the Academy* 14, no. 4 (October 2014): Georgas, “Google vs. the Library (Part II),” 509. Georgas found the most common search queries were composed of a mixture of natural language and keywords by the students she researched.

Google typically provides ten results on the first page, while JSTOR provides thirty.² Only first page Google search results were considered, and only the first ten results of any JSTOR search were considered. From the three case study topics from within Islamic ethics, consisting of nine searches, Google produced 80 unique results, and JSTOR produced 82.

Relevance

Relevance judgments were based upon whether results were topical, pertinent, or had utility. Topical results match the subject matter of any aspect of the search. Pertinent results were considered to be informative. Results were scored for utility if they appeared useful for providing needed information. Results that were topical, pertinent, and of utility were scored relevant. If the results were judged to have only two out of the three of topical, pertinent, or of utility, the results were scored partially relevant. If the results were judged to be either topical, pertinent, or of utility alone, or to not be topical, pertinent, or of utility at all, they were scored not relevant.

Brophy measured relevant results for precision and so does the current study. Precision of relevant documents is factored by the following formula: Precision = Set of relevant retrieved documents/set of all texts retrieved. Precision was also calculated for the set of relevant and partially relevant retrieved documents combined.

Relevance of Google Results for Rights of Women in Divorce

Google returned twenty relevant links, one partially relevant link, seven results that were repeated from previous searches, and one result that was not considered because it was a video. The Google search results scored a precision of 67 percent of

²Interestingly, one Google search only produced nine results on the first page.

results as relevant. The precision rate is 70 percent of Google's results when the set includes both relevant and partially relevant results.

Relevance of Google Results for *Mudaraba*

Google returned twenty relevant links, five partially relevant links, three not relevant links, and one result that was not considered because it was a slideshow. Google also produced one first page search results with only nine links. Google's search results scored a precision of 69 percent of results as relevant. The precision rate is 86 percent of Google's results when the set includes both relevant and partially relevant results.

Relevance of Google Results for Just War

Google returned twenty-four relevant links, two partially relevant links, and four not relevant links. Google's search results scored a precision of 80 percent of results as relevant. The precision rate is 87 percent of Google's results when the set includes both relevant and partially relevant results.

Relevance of JSTOR Results for Rights of Women in Divorce

JSTOR returned eight relevant links, no partially relevant links, fourteen not relevant links, seven results that were repeated from previous searches, and one result that was not considered because it was in a different language. JSTOR's search results scored a precision of 27 percent of results as relevant. Since there were no partially relevant results, the precision remains at the same 27 percent of JSTOR's results when the set includes both relevant and partially relevant results.

Relevance of JSTOR Results for *Mudaraba*

JSTOR returned thirteen relevant links, one partially relevant link, and sixteen not relevant links. JSTOR's search results scored a precision of 43 percent of results as

relevant. The precision rate is 47 percent of JSTOR results when the set includes both relevant and partially relevant results.

Relevance of JSTOR Results for Just War

JSTOR returned sixteen relevant links, one partially relevant link, and thirteen not relevant links. JSTOR's search results scored a precision of 53 percent of results as relevant. The precision rate is 57 percent of JSTOR results when the set includes both relevant and partially relevant results.

Comparison of Relevance Results for Google and JSTOR

The methodology of the first-level comparison allows the current study to assess the ability of Google and JSTOR to produce relevant search results. Once relevance judgments were performed, the results of the Google and JSTOR searches were compared to determine whether Google or JSTOR functioned with higher precision.

Relevance of Google and JSTOR results for rights of women in divorce.

Google produced twenty relevant links and five partially relevant links for the topic area of the rights of women in divorce. JSTOR produced eight relevant links and no partially relevant links. Google's precision was 67 percent of results as relevant, while JSTOR's precision was only 27 percent of results as relevant. When the partially relevant results were added to the set, Google produced a precision of 70 percent relevant or partially relevant results, while JSTOR remained at 27 percent precision including both relevant and partially relevant results in the set. The difference in precision rates for relevant results was 40 percent and the difference in precision rates when both relevant and partially relevant results were included in the set was 43 percent, both in favor of Google.

Relevance of Google and JSTOR results for *mudaraba*. Google produced twenty relevant links and five partially relevant links for the topic area of *mudaraba*

banking. JSTOR produced eight relevant links and no partially relevant links. Google's precision was 69 percent of results as relevant, while JSTOR's precision was only 43 percent of results as relevant. When the partially relevant results were added to the set, Google produced a precision of 86 percent relevant or partially relevant results, while JSTOR remained at 43 percent precision including both relevant and partially relevant results in the set. The difference in precision rates for relevant results was 26 percent and the difference in precision rates when both relevant and partially relevant results were included in the set was 43 percent, both in favor of Google.

Relevance of Google and JSTOR results for just war. Google produced twenty-four relevant links and two partially relevant links for the topic area of just war. JSTOR produced sixteen relevant links and one partially relevant link. Google's precision was 80 percent of results as relevant, while JSTOR's precision was only 53 percent of results as relevant. When the partially relevant results were added to the set, Google produced a precision of 87 percent relevant or partially relevant results, while JSTOR produced only 57 percent precision including both relevant and partially relevant results in the set. The difference in precision rates for relevant results was 27 percent and the difference in precision rates when both relevant and partially relevant results were included in the set was 30 percent, both in favor of Google.

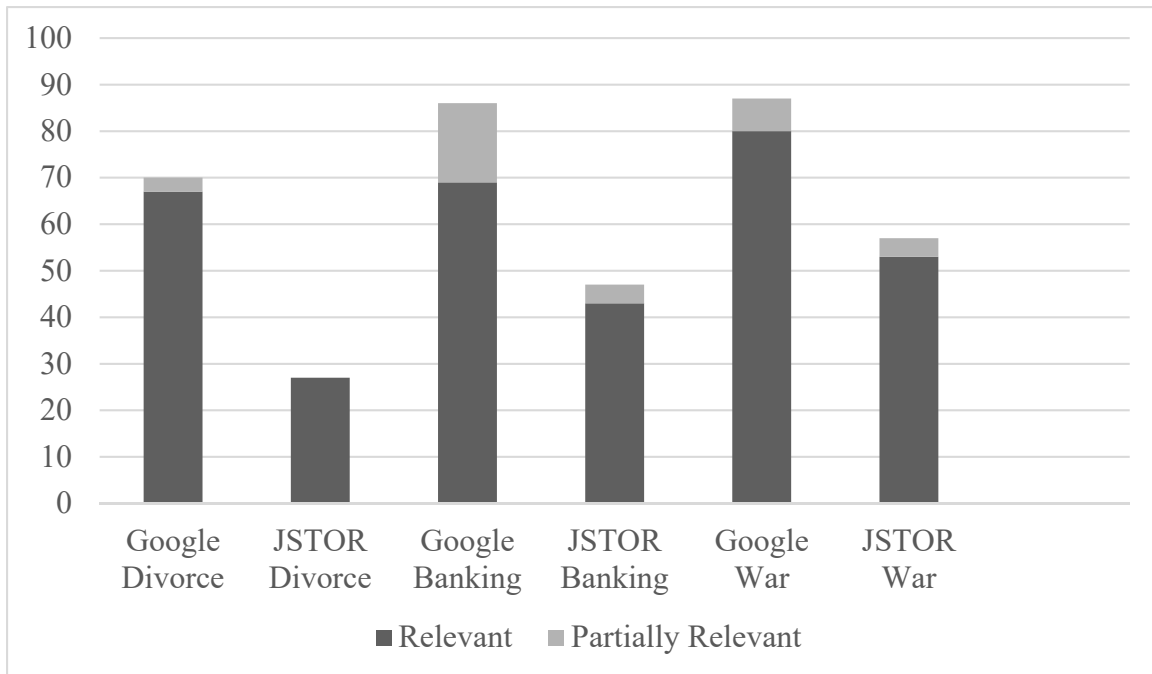


Figure 1. Precision of Google and JSTOR results for divorce, banking, and war

Relevance of Google and JSTOR for all searches. Google produced sixty-four relevant links, eight partially relevant links, eight not relevant links, seven repeated links, and two links that were not considered, while one search resulted in only nine links. JSTOR produced thirty-seven relevant links, two partially relevant links, forty-three not relevant links, seven repeated links, and one link that was not considered. Google's precision was 72 percent of results as relevant, while JSTOR's precision was 41 percent of results as relevant. When the partially relevant results were added to the set, Google produced a precision rate of 81 percent relevant or partially relevant results, while JSTOR produced only 43 percent precision including both relevant and partially relevant results in the set. The difference in precision rates for relevant results was 31 percent in favor of Google. The difference in precision rates when both relevant and partially relevant results were included in the set was 38 percent in favor of Google.³

³Aminath Riyaz, "An Investigation into the 'I Can Google It' Information Seeking Behaviour of the Academic Community and the Implications for the Delivery of Academic Library Services for Developing Countries," *Journal of the Australian Library and Information Association* 66, no. 2 (April 3,

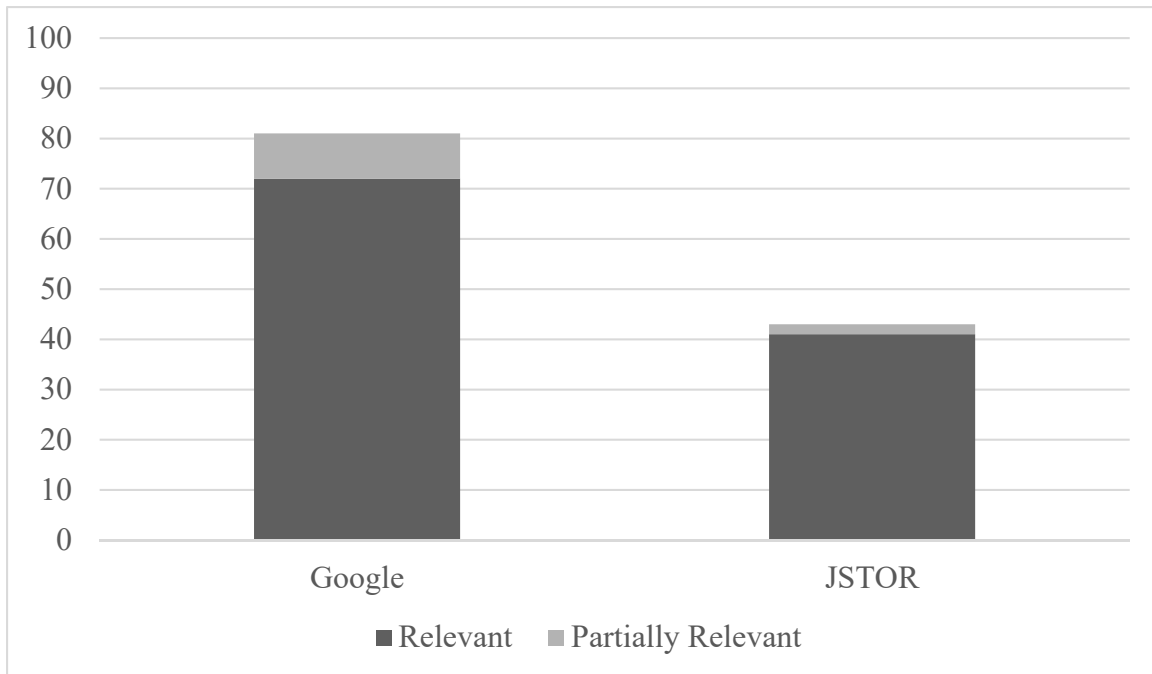


Figure 2. Precision of combined results for Google and JSTOR

Quality

Results assessed as relevant or partially relevant were scored for quality. Results were assessed to be of good quality, adequate quality, or poor quality. A result was scored good quality if it was from a peer-reviewed journal or a respected organization. Good quality results typically included information such as author and date. A result was scored adequate quality if it was from a more general or commercial source. Adequate sources also typically included information such as author or date. A result was scored poor quality if it was from an unrecognized source, such as a question and answer webpage. Poor quality results typically did not include information such as author or date.

2017): 180–82. Google’s superiority of precision may be one reason Riyaz found both academics and students typically start their research with Google.

Percentage of quality results was determined by the formula: Set of good results/set of all results deemed relevant or partially relevant. Percentage of quality results was also calculated for the set of good and adequate results combined.

Quality of Google Results for Rights of Women in Divorce

Of the twenty-one relevant or partially relevant results, two were of good quality, thirteen were of adequate quality, and six were of poor quality. Nine and a half percent were good, 62 percent were adequate, and the remaining 28.5 percent were poor. Seventy-one and a half percent were either good or adequate.

Quality of Google Results for *Mudaraba*

Of the twenty-five relevant or partially relevant results, three were of good quality, twelve were of adequate quality, and eleven were of poor quality. Twelve percent were good, 48 percent were adequate, and the remaining 44 percent were of poor quality. Sixty percent were either good or adequate.

Quality of Google Results for Just War

Of the twenty-six relevant or partially relevant results, eight were of good quality, eight were of adequate quality, and ten were of poor quality. Thirty-one percent were good, 31 percent were adequate, and the remaining 38 percent were of poor quality. Sixty-two percent were either good or adequate.

Quality of JSTOR Results for Rights of Women in Divorce

Of the eight relevant or partially relevant results, seven were of good quality, one was of adequate quality, and none was of poor quality. Eighty-seven and a half percent were good, and 12.5 percent were adequate. One hundred percent were either good or adequate.

Quality of JSTOR Results for *Mudaraba*

Of the fourteen relevant or partially relevant results, all fourteen were of good quality, and none was of either adequate or poor quality. One hundred percent of the results were either good or adequate.

Quality of JSTOR Results for *Just War*

Of the seventeen relevant or partially relevant results, fourteen were of good quality, three were of adequate quality, and none was of poor quality. Eighty-two percent were of good quality, and 18 percent were of adequate quality. One hundred percent of the results were either good or adequate.

Comparison of Quality Results for Google and JSTOR

The methodology of the first-level comparison allows the current study to assess the ability of Google and JSTOR to produce search results of quality. Once quality judgments were performed, the quality determinations of the Google and JSTOR searches can be compared to determine which produced search results of higher quality.

Quality of Google and JSTOR results for rights of women in divorce. Of Google's twenty-one relevant or partially relevant results in the topic area of rights of women in divorce, two were of good quality and thirteen were of adequate quality. Of JSTOR's eight relevant or partially relevant results, seven were of good quality and one was of adequate quality. Google produced good quality results 12 percent of the time, and JSTOR produced good quality results 87.5 percent of the time. When combining results determined to be either good or adequate into one set, Google produced good or adequate quality results 71 percent of the time. When combining results determined to be either good or adequate into one set, JSTOR produced good or adequate quality results 100 percent of the time. The difference in the percentage of good results was 75.5 percent,

and the difference in precision rates when both good and adequate quality results were included in the set was 29 percent, both in favor of JSTOR.

Quality of Google and JSTOR results for *mudaraba*. Of Google's twenty-five relevant or partially relevant results in the topic area of *mudaraba* banking, three were of good quality and twelve were of adequate quality. Of JSTOR's fourteen relevant or partially relevant results, all fourteen were of good quality. Google produced good quality results 12 percent of the time, and JSTOR produced good quality results 100 percent of the time. When combining results determined to be either good or adequate into one set, Google produced good or adequate quality results 60 percent of the time. When combining results determined to be either good or adequate into one set, JSTOR produced good or adequate quality results 100 percent of the time. The difference in the percentage of good results was 88 percent and the difference in precision rates when both good and adequate quality results were included in the set was 40 percent, both in favor of JSTOR.

Quality of Google and JSTOR results for just war. Of Google's twenty-six relevant or partially relevant results in the topic area of just war, eight were of good quality and eight were of adequate quality. Of JSTOR's seventeen relevant or partially relevant results, fourteen were of good quality and three were of adequate quality. Google produced good quality results 31 percent of the time, and JSTOR produced good quality results 82 percent of the time. When combining results determined to be either good or adequate into one set, Google produced good or adequate quality results 62 percent of the time. When combining results determined to be either good or adequate into one set, JSTOR produced good or adequate quality results 100 percent of the time. The difference in the percentage of good results was 51 percent and the difference in precision rates when both good and adequate quality results were included in the set was 38 percent, both in favor of JSTOR.

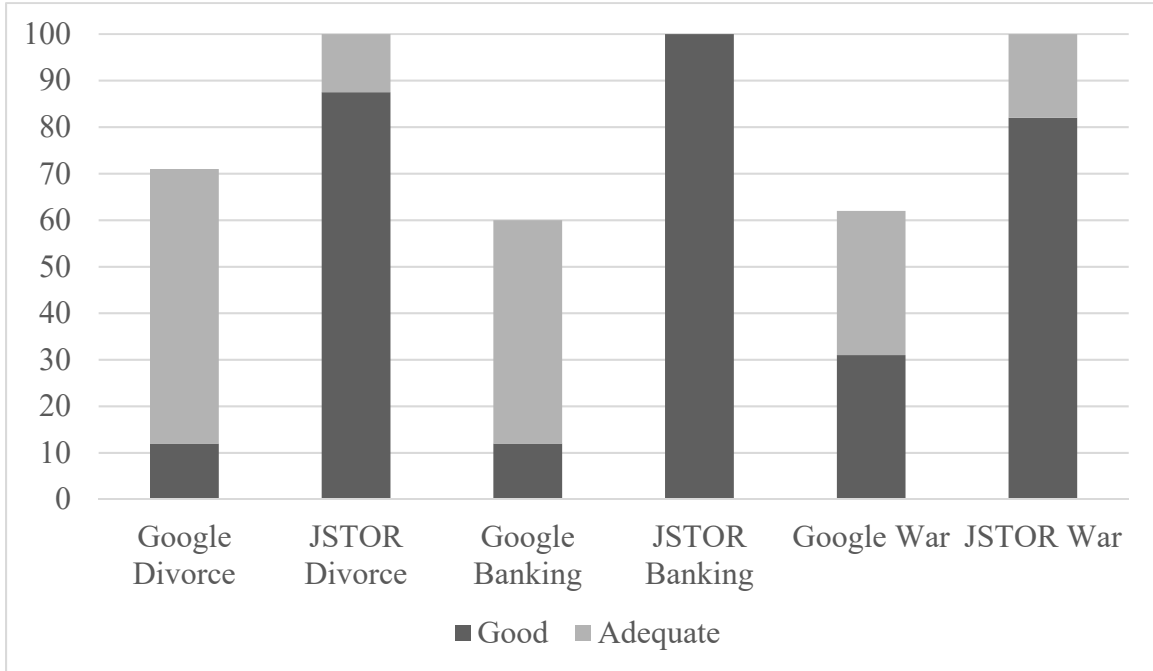


Figure 3. Quality of Google and JSTOR results for divorce, banking, and war

Quality of Google and JSTOR for all searches. Of Google’s seventy-two relevant or partially relevant results, thirteen were of good quality, thirty-three were of adequate quality, and twenty-seven were of poor quality. Of JSTOR’s thirty-nine relevant or partially relevant results, seventy-seven were of good quality, five were of adequate quality, and none of the results were of poor quality. Eighteen percent of Google’s results were good, and 46 percent were adequate. Ninety-five percent of JSTOR’s results were good, and 5 percent were adequate. Sixty-four percent of Google’s results were either good or adequate, while 100 percent of JSTOR’s results were either good or adequate. The difference in the ability to produce good results favored JSTOR by 82 percent. When both good and adequate quality results were added to the set, the difference favored JSTOR by 36 percent.

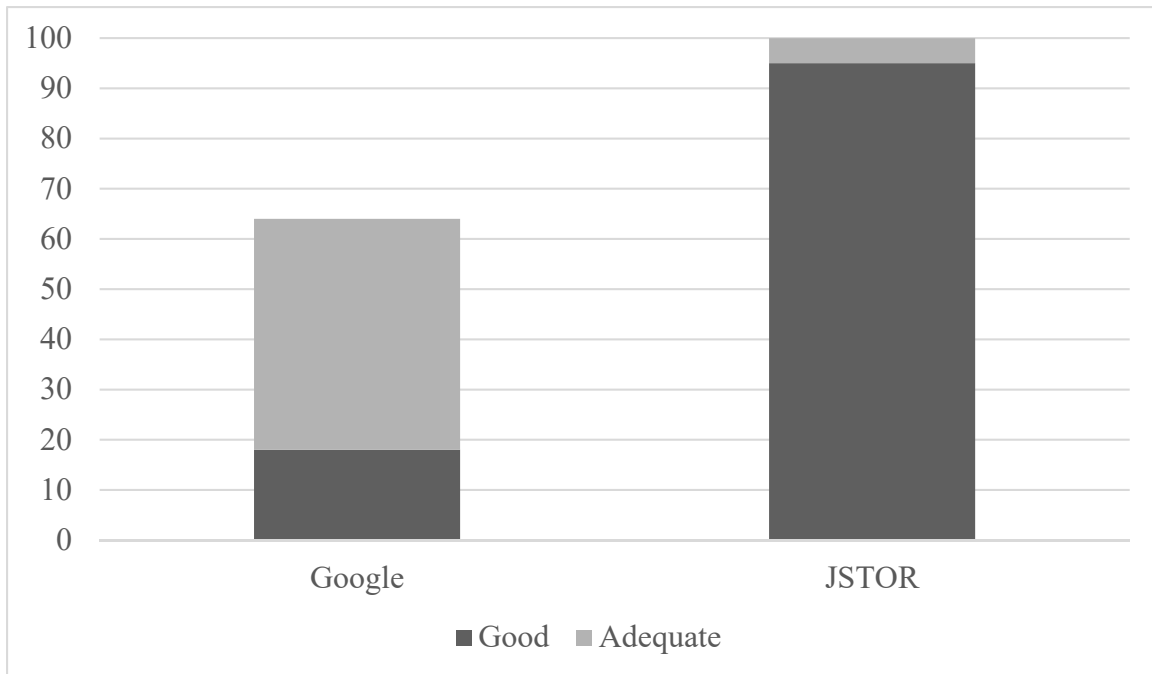


Figure 4. Quality of combined results for Google and JSTOR

Findings of the First-Level Comparison

This study employs the first-level comparison not only to compare Google and JSTOR, but also to determine the relevant and partially relevant results to be utilized in the second-level comparison. Nonetheless, the first-level comparison is still a comparison worth examining.

This comparison found Google consistently functioned with higher precision. Google regularly produced a higher percentage of relevant results and both relevant or partially relevant results. Google's overall precision rate was 72 percent for relevant results and 81 percent for relevant or partially relevant results. JSTOR's precision rate was 41 and 43 percent respectively. This difference seems to demonstrate that the top-ranked results from Google are more relevant than the top-ranked results from JSTOR. Google appears to either have more relevant information or be better at recognizing what the user is after and producing it. The most significant example of Google's ability to operate more precisely contrasted with the precision of JSTOR was the search utilizing

the keyword search terms “Islam interest.” Google returned eight relevant results, one partially relevant result, no not relevant results, and one result that was not considered because it was a slideshow. However, JSTOR produced only not relevant results. JSTOR seemed to have returned results that only included the words “Islam” and “interest.” These results had more to do with things of interest in Islamic studies than with the place of interest within Islamic finance.⁴ While the results of this search are an extreme case, the first-level comparison demonstrates Google’s superior precision by the ability to return more relevant results.

JSTOR regularly produced a higher percentage of quality results. This finding should not come as a surprise as JSTOR is designed to produce good quality results. The overall quality rate for JSTOR was 95 percent as good and 100 percent as good or adequate. Google, on the other hand, had a quality rate of 18 percent as good and 64 percent as good or adequate. This comparison demonstrates JSTOR’s place in research as a tool that produces quality results. However, the comparison also demonstrates Google’s ability to produce adequate results more often than not.⁵

The Results of the Current Study Compared to Brophy’s Work

Brophy’s 2004 study compared Google results to traditional library research methods.⁶ Brophy examined relevance and quality of the results of both Google and

⁴Search Metrics found, “The relationship of the content to matching user search intentions are what now heavily influences Google’s rankings, our analysis shows.” “Why We’re Killing Searchmetrics Ranking Factors (Hint: Google Made Us) -,” *Searchmetrics SEO Blog*, last modified December 13, 2016, accessed March 20, 2018, <https://blog.searchmetrics.com/us/2016/12/13/searchmetrics-ranking-factors-reboot/>.

⁵David Nicholas and David Clark, “Finding Stuff,” in *Is Digital Different? How Information Creation, Capture, Preservation and Discovery Are Being Transformed*, ed. Michael Moss and Barbara Endicott-Popovsky (London: Facet Publishing, 2015), 26. Nicholas and Clark claim researchers are not overwhelmed by a plethora of results, but are able to review the results to determine quality and which result to use. Jillian R. Griffiths and Peter Brophy, “Student Searching Behavior and the Web: Use of Academic Resources and Google,” *Library Trends* 53, no. 4 (Spring 2005): 550. Griffiths and Brophy found students are willing to trade quality of results for time and ease of searching.

⁶Jan Brophy, “Is Google Good Enough? A Study Comparing a Major Search Engine with

traditional library research methods. The first-level comparison of the current study is rooted in Brophy's methodology. Brophy's study found that Google produced relevant results 38 percent of the time and partially relevant results 18 percent of the time. Combined, Google produced relevant or partially relevant results 56 percent of the time. The traditional library research produced relevant results 41 percent of the time and partially relevant results 12 percent of the time. The traditional library research methods scored a precision rate of 53 percent when relevant or partially relevant results were combined into a set. Brophy's study found the traditional library research methods to have higher precision than Google for strictly relevant results. Google's precision exceeded the traditional library research methods when combining relevant and partially relevant results.

Brophy's findings are in contrast to the findings of the current study in reference to relevant Google results compared to a traditional source. The current study finds Google to have a higher precision of search results for relevant results than Brophy found. The current study finds Google's precision at 72 percent for relevant results compared to the 38 percent Brophy found. Brophy's study finds Google to have a higher precision of results than a traditional library source when relevant and partially relevant are considered as a set. While Brophy finds a negligible variance of the difference between Google and the traditional library, the current study has a more considerable margin between Google and JSTOR when relevant and partially relevant results are combined into one set. The current study finds a difference of 38 percent between Google and JSTOR.

The current study's findings of the quality comparison somewhat mirror Brophy's findings. Brophy found traditional library research to produce good quality results 84 percent of the time, while only 52 percent of Google results were of high

Academic Library Research" (MSc diss., City University, London, 2004).

quality. This study found Google's quality to be significantly lower and JSTOR's quality to be significantly higher. Brophy found Google produced adequate results 44 percent of the time. The current study, found Google to produce adequate results 46 percent of the time. The percentage of adequate Google results found by Brophy and the current study are very similar. Google produced more good results in Brophy's study, but similar amounts of adequate results. Like Brophy's study, the current study found the more traditional resource produced higher quality results, while Google produced lower quality results.

It is beyond the scope of this study to assess the areas in which Brophy's findings differ from the current study. Of course, Brophy did not examine the same traditional library source as the current study. Brophy utilized multiple traditional library research tools, while the current study assesses one traditional library tool, JSTOR. Furthermore, the algorithms powering the Google search engine have undoubtedly changed and advanced in the past fourteen years. Similarly, the internet has expanded and progressed significantly over those fourteen years. Nevertheless, it is interesting to note Brophy found a higher quality of results from Google, but fewer relevant results than the current study.⁷

Conclusion

In summary, both search tools demonstrate strengths. Google excelled at producing relevant results. JSTOR shone at producing quality results. If a researcher is looking for a plethora of relevant results of no less than adequate quality, Google stands out. If a researcher is looking for high-quality results even though relevant results may be fewer, JSTOR is the tool. However, neither the precision of relevant results nor the

⁷The increase of precision could simply be due to the advancements Google has made as a search engine in the years since Brophy's study, especially when, as Nicholas and Clark claim, "It is said that an Internet year is just seven weeks." Nicholas and Clark, "Finding Stuff," 21.

quality of the results adequately assess Google's ability to function as an expert in the field of world religions. An analysis of Google's role as an expert in the field of world religions requires an assessment of the actual content of the search results. It is this compilation and assessment of the content of those results deemed relevant or partially relevant the next chapter provides.

CHAPTER 6

SECOND-LEVEL COMPARISON OF GOOGLE AND JSTOR RESULTS

This chapter presents the second-level comparison that analyzes and compares the contents of the Google and JSTOR search results. For each of the three case studies, the contents of the Google results are presented first, followed by the contents of the JSTOR results, and finally, the chapter provides a comparison of the results to each other based on the baseline literature survey.

The contents of the search results were scored adequate, basic, or failed to address for each of the essential areas identified by the baseline literature survey. If the search results covered the topic with a depth similar to the information contained in the baseline literature survey, the content was considered adequate. Adequate content interacted with primary sources in a manner similar to the baseline literature survey and covered the majority of the information presented in the baseline literature survey. If the search results covered the topic but provided only minimal information compared to the literature survey, the content was considered basic. Basic content often failed to cover an aspect identified in the baseline literature survey or did not interact with primary sources in a manner similar to the baseline literature survey. If the search results failed to cover the topic or only mentioned the topic in passing, the content was considered to have failed to address the topic. Content that failed to address the topic was characterized by either not addressing the issue identified by the literature survey or not providing information about the issue identified by the literature survey. If the content mentioned the topic, but did not provide any information about the topic, the content failed to address the topic.

After the contents of the Google results and the JSTOR results are given, the findings of a point-by-point comparison are outlined. In this point-by-point comparison, examples are given for why the contents have been scored either adequate, basic, or failed to address the topic for each of the areas identified as essential by the baseline literature survey.

The Contents of the Relevant and Partially Relevant Google Results for the Rights of Women in Marriage

The Google search queries regarding women's right to divorce in Islam contained twenty-one relevant or partially relevant results. This section provides an overview of the contents of the search results from the twenty-one relevant or partially relevant results.¹

Marriage in Islam

Muhammad is reported to have said, "Allah loves no permissible like marriage, and Allah hates no permissible like divorce."² Marriage is not something to be entered into lightly in Islam, nor is it to be exited lightly. One resource states,

Marriage is sacred and the peace of the family to be respected, and divorce an unpalatable and detestable thing. Society is responsible for removing the causes and incentives to divorce, but at the same time the law should not bar the way of divorce for incompatible marriages. The way to get out of the bond of marriage should be kept open for the husband as well as for the wife.³

¹This section and the sections regarding the contents of Google searches that follow do not attempt to discriminate based upon the academic nature of sources. Instead, the sections analyze the content of the sources themselves. Therefore, sources that would traditionally not be cited in an academic paper are, nonetheless, cited regularly in this section and the sections that follow.

²"Divorce in Islam," *Al-Islam.Org*, accessed January 15, 2018, <https://www.al-islam.org/introduction-rights-and-duties-women-islam-ayatullah-ibrahim-amini/divorce-islam>.

³"The Rights of Women in Islam. Part Ten: Right of Divorce," *Al-Islam.Org*, accessed January 15, 2018, <https://www.al-islam.org/rights-women-islam-ayatullah-murtadha-mutahhari/part-ten-right-divorce>.

The general perception of marriage and divorce in Islam is that a man can exit it capriciously with little to no regard for the wife, while the wife has very few options for exiting the marriage. Essentially, “The door by which the husband is to come out of this situation [marriage] is different from that which the wife is to use.”⁴

Islamic marriage is a contract with financial considerations. According to Imani Jaafar-Mohammad and Charlie Lehmann, “The marriage contract in its most basic form reflects the couple’s consent to the union without duress and is signed in the presence of competent witnesses.”⁵ The husband is to give the wife a dower or *mahr* which secures her financially. This gift secures the woman against capricious divorce.⁶ The contract can include significant elements of the marriage including a specification of where the couple will reside, what careers can be pursued, and what will happen with the children.⁷

Divorce

The termination of the marriage contract can occur in numerous ways. Four avenues of divorce are outlined below: *talaq*, *talq-e-tafweez*, *khul’*, and divorce for cause.

⁴“The Rights of Women in Islam.”

⁵Imani Jaafar-Mohammad and Charlie Lehmann, “Women’s Rights in Islam Regarding Marriage and Divorce,” *Journal of Law and Practice* 4 (2011): 4, accessed January 14, 2018, <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1020&context=lawandpractice>.

⁶“Divorce in Islam,” *Wikipedia*, December 29, 2017, accessed January 15, 2018, https://en.wikipedia.org/w/index.php?title=Divorce_in_Islam&oldid=817644139. An answer to the question of why a man has the easier way “Islam has laid the complete financial burden on the shoulders of the men, and a groom is required to bear not only the complete cost of the wedding, the banquet, the clothing, the gifts, the jewelry, the travel, etc. but he has to present a substantial gift mehr determined by the bride at the time of marriage as an absolutely obligatory condition of a marriage in Shariah. If the wife had been given the right to obtain divorce by merely declaring it, there is a possibility of abuse whereby the wife could divorce the husband the very next moment of the nikaah, thus leaving the husband with a substantial financial loss.” “Can Woman Initiate Divorce?,” *Islam Helpline*, accessed January 15, 2018, <http://www.islamhelpline.net/node/7308>.

⁷Jaafar-Mohammad and Lehmann, “Women’s Rights in Islam Regarding Marriage and Divorce,” 4.

Talaq divorce. *Talaq* is a divorce initiated by the husband in which he verbally repudiates the wife. It has been argued *talaq* is “a reprehensible means of divorce.”⁸ *Talaq* is a revocable form of divorce the first two times the husband pronounces it. When *talaq* is pronounced, the wife begins the *idda* period. This period is approximately 90 days (three menstrual cycles) during which the wife remains in the house, but sexual relations cease. One comment on the question and answer website Quora claimed the wife must remain in the house.⁹ During the *idda* period, the husband’s requirement to maintain his wife remains. The husband can resume sexual relations with his wife at any time during the *idda* period, revoking his pronouncement of *talaq*. If the couple does not resume sexual relations or the husband does not revoke the pronouncement of *talaq* for any other reason, the couple is divorced. In addition to the possibility for reconciliation during this period, another pragmatic function is to determine whether or not the wife is pregnant so a paternity issue does not break out if the wife remarries quickly.¹⁰

The couple may remarry at a later time following the first two instances of a *talaq* divorce, but cannot remarry after the third instance without the wife being married to someone else first. In addition to being unable to remarry, a woman divorced for the third time is considered ineligible for maintenance from the husband by some,¹¹ while others believe the Qur’an “instructs that the woman should be given a fair compensation at the time of the divorce.”¹²

⁸“Divorce in Islam.”

⁹“How Can a Muslim Woman Get a Divorce from Her Husband?,” *Quora*, accessed January 15, 2018, <https://www.quora.com/How-can-a-Muslim-woman-get-a-divorce-from-her-husband>.

¹⁰Rafidah Abdul Jamal, “Women and Divorce From The Islamic Perspective,” *Bismika Allahuma*, September 22, 2005, accessed January 15, 2018, <https://www.bismikaallahuma.org/islam/women-in-islam/women-divorce-islamic-perspective/>.

¹¹“Rights of Revocably and Irrevocably Divorced Women,” *Islam Question and Answer*, accessed January 15, 2018, <https://islamqa.info/en/82641>.

¹²“How Can a Muslim Woman Get a Divorce from Her Husband?”

A form of *talaq*, known as *talaq al-bid'ah*, essentially functions as three pronouncements of *talaq* and is irrevocable. One resource claims this form comes from pre-Islamic custom and, though disapproved, is legal.¹³ Some restrictions have been placed on *talaq* throughout the Islamic world, including that of requiring a husband to register *talaq* with the court, requiring witnesses, or being sober.¹⁴

***Talaq-i-tafwid* divorce.** One option available to Islamic women is to include a clause in their marriage contract that delegates the husband's right to divorce to the wife.¹⁵ Wikipedia claims *talaq-i-tafwid* is a common clause found in marriage contracts.¹⁶ One resource, on the website Al-Islam, states, regarding *talaq-i-tafwid*,

a man can give his wife the right of divorce as an absolute attorney, or in special circumstances on his own behalf. This is something else which according to Islamic jurisprudence is, acceptable, and the Civil Law of Iran has also explicitly mentioned it. . . . in the view of Islamic Law, a woman has no inherent natural right of divorce, but as a stipulatory right, namely in the form of a condition contained in the marriage contract, she may have that right.¹⁷

***Khul'* divorce.** Perhaps no issue is more important to the rights of women in divorce than the concept of *khul'*. *Khul'* means to "take out" or "remove."¹⁸ Two avenues of divorce are often considered *khul'*. The first is the right of a woman to divorce because she believes she can no longer live with her husband. This right is similar to the

¹³"Divorce in Islam."

¹⁴Mohsen Alhamad, "The Rights of a Divorced Woman in Islam," last modified October 11, 2014, accessed January 15, 2018, <https://www.linkedin.com/pulse/20141011104055-314687442-the-rights-of-a-divorced-woman-in-islam>.

¹⁵"Fiqh of Marriage - Divorce," *Islam's Women: Jewels of Islam*, accessed January 15, 2018, http://www.islamswomen.com/marriage/fiqh_of_marriage_10.php.

¹⁶"Divorce in Islam."

¹⁷"The Rights of Women in Islam."

¹⁸Muhammad Ibn Adam, "Khul' & Tafweedh: Wife Initiated Separation," *Central Mosque*, accessed January 15, 2018, <https://central-mosque.com/index.php/Relationships/khul-a-tafweedh-wife-initiated-separation.html>.

man's right to *talaq* and is considered in this section.¹⁹ The second is the right of the wife to divorce for cause. While divorce for cause is considered *khul'* in some places, divorce for cause will be explored below.

The wife's right to initiate divorce is a significant reform due to the rise of Islam.²⁰ The right of *khul'* is based upon the hadith that recounts an exchange between the wife of Thabit b. Qais and Muhammad. Wikipedia provides the following hadith,

Narrated Ibn 'Abbas: The wife of Thabit bin Qais came to the Prophet and said, 'O Allah's Apostle! I do not blame Thabit for defects in his character or his religion, but I, being a Muslim, dislike to behave in un-Islamic manner if I remain with him.' On that Allah's Apostle said to her, 'Will you give back the garden which your husband has given you as *Mahr*?' She said, 'Yes.' Then the Prophet ordered to Thabit, 'O Thabit! Accept your garden, and divorce her once.'²¹

This hadith provides the minimum requirement for *khul'*. If the wife no longer desires to stay with her husband, the wife returns the *mahr* (or some other compensation) to terminate the marriage contract.²² The wife can negotiate a lower payment, but the maximum amount the husband can receive is limited to the *mahr*.²³ In the hadith, no

¹⁹Though some may not recognize this right, another ahadith supports it, stating, "Allah's Messenger (*Sallallaahu 'alaihi wa Sallam*) said: 'Any woman who asks her husband for a divorce (*khul'*) without due cause, then the scent of Paradise is Haraam for her (i.e. she will not smell it).'" Shaykh Fawzan, "The Regulations of *Khul'*: Dissolution of Marriage: Shaykh Fawzan," *AbdurRahman.Org*, January 29, 2014, accessed January 15, 2018, <https://abdurrahman.org/2014/01/29/theregulationsofkhul/>. One respondent included without cause right in the definition when speaking of *khul*, "the woman asks for divorce from the husband with no cause. In that case the husband may ask her to return the *mahr* that he gave her, in return for divorcing her. This is what is called *khula'*." "Rights of Revocably and Irrevocably Divorced Women."

²⁰"The Quran substantially reformed the gender inequity of divorce practices that existed in pre-Islamic Arabia. . . . The early Islamic reforms included giving the wife a possibility to initiate divorce." "Divorce in Islam."

²¹"*Khul'*," *Wikipedia*, n.d., accessed January 15, 2018, <https://en.wikipedia.org/w/index.php?title=Khul%27&oldid=818243761>. Another source notes that, "according to the four schools, it is also valid to conclude a *khul'* agreement with anyone apart from the wife. Therefore, if a stranger asks the husband to divorce his wife for a sum which he undertakes to pay and the husband divorces her, the divorce is valid even if the wife is unaware of it and on coming to know does not consent. The stranger will have to pay the ransom to the divorcer." "The Five Schools of Islamic Law: Al-Khul," *Al-Islam.Org*, accessed January 15, 2018, <https://www.al-islam.org/five-schools-islamic-law-allamah-muhammad-jawad-maghniyyah/al-khul>.

²²"*Khula'*: Definition and How It Is Done," *Islam Question and Answer*, accessed January 15, 2018, <https://islamqa.info/en/26247>.

²³Jamal, "Women and Divorce From The Islamic Perspective."

serious cause for the divorce appears other than the wife's statement that she will behave in an un-Islamic manner. Shaykh Fawzan illustrates this situation, stating,

But if the husband finds repose and comfort, but the wife does not find the same in him as a result of her disliking his traits, physical appearance, deficiency of religion or she fears that she would displease Allah by not fulfilling his (husband's) rights and needs; then in this case she may request a separation and dissolution from him while extending to him an offer of monetary gain so as to liberate herself from him.²⁴

Muhammad's role in the hadith leads some to require a judicial element in *khul'*. If the woman chooses not to live with her husband, the judge should require the husband to accept payment for the divorce.²⁵ In fact, the role of the judge is one of the most significantly debated elements in *khul'*. Muhammad Ibn Adam claims, "a *Khul'* agreement can only be carried out with the consent of the husband. The wife does not have the jurisdiction to enforce *Khul'* without the consent of her husband. This is an agreed upon ruling in all of the four Sunni schools of Islamic law."²⁶ The Maliki school appears to hold the exception to the widely held view that a husband must consent to *khul'*. Muhammad Munir states,

According to the majority of Muslim jurists, a woman cannot obtain *khul'* without the consent of her husband. However, Imam Malik and his disciples are of the opinion that the decision of arbitrators chosen by the state authority, court or the spouses for resolving dispute between the husband and wife can decide separation or union and such outcome is valid without specific delegation by the spouses and without their consent.²⁷

The husband's perceived prerogative either to accept or decline a *khul'* is seen by Cassim Nadia as an issue. She states, "Of concern is also the notion that the *Khula* is

²⁴Fawzan, "The Regulations of *Khul'*."

²⁵"*Khula'*: Definition and How It Is Done."

²⁶Ibn Adam, "Khul & Tafweedh: Wife Initiated Separation."

²⁷He also states, "Ibn Rushd treats *khul'* as a right possessed by a woman that is the equivalent of a man's right to divorce and that *khul'* is not dependent upon the consent of the husband." Mohammad Munir, "The Protection of Women and Children in Islamic Law and International Humanitarian Law: A Critique of John Kelsay," *Hamdard Islamicus* 25, no. 3 (July 1, 2002): 69–82, accessed December 31, 2014, <http://search.ebscohost.com/login.aspx?direct=true&db=rft&AN=ATLA0001496532&site=ehost-live>.

not recognized unless the husband ‘signs off’ and consents to it. This act alone marginalizes the rights of Muslim women in Islam and makes them prey to vengeful tactics by their disgruntled husbands.’²⁸

Khul’ seems to have been practiced throughout history. The practice of *khul’* appears more frequently in historical records than *talaq*.²⁹ The practice of *khul’* appears to be fairly widespread as the “Relative frequency of *khul’* has been noted in studies of Istanbul, Anatolia, Syria, Muslim Cyprus, Egypt and Palestine.”³⁰

Divorce for cause. Unlike *khul’*, which can be interpreted to require no cause, women are also afforded divorce for cause. Often, this form of divorce is considered *khul’* since it is woman-initiated divorce. Wikipedia claims, “In almost all cases, a woman must have clear evidence in her favour to be granted *khul’*.”³¹ The article goes on to claim that in Yemen a woman can be granted *khul’* for her husband’s alcoholism, being jailed for more than three years, mental illness, or his hatred.³² Another Wikipedia article provides the following examples of cause, “cruelty; husband's failure to provide maintenance or pay the immediate installment of *mahr*; infidelity; desertion; moral or social incompatibility; certain ailments; and imprisonment harmful to the marriage.”³³

If a husband is found to be at fault in this type of a *khul’* proceeding, the wife may not be required to give financial consideration.³⁴ Often, when a woman attempts to divorce her husband for cause, arbitrators are assigned by the court. The arbiters

²⁸Nadia Cassim, “A Woman’s Right to Divorce in ISLAM,” *Irtiqa*, October 31, 2013, accessed January 15, 2018, <http://www.irtiqa.co.za/a-womans-right-to-divorce-in-islam/>.

²⁹“Divorce in Islam.”

³⁰“Divorce in Islam.”

³¹“Khul’.”

³²“Khul’.”

³³“Divorce in Islam.”

³⁴Ibn Adam, “Khul & Tafweedh: Wife Initiated Separation.”

advise and council [*sic*] her husband and induce him to observe justice and fairness, and to perform his duties. If they are successful, she continues her life with him and if he does not see the light and amend his ways, she must advance her complaint to a canonical Islamic judge or family court. . . . [then] The judge summons the offending husband and demands that he refrain from oppression and abuse and that he perform his duties. If he does not accept, he is obligated to divorce her. If he refuses to do so, the judge himself divorces them and forcefully takes the wife's rights from her husband.³⁵

Other Issues

Two important issues regarding the rights of women in divorce are the custody of children and social hurdles faced by women. Islam affords the wife the custody of young children, while the husband remains the guardian.³⁶ This right comes from the following hadith attributed to Abu Dawud:

From Abdullah bin Amar, who said, a woman asked Prophet Muhammad 'O Apostle of God, I am the one who carried my son in my womb, and gave him protection on my lap and I suckled him with my breasts, and now his father wants to take him away from me'. Then The Apostle said, 'You have greater right over him, so long that you are not [*sic*] remarry.'³⁷

Mohsen Alhamad claims girls are to remain in the mother's care until age seven, while boys until age twelve. However, he acknowledges girls tend to live with the mother until age sixteen.³⁸ While the mother has custody of the children, the husband is supposed to provide some form of financial support.

Being legally afforded a right and having unencumbered access to that right are different matters. For instance, in the first two years of Egypt allowing *khul'*, of the 5,000 women who filed for a *khul'* divorce, only 122 were approved.³⁹ For other Muslim women, social barriers can be an issue. According to Fatimah Jackson-Best, one divorced woman stated, "I found many people in the community to be very judgmental." Jackson-

³⁵"Divorce in Islam."

³⁶"Divorce in Islam."

³⁷Jamal, "Women and Divorce From The Islamic Perspective."

³⁸Alhamad, "The Rights of a Divorced Woman in Islam."

³⁹Cassim, "A Woman's Right to Divorce in ISLAM."

Best shares two more statements from women about this judgment. One woman stated, “There is little emotional support for women who are divorced in our community” and the other said, “Divorced women are seen as damaged goods, bad wives.”⁴⁰ The social status of women after a divorce is in stark contrast to the perception of divorced men, who rarely suffer socially.

Another significant social issue occurs when a couple obtains a civil divorce rather than a religious divorce. The Islamic Sharia Council in England helps with these religious divorces but still requires a religious divorce, stating, “If the couple have participated in a civil marriage, the ISC requires that they are divorced in both Islamic and civil procedures. Civil divorce cannot replace Islamic divorce, just as civil marriage does not constitute an Islamic Nikah.”⁴¹ A Wikipedia article claims women in North America are unaware of their right to *khul’*.⁴² This lack of awareness demonstrates a social issue impacting the rights of women in divorce.

The Contents of the Relevant and Partially Relevant JSTOR Results for the Rights of Women in Marriage

The JSTOR queries regarding women’s right to divorce in Islam contained eight relevant or partially relevant results. This section provides a survey of the contents of the search results from the eight relevant or partially relevant results.

Marriage

Islamic marriage is a civil contract that acknowledges the potential for divorce.⁴³ The marriage contract acknowledges divorce because, though the Qur’an

⁴⁰Fatimah Jackson-Best, “Muslim Women Dealing with Divorce,” *Aquila Style*, accessed January 15, 2018, <https://www.aquila-style.com/focus-points/muslim-women-dealing-divorce/56799/>.

⁴¹“Khula,” *Islamic Sharia*, May 9, 2014, accessed January 15, 2018, <http://www.islamic-sharia.org/khula/>.

⁴²“Khul’.”

⁴³Eleanor A. Doumato, “Hearing Other Voices: Christian Women and the Coming of Islam,”

discourages divorce, the Qur'an recognizes there are instances in which divorce is necessary.⁴⁴ The termination of the marriage contract is often handled outside of court.⁴⁵

Divorce

Islamic law increased women's legal protections in divorce and marriage, compared to the previously existing protections.⁴⁶ Though the Qur'an is against divorce, it "tries to protect women and give them equal rights."⁴⁷ Divorce is available to women through three primary avenues: *talaq*, a stipulation in the marriage contract, and *khul'*.

***Talaq* divorce.** The husband has access to a simple verbal repudiation of the wife. This type of divorce, *talaq*, is the most common.⁴⁸ Traditionally, *talaq* requires no court involvement.⁴⁹ After the husband invokes his right to *talaq* there is a waiting period to determine whether the divorced woman is pregnant. While the waiting period is required, divorce does occur without it, though a divorce without a waiting period is discouraged.⁵⁰ *Talaq*'s simple repudiation often takes two forms. The first is revocable and allows the husband to take the wife back. The second is irrevocable and takes place

International Journal of Middle East Studies 23, no. 2 (1991): 190, accessed January 15, 2018, <http://www.jstor.org/stable/164236>.

⁴⁴Jane I. Smith, "Women in Islam: Equity, Equality, and the Search for the Natural Order," *Journal of the American Academy of Religion* 47, no. 4 (1979): 520, accessed January 15, 2018, <http://www.jstor.org/stable/1462273>.

⁴⁵Aharon Layish and Avshalom Shmuely, "Custom and 'Shari'a' in the Bedouin Family According to Legal Documents from the Judaean Desert," *Bulletin of the School of Oriental and African Studies, University of London* 42, no. 1 (1979): 34, accessed January 15, 2018, <http://www.jstor.org/stable/614824>.

⁴⁶Smith, "Women in Islam," 517.

⁴⁷Smith, "Women in Islam," 520.

⁴⁸Smith, "Women in Islam," 522.

⁴⁹Layish and Shmuely, "Custom and 'Shari'a' in the Bedouin Family."

⁵⁰Smith, "Women in Islam," 523.

immediately.⁵¹ The irrevocable triple *talaq*, in which the husband pronounces three repudiations at the same time is “rejected in a number of countries.”⁵²

Divorce stipulation in the marriage contract. Following the Hanbali school, the Ottomans allowed the marriage contract to contain stipulations for when the wife would be granted a divorce.⁵³ One common stipulation is to bar the husband from polygyny.⁵⁴

Khul’ divorce. *Khul’* is a wife’s right to divorce by “redeeming herself” with a form of payment, typically the *mahr*. This type of divorce, *khul’*, existed in pre-Islamic Arabia.⁵⁵ The primary difference between classical *khul’* and Islamic *khul’* is the position of the woman in the marriage contract. In Islamic *khul’*, the woman is a party in the marriage contract herself, so she receives the *mahr*. In classical *khul’*, a guardian is the party to the marriage contract and receives the *mahr*. This difference dictates who initiates the *khul’* divorce, with the wife initiating it in the Islamic version and a guardian in the classical version.⁵⁶ Maliki doctrine allows the court to force the dissolution of the marriage through *khul’*, typically accompanied by the return of the *mahr*.⁵⁷

Arzoo Oslanoo’s research into Iranian courts sheds light not only on *khul’* but issues surrounding women’s rights in divorce. As the Iranian *mahr* is often deferred in the

⁵¹Layish and Shmueli, “Custom and ‘Shari’a’ in the Bedouin Family,” 38.

⁵²Smith, “Women in Islam,” 523.

⁵³J. N. D. Anderson, “Reforms in the Law of Divorce in the Muslim World,” *Studia Islamica*, no. 31 (1970): 42, accessed January 15, 2018, <http://www.jstor.org/stable/1595062>.

⁵⁴Cheryl Benard, “Mapping the Issues: An Introduction to the Range of Thought in Contemporary Islam,” in *Civil Democratic Islam*, Partners, Resources, and Strategies (Pittsburgh: Rand Corporation, 2003), 16.

⁵⁵Aharon Layish, “Customary ‘Khul’ as Reflected in the ‘Sijill’ of the Libyan ‘Shari’a’ Courts,” *Bulletin of the School of Oriental and African Studies, University of London* 51, no. 3 (1988): 428, accessed January 15, 2018, <http://www.jstor.org/stable/617007>.

⁵⁶Layish and Shmueli, “Custom and ‘Shari’a’ in the Bedouin Family,” 34.

⁵⁷Anderson, “Reforms in the Law of Divorce in the Muslim World,” 46.

marriage contract, one common strategy for a woman to assert her right is to file in court for the *mahr* to be paid. This act is designed by the woman either to renegotiate what is going on in the marriage or begin the process of divorce. Oslanoo notes the majority of divorce cases are filed by women and the process can be difficult.⁵⁸ One woman seeking a divorce stated, “if you do not follow what they say precisely, then you cannot obtain the result.”⁵⁹

The difficult nature of the divorce process for a woman is in stark contrast to a man’s unilateral right to divorce. A woman has to prove her husband broke the marriage contract, a divorce should be granted for cause, or that the marriage cannot be reconciled before the judge will grant a divorce.⁶⁰ At times, a woman may seek an alternative route to divorce, such as petitioning the court for payment of the deferred *mahr* from her husband, to begin the bargaining process with her husband to obtain a divorce.⁶¹

Other Issues

Two other issues are important for women. First, divorces tend to have a higher impact socially on women than on men. The presence of a strong patriarchal social system in Iran affects the divorce process and its aftermath. The wife is often coerced into the return of the *mahr* in exchange for a divorce. Men are able to remarry at a higher rate than women. The economic situation for women is adversely influenced in a divorce in a disproportionate way compared to men.⁶²

⁵⁸Arzoo Oslanoo, “Islamico-Civil ‘Rights Talk’: Women, Subjectivity, and Law in Iranian Family Court,” *American Ethnologist* 33, no. 2 (2006): 195.

⁵⁹Oslanoo, “Islamico-Civil ‘Rights Talk,’” 194.

⁶⁰Oslanoo, “Islamico-Civil ‘Rights Talk,’” 192–200.

⁶¹Oslanoo, “Islamico-Civil ‘Rights Talk,’” 192.

⁶²Akbar Aghajanian, “Some Notes on Divorce in Iran,” *Journal of Marriage and Family* 48, no. 4 (1986): 751–54, accessed January 15, 2018, <http://www.jstor.org/stable/352567>.

The second issue is child custody. Eleanor A. Doumato claims the Qur'an supports a women's right to child custody.⁶³ Social practice in Iran seems to favor the mother as even though the husband has a right to the children "it is most often the mother who takes care of the children."⁶⁴

A Comparison of the Contents of the Search Results for the Rights of Women in Divorce

This section provides a point-by-point comparison of the relevant areas noted in the baseline literature survey regarding important issues concerning the rights of women in divorce in Islam. The baseline literature survey identified six essential areas an expert would be expected to address. This comparison treats the areas in the order they are presented in chapter three.⁶⁵

Marriage

The baseline literature survey found the act of recognizing marriage as contractual to be essential to understanding divorce. The marriage contract demonstrates the transactional element of marriage.

Google. The results of the Google search understand marriage to be a contract with financial considerations. The *mahr* secures the woman financially and affords her protection against capricious divorce. The contract can also contain other elements relevant to life as a married couple, such as where they will live, what careers they can pursue, and what they agree to do with the children.

⁶³Doumato, "Hearing Other Voices," 191.

⁶⁴Aghajanian, "Some Notes on Divorce in Iran," 754.

⁶⁵Throughout this comparison section and the following comparison sections, whenever Google or JSTOR is referenced as providing information, the reference is to the contents of the search results.

JSTOR. The results of the JSTOR search recognize marriage is obtained through a civil contract. Given the nature of the civil contract, the contract acknowledges the potential for divorce. This potential for divorce is included because the Qur'an recognizes divorce, and though discouraged, it may be necessary at times.

Comparison. While the JSTOR search results mention the civil nature of marriage as a contract, JSTOR's results do not emphasize the financial aspect of the marriage contract being central to the transaction. Google's results more closely parallel the information found in the baseline literature review. Google recognizes the financial transactional aspect of the marriage contract as well as the significance the *mahr* plays in securing the woman financially within the marriage. Google adequately covers the topic, while JSTOR lacks key elements found by the baseline literature survey, thereby providing only basic information.

***Talaq* Divorce**

The baseline literature survey found *talaq* to be the most well-known and frequently used form of divorce. *Talaq* is practiced inconsistently across the Muslim world, but primarily involves the man verbally invoking a right to divorce and pronouncing the divorce. Despite the verbal nature, some countries require the *talaq* to be registered with the courts. *Talaq* requires a three menstruation cycle waiting period before the divorce is finalized. The divorce can be revoked during that waiting period the first two times *talaq* is utilized by the husband. Given the transactional nature of Islamic marriage, a husband's pronouncement of *talaq* requires him to give up any right to the marriage *mahr*. The triple *talaq* is a version of divorce that cannot be revoked. If a husband pronounces the divorce three times in a row, the divorce becomes final and irrevocable. Triple *talaq* is controversial with many regarding its validity. Though triple *talaq* may be commonly looked down upon, most deem it valid, and it is widely employed.

Google. The results of the Google search touch upon *talaq*. Google notes the three menstrual cycle waiting period before the divorce is finalized. Google recognizes the revocable nature of *talaq* the first two times the husband pronounces it. Google notes the divorce, if revoked, is typically revoked through the husband resuming sexual relations with the wife during the waiting period, thereby revoking the divorce. Google recognizes the existence of triple *talaq*, tracing it to a pre-Islamic custom. Google notes triple *talaq* is often disapproved of, but legal in Islamic jurisprudence. The Google results point out that some areas of the Muslim world have placed restrictions on *talaq*, such as the necessity of registering with the court, requiring witnesses, or being sober. Google notes the husband has an obligation to fairly compensate a wife under *talaq*.

JSTOR. The results of the JSTOR search deal with *talaq*. JSTOR notes *talaq* provides easy access to divorce for the husband and it is the most common type of divorce. The waiting period is noted by JSTOR, while JSTOR also recognizes *talaq* divorces occur without the waiting period, though it is discouraged. JSTOR differentiates between the simple, revocable form of *talaq* and the irrevocable triple *talaq*. JSTOR notes that triple *talaq* is not recognized in numerous countries.

Comparison. Both Google and JSTOR results touch upon the essential elements of *talaq*, including the verbal pronouncement, the waiting period, and the revocability. Both Google and JSTOR results also include the mention of triple *talaq*. Google and JSTOR results note the irrevocability of triple *talaq*, as well as the controversy around utilizing triple *talaq*. Google traces triple *talaq* to the pre-Islamic period. Tracing triple *talaq* to pre-Islamic sources may demonstrate bias on the part of one of Google's sources to portray triple *talaq* as outside of Islam since the source is an Islam question and answer page. The literature survey found jurists treated triple *talaq* as an innovation, not necessarily as a pre-Islamic custom. Both the Google results and the JSTOR results seem to adequately address the topic of *talaq*.

***Talaq-i-tafwid* Divorce**

The baseline literature survey noted the vital role *talaq-i-tafwid* could play for women in divorce. *Talaq-i-tafwid* is a stipulation in the marriage contract whereby the husband delegates his right to pronounce *talaq* to the wife. The husband still retains the right to divorce despite the delegation. *Talaq-i-tafwid* allows the power of divorce to remain with the husband, though the wife now has the ability to exercise the husband's power. However, though *talaq-i-tafwid* has been used throughout history, it has not been used widely. The *talaq-i-tafwid* provisions have not been traditionally included in standard marriage contracts.

Google. The results of the Google searches address *talaq-i-tafwid*. Google notes *talaq-i-tafwid* is a delegated right the wife gains from the husband through the marriage contract. This right to pronounce divorce can be absolute or bound to specific circumstances. Google results emphasize that the power to divorce resides with the husband, though he can delegate it to his wife. One Google source, *Wikipedia*, claims *talaq-i-tafwid* is a common clause found in Islamic marriage contracts.

JSTOR. The results of the JSTOR searches address the concept of *talaq-i-tafwid* in passing, providing no significant information. JSTOR recognizes the presence of divorce stipulations in marriage contracts. A JSTOR search result noted the Ottomans allowed divorce stipulations based on the Hanbali school. JSTOR notes *talaq-i-tafwid* stipulations were regularly employed to avoid polygyny.

Comparison. The results of the Google searches provide a more comprehensive picture of *talaq-i-tafwid* than the results of the JSTOR search. JSTOR mainly notes the existence of the concept, while Google names the concept and provides details about it. Google notes the significant element of *talaq-i-tafwid* is that the authority for divorce remains with the husband, who has delegated it to the wife. There is disagreement between the literature survey and Google about whether or not *talaq-i-*

tafwid is employed frequently. The Google source, *Wikipedia*, claims the *talaq-i-tafwid* provision is common, while the literature survey found use of the provision throughout history, but not a widespread use.⁶⁶ Google appears to adequately address *talaq-i-tafwid*, while JSTOR provides basic information.

***Khul'* Divorce**

The baseline literature survey found *khul'* to be the most important method concerning the rights of women in divorce in Islam. *Khul'* is the type of divorce most available to women. Recognizing the transactional nature of marriage, *khul'* is essentially a wife buying her way out of the marriage, traditionally through returning the *mahr*. This method of divorce is based on a prophetic hadith involving Jamila, the wife of Thabit Ibn Qays. However, two other hadith, recounted by Ibn Kathir, associate shame with *khul'*. These two ahadith, and other societal pressures, often make *khul'* socially unacceptable or shameful. The baseline literature survey also found *khul'* traditionally required court involvement, which has continued to modern times. One significant disagreement is whether or not the court can issue a *khul'* divorce without agreement from the husband. The *khul'* process is also important outside of Muslim countries. In countries outside of Muslim lands, *khul'* is provided by *shari'a* councils.

Google. Google results found *khul'* to be important for the rights of women in divorce in Islam. Google viewed the wife's access to *khul'* to be a significant reform brought about by Islam. Google noted the basis of *khul'* in the prophetic hadith involving Jamila, the wife of Thabit b. Qais. Google notes the hadith sets the requirements for *khul'*, namely that a wife who no longer desires to remain with her husband must return the *mahr*, or an otherwise agreed upon sum, to the husband in order to terminate the

⁶⁶The exact statement from Wikipedia is "Many women included such terms in their marriage contracts." However, the statement contains no footnote to assess the source. "Divorce in Islam."

marriage contract. Google claims Muhammad's role in the hadith led to the requirement of the inclusion of the courts in the *khul'* process. The Google search also notes the ability of the judge to pronounce divorce without the husband's consent is a debated concept. Google recognizes the problem a woman faces if she is in a country that requires the husband's consent and he refuses to consent. Google notes *khul'* has been practiced frequently and widely throughout the Muslim world.

JSTOR. JSTOR results found *khul'* to be important for the rights of women in divorce in Islam. JSTOR noted that *khul'* arose from a classical practice occurring in the Middle East. In classical *khul'*, the woman was not party to the marriage contract, but the contract was conducted between the husband and the wife's guardian. Therefore, when *khul'* was exercised the guardian provided payment. However, Islamic *khul'* is different from classical *khul'* as the wife is the party to the marriage contract and provides the payment when exercising *khul'*. JSTOR notes that the requirement of the court for the woman to utilize *khul'*. JSTOR also recognizes that the issue of the court's pronouncement of divorce either requiring or not requiring the consent of the husband. JSTOR identifies that in those places in which a husband's consent is required, women have creatively used a deferred *mahr* to get the husband's consent.

Comparison. Both Google and JSTOR results outline the basics of *khul'*. They both recognize the transactional nature of *khul'*, whereby the wife purchases herself from the marriage. The purchase is primarily through either giving up her right to a deferred *mahr* or returning the *mahr*. Both Google and JSTOR note that *khul'* is based upon a prophetic hadith. Neither Google nor JSTOR mentions that the two other prophetic ahadith that portray *khul'* negatively. Both Google and JSTOR acknowledge that the traditional and contemporary role of the courts in the *khul'* process, as well as the issue of whether or not the court can pronounce a divorce without the consent of the husband. Neither Google nor JSTOR seemed to significantly touch upon the *khul'*

process outside of Muslim lands. While both Google and JSTOR present the basics of *khul'*, neither cover all the elements identified through the baseline literature survey. Both Google and JSTOR provide basic information.

Divorce for Cause

The baseline literature survey identified a woman's right to divorce for cause. When a woman is able to prove cause, typically, the court can grant the divorce without the consent of the husband. Cause is defined differently between the four schools, but typically includes ideas like abandonment, lack of support, and injury. One obstacle to a woman exercising her right to divorce for cause is that cause is often difficult to prove. So, women often choose to file for *khul'*, yet still cite some elements of cause as the reason for their filing.

Google. Google results found that a wife is able to divorce her husband for cause. Often, such an action is referred to as *khul'* by some of the search results. Google results found that some common types of cause to be cruelty, lack of maintenance, infidelity, abandonment, or imprisonment. If a woman can convince the judge that cause exists, the woman is not forced to pay any financial consideration to the husband. Divorce for cause often involves meeting with an arbiter. Google results recognize that the right of the judge to pronounce divorce for cause without the consent of the husband.

JSTOR. JSTOR results only mention that divorce for cause in passing when describing the difficulty of women to obtain a divorce. The results make clear it is not easy for a wife to convince the judge of cause, which makes obtaining a divorce problematic for Islamic women.

Comparison. Google results note examples of cause. Google points out that the judge typically has the ability to pronounce divorce for cause regardless of whether or not the husband consents. Google also mentions the step of arbitration. Both Google and

JSTOR recognize that the onus lies upon the woman to convince the judge of cause. Google results provide more information concerning women's right to divorce for cause, identifying the elements noted in the baseline literature survey. Google appears to adequately cover the topic, while JSTOR provides basic information.

Mutual Divorce

The baseline literature survey identified mutual divorce, *mubaraat*, as the most gender-equal form of divorce in Islam. *Mubaraat* terms are negotiated between the husband and the wife. In some contexts, *mubaraat* divorces can take place outside a courtroom.

Google. Google results do not substantively cover *mubaraat* or touch upon the concept of mutual divorce.

JSTOR. JSTOR results do not substantively cover *mubaraat* or touch upon the concept of mutual divorce.

Comparison. Both Google and JSTOR results fail to address the topic of *mubaraat* specifically, or the concept of mutual divorce.

Custody

The baseline literature survey identified child custody as a significant issue for the rights of women in divorce in Islam. After the divorce, children typically reside with the mother. Islamic law gives the mother the right to nurse the children. This right has been interpreted differently, with children being able to live with their mother until they reach the age of somewhere between seven to fifteen years. In some places, the girls live with their mother until marriage.

Google. Google results found that Islam gives the woman custody of the children while the husband retains guardianship. Google claims that the right of the

mother to custody is based upon the hadith from Abdullah bin Amar. Google results state that girls often remain with their mother into their teens, while boys leave earlier, in one case, at age twelve.

JSTOR. JSTOR results found that Islam gives the woman custody of the children and that the Qur'an supports a woman's right to custody of her children. One JSTOR study found that practices in Iran tend to favor the woman having custody of the children.

Comparison. Neither Google nor JSTOR results thoroughly treat child custody issues. Google provides more information concerning the age when a child would leave the mother and reside with the father. Both Google and JSTOR indicate that the children reside with the mother for a good portion of what is often considered childhood. Google identified the prophetic hadith underlying the issue. Google appears to address more thoroughly the issue than JSTOR, while still not providing a thorough treatment. Both Google and JSTOR provide basic information.

Support

The baseline literature survey identified support as a significant issue for the rights of women in divorce in Islam. A woman's right to support traditionally extended through only the three menstruation cycles before the divorce is finalized. However, if the wife is caring for a child, the husband is required to provide support for the child and the wife. Modern Islamic family laws provide for the support of the wife in various manners.

Google. Google results note that the requirement of the husband to maintain the wife through the three menstruation cycles before the divorce is finalized. Google results outline the right of the woman to financial support while taking care of the children.

JSTOR. JSTOR does not significantly address the issue of support but does note that women suffer far more economically by divorce than men.

Comparison. Neither Google nor JSTOR provides much information concerning the support of the wife after divorce. Google results do note that the wife is to receive some support if she is caring for the marital children. JSTOR notes the adverse impact divorce has on women financially. Google results provide more information than JSTOR results, while still only providing basic information on the issue. JSTOR fails to address the topic.

Limping Marriages

The baseline literature survey identified the existence of limping marriages as a crucial issue for the rights of women in Islam, especially those outside Muslim majority nations. A marriage is limping when a civil divorce has taken place, but not a Muslim divorce. A woman may be pressured by her community to obtain a religious divorce to be released from the marriage in the eyes of God. Limping marriages often occur when a husband is uncooperative. If a woman cannot obtain a religious divorce, she is still considered by many Muslims to be married. Limping marriages adversely affect only women. Men are protected from the issue because they are easily able to obtain a recognized divorce through *talaq*. Furthermore, a man may have up to four wives in Islam. In lands without Islamic law systems, councils have been set up to grant religious divorces and fatwas have been issued to address the issue as well.

Google. Google results recognize the difficulty for a woman in a limping marriage. One Google result from a *shari'a* council in England noted the need for a woman to obtain a separate religious divorce even if the woman has received a civil divorce. Another noted the steps involved in obtaining the divorce.

JSTOR. JSTOR does not significantly address the issue of limping marriages.

Comparison. Google results provide more information than JSTOR results concerning the issue of limping marriages. While JSTOR does not address the issue, Google notes the issue and provides information from a *shari'a* council about the necessity of obtaining a religious divorce in addition to a civil divorce. Google results provide basic information about the issue, while not providing the detail found in the literature survey. JSTOR results fail to address the issue.

Overall Comparison

This section provides a view of how Google and JSTOR perform in each of the topics outlined above. The section also compiles and summarizes Google and JSTOR's ability to adequately address the topics.

Marriage. Google adequately covers the topic, while JSTOR lacks vital elements found by the baseline literature survey only providing basic information.

Talaq Divorce. Both adequately cover the topic. Google appears to have a slight bias by claiming triple *talaq* existed before Islam, while the literature survey presents it as an innovation.

Talaq-i-tafwid Divorce. Google appears to adequately address *talaq-i-tafwid*, while JSTOR provides basic information.

Khul' Divorce. While both Google and JSTOR present the basics of *khul'*, neither cover all the elements identified through the baseline literature survey, providing basic information.

Divorce for cause. Both Google and JSTOR recognize the onus lies upon the woman to convince the judge of cause. Google results provide more information concerning women's right to divorce for cause, identifying the elements noted in the

baseline literature survey. Google appears to adequately cover the topic, while JSTOR provides basic information.

Mutual divorce. Both Google and JSTOR results fail to address *mubaraat* specifically or the concept of mutual divorce.

Custody. Google appears to more adequately address the issue than JSTOR, while still not a thorough treatment. Both Google and JSTOR provide basic information.

Support. Google results provide more information than JSTOR results, while still only briefly touching upon the issue. Google provides basic information, while JSTOR fails to address the topic.

Limping marriages. Google results more thoroughly address the issue, while not providing the detail found in the literature survey, instead providing basic information. JSTOR results do not cover the issue, failing to adequately address the topic.

Summary. Of the nine areas above, Google results adequately address the topic in relation to the baseline literature survey four times. Four times Google results present the basics of the topic, while only once does Google fail to adequately address the topic. JSTOR results adequately address the topic in relation to the baseline literature survey one time. Five times JSTOR results present the basics of the topic, and three times JSTOR fails to adequately address the topic. Of the nine areas above, JSTOR results never address a topic more thoroughly than Google results. The contents of the Google results regularly appear to present significant and reliable information concerning the rights of women in divorce.

The Contents of the Relevant and Partially Relevant Google Results Regarding *Mudaraba* Banking

The Google search queries regarding *mudaraba* banking contained twenty-five relevant or partially relevant results. This section provides a survey of the contents of the search results from the twenty-five relevant or partially relevant results.

Riba* and *Gharar

Islamic finance is primarily based on the prohibition against *riba*. *Riba* is roughly translated as “usury.” It comes from the Arabic word meaning “increase.” According to John Esposito, the pre-Islamic practice of *riba* involved the debt being doubled every time the borrower could not repay the debt when it was due.⁶⁷

Riba is traditionally translated as “interest.” Waleed Kadous claims, “Arabic linguists are unanimous that *riba*—the Arabic word for interest—means any increase, not just large amounts.”⁶⁸ However, as noted in the comments to Kadous’ post, there is disagreement. One commenter claims Islamic finance “is a 20th century invention obsessed with removing ‘interest’ from banking that has been harshly criticized by Muslims scholars.”⁶⁹ A statement from Muhammad Sayyid Tantawy, a former Grand Mufti of Egypt and Grand Sheikh of Al-Azhar University in Egypt, is quoted in the comments: “Investing funds with banks that prespecify profits or returns is Legally permissible and there is no harm therein, and Allah [only] knows best . . . We do not find any Canonical Text, or convincing analogy, that forbids pre-specification of profits, as long as there is mutual consent.”⁷⁰ Another former Mufti of Egypt, Nasr Farid Wasil who

⁶⁷“Riba,” *Wikipedia*, January 12, 2018, accessed January 16, 2018, <https://en.wikipedia.org/w/index.php?title=Riba&oldid=819964365>.

⁶⁸Waleed Kadous, “Why Is Charging Interest (Usury) Forbidden in Islam? What Exactly Is Wrong about Charging Interest in the First Place? Why Is It Considered a Major Sin in Islam? - Quora,” accessed January 16, 2018, <https://www.quora.com/Why-is-charging-interest-usury-forbidden-in-Islam-What-exactly-is-wrong-about-charging-interest-in-the-first-place-Why-is-it-considered-a-major-sin-in-Islam>.

⁶⁹Kadous, “Why Is Charging Interest (Usury) Forbidden in Islam?”

⁷⁰Kadous, “Why Is Charging Interest (Usury) Forbidden in Islam?”

took a similar approach, is also quoted: “So long as banks invest the money in permissible venues (halal), then the transaction is permissible (halal). . . . The issue is an investment from money. Otherwise, it is forbidden (haram). . . . There is no such thing as an Islamic or non Islamic bank. So let us stop this controversy about bank interest.”⁷¹ Not only do Grand Muftis of Egypt claim *riba* is not interest, Syed Ahmad Khan understood there to be a difference between *riba* and non-*riba* interest, with the latter being acceptable.⁷² Nevertheless, Islamic finance operates on a prohibition of interest because *riba* is widely understood as interest.⁷³

Twelve surahs from the Qur’an deal with *riba*, and *riba* is used three times in Q2:275. Jabir and Abdul Rahman ibn Abdullah ibn Masoud recount, “Muhammad cursed the accepter of usury and its payer, and one who records it, and the two witnesses, saying: ‘They are all equal.’”⁷⁴ Hurairah Radiyallahuanhu claims Muhammad said, “A time will certainly come over the people when none will remain who will not devour usury. If he does not devour it, its vapor will overtake him.”⁷⁵ These sayings demonstrate how the prohibition against *riba* is understood to be central to Islamic finance. One site claims the prohibition against *riba* stems from the fact that “the only process where *riba* is natural is how Allah rewards and multiplies good deeds. So anyone paying or receiving *riba* is emulating what is Allah’s right alone.”⁷⁶ However, the majority opinion is that *riba* is tied

⁷¹Kadous, “Why Is Charging Interest (Usury) Forbidden in Islam?”

⁷²“Islamic Banking and Finance,” *Wikipedia*, January 9, 2018, accessed January 16, 2018, https://en.wikipedia.org/w/index.php?title=Islamic_banking_and_finance&oldid=819495864.

⁷³Lucy Warwick-Ching, “Beginners’ Guide to Islamic Finance,” *Financial Times*, last modified July 14, 2010, accessed January 16, 2018, <https://www.ft.com/content/8c9bc2fc-8845-11df-a4e7-00144feabdc0>.

⁷⁴“Riba.”

⁷⁵“Why Interest Is Prohibited In Islam,” *MuslimInc*, May 25, 2016, accessed January 16, 2018, <http://musliminc.com/why-interest-is-prohibited-in-islam-7578>.

⁷⁶“Sunni - Why Is Interest Such a Bad Thing According to Islam?,” *Islam Stack Exchange*, accessed January 16, 2018, <https://islam.stackexchange.com/questions/7673/why-is-interest-such-a-bad-thing-according-to-islam>.

to exploitation and injustice and the prohibition is an attempt to end these practices.⁷⁷ Practices are exploitive or unjust when one party does not have to do any work to profit. The prohibition against *riba* is a prohibition against “effortless profit or that profit which comes free from compensation or that extra earning obtained that is free of exchange.”⁷⁸

The second important prohibition is *gharar*. *Gharar* means “excess risk.” *Gharar* is “the sale of items whose existence is not certain.”⁷⁹ The prohibition is based on prophetic hadith against selling things like the birds in the air or the fish in the sea.⁸⁰ Islamic finance requires the sharing of risk between the parties in the contract, thus the prohibition on interest and excess risk.⁸¹ Other issues are secondary, but also important, such as the prohibition of investing in prohibited business, the prohibition against charging late fees, and the requirement that all transactions be linked to a material or tangible asset.⁸² Money is not considered a tangible asset, but “only a way of defining the value of something and has no value itself.”⁸³

⁷⁷“Has Islam Really Prohibited Interest?,” *Al Baraka*, accessed January 16, 2018, http://www.albaraka.co.za/Islamic_Banking/Prohibition_of_interest/Has_Islam_really_prohibited_interest.aspx; Islamic modernists tend to “emphasize the moral aspect of the prohibition of *riba*, and argue that the rationale for this prohibition as formulated in al-Qur’an was injustice and hardship.” “*Riba*.”

⁷⁸“Interest (*Riba*),” *Inter-Islam*, accessed January 16, 2018, <http://www.inter-islam.org/Prohibitions/intrst.htm>.

⁷⁹Marc L. Ross, “Working With Islamic Finance,” *Investopedia*, last modified February 21, 2007, accessed January 16, 2018, https://www.investopedia.com/articles/07/islamic_investing.asp.

⁸⁰“Islamic Banking and Finance.”

⁸¹Mona Chalabi, “Islamic Finance for Beginners,” *The Guardian*, last modified October 29, 2013, accessed January 16, 2018, <http://www.theguardian.com/news/datablog/2013/oct/29/islamic-finance-for-beginners>.

⁸²“Islamic Banking and Finance.”

⁸³John McKenna, “What Is Islamic Finance?” *World Economic Forum*, last modified May 16, 2017, accessed January 16, 2018, <https://www.weforum.org/agenda/2017/05/what-is-islamic-finance/>.

A Brief Description of Islamic Financial Products

A summary of typical Islamic Financial products is given in this section.

Musharaka is a partnership to combine assets or services to make a profit.⁸⁴ *Murabaha* is an installment (cost-plus) sale.⁸⁵ *Wadiah* is a form of deposit for safekeeping that generates no income. *Mudaraba* is a trustee financing contract.⁸⁶ *Ijara* is a leasing contract.⁸⁷ *Ina* is a buy back contract.⁸⁸ *Itisna* is a contract used in manufacturing finance with payments made in stages over the course of the production.⁸⁹ *Salam* is a contract with advanced payment for a product not yet available.⁹⁰ *Sukuk* is an Islamic bond, often involving multiple types of Islamic financial products.

Status and History of Islamic Finance

Modern Islamic finance began in the mid-twentieth century.⁹¹ Activists and scholars such as Anwar Qureshi, Naeem Siddiqui, Abu A'la Maududi, and Muhammad Hamidullah played important roles in the rise of Islamic finance.⁹² The first local Islamic bank was started in Pakistan in the late 1950s, with the first modern Islamic bank established in Egypt in 1963, and the first modern commercial bank, Dubai Islamic Bank, formed in 1979. The first Islamic commercial bank outside the Muslim world was started

⁸⁴“Islamic Finance | Difference Between Mudaraba and Musharaka,” *Investment and Finance*, accessed January 16, 2018, <http://www.investment-and-finance.net/islamic-finance/tutorials/difference-between-mudaraba-and-musharaka.html>.

⁸⁵Ross, “Working With Islamic Finance.”

⁸⁶Yen Nee Lee, “Islamic Finance: Sukuk Sales by Non-Muslim Countries Rise,” *CNBC*, last modified December 19, 2017, accessed January 16, 2018, <https://www.cnn.com/2017/12/19/sukuk-islamic-finance-grows-in-non-muslim-countries.html>.

⁸⁷“Islamic Banking and Finance.”

⁸⁸“Islamic Banking and Finance.”

⁸⁹“Islamic Banking and Finance.”

⁹⁰“Islamic Banking and Finance.”

⁹¹Ross, “Working With Islamic Finance.”

⁹²“Islamic Banking and Finance.”

in 2004 in Britain.⁹³ Islamic finance does not have a central authority, but *shari'a* advising boards such as the AAOIFI, Fiqh Academy of the OIC, and the Islamic Financial Services Board serve to provide services to banks and certify to the public the *shari'a* compliance of Islamic financial institutions.⁹⁴ Since its inception, Islamic finance has grown significantly with over five hundred institutions offering Islamic finance in over eighty countries.⁹⁵ As of 2014, there was over two trillion dollars invested in *shari'a* compliant banks and mutual funds worldwide.⁹⁶ The increase in Islamic finance is at least partially attributed to the rise of oil wealth in the Middle East.⁹⁷

Advocates for Islamic finance argue Islamic finance not only eliminates exploitation and injustice through its financial products, but also stabilizes the market. Muhammad Siddiqi claims that “Replacing fixed rates with profit-and-loss sharing would make the financial system more stable and more entrepreneurial.”⁹⁸ Mannan “argues that replacing interest with profit and loss sharing would stimulate job creation and economic vitality and would be in line with the cooperative norm of the Quran.”⁹⁹ The World Bank seems to take this approach touting the benefits of Islamic finance, “Islamic finance is equity-based, asset-backed, ethical, sustainable, environmentally—and socially—responsible finance. It promotes risk sharing, connects the financial sector with the real economy, and emphasizes financial inclusion and social welfare.”¹⁰⁰ The World Bank

⁹³“Islamic Banking and Finance.”

⁹⁴“Islamic Banking and Finance.”

⁹⁵Warwick-Ching, “Beginners’ Guide to Islamic Finance.”

⁹⁶“Islamic Banking and Finance.”

⁹⁷Ross, “Working With Islamic Finance.”

⁹⁸“Riba.”

⁹⁹“Riba.”

¹⁰⁰“Islamic Finance,” *World Bank*, accessed January 16, 2018, <http://www.worldbank.org/en/topic/financialsector/brief/islamic-finance>.

webpage goes on to claim that Islamic financial institutions escaped the global finance crisis of 2008 because they were “protected by their fundamental operating principles of risk-sharing and the avoidance of leverage and speculative financial products.”¹⁰¹ John Kenna seems to be making the same point when he states, due to the risk and complexity of conventional financial products, “more and more investors are attracted to Islamic finance’s emphasis on real assets and greater certainty.”¹⁰²

One significant area of controversy for Islamic finance is how closely it mirrors traditional finance. Scholars such as Mahmoud El-Gamal believe Islamic finance does not stand apart from conventional finance enough, but instead the products are steadily moving close to approximations of the products of Islamic finance.¹⁰³ The *shari’a* advisors, instead of advising on the nature of a product, serve to help create substitutes for conventional products.¹⁰⁴ Part of this approximation is because profit-and-loss sharing is riskier and more expensive than conventional financial products.¹⁰⁵

***Mudaraba* within Islamic Finance**

Mudaraba is an Islamic financial product. The term comes from an Arabic construction, *ad-darb fi al-ard*, meaning to move from place to place searching for a livelihood.¹⁰⁶ The specifics of the *mudaraba* contract form are not based on primary *shari’a* sources.¹⁰⁷ The contract form existed in pre-Islamic Arabia as a contract “in

¹⁰¹“Islamic Finance.”

¹⁰²McKenna, “What Is Islamic Finance?”

¹⁰³“Islamic Banking and Finance.”

¹⁰⁴“Islamic Banking and Finance.”

¹⁰⁵“Islamic Banking and Finance.”

¹⁰⁶“Islamic Finance | Definition of Mudaraba,” *Investment and Finance*, accessed January 16, 2018, <http://www.investment-and-finance.net/islamic-finance/tutorials/definition-of-mudaraba.html>.

¹⁰⁷“Mudaraba,” *Islamic Finance Wiki*, accessed January 16, 2018, <http://wiki.islamicfinance.de/index.php/Mudaraba>.

which one individual provides start-up capital to another individual who will do the actual work.”¹⁰⁸ The Hanafi and Hanbali schools use the term *mudaraba*, while the Maliki and Shaifi’i schools use the term *qirad*.¹⁰⁹

Mudaraba is commonly described as a type of profit-and-loss contract,¹¹⁰ a trust financing contract,¹¹¹ or a silent partnership.¹¹² One party contributes the capital and the other the labor or expertise.¹¹³ The party who provides the capital is known as the *rab-ul-mal*.¹¹⁴ The party providing the labor or expertise is known as the *mudarib*.¹¹⁵ The profit-sharing ratio is spelled out in the contract. The agreement can be amended to revise the profit-sharing ratio by an agreement of both parties.¹¹⁶

In reality, the *mudaraba* contract is not a true profit-and-loss contract concerning the financial aspect. The contract is only a profit-sharing contract.¹¹⁷ The *mudaraba* contract requires the risk to the capital to be borne solely by the *rab-ul-mal*.¹¹⁸ The *mudarib* risks losing the time and effort invested in the business, but no finances.¹¹⁹

¹⁰⁸“What Is Mudaraba? Definition and Meaning,” *Business Dictionary*, accessed January 16, 2018, <http://www.businessdictionary.com/definition/mudaraba.html>.

¹⁰⁹“Islamic Finance | Definition of Mudaraba.”

¹¹⁰“Islamic Banking and Finance.”

¹¹¹“Mudaraba Definition,” *Financial Times*, accessed January 16, 2018, <http://lexicon.ft.com/Term?term=mudaraba>.

¹¹²“Accepting Interest Does Not Make It Permissible,” *Islam Question and Answer*, accessed January 16, 2018, <https://islamqa.info/en/1507>.

¹¹³“Islamic Finance.”

¹¹⁴“Mudaraba,” *Blom Development Bank*, accessed January 16, 2018, <https://www.blombank.com/development/english/islamic-finance/mudaraba>.

¹¹⁵“Mudaraba Definition.”

¹¹⁶“Mudaraba Definition.”

¹¹⁷“Mudarabah on Shari’ah Ruling,” *Institute of Islamic Banking and Insurance*, accessed January 16, 2018, http://www.islamic-banking.com/mudarabah_sh_ruling.aspx.

¹¹⁸Faleel Jamaldeen, “The Mudaraba Contract in Islamic Finance,” *Dummies*, accessed January 16, 2018, <http://www.dummies.com/personal-finance/islamic-finance/the-mudaraba-contract-in-islamic-finance/>.

¹¹⁹“Accepting Interest Does Not Make It Permissible.”

A *mudaraba* contract often spells out other regulations, such as when the contract is breached and what types of business the *mudarib* can pursue. It is claimed that Ibn ‘Abbas said,

Our tribal leader, al ‘Abbas ibn ‘Abd al Muttalib, whenever he paid money out in *mudarabah*, would stipulate to his partner that he must not cross over water with his money, or make camp in a dry riverbed, or buy a fractious mount with it. If his partner did any of those things, he would be held personally responsible. When news of these conditions reached the Prophet of Allah, upon him be peace, he endorsed them.¹²⁰

Breaches of contract can be held against the *mudarib*, and the *mudarib* can be required to pledge a guarantee against negligence or breach. However, these guarantees should not be used excessively by the *rab-ul-mal*, since the purpose of the contract is to require the *rab-ul-mal* to bear the risk regarding the capital.¹²¹ The *rab-ul-mal* can restrict the contract to particular types of business or may leave it open for the *mudarib* to pursue any type of business. A restricted contract is specified by the term *mudaraba al-muqayyadah* and an unrestricted contract is specified as *mudaraba al-mutlaqah*.¹²²

The *mudaraba* contract typically allows either party to terminate the contract unilaterally before the business has commenced. However, once the *mudarib* starts conducting business, the contract is binding upon both parties until the venture is liquidated and the profit distributed.¹²³

Islamic finance prohibits money from earning more money. Money is only a way of valuing something, so money itself cannot provide profit; money can generate income only through some form of business venture.¹²⁴ Islamic financial institutions recognize this restriction, so, deposits at Islamic financial institutions are regularly taken

¹²⁰“Mudarabah on Shari’ah Ruling.”

¹²¹“Mudaraba Definition.”

¹²²“Mudaraba.”

¹²³“Mudaraba Definition.”

¹²⁴McKenna, “What Is Islamic Finance?”

in the form of a *mudaraba* contract. Kadous states, “The bank and its depositors . . . invest, rather than simply loan, their holdings. The money is put at risk and the return to the depositors will be based on the amount of profits made in the respective investments.”¹²⁵ The *mudaraba* contract allows the bank to take an ownership interest in any funds deposited as the *mudarib*. Taking the ownership interest requires the bank to put its labor at risk, while the depositors put their capital at risk as the *rab ul-mal*.¹²⁶ The bank must maintain careful records to keep the depositors’ funds separate from the funds of shareholders to make sure profits are shared properly.¹²⁷

According to the *Islamic Finance Wiki*, “two-tier *mudaraba* was the initial concept for Islamic banking.”¹²⁸ In two-tier *mudaraba*, the bank not only receives deposits using the *mudaraba* contract, but also invests the money using the *mudaraba* contract. The bank serves as the *mudarib* on the liability side, but as the *rab ul-mal* on the asset side of the balance sheet. The two-tiered approach shields individual depositors from losses as the bank can enter numerous *mudaraba* contracts on the asset side in an effort to deliver profit for the depositors. However, the two-tier method is employed less frequently than just using the *mudaraba* contract for deposits, primarily because it has not proven as profitable as other investment options for the bank.¹²⁹ Though Islamic banks do not employ a strictly two-tiered *mudaraba*, *mudaraba* loans are advertised online by banks such as Union National Bank.¹³⁰

¹²⁵Kadous, “Why Is Charging Interest (Usury) Forbidden in Islam?”

¹²⁶“Prohibition of Interest,” *Institute of Islamic Banking and Insurance*, accessed January 16, 2018, http://www.islamic-banking.com/prohibition_of_interest.aspx.

¹²⁷Hilary Osborne, “Islamic Finance – the Lowdown on Sharia-Compliant Money,” *The Guardian*, last modified October 29, 2013, accessed January 16, 2018, <http://www.theguardian.com/money/2013/oct/29/islamic-finance-sharia-compliant-money-interest>.

¹²⁸“Mudaraba.”

¹²⁹Jamaldeen, “The Mudaraba Contract in Islamic Finance.”

¹³⁰“Mudaraba,” *Union National Bank*, accessed January 16, 2018, <https://www.unb.com/en/islamic/products/products/mudaraba>.

The *mudaraba* contract is utilized by financial experts to advise clients looking to invest in *shari'a* compliant funds. The financial expert forms a partnership with the client to invest the client's funds. The client absorbs any losses to the capital provided, but shares any profits with the financial expert for his advice at the agreed upon ratio. In this arrangement, the client is the *rab ul-mal* and the financial expert is the *mudarib*. The investment account is the business venture.¹³¹ Sometimes this arrangement also involves a bank that charges a handling fee for the account. However, the bank waives the fee if the investment does not generate a profit.¹³² The client risks the loss of the investment capital, the bank risks the loss of an account not generating a fee, and the financial expert risks the loss of labor. No profits are guaranteed in this scenario.

Various forms of the *mudaraba* contract are employed throughout the world of Islamic finance. *Mudaraba* is often the choice tool for starting a business or for venture capital.¹³³ *Mudaraba* also plays a central role in the Islamic insurance industry.¹³⁴

The Contents of the Relevant and Partially Relevant JSTOR Results Regarding *Mudaraba* Banking

The JSTOR search queries regarding *mudaraba* banking contained eight relevant or partially relevant results. This section provides a survey of the contents of the search results from the eight relevant or partially relevant results.

Riba and Gharar

Two prohibitions define Islamic finance and provide contrast with western finance. The prohibition of both *riba* and *gharar* provide the foundation for Islamic

¹³¹Lee, "Islamic Finance."

¹³²Warwick-Ching, "Beginners' Guide to Islamic Finance."

¹³³"Mudaraba."

¹³⁴"Mudaraba."

finance.¹³⁵ *Riba*, meaning “increase,” though translated as “usury” or “interest,” is commonly understood and practiced by those in Islamic finance to be a prohibition against interest.¹³⁶

Interest-free banking is an important element of Islamic finance “on the basis of several Qur’anic verses that prohibit *riba*.”¹³⁷ According to Alexandra Hardie and M. Rabooy, “The prohibition of interest appears in eight separate verses in four separate suras of the Qur’an. The first in order of revelation is Qur’an xxx (‘the Greeks’): 39. The second is iv: (‘The Women’): 160-161. The third is found in sura iii ‘The Family of Imran’, and the fourth is ii (‘The Cow’): 275-281.281.”¹³⁸ Hardie and Rabooy also present evidence for the prohibition of *riba* from the *Sunnah*. They write,

Inded [*sic*], it is reported of the Prophet: ‘He even equated the taking and giving of interest to committing adultery thirty-six times, or being guilty of incest with one’s own mother’. . . . From Ubada ibn al-Samit; The Prophet said, ‘Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt; like for like, equal for equal, and hand-to-hand; if the commodities differ, then you may sell as you wish, provided that the transaction is hand-to-hand’. (Muslim, Kitdb al-Musaqat, Bab al-sarf wa bay’ al-dhahab bi-l-waraq naqdan; also in Tirmidhi). From Abu Sa’id al-Khudri; The Prophet said; ‘Gold for gold, silver for silver, barley for barley, dates for dates, and hand-to-hand; whoever pays more or takes more has indulged in interest. The taker and the giver are alike [in guilt]’ (Muslim and Musnad Ahmad).¹³⁹

¹³⁵Jane Pollard and Michael Samers, “Islamic Banking and Finance: Postcolonial Political Economy and the Decentring of Economic Geography,” *Transactions of the Institute of British Geographers* 32, no. 3 (2007): 314, accessed January 16, 2018, <http://www.jstor.org/stable/4626252>.

¹³⁶Lena Rethel, “Review of Pious Property: Islamic Mortgages in the United States,” *American Ethnologist* 37, no. 2 (2010): 414, accessed January 16, 2018, <http://www.jstor.org/stable/40784556>.

¹³⁷Hamid Hosseini, “Review of Islamic France, Law, Economics and Practice,” *Economica* 76, no. 303 (2009): 603–4, accessed January 16, 2018, <http://www.jstor.org/stable/40268947>.

¹³⁸Alexandra R. Hardie and M. Rabooy, “Risk, Piety, and the Islamic Investor,” *British Journal of Middle Eastern Studies* 18, no. 1 (1991): 55, accessed January 16, 2018, <http://www.jstor.org/stable/195381>.

¹³⁹Hardie and Rabooy, “Risk, Piety, and the Islamic Investor,” 57.

There are two kinds of *riba*, one relating to barter transactions (*riba fadl*) and one related to credit (*riba nasia*).¹⁴⁰ In modern Islamic finance, the prohibition against *riba nasia* has gained more attention or often the two prohibitions are lumped together.

However, neither the qur'anic prohibitions nor the *Sunnah* makes clear exactly what *riba* entails. This ambiguity appears to be present from the first century of Islam as Hadhrat-i-Omar is quoted as saying, "The last to be revealed of usury and the Prophet expired without explaining it to us. Therefore give up usury or anything resembling it."¹⁴¹ Identifying what exactly *riba* prohibits is a central topic concerning Islamic finance. According to Farhad Nomani, El-Gamal views *riba* as "trading in credit as an unbundled commodity" which "prevents excessive borrowing."¹⁴² Despite the disagreement concerning whether or not the prohibition against *riba* is a prohibition against interest, Islamic finance operates upon the presumption that interest is forbidden.

The prohibition against interest in Islamic finance relies upon an understanding that risk should be shared in Islamic financial contracts. Interest provides income without risk or work on the part of the lender.¹⁴³ The rates of return are not to be guaranteed but instead based on actual profit.¹⁴⁴ In contrast to profit-sharing interest "is viewed as exploitive and unfair"¹⁴⁵ and as "an economic evil that brings hardship to the poor."¹⁴⁶

¹⁴⁰M. Siddieq Noorzoy, "Islamic Laws on Riba (Interest) and Their Economic Implications," *International Journal of Middle East Studies* 14, no. 1 (1982): 4, accessed January 16, 2018, <http://www.jstor.org/stable/163331>.

¹⁴¹Noorzoy, "Islamic Laws on Riba (Interest) and Their Economic Implications," 4.

¹⁴²Nomani, "Review of Islamic Finance," 350.

¹⁴³Noorzoy, "Islamic Laws on Riba (Interest) and Their Economic Implications."

¹⁴⁴J. W. Wright, Jr., "Review of Arab Islamic Banking and the Renewal of Islamic Law," *International Journal of Middle East Studies* 29, no. 2 (1997): 285, accessed January 16, 2018, <http://www.jstor.org/stable/164024>.

¹⁴⁵Pollard and Samers, "Islamic Banking and Finance," 314.

¹⁴⁶Rodney Wilson, "Review of Interest in Islamic Economics: Understanding Riba; Islamic Finance: Law, Economics and Practice; Islamic Finance in the Global Economy," *British Journal of Middle Eastern Studies* 36, no. 3 (2009): 463, accessed January 16, 2018, <http://www.jstor.org/stable/40593286>.

The second important prohibition in Islamic finance is the prohibition of *gharar*. *Gharar* is excessive risk or uncertainty.¹⁴⁷ According to Abu Said, Muhammad said that Muslims should not “sell anything present for that which is absent.”¹⁴⁸ This statement from Muhammad is an example of excess risk. The purchaser cannot examine the good or perhaps the good has not even been produced yet. The avoidance of speculation and the asset-based nature of Islamic finance help couple “the financial and the ‘real’ economy.”¹⁴⁹

Islamic finance also bars certain types of economic activities. Prohibited economic activities are those involving alcohol, drugs, prostitution, pork, casinos, establishing a monopoly, or exploiting others.

A Brief Description of Islamic Financial Products

A summary of typical Islamic Financial products is given in this section. *Mudaraba* is a profit and loss sharing contract or a sleeping partnership where one partner puts in the capital, and the other runs the business. *Tawarruq* is a product used in a trading transaction to provide a cash advance.¹⁵⁰ *Salam* is an upfront payment used to finance receivables. *Istisna* is a contract used to finance a large project. *Urbun* is a deposit used to secure a put option. *Murabaha* is a contract involving a cost plus transaction. The bank purchases the good and resells it at a profit.¹⁵¹ *Ijara* is a type of financing based upon a lease agreement.¹⁵² *Musharaka ('inan)* is a contract creating a

¹⁴⁷Pollard and Samers, “Islamic Banking and Finance,” 314.

¹⁴⁸Noorzoy, “Islamic Laws on Riba (Interest) and Their Economic Implications,” 4.

¹⁴⁹Pollard and Samers, “Islamic Banking and Finance,” 314.

¹⁵⁰Wilson, “Review of Interest in Islamic Economics,” 464.

¹⁵¹Pollard and Samers, “Islamic Banking and Finance,” 315.

¹⁵²Rethel, “Review of Pious Property,” 414.

capital partnership or joint venture.¹⁵³ *Sukuk* is an Islamic bond composed of other Islamic finance products.¹⁵⁴

Status and History of Islamic Finance

Thomas Philip ascribes two reasons for the rise of modern Islamic finance, the establishment of the state of Pakistan and the search for a Muslim identity in the face of Western capitalism and Eastern communism.¹⁵⁵ Significant in the development of Islamic finance was the establishment of the International Association of Islamic Banks in 1977. According to Hardie and Rabooy, “[The International Association of Islamic Banks] aims to help and support the Islamic banks in different ways, and control their activities in order to keep them within the Islamic frame. Its verdicts, laws, opinions and decisions are binding on the members if they are unanimous.”¹⁵⁶ Iran’s Usury Free Banking Law of 1983 began “the phasing out and subsequent prohibition of domestic financial contracts based on interest.”¹⁵⁷ In that same year, the first Islamic banks were authorized in Turkey and “by the mid 1990s there were [*sic*] a mix of foreign-owned and domestic houses in operation.”¹⁵⁸

The Dow Jones Islamic Market Index was created in 1999 and the Dow Jones Citigroup Sukuk Index began in 2003.¹⁵⁹ In 2004, the Islamic Bank of Britain was established as the first Islamic financial institution outside of a Muslim majority

¹⁵³Hardie and Rabooy, “Risk, Piety, and the Islamic Investor,” 59.

¹⁵⁴Pollard and Samers, “Islamic Banking and Finance,” 313.

¹⁵⁵Thomas Philipp, “The Idea of Islamic Economics,” *Die Welt des Islams* 30, no. 1/4 (1990): 119, accessed January 16, 2018, <http://www.jstor.org/stable/1571048>.

¹⁵⁶Hardie and Rabooy, “Risk, Piety, and the Islamic Investor,” 63n13.

¹⁵⁷Wilson, “Review of Interest in Islamic Economics,” 465.

¹⁵⁸Banu Gökariksel and Anna Secor, “Islamic-Ness in the Life of a Commodity: Veiling-Fashion in Turkey,” *Transactions of the Institute of British Geographers* 35, no. 3 (2010): 318, accessed January 16, 2018, <http://www.jstor.org/stable/40890990>.

¹⁵⁹Pollard and Samers, “Islamic Banking and Finance,” 313.

country.¹⁶⁰ In 2007, Pollard and Samers claimed there were over 300 Islamic banks and financial institutions with between \$200-\$300 billion in assets. Furthermore, they estimated another \$1.1 trillion globally in Islamic funds.¹⁶¹ Additionally, Islamic finance has become an Islamization tool, for example, Malaysia instituted Islamic financial laws “aimed at enhancing the economic position of Muslim Malays in line with their political dominance.”¹⁶² According to Pollard and Samers, the financial systems of Bahrain, Brunei, Iran, Malaysia, Pakistan, Saudi Arabia, and Sudan have been Islamicized in some way.¹⁶³

Islamic banks are required to have a *shari'a* board or religious supervisory board.¹⁶⁴ These boards “certify the Islamic-ness of different financial products and services.”¹⁶⁵ However, not everyone believes these boards truly function as a safeguard. Instead, some, like El-Gamal, question their role in adapting what appear to be conventional products “in the pursuit of profit at the expense of spiritual integrity.”¹⁶⁶ This adaptation is done by taking modern contracts and changing them into traditional Islamic contracts involving sales, lease, or simple partnerships “by duplicating the substantive functions of secular financial instruments, markets, and institutions.”¹⁶⁷

¹⁶⁰Pollard and Samers, “Islamic Banking and Finance,” 316.

¹⁶¹Pollard and Samers, “Islamic Banking and Finance,” 313.

¹⁶²Wilson, “Review of Interest in Islamic Economics,” 466.

¹⁶³Pollard and Samers, “Islamic Banking and Finance,” 313.

¹⁶⁴Hardie and Rabooy, “Risk, Piety, and the Islamic Investor,” 61.

¹⁶⁵Nomani, “Review of Islamic Finance,” 349.

¹⁶⁶Wilson, “Review of Interest in Islamic Economics,” 463.

¹⁶⁷Nomani, “Review of Islamic Finance,” 349.

***Mudaraba* within Islamic Finance**

Mudaraba is an Islamic contract type based upon a partnership contract that preceded the time of Muhammad.¹⁶⁸ It was known in medieval Europe as *commenda* or sleeping partnership.¹⁶⁹

The primary element of the *mudaraba* contract is profit and loss sharing. One partner provides the capital, the other runs the business. Each partner invests something in the business, the one the capital, the other the time and labor. Each partner stands to lose only what is invested, for the one supplying the capital, the capital is at risk, for the one supplying the labor, the labor is at risk. The only exception is if the one running the business breached the contract in some way to make him liable for lost capital.¹⁷⁰ At the conclusion of the business, the profits are shared.¹⁷¹

The *mudaraba* contract played an important role in early Islam. Muhammad's arrangement with Khadija bint Khuwaylid, his first wife, was under a *mudaraba* contract. Khadija supplied the capital, while Muhammad engaged in the business of trading. According to Hardie and Rabooy's comment on the arrangement between Muhammad and Khadija, "His approval of this sort of partnership is the basis of its acceptance by Islamic jurists and scholars. It is agreed, by all schools of jurisprudence, that the owner of capital is entitled to demand any fair and just proportion of the profits, and that this should be set out in the contract."¹⁷²

Hardie and Rabooy provide specifics on the use of the *mudaraba* contract. The contracts are for a fixed period or for a specific purpose. *Mudaraba* contracts are not

¹⁶⁸Hardie and Rabooy, "Risk, Piety, and the Islamic Investor."

¹⁶⁹Jon E. Mandaville, "Usurious Piety: The Cash *Waqf* Controversy in the Ottoman Empire," *International Journal of Middle East Studies* 10, no. 3 (1979): 289–308, accessed January 16, 2018, <http://www.jstor.org/stable/162140>.

¹⁷⁰Hardie and Rabooy, "Risk, Piety, and the Islamic Investor," 61.

¹⁷¹Hardie and Rabooy, "Risk, Piety, and the Islamic Investor," 60.

¹⁷²Hardie and Rabooy, "Risk, Piety, and the Islamic Investor," 60.

long-term partnerships as they have an end spelled out in the contract. Profits are paid out only at the end when the business terminates. First, the capital is repaid to the partner who contributed it. Then, the profits are distributed according to a ratio determined in the contract.¹⁷³ Hardie and Rabooy state,

According to the Hanafi, Shafi'i and Maliki schools, the allocation of profit, and withdrawal of it, are only valid and allowed after the settlement of accounts, i.e. after the capital has been fully repaid to its owner-implying that the business has been wound up. . . . According to the Hanbali school, and various doctrines of the Shi'a, the active partner in *mudaraba* becomes the legal owner of the as yet unallocated profit as soon as it accrues to the business, and the allocation of profit. Thus, these schools also agree that the business must be wound up before any actual distribution of profit.¹⁷⁴

Records of the use of the *mudaraba* contract can be found throughout history. Haïm Gerber found that of ninety partnerships referenced in seventeenth-century Bursa, a town in the Ottoman Empire, thirty-two were *mudaraba* contracts. These *mudaraba* contracts were often employed for businesses involved in international trade or that required travel of great distances between cities. One such industry that often employed the *mudaraba* contract was the silk industry.¹⁷⁵ Svetla Ianeva found *mudaraba* contracts were employed in Bulgaria during the late nineteenth century.¹⁷⁶ So, *mudaraba* contracts have been an important element of Islamic financial arrangements from the time of Muhammad to the present day.

Mudaraba was believed to be one of the ideal Islamic financial alternatives to interest.¹⁷⁷ *Mudaraba* is understood to be an ideal financial instrument because of the

¹⁷³Hardie and Rabooy, "Risk, Piety, and the Islamic Investor," 60–61.

¹⁷⁴Hardie and Rabooy, "Risk, Piety, and the Islamic Investor," 61.

¹⁷⁵Haïm Gerber, "The Muslim Law of Partnerships in Ottoman Court Records," *Studia Islamica*, no. 53 (1981): 113–15, accessed January 16, 2018, <http://www.jstor.org/stable/1595542>.

¹⁷⁶Svetla Ianeva, "Financing the State? Tax-Farming as a Source of Individual Wealth in the Nineteenth Century," *Oriens* 37 (2009): 221, accessed January 16, 2018, <http://www.jstor.org/stable/25759077>.

¹⁷⁷Philipp, "The Idea of Islamic Economics," 132.

shared risk between the capital provider and the one running the business. Shared risk, in contrast to what is seen as exploitive interest, was one of the crucial elements intended to differentiate Islamic financial practices from conventional financial practices.¹⁷⁸

However, profit-and-loss contracts, such as *musharaka* and *mudaraba*, actually only make up a small percentage (around 5 percent) of the financing modes utilized by Islamic financial institutions, primarily because of the uncertainty of returns, primarily because of the risk.¹⁷⁹

A Comparison of the Contents of the Search Results Regarding *Mudaraba* Banking

This section provides a point-by-point comparison of the relevant areas noted in the baseline literature survey regarding *mudaraba* banking. The baseline literature survey identified four essential areas an expert would be expected to address. This comparison treats the areas in the order they are presented in chapter three.

Riba* and *Gharar

The baseline literature survey found modern Islamic finance to be based upon two prohibitions. The first prohibition is that of *riba*, commonly understood to be interest. The second is *gharar*, understood to be excessive risk. While the application of the prohibition of *riba* is still somewhat debated, in the field of Islamic finance *riba* is synonymous with interest. Therefore, Islamic finance has, as one of its primary goals, the elimination of interest from all transactions. The prohibition against *gharar* involves the necessity that all the elements of the contract be known to all parties. The parties should have knowledge of the existence of what is involved in the transaction; knowledge of the

¹⁷⁸Wright, Jr., "Review of Arab Islamic Banking and the Renewal of Islamic Law," 285.

¹⁷⁹Pollard and Samers, "Islamic Banking and Finance," 315; Hardie and Rabooy, "Risk, Piety, and the Islamic Investor," 66.

characteristics, identification, quantity, or date expected; and knowledge regarding the control of the items involved.

Google. The results of the Google search identified the prohibitions against *riba* and *gharar* to be central to Islamic finance. Google identified that *riba* is traditionally translated as “interest” and modern Islamic finance revolves around removing interest from transactions. The prohibition against *riba* is based on qur’anic texts and ahadith. Google recognizes *gharar* is unnecessary risk. The prohibition against *gharar* is based upon the Islamic concept that risk is shared in a transaction.

JSTOR. The results of the JSTOR search identified that two prohibitions define Islamic finance. These prohibitions are against *riba* and *gharar*. *Riba* is commonly understood within Islamic finance to be a prohibition against interest. The prohibition against *riba* is based on qur’anic texts as well as ahadith. The prohibition against *gharar* is based on a hadith and is a prohibition against selling something that is absent. The prohibition against *gharar* helps keep Islamic finance connected to the real world.

Comparison. Both Google and JSTOR results touched upon the foundational prohibitions in Islamic finance. Both Google and JSTOR results tie the prohibition of *riba* to qur’anic texts and ahadith. Both Google and JSTOR results acknowledge the discussion concerning the meaning of *riba*, while recognizing that the field of Islamic finance understands *riba* to mean interest. Google and JSTOR results link the prohibition against *gharar* to a hadith. Both Google and JSTOR results connect the prohibition of *gharar* to the necessity for both parties to share risk. Both Google and JSTOR results adequately address the topic of *riba/gharar*.

Islamic Financial Products

The baseline literature survey consistently provided a brief overview of Islamic financial products before proceeding with further discussion on one type of product. The

survey identified eight significant financial contracts. The products are *mudaraba*, *murabaha*, *salam*, *'ina*, *ijara*, *itisna*, *qirad*, and *musharaka*.

Google. The results of the Google search identified nine Islamic financial products. The products are *musharaka*, *murabaha*, *wadiah*, *mudaraba*, *ijara*, *'ina*, *itisna*, *salam*, and *sukuk*.

JSTOR. The results of the JSTOR search identified nine Islamic financial products. The products are *mudaraba*, *tawarruq*, *salam*, *istisna*, *urbun*, *murabaha*, *ijara*, *musharaka*, and *sukuk*.

Comparison. Both Google and JSTOR results adequately identified significant Islamic financial products. Both Google and JSTOR identified *musharak*, *murabaha*, *ijara*, *mudaraba*, *itisna*, *salam*, and *sukuk* as noteworthy financial products, while both noted two different, but additional products.

Islamic Finance

The baseline literature survey found *mudaraba* and *musharaka* to have been considered the foundation for Islamic finance when the field was beginning. However, neither product has become dominant, primarily because of the risk involved. The survey found no global institution is empowered to regulate all Islamic financial institutions, but the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) provides standards and certification. One of the standards is the existence of a *shari'a* board to validate all the institution's products as compliant. Abul Al Mawdudi and Sayyid Qutb are recognized as significant figures in the development of Islamic finance, which took hold in the late twentieth century. The early twenty-first century has seen the rise of Islamic finance as a mature field. Throughout this maturation, Islamic finance expanded outside of Muslim majority nations. Despite the growth, some critique Islamic finance as too reliant upon revised versions of conventional products.

Google. The results of the Google search identify Islamic finance as beginning in the mid-twentieth century, with the first modern commercial Islamic bank starting in the late twentieth century. Google results recognize the importance of people like Anwar Qureshi, Naeem Siddiqui, Abu A'la Maududi, and Muhammad Hamidullah in the rise of Islamic finance. The Google results recognized the role the AAOIFI plays in Islamic finance, certifying the *shari'a* compliance of the Islamic financial institutions. The institution's *shari'a* advisors determine whether products are compliant. The Google results linked part of the rise in Islamic finance with the wealth generated by the oil of the Middle East. Google results claimed the first Islamic commercial bank outside the Muslim world was started in London in 2004. The Google results connect the value of Islamic finance to its equity-backed nature that favors entrepreneurs and creates a stable economy. Google results also identified the tension within the Islamic world regarding how Islamic finance mirrors conventional finance.

JSTOR. The results of the JSTOR search tie the rise of Islamic finance to the establishment of Pakistan and the need for a Muslim identity. JSTOR places the rise of Islamic finance within the mid-to-late twentieth century. JSTOR results trace significant events, such as the creation of the Dow Jones Islamic Market Index in 1999 and the establishment of the Islamic Bank of Britain in 2004. JSTOR identifies the need for Islamic banks to have *shari'a* compliance boards. However, JSTOR recognizes the discussion regarding the role of the *shari'a* compliance board as some Islamic products mirror conventional financial products.

Comparison. Both Google and JSTOR results place the rise of Islamic finance in the mid-to-late twentieth century. Google identifies the vital role the AAOIFIA plays in Islamic finance in addition to the role of the local *shari'a* compliance board. JSTOR seems to indicate only the importance of the local *shari'a* compliance board. Both Google and JSTOR acknowledge the discussion concerning Islamic finance's tendency to

develop products similar to conventional finance. The Google results appear to have touched upon the important voices in the rise of Islamic finance, while the JSTOR results do not prioritize this information. The Google results tend to portray Islamic finance as a tool against injustice. Sources for these arguments vary from quotes attributed to Muhammad Siddiqi to organizations like the World Bank. JSTOR seems to not include any of these celebratory statements about the inherent morality of Islamic finance compared to traditional finance. JSTOR appears to provide primarily basic information about the history and status of Islamic finance, while Google adequately addresses the topic. Some of the Google search results may show bias toward presenting Islamic finance in a positive light.

***Mudaraba* Banking within Islamic Finance**

The baseline literature survey found many sources noted the profit and loss contract of *mudaraba* to have been initially considered one of the cornerstones of Islamic banking. The *mudaraba* style contracts pre-existed Islam and were a typical contract form in the Middle East. *Mudaraba* is a profit and loss contract between two parties. One party, the *rab al-mal*, provides the capital and the *mudarib* acts as the agent providing the labor. The contract specifies the terms of the investment and can limit the activities of the *mudarib*. Modern contracts often insert significant restrictions and provide for regular audits of the business. The contract spells out the profit-sharing ratio. First, the *rab al-mal* is to be paid back all the capital provided. Then the profit is divided between the *rab al-mal* and the *mudarib* at the agreed upon ratio. If the venture did not generate a profit, the *rab al-mal* absorbs the entire loss, unless the *mudarib* acted with negligence or committed fraud. Islamic financial institutions rely primarily upon the *mudaraba* contract for deposit accounts, with the depositor acting as the *rab al-mal* and the bank as the *mudarib*. Islamic financial institutions developed tools to smooth the risk of the *mudaraba* contract for the depositor, utilizing tools such as profit-equalization reserve or

an investment risk reserve. Some Islamic financial institutions operate a two-tiered *mudaraba* system, where the bank acts as the *mudarib* in regards to the depositor and as the *rab al-mal* in regards to the one seeking capital. Given the risk to the *rab al-mal*, *mudaraba* is often not used to provide capital. However, variations of the *mudaraba* contract have been developed to apply to specific situations, including interbank loans.

Google. The results of the Google search found that the *mudaraba* contract is not based solely upon prophetic sources, but upon pre-Islamic practices. However, the *mudaraba* contract was an initial concept for modern Islamic finance. Google describes *mudaraba* as a profit and loss contract or a trustee financing contract. One party contributes the capital, the *rab al-mal*, and the other the labor or expertise, the *mudarib*. The contract can contain other regulations, such as the type of business the *mudarib* can pursue. The profit-sharing ratio is agreed upon in the *mudaraba* contract. Google results point out that the contract is not fundamentally profit and loss, but only a profit-sharing contract as the *rab al-mal* bears any financial loss, while the *mudarib* loses the time and effort. Google results found that Islamic financial institutions regularly take deposits in the form of the *mudaraba* contract, with the bank acting as the *mudarib*. Some financial institutions operate under a two-tiered *mudaraba* system, with the bank acting as the *mudarib* for the depositors and the *rab al-mal* for the one seeking capital. However, though the two-tiered system was the initial vision for a substantial amount of Islamic finance, the risk involved in the *mudaraba* contract to the bank caused Islamic financial institutions to rely upon other instruments to provide capital. Google results also found the *mudaraba* contract employed in a variety of ways throughout the Islamic world.

JSTOR. The results of the JSTOR search identify *mudaraba* as a financial contract preceding Islam. In the early years of modern Islamic finance, the *mudaraba* contract was believed to be an ideal alternative to interest. However, profit and loss contracts only make up a small percentage of Islamic financial products due to the risk

involved. The JSTOR results recognized two partners in the *mudaraba* transaction, one providing the capital and the other providing the labor. JSTOR results understand that the one providing the capital is at risk to lose capital if the venture does not generate a profit, with the exception of the one providing the labor being liable for losses if the contract is breached in some way. If the business generates a profit, the profits are shared according to a predetermined ratio. JSTOR acknowledges the role of the *mudaraba* contract throughout history but seems to lack details on how the *mudaraba* contract is currently employed.

Comparison. Both Google and JSTOR recognize the presence of the *mudaraba* contract before the rise of Islam. Both Google and JSTOR understand the profit and loss nature of the contract and the role of the parties in the contract. However, Google provides the Arabic terms for the roles, while JSTOR does not. Both Google and JSTOR spell out the basics of the profit-sharing mechanics. Google provides significantly more information concerning the use of *mudaraba* by Islamic financial institutions on both sides of the ledger. Both Google and JSTOR realize the important role envisioned for *mudaraba* in the rise of modern Islamic finance. However, *mudaraba* has not achieved that role given the risk involved. Google results provide examples of how *mudaraba* contracts are currently employed in a variety of ways throughout the Islamic world, while the JSTOR results do not. Google results appear to provide more specificity in regard to *mudaraba* than JSTOR results, demonstrated explicitly by the lack of the Arabic terms in the JSTOR results and the inclusion of ways *mudaraba* is currently employed in the Google results. Google results appear to cover the topic adequately, while JSTOR results provide basic information.

Overall Comparison

This section provides a view of how Google and JSTOR perform in each of the topics outlined above. The section also compiles and summarizes Google's and JSTOR's ability to adequately address the topics.

Riba and gharar. Both Google and JSTOR adequately address these foundational prohibitions of Islamic finance.

Islamic financial products. Both Google and JSTOR adequately present a brief introduction to significant Islamic financial products.

History and status of Islamic finance. JSTOR appears to provide primarily basic information about the history and status of Islamic finance, while Google adequately addresses the topic. Some of the Google search results may show bias toward presenting the benefits of Islamic finance in a positive light.

Mudaraba. Google results appear to provide more specificity about *mudaraba* than JSTOR results, demonstrated explicitly by the lack of the Arabic terms in the JSTOR results and the inclusion of ways *mudaraba* is currently employed in the Google results. Google results appear to cover the topic adequately, while JSTOR results provide basic information.

Summary. Of the four areas above, Google results adequately address the topic compared to the baseline literature survey in all four areas. JSTOR results adequately address the topic three times and provide basic information one time. Of the four areas above, JSTOR results never address a topic more thoroughly than Google results. The contents of the Google results regularly appear to present significant and reliable information concerning *mudaraba* banking.

The Contents of the Relevant and Partially Relevant Google Results Regarding Just War

The Google search queries regarding just war contained twenty-six relevant or partially relevant results. This section provides a survey of the contents of the search results from the twenty-six relevant or partially relevant results.

Just War and Jihad

The modern idea of just war theory developed in the west. The theory revolves around two concepts, just cause for war and just action in the war. Just cause focuses on when war can be waged justly. Just action describes the proper conduct of war. The United Nations Charter in 1945 and the Geneva Convention in 1949 solidified international just war theory.¹⁸⁰ While Islamic law did not explicitly specify these two categories, the concept of a just war was essential to Islamic jurists. The discussions concerning topics pertinent to just war typically revolve around the concept of jihad. Jihad literally means “exertion” or “struggle,” but “can have many shades of meaning in an Islamic context.”¹⁸¹ Muhammad is alleged to have stated, after returning home from a battle, “We have returned from the lesser jihad to the greater jihad.”¹⁸² Muhammad’s statement is traditionally interpreted as referring to the inward struggle as the greater jihad. However, in traditional jurisprudence documents, jihad is primarily considered as war. In Bukhari’s ahadith collection, jihad is referenced one hundred and ninety-nine times and “all assume that jihad means warfare.”¹⁸³ Ibn Habbaan narrates and Ibn Nuhaas cites, that Muhammad said, “The best jihad is the one in which your horse is slain and

¹⁸⁰Justin Parrott, “Jihād as Defense: Just-War Theory in the Quran and Sunnah,” *Yaqeen Institute for Islamic Research*, last modified October 16, 2016, accessed January 17, 2018, <https://yaqeeninstitute.org/en/justin-parrott/jihad-as-defense-just-war-theory-in-the-quran-and-sunnah/>.

¹⁸¹“*Jihad*,” *Wikipedia*, n.d., accessed January 17, 2018, <https://en.wikipedia.org/wiki/Jihad>.

¹⁸²Patrik K. Meyer, “Standing on Common Ground? Explaining Just War and *Jihad*,” *The Diplomat*, last modified February 19, 2016, accessed January 17, 2018, <https://thediplomat.com/2016/02/standing-on-common-ground-explaining-just-war-and-jihad/>.

¹⁸³Douglas E. Streusand, “What Does Jihad Mean?” *The Middle East Quarterly* 4, no. 3 (September 1997): 10, accessed January 17, 2018, <http://www.meforum.org/357/what-does-jihad-mean>.

your blood is spilled.”¹⁸⁴ While acknowledging that jihad has other meanings, it is important to note that, “Throughout Islamic history, wars against non-Muslims, even though with political overtones, were termed jihads to reflect their religious flavor.”¹⁸⁵

Just Cause

Two positions shape the Islamic debate concerning the just cause for war. First, some modern scholars interpret the authoritative texts of Islam to hold that war should be defensive only. Parrott states, “There is no evidence in the source texts of Islam that permit Muslims to attack or kill civilians or invade non-hostile nations.”¹⁸⁶ Parrott provides a concise statement that is representative of many who hold this view today, writing, “The Quran and Sunnah permit Muslims to defend themselves from aggression, while also limiting warfare to the purpose of preserving security, freedom, and human rights.”¹⁸⁷ Muhammad Legenhausen acknowledges differences of opinion historically, especially in the medieval period, but states of modern scholars that “Muslim authors deny that jihad is to be waged against non-believers per se, but rather against persecution and for freedom to practice and propagate Islam.”¹⁸⁸ Legenhausen goes on to point out that, according to Majid Khadduri, Ibn Taymiyyah, shifted Sunni Muslim thought toward interpreting jihad as exclusively defensive.¹⁸⁹ Proponents of this view cite examples from

¹⁸⁴Wikipedia, “*Jihad*.”

¹⁸⁵“*Jihad*,” *Encyclopaedia Britannica*, n.d., accessed January 17, 2018, <https://www.britannica.com/topic/jihad>.

¹⁸⁶Parrott, “*Jihād as Defense*.”

¹⁸⁷Parrott, “*Jihād as Defense*.”

¹⁸⁸Muhammad Legenhausen, “Islam and Just War Theory,” *Al-Islam.Org*, last modified February 7, 2008, accessed January 17, 2018, <https://www.al-islam.org/articles/islam-and-just-war-theory-dr-muhammad-legenhausen>. “In classical Islamic law, the term refers to armed struggle against unbelievers, while modernist Islamic scholars generally equate military *jihad* with defensive warfare.” “*Jihad*.”

¹⁸⁹Legenhausen gives a brief history of the shift, writing, “The shift took place, in part, through successive reformulations of the definition of dar al-Islam, from being a territory under the governance of a rightly guided leader, to being territory in which the shari’ah was enforced, regardless of whether the leader was a just or unjust Muslim, to being territory in which the shari’ah could be applied among Muslims, even if the ruler was a non-Muslim, and finally, to being territory in which a Muslim could carry out religious

Islamic history such as Abdullah ibn Abbās, Muhammad’s cousin who interpreted Q2:190 “as prohibiting aggression against all categories of peaceful people.”¹⁹⁰

Furthermore, modernists cite jurists such as Abū Ja‘far al-Naḥḥās, Ibn al-Jawzī, and al-Suyūfī who do not interpret the sword verses as abrogating what they see as previous peaceful commands.¹⁹¹ Joel Hayward represents this view, stating,

Certainly most Islamic authorities on the Qur’an and Muhammad today, as opposed to scholars from, say, the more ambiguous medieval period, are firm in their judgement that the most warlike verses in the Qur’an, even those revealed very late in Muhammad’s mission, do not cancel out the overwhelming number of verses that extol tolerance, reconciliation, inclusiveness and peace.¹⁹²

However, a second view also exists. This view acknowledges the right of Muslims to wage offensive war. Classical Sunni jurisprudence divides the world into the realm of Islam and the realm of infidelity.¹⁹³ This offensive war serves the purpose of expanding the realm of Islam and overcoming the realm of infidelity. While many modern scholars want to overlook the reality of this position,¹⁹⁴ ample evidence shows scholars considered offensive war viable. Essentially, this paradigm places the two realms in a constant state of war.¹⁹⁵ Ibn Khaldun claimed, “In the Muslim community, the holy war is a religious duty, because of the universalism of the Muslim mission and (the obligation to) convert everybody to Islam either by persuasion or by force.”¹⁹⁶

obligations without persecution.” Legenhausen, “Islam and Just War Theory.” However, Ibn Taymiyyah is also one of the jurists credited with inspiring modern fundamentalists to fight against non-Muslims. Wikipedia, “*Jihad*.”

¹⁹⁰Parrott, “Jihād as Defense.”

¹⁹¹Parrott, “Jihād as Defense.”

¹⁹²Joel Hayward, “The Qur’an and War: Observations on Islamic Just War,” *Quran and War*, accessed January 17, 2018, <http://www.quranandwar.com/>.

¹⁹³Legenhausen, “Islam and Just War Theory.”

¹⁹⁴Such as Parrot who writes, “Most scholars did not consider unbelief in Islam itself as a *casus belli* or justification for war.” Parrott, “Jihād as Defense.”

¹⁹⁵Streusand, “What Does *Jihad* Mean?,” 10.

¹⁹⁶Legenhausen, “Islam and Just War Theory.”

Not every Muslim scholar who supported offensive war believed the war was for religious conversion. Shahid Mutahhari claims the Qur'an and the life of Muhammad point to an interpretation that jihad should not be fought solely for religious conversion.¹⁹⁷ But religious conversion was an issue for some jurists.

As established in the initial conquests of the Arabian Peninsula and surrounding areas, just cause includes expansion of the borders of the umma. Broadly, just cause for war includes seeking to establish peace and order and overcome the chaos, immorality, and godlessness of the polytheistic nations.¹⁹⁸

The expansion of the borders of the *umma* does not require conversion, merely that the territory under the rule of *shari'a*, the realm of Islam, expands.

Medieval jurists are not the only ones who claim an offensive war can be just. Sayyid Qutb “revives the claim of those medieval jurists who argued that jihad is not for the sake of conversion, but to make the *shari'ah* the law of the land, and thereby to abolish oppressive political systems.”¹⁹⁹

Included in the discussion of just cause is the requirement for a legitimate authority to wage war.²⁰⁰ Traditionally, jihad had to be initiated by the caliph or someone he designated.²⁰¹ In contrast to the war waged by the proper authority, “war cannot be waged by apostates, criminals, [or] rebels.”²⁰² According to Joel Hayward, “Before any warfighting can commence — except for spontaneous self-defensive battles when surprised — the leader must make a formal declaration of war to the enemy force.”²⁰³

¹⁹⁷Legenhausen, “Islam and Just War Theory.”

¹⁹⁸Tex, “Jihad and Justice,” *Mere Orthodoxy*, last modified September 21, 2007, accessed January 17, 2018, <https://mereorthodoxy.com/jihad-and-justice-islamic-just-war-theory-part-2/>.

¹⁹⁹Legenhausen, “Islam and Just War Theory.”

²⁰⁰Tex, “Jihad and Justice”; “BBC-Religions-Islam: War,” *BBC*, last modified August 13, 2009, accessed January 17, 2018, <http://www.bbc.co.uk/religion/religions/islam/islamethics/war.shtml>.

²⁰¹“Just War VS. Jihad,” *Mtholyoke*, accessed January 17, 2018, <http://www.mtholyoke.edu/~witwe22k/classweb/politics/jihad.html>.

²⁰²“Just War VS. Jihad.”

²⁰³Hayward, “The Qur'an and War.”

The declaration of war must include the opportunity for the enemy to convert to Islam or pay a tax subjugating them to the rule of Islam.²⁰⁴

Osama Bin Laden, and others like him, have built upon the work of those like Qutb to justify their jihad. However, while some may view Bin Laden and others like him as a threat to the tradition of jihad,²⁰⁵ Irshad Manji points out that while they “rarely capture the best of Islamic thought, [they] are not wholly divorced from it either.”²⁰⁶

A third issue also occurs in the just cause category—right intention.²⁰⁷ Two things are required, that war be waged for God and the Islamic state.²⁰⁸ War is waged for the Islamic state when it defends, establishes, or maintains the state.²⁰⁹

Just Conduct

Ibn Kathir provides an example of the just conduct of war, outlining what is not permissible in war as, “mutilating the dead, theft (from the captured goods), killing women, children and old people who do not participate in warfare, killing priests and residents of houses of worship, burning down trees and killing animals without real benefit.”²¹⁰ In Kathir’s statement, two aspects of just conduct exist. The first defines those who are protected from fighting. The second deals with the tactics involved in

²⁰⁴Legenhausen, “Islam and Just War Theory.”

²⁰⁵“Just War VS. *Jihad*.”

²⁰⁶Irshad Manji, “Soldiers of Allah: Review of Arguing the Just War in Islam-John Kelsay,” *The New York Times*, last modified January 6, 2008, accessed January 17, 2018, <http://www.nytimes.com/2008/01/06/books/review/Manji-t.html>.

²⁰⁷Muhammad Hisham Kabbani and Seraj Hendricks, “Jihad: A Misunderstood Concept from Islam-What Jihad Is, and Is Not,” *The Islamic Supreme Council of America*, accessed January 17, 2018, <http://islamicsupremecouncil.org/understanding-islam/legal-rulings/5-jihad-a-misunderstood-concept-from-islam.html?start=9>; “Right intention (niyyat) is a fundamental condition for engaging in jihad.” Legenhausen, “Islam and Just War Theory.”

²⁰⁸Tex, “Jihad and Justice.”

²⁰⁹“Just War VS. *Jihad*.”

²¹⁰Hayward, “The Qur’an and War.”

fighting. Islamic jurisprudence emphasizes the importance of proportionality and discrimination.²¹¹

Traditional Islamic sources differentiate between combatants and noncombatants.²¹² Who exactly is to be considered a noncombatant is not consistently defined. Not all who do not fight are considered protected as noncombatants.²¹³ Women and children are regularly considered noncombatants and are not to be killed intentionally. Other groups of people are included by different jurists and through different periods of history, including the elderly, farmers, merchants, and slaves.²¹⁴

According to Hisham Kabbani, Muhammad told the Muslim leader Khālīd ibn al-Walīd, “The Prophet orders you not to kill women or servants.”²¹⁵ Muhammad also, when he saw a woman lying on the ground dead, said, “She was not fighting. How then she came to be killed?”²¹⁶ Abu Bakr told his army, “Do not kill the children, the aged or the women. . . . you will come across people who confined themselves to worship in hermitages, leave them alone to what they devoted themselves for.”²¹⁷ Umar ibn Abdul Aziz claims, based on Q2:190, that women, children, old men, and anyone not fighting

²¹¹Hayward, “The Qur’an and War.”

²¹²Legenhausen, “Islam and Just War Theory.”

²¹³Ella Landau-Tasserou, *Non-Combatants in Muslim Legal Thought*, trans. Judith Loebenstein-Witztum, Research Monographs on the Muslim World (Washington, DC: Hudson Institute: Center on Islam, Democracy, and the Future of the Muslim World, December 2006), 1.

²¹⁴“Combatants and Non-Combatants in Islam: Who Is an Innocent and Who Isn’t in Islam?,” *Just Paste It*, accessed January 17, 2018, <https://justpaste.it/combatantsinislam>.

²¹⁵Hisham Kabbani, “*Jihad*, Terrorism and Suicide Bombing: The Classical Islamic Perspective - Page 15,” *The Islamic Supreme Council of America*, accessed January 17, 2018, <http://www.islamicsupremecouncil.org/understanding-islam/legal-rulings/21-jihad-classical-islamic-perspective.html?start=14>.

²¹⁶Mohammad Ali, “Do Non-Combatants Have Any Right from Islam View?,” *Quora*, last modified December 21, 2016, accessed January 17, 2018, <https://www.quora.com/Do-non-combatants-have-any-right-from-Islam-view>.

²¹⁷Ammar, “Islamic Treatment of Non-Combatants,” *Right Islam*, last modified October 10, 2015, accessed January 17, 2018, <http://r-islam.com/en/index.php/rs-articles/islam/truth-of-islam/1353-islamic-treatment-of-non-combatants>.

should be considered a noncombatant.²¹⁸ Abu Yusuf and Abu Ishaq al Fazari include women, children, old people, and monks as those who should be treated as noncombatants.²¹⁹ Abul Hasan al-Mawardi claimed,

It is not permitted to kill women and children in battle, nor elsewhere, as long as they are not fighting because of the prohibition of the Messenger of Allah, may the peace and blessing of Allah be upon him, against killing them. The Prophet, may the peace and blessing of Allah be upon him, forbade the killing of those employed as servants and mamlouks, that is young slaves.²²⁰

Ibn Abbas, responding to a letter from Najdah, wrote, “Verily, you wrote to me asking about the killing of the children of the polytheists. The Messenger of Allah did not kill them. Therefore, you are not to kill them.”²²¹

Jurists almost universally considered women and children protected noncombatants. However, jurists did not always base the status of women and children as noncombatants on their worth or value as people, but as property. The jurist Shafi’i held this position. Ella Landau-Tasseron stated,

Shafi’i (d. 204/820), who took an extreme position commanding the killing of any and all infidels, felt himself compelled to accept as authentic the sayings attributed to the Prophet, which prohibited the killing of women and children. He found, however, a rational justification for this prohibition. Instead of viewing it as a moral imperative, which would mean respecting the lives of infidels, he interpreted the prohibition as a directive based on financial considerations. Women and children, Shafi’i explains, are property, and property should not be damaged.²²²

²¹⁸Abu Amina Elias, “Protection of Civilian Non-Combatants in Islam,” *Faith in Allah*, last modified April 3, 2016, accessed January 17, 2018, <https://abuaminaelias.com/protection-of-civilian-non-combatants-in-islam/>.

²¹⁹Landau-Tasseron, *Non-Combatants in Muslim Legal Thought*, 5.

²²⁰“Killing of Non-Combatants,” *Controversial Islam*, accessed January 17, 2018, <https://controversialislam.wordpress.com/killing-of-non-combatants/>.

²²¹“Intentional Killing of Non Combatants Is Not Permitted,” *The Final Revelation*, last modified August 23, 2014, accessed January 17, 2018, <https://the-finalrevelation.blogspot.com/2014/08/intentional-killing-of-non-combatants.html>.

²²²Landau-Tasseron, *Non-Combatants in Muslim Legal Thought*, 6.

Whether the women and children are enslaved and sold is the decision of the Islamic leader.²²³

As a general principle, war was to be waged in such a way to minimize bloodshed and property damage.²²⁴ Trees and property should not be damaged unnecessarily.²²⁵ The Islamic army could not poison the wells of the enemy. The prohibition against poisoning wells has been suggested as being analogous to the modern prohibition against chemical warfare.²²⁶ Muslims are prohibited from torturing with fire, mutilating the dead, and despoiling, looting, or breaching treaties.²²⁷ Abu Bakr is reported to have told his army, “Do not cut or burn palm trees or fruitful trees. Don't slay a sheep, a cow or camel except for your food.”²²⁸

Another tactical issue is the concept of non-discriminatory weapons such as flooding. Sarakhsi, a Hanbali, along with the Shafi'i school, allow the use of non-discriminatory weapons and hold those who employ them free of any responsibility for the death of noncombatants.²²⁹

Muslim armies often encountered situations in which the opposition used human shields. If the enemy was using Muslims as human shields, the Muslim army could only fight if necessary. If the enemy used non-Muslims as human shields, the

²²³Meyer, “Standing on Common Ground?”

²²⁴Legenhausen, “Islam and Just War Theory.”

²²⁵“Just War VS. Jihad”; Meyer, “Standing on Common Ground?”

²²⁶“BBC-Religions-Islam: War.”

²²⁷Kabbani, “Jihad, Terrorism and Suicide Bombing”; Looting is differentiated from plunder. You could plunder those you were fighting, you were not to loot those who did not fight against you. “Chapter 4: Rights Of Enemies At War,” *Al-Islam.Org*, 4, accessed January 17, 2018, <https://www.al-islam.org/al-tawhid/vol-4-n-3/human-rights-islam-allah-abu-al-ala-mawdudi/chapter-4-rights-enemies-war>.

²²⁸Ammar, “Islamic Treatment of Non-Combatants.”

²²⁹Landau-Tasseron, *Non-Combatants in Muslim Legal Thought*, 17; One contributor at Just Paste It notes, “If Muslims kill non-combatants in fighting there is no liability on the Muslims. There is no retribution, no blood money to be paid and there is no sin on the Muslims in the eyes of Allah.” “Combatants and Non-Combatants in Islam.”

Muslim army could carry out the attack as long as they were not targeting the shields.²³⁰ Ibn Taymiyyah was formative in the development of thought concerning human shields during the raids of the Mongols.²³¹ The rulings around human shields have proven to be significant in modern times. According to Kabbani,

Today's militant radical Islamists cite a ruling by the Shafi'i scholar al-Mawardi in which he stated that when involved in combative Jihad, if the enemy has mixed non-combatants among warriors either by chance or intentionally as 'human shields' then Muslim archers are allowed to fire on the enemy, despite the fact that due to the randomness of shooting, noncombatants might die. Spinning off this, they argue that this ruling justifies bomb attacks against civilian areas.²³²

Modern jihadists, such as Yusuf al-Qaradawi, interpret the traditional prohibition on certain activities, such as targeting civilians and suicide bombings as necessary given the current status of the Muslim world. He states, "necessity makes the forbidden things permitted."²³³

The Contents of the Relevant and Partially Relevant JSTOR Results Regarding Just War

The JSTOR search queries regarding just war contained seventeen relevant or partially relevant results. This section provides a survey of the contents of the search results from the seventeen relevant or partially relevant results.

Just War and Jihad

Just war tradition is concerned with two primary ideas: the right cause for waging war and the right conduct in war. While just war is not a term used in the Islamic

²³⁰Landau-Tasseran, *Non-Combatants in Muslim Legal Thought*, 3, 10.

²³¹"When Is the Killing of Non-Combatants Permitted in Islam?," *Religious Tolerance*, accessed January 17, 2018, <http://www.religioustolerance.org/islkill.htm>.

²³²Kabbani, "Jihad, Terrorism and Suicide Bombing."

²³³Manji, "Soldiers of Allah." Religious Tolerance states, "Yussuf al-Qaradawi, an Egyptian sheik working in Qatar ruled that Muslim non-combatants in Iraq can be killed if necessary in order to reach the political and religious goals of the Muslim community." "When Is the Killing of Non-Combatants Permitted in Islam?"

tradition, the two categories are addressed by Islamic jurists.²³⁴ The jurists' consideration of these ideas and other concepts is known as "*shari'a* reasoning." The jurists use the primary sources of Islam, such as the Qur'an, the Sira, and the Sunnah. Previous interpretations of the primary sources, especially medieval scholarly opinion, are considered when the jurist provides answers specific to the context.²³⁵

The Islamic concept of jihad is an important element in understanding the Islamic conception of war. Jihad in the Qur'an is conceived of as not only warfare; it also included an internal struggle.²³⁶ During the expansion of the Islamic empire in the eighth century, jihad as armed struggle was codified by jurists.²³⁷ Roxanne L. Euben states concerning this time period, "the ambiguities of the Qur'anic references and hadiths were resolved into a coherent doctrine that legitimized force in defense and expansion of Islam."²³⁸

Just Cause

The emergence of jihad's role in the expansion of the Islamic empire greatly shaped the discussion concerning the just causes for war. Traditionally, the jurists divided "the world neatly into two camps: those under the control of the Islamic state and those not."²³⁹ These two realms are known as the abode of Islam and the abode of war,

²³⁴James Turner Johnson, "Review: Thinking Comparatively about Religion and War," *The Journal of Religious Ethics* 36, no. 1 (2008): 171, accessed January 17, 2018, http://www.jstor.org.ezproxy.sbts.edu/stable/40014882?Search=yes&resultItemClick=true&searchText=just&searchText=war&searchText=islam&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3Djust%2Bwar%2Bislam&seq=1#page_scan_tab_contents.

²³⁵William McCants, "Review of Arguing the Just War in Islam," *Journal of the American Academy of Religion* 76, no. 4 (2008): 1028.

²³⁶Paul L. Heck, "'Jihad' Revisited," *The Journal of Religious Ethics* 32, no. 1 (2004): 97, accessed January 17, 2018, <http://www.jstor.org/stable/40018156>.

²³⁷Roxanne L. Euben, "Killing (For) Politics: Jihad, Martyrdom, and Political Action," *Political Theory* 30, no. 1 (2002): 13, accessed January 17, 2018, <http://www.jstor.org/stable/3072484>.

²³⁸Euben, "Killing (For) Politics," 13.

²³⁹Heck, "'Jihad' Revisited," 106.

Muslims control the abode of Islam and unbelievers control the abode of war.²⁴⁰ This division is based upon hadith like the one David Aaron cites: “Strive in the name of Allah in Allah’s way! Fight those who disbelieve in Allah: campaign, but do not indulge in excesses, do not act treacherously, do not mutilate, and do not slay children (transmitted by Muslim on the authority of Burayda).”²⁴¹ Al-Shaybani brings the division to bear in his work *Kitab al-siyar*.²⁴²

Once the world was divided into two camps, jurists discussed the interaction between the camps. Throughout history, some jurists have argued war was primarily for the defense of Islamic lands, while others argue war is for the spread of Islamic rule.

The classical theory saw the abode of war as something which needed to be changed. Therefore, offensive war was solely to spread the peace of Islam. The Hanafi jurists Abu Yusuf and al-Shaybani play a significant role in the development of the classical theory.²⁴³ The tenth-century jurist Al Farabi claims, “Just wars are those undertaken to attain the good of a nation, to seek a redress of grievances against other nations or to punish them for crimes committed against the nation, but also include those undertaken to civilize other nations and compel them to accept a better life.”²⁴⁴

The fourteenth-century Hanbali jurist, Ibn Taymiyya picks up on these themes, claiming that offensive war is acceptable and even obligatory “to enjoin the right and

²⁴⁰McCants, “Review of Arguing the Just War in Islam,” 1029.

²⁴¹David Aaron, ed., “Seeds of Jihad,” in *In Their Own Words: Voices of Jihad- Compilation and Commentary* (Pittsburgh: Rand Corporation, 2008), 42.

²⁴²McCants, “Review of Arguing the Just War in Islam,” 1029.

²⁴³Heck, “‘Jihad’ Revisited,” 111.

²⁴⁴Heck, “‘Jihad’ Revisited,” 103.

prohibit the wrong.”²⁴⁵ His writings and views make a significant impact on the Islamic concept of war to this day.²⁴⁶

The nineteenth-century jurist Hassan al-Banna understood jihad to play a significant role in the spread of Islam. He states, “Preparation for war is the surest way to peace. . . . Jihad is used to safeguard the mission of spreading Islam.”²⁴⁷ The nineteenth-century Shi’a jurist Shayk Ja’far outlined five types of jihad, of which one is an “offensive war against the infidels.”²⁴⁸ A twentieth-century jurist, Abul a’la Maududi, played an important role in the independence of Pakistan and wrote,

Islam wishes to destroy all States and Governments anywhere on the face of the earth which are opposed to the ideology and programme of Islam regardless of the country or the Nation which rules it. The purpose of Islam is to set up a State on the basis of its own ideology and programme, regardless of which Nation assumes the role of the standard bearer of Islam or the rule of which nation is undermined in the process of the establishment of an ideological Islamic State.²⁴⁹

Another twentieth-century jurist who significantly shaped the modern view of offensive war is Sayyid Qutb. He writes,

Islam reckons itself to be a worldwide religion and a universal religion; therefore, it could not confine itself to the limits of Arabia, but naturally desired to spread over the whole world in every direction. However, it found itself opposed by political forces in the Persian and Roman Empires, which were its neighbors; these stood in the way of Islam and would not allow its propagators to travel through their countries to inform their people of the nature of Islam, this new faith. Therefore, it followed that these political forces had to be destroyed, so that there may be toleration for the true faith among men. Islam aimed only at obtaining a hearing for its message, so that anyone who might want to accept it would be free to do as he wished, while anyone who wanted to reject it could be the master of his own destiny; this was only possible when the political and material forces of the empires had been removed from the path.²⁵⁰

²⁴⁵Aaron, “Seeds of *Jihad*,” 45.

²⁴⁶Johnson, “Review: Thinking Comparatively about Religion and War,” 172.

²⁴⁷Aaron, “Seeds of *Jihad*,” 54.

²⁴⁸Ann K. S. Lambton, “A Nineteenth Century View of Jihād,” *Studia Islamica*, no. 32 (1970): 187, accessed January 17, 2018, <http://www.jstor.org/stable/1595218>.

²⁴⁹Aaron, “Seeds of *Jihad*,” 57.

²⁵⁰Aaron, “Seeds of *Jihad*,” 59; Qutb also states, “Anyone who understands this particular character of the religion will also understand the place of jihad bi-al-sayf (striving through the sword),

Another influential twentieth-century jurist is Mohammed Abd al-Salam Faraj who wrote, “There is no doubt that the idols of this world can only be made to disappear through the power of the sword.”²⁵¹ These voices demonstrate the continued presence of the division of the world into two realms.

A second element of the classical theory of jihad concerning just cause is the question of who has the authority to declare war. Classically, the declaration of war was limited to the Muslim leader.²⁵² As an example, Shaybani limits the right to declare war to the head of the state because of the authority displayed by Muhammad to declare war as political and religious leader.²⁵³ As Islam lost hegemonic control over territory and its lands began to splinter, the issue of who had the authority to call Muslims to offensive jihad became a central concern, and the issue of authority still persists today.²⁵⁴ In the 11th century, al-Mawardi “argued that those who gained their posts by coercion could legitimately call for a jihad against external foes . . . by virtue of being the true powers in the land.”²⁵⁵ Al-Muhaqqiq al-Hilli, a Shi’a jurist from the thirteenth century, “maintains that jihad was only obligatory if the believer was summoned to jihad by a just imam, or a person appointed over the matter by the imam.”²⁵⁶

Colonial powers regularly encountered religious leaders throughout Asia and Africa, who called for jihad to restore the abode of Islam.²⁵⁷ In the North Caucasus, Sufi

which is to clear the way for striving through preaching in the application of the Islamic movement.” Beverley Milton-Edwards, “The Concept of Jihad and the Palestinian Islamic Movement: A Comparison of Ideas and Techniques,” *British Journal of Middle Eastern Studies* 19, no. 1 (1992): 52, accessed January 17, 2018, <http://www.jstor.org/stable/195432>.

²⁵¹Aaron, “Seeds of *Jihad*,” 63.

²⁵²Heck, “‘*Jihad*’ Revisited,” 112.

²⁵³John Strawson, “Islam and the Politics of Terrorism: Aspects of the British Experience,” in *Fresh Perspectives on the “War on Terror”* (ANU E Press, 2008), 22.

²⁵⁴McCants, “Review of Arguing the Just War in Islam,” 1029.

²⁵⁵McCants, “Review of Arguing the Just War in Islam,” 1030.

²⁵⁶Lambton, “A Nineteenth Century View of Jihād.”

²⁵⁷David Motadel, “Islam and the European Empires,” *The Historical Journal* 55, no. 3 (2012):

brotherhoods declared jihads against the Soviet powers.²⁵⁸ Today, modern jihadists claim “that the global Muslim community is under attack and its defenders must strike back wherever they can.”²⁵⁹ This claim is an attempt to undermine the requirement for a legitimate authority. However, other fundamentalist groups still recognize the need for a legitimate authority, such as Shaykh Umar Bakri Muhammad of al-Muhajiroun who claims armed struggle requires an established Islamic government and that “justice be embodied in a political order.”²⁶⁰

A third element of just war is the requirement of a right intention. Paul Heck states, “Jihad as armed struggle against the powers of the world which had not submitted to the word of God could be acceptable to God only if carried out with the proper intention, as in the performance of any religious duty, such as prayer or almsgiving.”²⁶¹ While Heck is primarily referring to the individual intention, the intention of the state is significant as well. In fact, war could be waged only after the enemy was given a chance to place itself under the rule of Islam, often requiring the paying of a tax. If the enemy refused, war was to be waged.²⁶² This prophetic requirement demonstrates the importance of intention. War is to be waged to bring lands under the rule of Islam. If the ruler accepts the rule of Islam, the war can no longer be fought. According to al-Farabi, a war is unjust

841, accessed January 17, 2018, http://www.jstor.org.ezproxy.sbts.edu/stable/23263276?Search=yes&resultItemClick=true&searchText=just&searchText=war&searchText=islam&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3Djust%2Bwar%2Bislam&seq=1#page_scan_tab_contents.

²⁵⁸David Motadel, “Islam and Germany’s War in the Soviet Borderlands, 1941–5 on JSTOR,” *Journal of Contemporary History* 48, no. 4 (2013): 787.

²⁵⁹David C. Gompert, “Thoughts of the Jihad,” in *Heads We Win--The Cognitive Side of Counterinsurgency (COIN): RAND Counterinsurgency Study--Paper 1* (Pittsburgh: Rand Corporation, 2007), 20.

²⁶⁰John Kelsay, “Democratic Virtue, Comparative Ethics, and Contemporary Islam,” *The Journal of Religious Ethics* 33, no. 4 (2005): 703, accessed January 17, 2018, <http://www.jstor.org/stable/40017994>.

²⁶¹Heck, “‘Jihad’ Revisited,” 101.

²⁶²McCants, “Review of Arguing the Just War in Islam,” 1029.

if it is pursued solely for conquest or to enslave other nations.²⁶³ Ibn Taymiyyah claims war is to “enjoin the right and prohibit the wrong.”²⁶⁴

Just Conduct

Muslims are concerned not only with the question of when to go to war, but how to wage war. Two connected issues are prominent, the tactics the Muslim army could employ and the treatment of noncombatants. The tactics the army could employ required a balance of necessity and proportionality. Jurists base the principle of necessity on an encounter with the Banu al-Nadir. Muhammad burned the trees when fighting with the Banu al-Nadir, while Abu Bakr later instructed moderation in the use of fire in battle. The jurists believe both followed the idea that nothing be done needlessly, with Muhammad needing to burn the trees and Abu Bakr having no such necessity.²⁶⁵ In general, Muslims are prohibited from targeting trees or animals.²⁶⁶ However, the Muslim leader fighting the battle is given leeway to discern what is necessary. Modern moderate jurists argue the tactics employed should use the minimum amount of force required, and avoid ambushes and assassinations.²⁶⁷ Furthermore, Muslims are prohibited from mutilating the dead bodies of their enemy.²⁶⁸

Proportionality also guides the tactics involved in war. According to jurists, the Qur’an “establish[es] a right of reciprocal justice. . . . victims of injustice have the right to inflict damage on those responsible for their suffering, in a manner proportionate to the

²⁶³Heck, “‘Jihad’ Revisited,” 103.

²⁶⁴Aaron, “Seeds of *Jihad*,” 46.

²⁶⁵Frances V. Harbour, “Islamic Principles and the Chemical Weapons Convention of 1993,” *The Journal of Religious Ethics* 23, no. 1 (1995): 80, accessed January 17, 2018, <http://www.jstor.org/stable/40015198>.

²⁶⁶Kelsay, “Democratic Virtue, Comparative Ethics, and Contemporary Islam,” 704.

²⁶⁷Angel Rabasa et al., eds., “Road Map for Moderate Network Building in the Muslim World,” in *Building Moderate Muslim Networks* (Pittsburgh: Rand Corporation, 2007), 68.

²⁶⁸McCants, “Review of Arguing the Just War in Islam,” 1029.

harm suffered.”²⁶⁹ There is disagreement about what is reciprocal justice. Jihadists argue suicide bombings and terrorist attacks on Westerners are reciprocal due to the innocent lives lost from ongoing conflicts with western soldiers in the Middle East. Mohammad Sidique Khan, one of the leaders of the suicide bomber attacks in London on July 7, 2005, makes the claim: “Your [England’s] democratically elected government continuously perpetuate[s] atrocities against my people all over the world.”²⁷⁰ Because of democracy, it is within the bounds of reciprocity to target civilians. According to Joshua S. Parens, Osama Bin Laden made a similar claim, arguing there are two good reasons for suicide bombings. First, in a democratic society, there are no innocent people since everyone is able to vote. The second is, “the so-called ‘law of reciprocity,’ which boils down to the claim that Western civilians are fair prey because ‘Western’ forces have killed Muslim civilians.”²⁷¹ However, others, such as Shaykh al- Awaji, disagree with Khan and Bin Laden’s interpretation and claim Muslims are to fight with honor and not target civilians.

Reciprocity leads to the second key issue in just conduct, noncombatants. The issue of noncombatants falls into both the tactics category as well as its own category. First, it is a tactical issue of whether or not noncombatants may be targeted. However, the issue of noncombatants falls outside of the category of tactics given the importance of determining the categories of people who are noncombatants and what to do with captured noncombatants.

Traditionally, noncombatants were not to be targeted. The Muslim army was to discriminate between combatant and noncombatant targets and avoid the

²⁶⁹Kelsay, “Democratic Virtue, Comparative Ethics, and Contemporary Islam,” 701.

²⁷⁰Gompert, “Thoughts of the *Jihad*,” 25–26.

²⁷¹Joshua S. Parens, “Review of Arguing the Just War in Islam,” *The Review of Metaphysics* 63, no. 3 (2010): 706.

noncombatants.²⁷² As noted above, some modern jihadists, such as Bin Laden, use reasoning to limit the prohibition against harming noncombatants.²⁷³ However, others still see the distinction. One example is the author of *The Neglected Duty*, a contemporary fundamentalist text. In *The Neglected Duty* the author “argues in a commentary on the hadith on the deaths of non-Muslim women and children . . . that Muslims may kill children only ‘when they do not do it on purpose without need for it.’”²⁷⁴

Classical jurists consistently recognized two categories of people as noncombatants, women and children. Other categories are included on some jurists’ lists, including the elderly and monks.²⁷⁵ Ibn Taymiyyah also includes the blind and the handicapped.²⁷⁶ While the prohibitions are based on authoritative sources, jurists also debate “whether the basis for the protection ought to be degree of responsibility for the war or lack of danger to Islamic fighters.”²⁷⁷

In a modern application of the prohibition on targeting noncombatants, Francis Harbour argues the prohibition against harming noncombatants should keep Muslim lands from using chemical weapons. Not only are chemical weapons indiscriminate at best, harming both soldiers and civilians, but Harbour argues that,

that they actually kill, injure, and terrorize the protected categories of persons to a substantially greater extent than they damage military forces, even if the ostensible target is military. This potential, in effect, to pick out unprotected children, infants, the elderly, and pregnant women in radically disproportionate numbers differs from conventional weapons or even nuclear ones.²⁷⁸

²⁷²McCants, “Review of Arguing the Just War in Islam,” 1029.

²⁷³Strawson, “Islam and the Politics of Terrorism,” 21.

²⁷⁴Harbour, “Islamic Principles and the Chemical Weapons Convention of 1993,” 81.

²⁷⁵Heck, “‘Jihad’ Revisited,” 112.

²⁷⁶Aaron, “Seeds of *Jihad*,” 48.

²⁷⁷Harbour, “Islamic Principles and the Chemical Weapons Convention of 1993,” 74.

²⁷⁸Harbour, “Islamic Principles and the Chemical Weapons Convention of 1993,” 75.

However, if one falls into the category of noncombatant and aids the enemy, through words or actions, jurists, such as Ibn Taymiyyah, argue the one aiding the enemy can be killed, except for women and children. The reason women and children are not to be killed is that they are considered to be the property of the Muslim army.²⁷⁹

A Comparison of the Contents of the Search Results Regarding Just War

This section provides a point-by-point comparison of the relevant areas noted in the baseline literature survey regarding just war. The baseline literature survey identified five essential areas an expert would be expected to address. This comparison treats the areas in the order presented in chapter three.

Just War and Jihad

The baseline literature survey found jihad to be a fundamental concept when considering just war. While there are two meanings to jihad, the internal struggle and the external struggle, classical Islam primarily understood jihad to refer to the external struggle against those who were not Muslims. Because classical jurists wrote during the time of imperial expansion, they considered jihad within this context. Modernists and Islamists consider jihad from their contextual lens.

Google. The results of the Google search understand that the two meanings of jihad. Despite the two meanings of jihad, Google recognizes that classical jurists primarily considered jihad as war. Google results claim that all the references to jihad in one of the most significant ahadith collections, Bukhari's, refer to jihad as war.

JSTOR. The results of the JSTOR search understand the two meanings of jihad. JSTOR also recognizes that despite the two meanings, during the classical period,

²⁷⁹Aaron, "Seeds of *Jihad*," 48.

the concept of jihad as war was codified by the jurists. JSTOR also outlined the manner in which the context of the jurist plays a significant role in his understanding of jihad. JSTOR provides examples of how different jurists considered jihad differently based upon their context.

Comparison. Both Google and JSTOR results touch upon the basic elements of jihad and its role in just war. Both results understand the two meanings of jihad while acknowledging, during the classical period, jihad was synonymous with war. Both Google and JSTOR adequately address the issue of jihad for understanding the role of jihad in just war when compared to the literature survey.

Reasons to Go to War

The baseline literature survey found the discussion of reasons to go to war divided between two categories: defensive and offensive war. Defensive war is always considered just. The primary discussion revolves around offensive war. Classically, the world was divided into two spheres, the sphere of Islam and the sphere of war. War was conducted to expand the realm of Islam and was just if authorized by a proper authority. This expansion is designed to bring peace and justice to the world because peace and justice can be found only under Islamic rule.

Google. The results of the Google search recognize the difference between offensive and defensive war. The Google results found there to be significant arguments in favor of the authoritative texts saying that just war should be defensive. These arguments limit war to preserving the security, freedom, and rights of Muslims. Some who hold to this view acknowledge a diversity of opinion in the classical sources. Another view exists that claims war waged to spread Islam is just. Google found this view to be based on classical sources, dividing the world into the realm of Islam and the realm of war. Despite the support for offensive war, Google found disagreement over

whether it was to spread the realm of Islam or both the realm and religion of Islam. Google found the conversation about offensive war to exist not only in the classical period but also in the modern period through authors such as Sayyid Qutb. Others, such as Osama Bin Laden, continued the conversation, attempting to build on the works of authors like Qutb.

JSTOR. The results of the JSTOR search recognize that some jurists argue war is for defensive purposes only, while others argue offensive war can be just. JSTOR found that classical jurists divided the world between the abode of Islam and the abode of war. Classical jurists argued the abode of war was something which needed to be changed to spread the peace of Islam. JSTOR traced the offensive just war line of thinking through the centuries, identifying key jurists, such as Abu Yusuf, al-Shaybani, Ibn Taymiyya, Abul a'la Maududi, and Sayyid Qutb.

Comparison. Both Google and JSTOR identify the key elements of the reasons to go to war. Both Google and JSTOR recognize the conversation concerning whether only defensive war is just or if offensive war can be just. The Google and JSTOR search results found that classical jurists understood a war to be just if waged to spread the realm of Islam. Google outlined the difference between the spread of the rule of Islam and the spread of Islam and the debate that sometimes occurred over the topic, while JSTOR did not seem to address the issue. Both Google and JSTOR results noted that the conversation conducted by the classical jurists about offensive war is built upon and continued to the modern day. JSTOR results identified more of the significant voices involved in the conversation than Google.

Authority to Go to War

The baseline literature survey found that, though classical jurists understood offensive war to expand Islam as just, for the war to be just the war must be initiated by

the Islamic ruler. The imam should have the right intention for war, not merely financial benefit, but to spread the peace of Islam. The issue of legitimate authority has become significant in modern conversations as Islamic lands were ruled by non-Muslims. The fundamentalist position arose under these conditions. Jihadists attempt to claim authority with which they can call for a justified war. Fundamentalists appear to have more success with calls for defensive war than with calls for offensive war. Once an authority is established, the authority must follow the correct steps before conducting warfare. The authority must declare the intent to go to war and offer the enemy a chance to accept Islam or come under the rule of Islam. Only when the offer is refused can war be waged.

Google. The results of the Google search recognize that traditionally a legitimate authority was required to wage war. Google results also recognize the need for the authority to declare the intention to go to war. The Google results note that while offensive war can be just when declared by a proper authority, the war must be conducted with the right intention. Conducting war for the purpose of defense, for God, and the Islamic state is considered right intention. The authority must also declare the intent to go to war with the enemy and allow the enemy to either convert to Islam or pay a tax placing themselves under the rule of Islam. If the enemy refused, the war could be carried out. Google recognizes the relevance of the issue of authority in modern times as jihadists such as Bin Laden attempt to base their calls to jihad upon previous works, but have to deal with the issue of authority.

JSTOR. The results of the JSTOR search recognize that traditionally declaring war was limited to the Muslim leader, based upon Muhammad's role in declaring war. JSTOR results identified that, as Islamic hegemony waned, the issue of authority took on a more significant role. JSTOR search results indicate that colonial powers regularly encountered calls to war against the colonists. JSTOR notes a division within jihadists over the necessity for legitimate authority. JSTOR recognizes the need for the ruler to

have the right intention for waging war. JSTOR identifies the requirement that the ruler declares the intention to fight and allow the enemy the opportunity to place itself under the rule of Islam, often through the paying of a tax. If the enemy refuses, war can be waged. This offer underscores the significance of right intention. War is to be fought to bring lands under the realm of Islam, not solely for conquest or to enslave others.

Comparison. Both Google and JSTOR results identify the key elements of the authority required to go to war. Both Google and JSTOR note classical jurists identified the necessity of the Muslim ruler to declare war. Both Google and JSTOR note the rise of importance for the issue of authority in modern times. JSTOR results identified in more depth the role the issue played in the colonial period, while Google seemed to focus more significantly on more recent events. Both Google and JSTOR results recognize the need for right intention as well as declaring the intent to go to war. Both Google and JSTOR note that an offer of submission either to convert to Islam or to submit to the rule of Islam must be given to the enemy. Only when the enemy refuses the offer can war be justifiably waged. JSTOR recognized the debate within the jihadist camp concerning right intention, while the Google results did not seem to mention the debate. JSTOR appears to offer a more thorough treatment of the issues surrounding authority and intention, yet Google adequately provides the essential elements nonetheless.

Tactics

The baseline literature survey found that jurists regulated the tactics involved in the just conduct of war. The fighters were given significant leeway to conduct war. The fighters could use siege works, incendiary tools, flooding, or cutting off water supplies. However, fighters could not resort to treachery, torture, or burning people alive. While noncombatants were not to be targeted, acceptable tactics that led to the death of noncombatants were permissible. Modern jihadists build upon the acceptability of tactics principle that cause noncombatant deaths to justify a total war approach. Bin Laden is a

prime example when he makes a case for indiscriminate terrorism that does not necessarily kill military personnel, but also civilians.

Google. The results of the Google search identify tactics of war as an area of concern for jurists. The Google results outlined the significant role proportionality and discrimination play in the discussion of right tactics. War was to be conducted in such a way as to minimize damage, emphasizing the proportionality. Among the activities prohibited are poisoning wells, mutilating the dead, breaking treaties, looting, and torturing with fire. However, fighters were allowed to use non-discriminatory weapons, such as flooding. When faced with an army using human shields, even Muslims as human shields, the fighters are allowed to attack as long as they do not target the shields, showing discrimination. Despite the desire for discrimination, the opinions on human shields have been used by radical Islamists to justify bombings in civilian areas. The Google results noted that some go so far as to make an argument that the current diminished status of Islam in the world undermines the necessity of discrimination. Therefore, the argument claims targeting civilians and suicide bombings are acceptable.

JSTOR. The results of the JSTOR search identify the concepts of necessity and proportionality as significant for jurists. Necessity deals with the harshness of the tactics the fighters can employ. The determination of the necessity of a tactic is left to the Muslim leader as long as noncombatants are not directly targeted. In general, activities such as burning trees or animals are prohibited, along with assassinations and mutilating the dead. Proportionality requires the level of harshness of the tactics not to be significantly more than what the enemy employs. JSTOR results note that the idea of reciprocity and proportionality are significant in modern times. The ideas of reciprocity and proportionality have been used to buttress the argument for suicide bombings in civilian areas because of the civilian deaths at the hands of Western soldiers. The JSTOR search results also demonstrated how at least one author uses the notion of discrimination

to prohibit the use of chemical weapons because chemical weapons not only lack discrimination but also harm civilians more than those in the military.

Comparison. Both Google and JSTOR note the importance of concepts such as reciprocity, discrimination, and proportionality. Both Google and JSTOR note that the tactics of war should not unnecessarily burden the area where it is being fought through scorched earth tactics. However, both Google and JSTOR results recognize that the leeway given to the Muslim leader to employ tactics of nondiscrimination as long as the forces are not targeting noncombatants. Both Google and JSTOR search results note the significance of the issue of permissible tactics for modern fundamentalists or radical Islamists. These groups use the concepts of reciprocity and the ability of the fighters to kill noncombatants to support the use of suicide missions and other terrorist activities.

Noncombatants

The baseline literature survey found the issue of captured noncombatants to be significant for the just conduct of war. Traditionally, two categories of people were universally considered to be noncombatants, women and children. However, other groups were included by different jurists and during different periods, including monks, hermits, the elderly, the blind, and the insane. The rationale for not killing women and children appears to be tied to their value. Women and children may have been spared from death, but not from harm, as they became the property of the conquering Muslims and able to be sold or enslaved. Despite the locus of the value tied to women and children, modernists interpret the texts to support a view of human rights.

Google. The results of the Google search identified the issue of captured noncombatants as significant for the just conduct of war. The Google results noted that the categories of those considered to be noncombatants were inconsistent, but women and children were usually included on any list. Others included on lists were the elderly,

farmers, merchants, slaves, and anyone not fighting. The prohibition against killing noncombatants after the battle ended is based upon prophetic literature. The results of the Google search identified the value of women and children stemming, not from an intrinsic value in the classical discussion, but from their status as property. The Muslim leader had the right to either enslave or sell the captured women and children.

JSTOR. The results of the JSTOR search found the issue of captured noncombatants addressed in the just conduct of war. The JSTOR results identified both women and children as being consistently viewed as noncombatants. Other groups of people, such as the elderly, monks, the blind, and the handicapped are considered noncombatants by various jurists. Despite these other groups being included on various lists, if someone in the group, other than a woman or a child, aids the enemy, their status as a noncombatant is placed in jeopardy. The JSTOR results noted that the women and children were not to be killed because they were considered to be the property of the Muslim army.

Comparison. Both Google and JSTOR results consistently identified women and children as noncombatants. Both Google and JSTOR results noted the inclusion of other groups in the category of noncombatant by jurists. Google tied the prohibition of killing captured noncombatants back to specific prophetic literature. JSTOR results did not seem to tie the prohibition against killing captured noncombatants back as directly to the prophetic literature. Both Google and JSTOR results recognized that the value of women and children was tied to their value to the captors either as slaves or property to be sold. Both Google and JSTOR results adequately address the issue of noncombatants.

Overall Comparison

This section provides a view of how Google and JSTOR perform in each of the topics outlined above. The section also compiles and summarizes Google and JSTOR's

ability to address the topics adequately.

Jihad. Both Google and JSTOR adequately address the concept of jihad for understanding just war in comparison to the literature survey.

Reasons to go to war. Both Google and JSTOR adequately address the reasons to go to war. Google provides further depth of information about one element, while JSTOR provides more depth on another.

Authority to go to war. Both Google and JSTOR adequately address the issues concerning the authority to go to war. JSTOR provides a more thorough treatment at times.

Tactics. Both Google and JSTOR adequately address the issues related to tactics.

Noncombatants. Both Google and JSTOR adequately address the issues related to noncombatants. Google provides more detail than JSTOR in one area, specifically related to primary sources.

Summary. Of the five areas compared, Google results adequately address the topic compared to the baseline literature survey in all five areas. JSTOR results adequately address the topic in all five areas. Of the five areas, JSTOR results addressed a topic more thoroughly than Google results twice. Google results addressed a topic more thoroughly once. The contents of the Google results appear to present significant and reliable information concerning just war.

Combined Comparison of the Contents of Google and JSTOR Search Results

Across the three case studies, this study compared the contents of the Google and JSTOR search results in relation to the information identified as significant in the baseline literature survey.

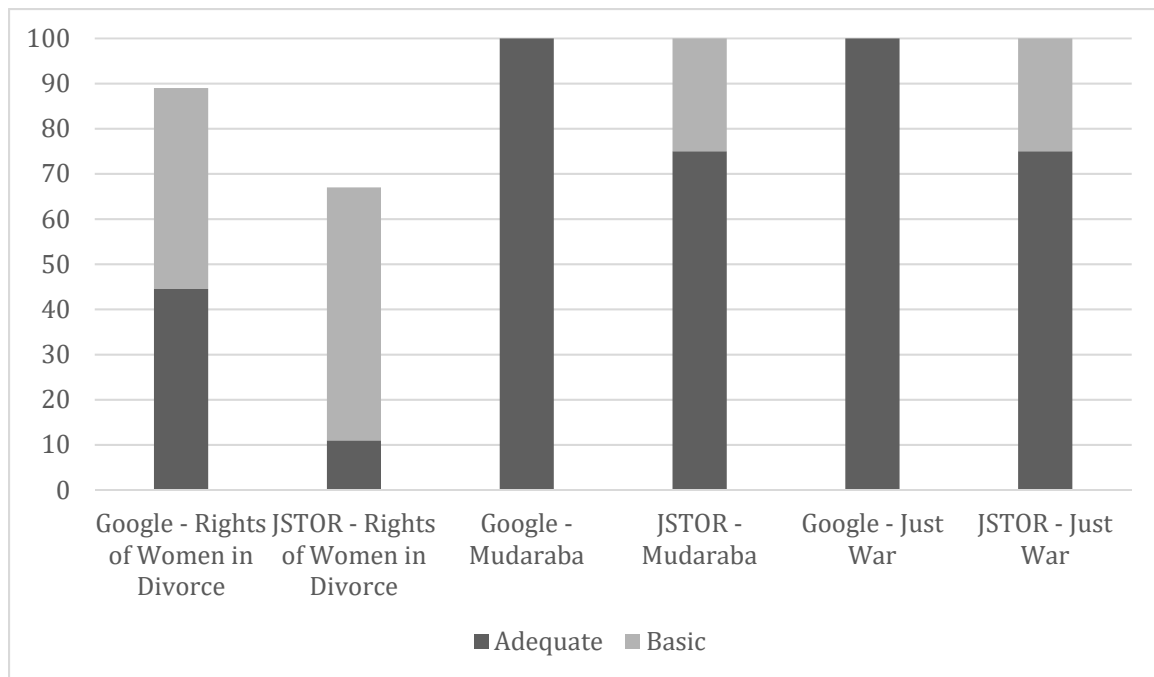


Figure 5. Percent of the content of search results as adequate or basic

This study found the information presented in the contents of the Google search results to be as good as or better than the content of the JSTOR search result in every topic except two of the five areas under just war. Google results only failed to provide basic information concerning a topic for one area. The area for which Google failed to provide basic information was in the rights of women in divorce. However, JSTOR failed to provide basic information in that area as well. Both Google and JSTOR search results typically provided information in line with the library-based literature survey used as a baseline. Neither Google nor JSTOR consistently produced incorrect or false information. Twice, Google appeared to demonstrate some bias in the content of a

search result; however, the bias appears to be minor, limited to a few results, and similar to what one might find in a more apologetic text.

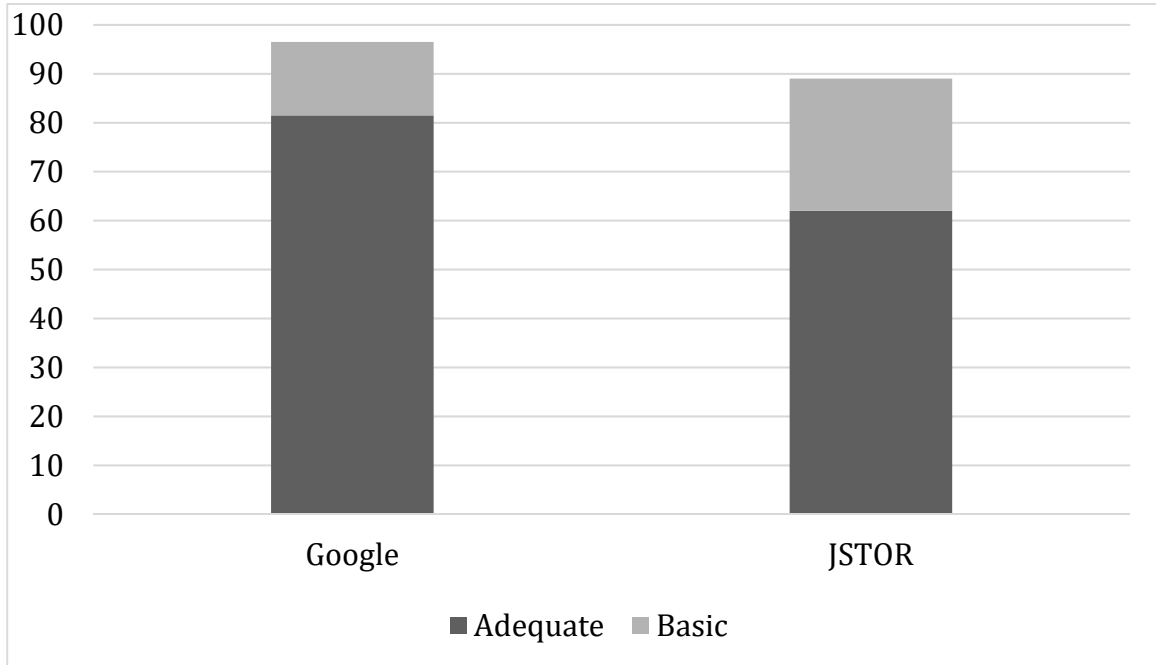


Figure 6. Percent of Google and JSTOR contents as adequate or basic

CHAPTER 7

CONCLUSION

William Badke, in *Research Strategies*, makes three claims about a search tool like Google: most of what one wants is probably not there for free, keyword searches lead to many sites one will not be interested in, and it is hard to determine the quality of what one finds on the internet.¹ Despite Badke's encouragement for students to stay away from search tools like Google, numerous researchers have found Google plays a significant role in academic research.² Skeptical statements, like Badke's, regarding search tools like Google are the reason the current study has attempted to evaluate Google's ability to function as an expert in the field of world religions.

Review of Current Study

The objectives of the current study were to gain a baseline understanding of the three aspects of Islamic ethics, to collect data from Google and JSTOR on the three aspects of Islamic ethics, to compare the value of the data collected from Google and JSTOR against the other system, and using the three sets of data, to analyze Google's strengths, weaknesses, and biases as an expert in comparison to the baseline.

¹William B. Badke, *Research Strategies: Finding Your Way Through the Information Fog*, 4th ed. (Bloomington, IN: iUniverse.com, 2011), 146.

²Fred Gibbs and Trevor Owens, "Building Better Digital Humanities Tools: Toward Broader Audiences and User-Centered Designs," *Digital Humanities Quarterly* 6, no. 2 (2012): 10; Max Kemman, Martijn Kleppe, and Stef Scagliola, "Just Google It: Digital Research Practices of Humanities Scholars," *Proceedings of the Digital Humanities Congress 2012* (September 10, 2013): 15, accessed October 10, 2016, <http://arxiv.org/abs/1309.2434>; Monica E. Bulger et al., *Reinventing Research? Information Practices in the Humanities*, SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, March 1, 2011), 70, accessed October 11, 2016, <http://papers.ssrn.com/abstract=1859267>; Christine Wolff, Alisa B. Rod, and Roger C. Schonfeld, *Ithaca S+R US Faculty Survey 2015*, April 4, 2016, 6, accessed October 10, 2016, <http://dx.doi.org/10.18665/sr.277685>.

Chapter 2 outlined how the current study expanded and adapted Jan Brophy's methodology from his 2004 dissertation.³ The expansion and adaptation was designed to allow the current study to collect data from Google and JSTOR on the three aspects of Islamic ethics. Chapter 3 identified, summarized and interpreted the primary sources related to the three aspects. Chapter 4 outlined the findings of a literature survey to develop a baseline understanding of the three aspects of Islamic ethics. Chapter 5 presented the first-level evaluation based upon Brophy's method, as expanded and adapted. Chapter 6 compared the contents of the search results collected from Google and JSTOR. The chapter then used the three sets of data (the baseline literature survey, Google search results, and JSTOR search results) to analyze Google's strengths, weaknesses, and biases as an expert.

The first-level comparison of chapter 4 evaluated Google and JSTOR's ability to produce relevant results and provide quality sources. For each of the three case studies, Google and JSTOR were queried three times for the potential of ninety results per search tool for each case study. The comparison found Google produced relevant results far more often than JSTOR. Google produced a precision rate of 81 percent relevant or partially relevant. JSTOR produced a precision rate of 43 percent relevant or partially relevant. The difference in precision between Google and JSTOR was 38 percent in favor of Google.

The first-level comparison found JSTOR to produce higher quality results when judged according to traditional standards.⁴ Google produced good or adequate quality results 46 percent of the times. JSTOR produced good or adequate quality results

³Jan Brophy, "Is Google Good Enough? A Study Comparing a Major Search Engine with Academic Library Research" (MSc diss., City University, London, 2004)

⁴Good quality results typically included information such as author and date. A result was scored adequate quality if it was from a more general or commercial source. Adequate sources also typically included information such as author or date. A result was scored poor quality if it was from an unrecognized source, such as a question and answer webpage. Poor quality results typically did not include information such as author or date.

100 percent of the time. The difference between Google and JSTOR was 36 percent in favor of JSTOR.

The second-level comparison presented in chapter 5 told a different story. Google consistently performed as good or better than JSTOR when the actual contents of the search results were compared. Compared to the baseline literature survey, Google adequately addressed 81.5 percent of the topics, while JSTOR only adequately only scored 62 percent. When the basic and adequate results were combined, Google achieved 96.5 percent, while JSTOR scored 89 percent.⁵

Four conclusions can be drawn from this study. First, Google excels at returning relevant results. Second, Google does not regularly return results that would be considered high quality by academic standards. Third, Google does return results which, when pieced together to form a picture, appear to adequately address the topic in a manner similar to an academic literature survey. Fourth, Google, while demonstrating some minor bias, seems to fairly treat even sensitive subject matters such as the rights of women in divorce and just war within the field of Islamic ethics.⁶

⁵If the search results covered the topic with a depth similar to the information contained in the baseline literature survey, the content is considered adequate. Adequate content interacted with primary sources in a manner similar to the baseline literature survey and covered the majority of the information presented in the baseline literature survey. If the search results covered the topic but provided only minimal information compared to the literature survey, the content is considered basic. Basic content often failed to cover an aspect identified in the baseline literature survey or did not interact with primary sources in a manner similar to the baseline literature survey. If the search results failed to cover the topic or only mentioned the topic in passing, the content is considered to have failed to address the topic. Content that failed to address the topic is characterized by either not addressing the issue identified by the literature survey or not providing information about the issue identified by the literature survey.

⁶Google appeared to show some bias concerning triple *talaq*, an irrevocable form of divorce in Islam. One source attempted to place the creation of triple *talaq* preceding Islam. However, the literature survey found irrevocable triple *talaq* to have been instituted by the second caliph, Umar. Furthermore, many jurists consider it an innovation and consider it less than ideal. Google also appeared to show some bias concerning the ethical value of Islamic finance. The biased approach attempted to show Islamic finance as a version of finance morally superior to conventional finance since it attempts to tie itself to tangible investments and share risk among both the borrower and lender. The bias demonstrated regarding Islamic finance appears to be a case where a source is attempting to bolster a religious-action guide by reframing it as a moral-action guide. However, neither case of Google's bias appears to be something one would not run into in apologetic literature.

The Significance of the Current Study

The study appears to be significant for at least five reasons. While acknowledging the qualitative nature of the research and the limited ability to generalize from case studies, I tentatively offer a few instances in which the study might be beneficial.⁷ First, if a missionary is on the field somewhere with limited access to academic resources or an electronic subscription, the study might indicate that the missionary can have confidence the information Google returns about world religions is generally in line with Western academic sources.

Second, Google accurately provides one with the ability to develop a quick understanding of a subject. If a researcher is trying to gain an understanding quickly, whether for an interaction with someone or for his or her own general interest, the researcher can have some confidence the information retrieved will generally be in line with academic sources.

Third, Google can provide a good check against a source. If a researcher is reading content the researcher suspects is inaccurate in any source, the researcher can be somewhat confident a Google search will be able to determine whether or not the suspicion is correct.

Fourth, if a researcher is trying to find what primary texts are relevant for specific issues, the researcher can be generally confident Google searches will direct the researcher to them in a manner consistent with academic searching.

Fifth, Google may be able to aid research projects in areas of the world with limited finances for subscriptions and limited access to texts. If teaching in an area of the world with limited finances for subscription and limited access to academic texts, the teacher can be generally confident the students can complete research projects and find adequate information if they conduct their research using Google. Used creatively, the

⁷A few of the delimitations need to be considered in regard to the significance as well. See pages 10-13.

accuracy of the contents of the Google search results may apply directly to those involved with the modular PhD program at The Southern Baptist Theological Seminary. The study seems to demonstrate that students and professors can have some degree of confidence that students located either on the mission field or somewhere else with limited access to resources are able to access adequate content, in line with western academic literature, through Google.

Further Study

While the current study appears significant, further research is needed. In at least six ways, further study could be undertaken within the field of world religions. First, a similar research project could be conducted using only one case study at a deeper level. This project would likely involve more than three searches and could compare the contents of Google results directly against either a trusted academic source or a literature survey.

Second, a similar research project could be conducted using case studies from world religions areas other than Islamic ethics. While Google proved itself as an expert in the three areas of Islamic ethics involved in the current study, a study could choose to use case studies from Islam, Buddhism, Christianity, and Hinduism to test if Google functions as an expert in each field. The study could determine whether Google has strengths, weaknesses, or biases in one of the fields compared to the others.

Third, work could be done in a different location and language. Google demonstrated its ability to function as an expert providing English resources, but analysis of its ability to function as an expert in other languages would be beneficial to the field of world religions.⁸ Significant world religions information is already siloed in the English

⁸Appendix 5 attempts to present a brief case study on a search conducted in English and Arabic. The appendix is in no way meant to be a significant study, but perhaps a brief example of what a researcher might find and how the research could be conducted.

language. If Google proves itself as a trusted expert in other languages, the findings would be significant.

Fourth, a study could be undertaken to determine Google's ability to proffer results of dissident voices. The current study noted points of contention and conversation within the three case studies, but those areas were also present in the traditional academic literature. Dissident voices exist in almost every field. A research project could be crafted to test Google ability as an expert regarding dissident voices within the field of world religions.

Fifth, this study notes Google's ability to provide results congruent with the consensus of the academic resources in the baseline literature survey. The literature survey was delimited to academic resources. Further research is needed to determine whether Google's ability to provide content parallel with academic sources means Google does not provide content from divergent voices on a subject. The lack of divergent voices uncovered in the current study would appear to demonstrate the absence of divergent voices in top-ranked Google results. This lack of divergent voices could be significant as the current study is conducted in the United States, a country with little government regulation of the content of Google search results. A project designed to determine whether Google does or does not produce information from divergent voices is needed.

Sixth, this study could be replicated in a similar manner in five years after the initial searches, 2022, to see if similar results are discovered. The replication could use the same search queries outline in chapter 5 to gather the content of Google and JSTOR searches. The content of the Google and JSTOR search results could then be compared to the baseline literature survey of the current study. This replication would shed light on the way Google has changed in its ability to function as an expert in the intervening years.

APPENDIX 1

GOOGLE SEARCH RESULTS

Table A1. Google search results

Keyword Search Terms	Abbreviation	Result
Islam women and divorce	GD1.1	“Divorce in Islam.” <i>Al-Islam.Org</i> . Accessed January 15, 2018. https://www.al-islam.org/introduction-rights-and-duties-women-islam-ayatullah-ibrahim-amini/divorce-islam .
Islam women and divorce	GD1.2	“Divorce in Islam.” <i>Wikipedia</i> , December 29, 2017. Accessed January 15, 2018. https://en.wikipedia.org/w/index.php?title=Divorce_in_Islam&oldid=817644139 .
Islam women and divorce	GD1.3	“Khula.” <i>Islamic Sharia</i> , May 9, 2014. Accessed January 15, 2018. http://www.islamic-sharia.org/khula/ .
Islam women and divorce	GD1.4	Jamal, Rafidah Abdul. “Women and Divorce From The Islamic Perspective.” <i>Bismika Allahuma</i> , September 22, 2005. Accessed January 15, 2018. https://www.bismikaallahuma.org/islam/women-in-islam/women-divorce-islamic-perspective/ .
Islam women and divorce	GD1.5	“Fiqh of Marriage - Divorce.” <i>Islam’s Women: Jewels of Islam</i> . Accessed January 15, 2018. http://www.islamswomen.com/marriage/fiqh_of_marriage_10.php .
Islam women and divorce	GD1.6	Alhamad, Mohsen. “The Rights of a Divorced Woman in Islam.” Last modified October 11, 2014. Accessed January 15, 2018. https://www.linkedin.com/pulse/20141011104055-314687442-the-rights-of-a-divorced-woman-in-islam .
Islam women and divorce	GD1.7	Cassim, Nadia. “A Woman’s Right to Divorce in ISLAM.” <i>Irtiqa</i> , October 31, 2013. Accessed January 15, 2018. http://www.irtiqa.co.za/a-womans-right-to-divorce-in-islam/ .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Islam women and divorce	GD1.9	Jackson-Best, Fatimah. “Muslim Women Dealing with Divorce.” <i>Aquila Style</i> . Accessed January 15, 2018. https://www.aquila-style.com/focus-points/muslim-women-dealing-divorce/56799/ .
Islam women and divorce	GD1.10	“How Can a Muslim Woman Get a Divorce from Her Husband?” <i>Quora</i> . Accessed January 15, 2018. https://www.quora.com/How-can-a-Muslim-woman-get-a-divorce-from-her-husband .
Islam rights of women divorce	GD2.1	Repeated result from prior search
Islam rights of women divorce	GD2.2	“The Rights of Women in Islam. Part Ten: Right of Divorce.” <i>Al-Islam.Org</i> . Accessed January 15, 2018. https://www.al-islam.org/rights-women-islam-ayatullah-murtadha-mutahhari/part-ten-right-divorce .
Islam rights of women divorce	GD2.3	Repeated Result
Islam rights of women divorce	GD2.4	“Rights of Revocably and Irrevocably Divorced Women.” <i>Islam Question and Answer</i> . Accessed January 15, 2018. https://islamqa.info/en/82641 .
Islam rights of women divorce	GD2.5	Repeated result from prior search
Islam rights of women divorce	GD2.6	Repeated result from prior search
Islam rights of women divorce	GD2.7	Repeated result from prior search
Islam rights of women divorce	GD2.8	Repeated result from prior search
Islam rights of women divorce	GD2.9	“Can Woman Initiate Divorce?” Islam Helpline. Accessed January 15, 2018. http://www.islamhelpline.net/node/7308 .
Islam rights of women divorce	GD2.10	Jaafar-Mohammad, Imani, and Charlie Lehmann. “Women’s Rights in Islam Regarding Marriage and Divorce.” <i>Journal of Law and Practice</i> 4 (2011): 1–13.
Khul Islam	GD3.1	“ <i>Khul’</i> .” <i>Wikipedia</i> . Accessed January 15, 2018. https://en.wikipedia.org/w/index.php?title=Khul%27&oldid=818243761 .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Khul Islam	GD3.3	“Khula’: Definition and How It Is Done.” <i>Islam Question and Answer</i> . Accessed January 15, 2018. https://islamqa.info/en/26247 .
Khul Islam	GD3.4	Repeated result from prior search
Khul Islam	GD3.5	“The Five Schools of Islamic Law: Al-Khul.” <i>Al-Islam.Org</i> . Accessed January 15, 2018. https://www.al-islam.org/five-schools-islamic-law-allamah-muhammad-jawad-maghniyyah/al-khul .
Khul Islam	GD3.6	Ibn Adam, Muhammad. “Khul & Tafweedh: Wife Initiated Separation.” <i>Central Mosque</i> . Accessed January 15, 2018. https://central-mosque.com/index.php/Relationships/khul-a-tafweedh-wife-initiated-separation.html .
Khul Islam	GD3.7	“Unable to Accept the Khula from Wife.” <i>Questions on Islam</i> . Accessed January 15, 2018. https://questionsonislam.com/question/unable-accept-khula-wife .
Khul Islam	GD3.8	Not considered – YouTube video
Khul Islam	GD3.9	Munir, Muhammad. “The Law of <i>Khul’</i> in Islamic Law and the Legal System of Pakistan.” <i>Shaikh Ahmad Hassan School of Law</i> (December 16, 2015). Accessed January 15, 2018. https://sahsol.lums.edu.pk/law-journal/law-khul-islamic-law-and-legal-system-pakistan .
Khul Islam	GD3.10	Fawzan, Shaykh. “The Regulations of <i>Khul’</i> : Dissolution of Marriage.” <i>AbdurRahman.Org</i> , January 29, 2014. Accessed January 15, 2018. https://abdurrahman.org/2014/01/29/theregulationsofkhul/ .
Islamic finance	GM1.1	Ross, Marc L. “Working With Islamic Finance.” <i>Investopedia</i> . Last modified February 21, 2007. Accessed January 16, 2018. https://www.investopedia.com/articles/07/islamic_investing.asp .
Islamic finance	GM1.2	“Islamic Banking and Finance.” <i>Wikipedia</i> , January 9, 2018. Accessed January 16, 2018. https://en.wikipedia.org/w/index.php?title=Islamic_banking_and_finance&oldid=819495864 .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Islamic finance	GM1.4	Lee, Yen Nee. “Islamic Finance: Sukuk Sales by Non-Muslim Countries Rise.” <i>CNBC</i> . Last modified December 19, 2017. Accessed January 16, 2018. https://www.cnbc.com/2017/12/19/sukuk-islamic-finance-grows-in-non-muslim-countries.html .
Islamic finance	GM1.5	“Big Interest, No Interest.” <i>The Economist</i> , September 13, 2014. Accessed January 16, 2018. https://www.economist.com/news/finance-and-economics/21617014-market-islamic-financial-products-growing-fast-big-interest-no-interest .
Islamic finance	GM1.6	Chalabi, Mona. “Islamic Finance for Beginners.” <i>The Guardian</i> . Last modified October 29, 2013. Accessed January 16, 2018. http://www.theguardian.com/news/datablog/2013/oct/29/islamic-finance-for-beginners .
Islamic finance	GM1.7	Osborne, Hilary. “Islamic Finance – the Lowdown on Sharia-Compliant Money.” <i>The Guardian</i> . Last modified October 29, 2013. Accessed January 16, 2018. http://www.theguardian.com/money/2013/oct/29/islamic-finance-sharia-compliant-money-interest .
Islamic finance	GM1.8	Warwick-Ching, Lucy. “Beginners’ Guide to Islamic Finance.” <i>Financial Times</i> . Last modified July 14, 2010. Accessed January 16, 2018. https://www.ft.com/content/8c9bc2fc-8845-11df-a4e7-00144feabdc0 .
Islamic finance	GM1.9	McKenna, John. “What Is Islamic Finance?” <i>World Economic Forum</i> . Last modified May 16, 2017. Accessed January 16, 2018. https://www.weforum.org/agenda/2017/05/what-is-islamic-finance/ .
Islamic finance	GM1.10	No result returned
Mudaraba	GM2.1	“Mudaraba Definition.” <i>Financial Times</i> . Accessed January 16, 2018. http://lexicon.ft.com/Term?term=mudaraba .
Mudaraba	GM2.2	“Mudaraba.” <i>Islamic Finance Wiki</i> . Accessed January 16, 2018. http://wiki.islamicfinance.de/index.php/Mudaraba .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Mudaraba	GM2.4	“Mudaraba.” <i>Blom Development Bank</i> . Accessed January 16, 2018. https://www.blombank.com/development/english/islamic-finance/mudaraba .
Mudaraba	GM2.5	“Islamic Finance Definition of Mudaraba.” <i>Investment and Finance</i> . Accessed January 16, 2018. http://www.investment-and-finance.net/islamic-finance/tutorials/definition-of-mudaraba.html .
Mudaraba	GM2.6	“Islamic Finance Difference Between Mudaraba and Musharaka.” <i>Investment and Finance</i> . Accessed January 16, 2018. http://www.investment-and-finance.net/islamic-finance/tutorials/difference-between-mudaraba-and-musharaka.html .
Mudaraba	GM2.7	“Mudarabah on Shari’ah Ruling.” <i>Institute of Islamic Banking and Insurance</i> . Accessed January 16, 2018. http://www.islamic-banking.com/mudarabah_sh_ruling.aspx .
Mudaraba	GM2.8	“What Is Mudaraba? Definition and Meaning.” <i>Business Dictionary</i> . Accessed January 16, 2018. http://www.businessdictionary.com/definition/mudaraba.html .
Mudaraba	GM2.9	“Mudaraba.” <i>ICS Financial Systems</i> . Accessed January 16, 2018. http://www.icsfs.com/products/mudaraba .
Mudaraba	GM2.10	“Mudaraba.” <i>Union National Bank</i> . Accessed January 16, 2018. https://www.unb.com/en/islamic/products/products/mudaraba .
Islam interest	GM3.1	“Riba.” <i>Wikipedia</i> , January 12, 2018. Accessed January 16, 2018. https://en.wikipedia.org/w/index.php?title=Riba&oldid=819964365 .
Islam interest	GM3.2	“Prohibition of Interest.” <i>Institute of Islamic Banking and Insurance</i> . Accessed January 16, 2018. http://www.islamic-banking.com/prohibition_of_interest.aspx .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Islam interest	GM3.4	“Has Islam Really Prohibited Interest?” <i>Al Baraka</i> . Accessed January 16, 2018. http://www.albaraka.co.za/Islamic_Banking/Prohibition_of_interest/Has_Islam_really_prohibited_interest.aspx .
Islam interest	GM3.5	“Accepting Interest Does Not Make It Permissible.” <i>Islam Question and Answer</i> . Accessed January 16, 2018. https://islamqa.info/en/1507 .
Islam interest	GM3.6	“Why Interest Is Prohibited In Islam.” <i>MuslimInc.</i> , May 25, 2016. Accessed January 16, 2018. http://musliminc.com/why-interest-is-prohibited-in-islam-7578 .
Islam interest	GM3.7	Not considered – Slideshow
Islam interest	GM3.8	Mujahid, Abdul Malik. “5 Ways to Deal with the Dilemma of Riba.” <i>Sound Vision</i> . Accessed January 16, 2018. https://www.soundvision.com/article/5-ways-to-deal-with-the-dilemma-of-riba .
Islam interest	GM3.9	“Interest (Riba).” <i>Inter-Islam</i> . Accessed January 16, 2018. http://www.inter-islam.org/Prohibitions/intrst.htm .
Just war Islam	GM3.10	Kadous, Waleed. “Why Is Charging Interest (Usury) Forbidden in Islam? What Exactly Is Wrong about Charging Interest in the First Place? Why Is It Considered a Major Sin in Islam? - Quora.” Accessed January 16, 2018. https://www.quora.com/Why-is-charging-interest-usury-forbidden-in-Islam-What-exactly-is-wrong-about-charging-interest-in-the-first-place-Why-is-it-considered-a-major-sin-in-Islam .
Just war Islam	GW1.1	Parrott, Justin. “Jihād as Defense: Just-War Theory in the Quran and Sunnah.” <i>Yaqeen Institute for Islamic Research</i> . Last modified October 16, 2016. Accessed January 17, 2018. https://yaqeeninstitute.org/en/justin-parrott/jihad-as-defense-just-war-theory-in-the-quran-and-sunnah/ .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Just war Islam	GW1.3	“BBC - Religions - Islam: War.” <i>BBC</i> . Last modified August 13, 2009. Accessed January 17, 2018. http://www.bbc.co.uk/religion/religions/islam/islamethics/war.shtml .
Just war Islam	GW1.4	Meyer, Patrik K. “Standing on Common Ground? Explaining Just War and Jihad.” <i>The Diplomat</i> . Last modified February 19, 2016. Accessed January 17, 2018. https://thediplomat.com/2016/02/standing-on-common-ground-explaining-just-war-and-jihad/ .
Just war Islam	GW1.5	“Arguing the Just War in Islam — John Kelsay Harvard University Press.” Accessed January 17, 2018. http://www.hup.harvard.edu/catalog.php?isbn=9780674032347 .
Just war Islam	GW1.6	“Just War VS. Jihad.” <i>Mtholyoke</i> . Accessed January 17, 2018. http://www.mtholyoke.edu/~witwe22k/classweb/politics/jihad.html .
Just war Islam	GW1.7	Manji, Irshad. “Soldiers of Allah: Review of Arguing the Just War in Islam - John Kelsay.” <i>The New York Times</i> . Last modified January 6, 2008. Accessed January 17, 2018. http://www.nytimes.com/2008/01/06/books/review/Manji-t.html .
Just war Islam	GW1.8	Hayward, Joel. “The Qur’an and War: Observations on Islamic Just War.” <i>Quran and War</i> . Accessed January 17, 2018. http://www.quranandwar.com/ .
Just war Islam	GW1.9	Tex. “Jihad and Justice: Islamic Just War Theory, Part 2.” <i>Mere Orthodoxy</i> . Last modified September 21, 2007. Accessed January 17, 2018. https://mereorthodoxy.com/jihad-and-justice-islamic-just-war-theory-part-2/ .
Just war Islam	GW1.10	Zuhur, Sherifa. “Review of Arguing the Just War in Islam.” <i>Middle East Policy Council</i> . Accessed January 17, 2018. http://www.mepec.org/arguing-just-war-islam .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Jihad	GW2.2	Kabbani, Muhammad Hisham, and Seraj Hendricks. “Jihad: A Misunderstood Concept from Islam - What Jihad Is, and Is Not.” <i>The Islamic Supreme Council of America</i> . Accessed January 17, 2018. http://islamicsupremecouncil.org/understanding-islam/legal-rulings/5-jihad-a-misunderstood-concept-from-islam.html?start=9 .
Jihad	GW2.3	“Jihad.” <i>Merriam-Webster</i> , n.d. Accessed January 17, 2018. https://www.merriam-webster.com/dictionary/jihad .
Jihad	GW2.4	“BBC - Religions - Islam: Jihad.” <i>BBC</i> . Last modified August 3, 2009. Accessed January 17, 2018. http://www.bbc.co.uk/religion/religions/islam/beliefs/jihad_1.shtml .
Jihad	GW2.5	“Jihad.” <i>Encyclopaedia Britannica</i> , n.d. Accessed January 17, 2018. https://www.britannica.com/topic/jihad .
Jihad	GW2.6	Handwerk, Brian. “What Does ‘Jihad’ Really Mean to Muslims?” <i>National Geographic News</i> . Last modified October 24, 2003. Accessed January 17, 2018. https://news.nationalgeographic.com/news/2003/10/1023_031023_jihad.html .
Jihad	GW2.7	Streusand, Douglas E. “What Does Jihad Mean?” <i>The Middle East Quarterly</i> 4, no. 3 (September 1997): 9–17.
Jihad	GW2.8	Bennhold, Katrin. “Jihad and Girl Power: How ISIS Lured 3 London Girls.” <i>The New York Times</i> . Last modified August 17, 2015. Accessed January 17, 2018. https://www.nytimes.com/2015/08/18/world/europe/jihad-and-girl-power-how-isis-lured-3-london-teenagers.html .
Jihad	GW2.9	Biddle, Craig. “Ten Steps to End Jihad Against the West.” <i>The Objective Standard</i> . Last modified November 29, 2015. Accessed January 17, 2018. https://www.theobjectivestandard.com/2015/11/ten-steps-to-end-jihad-against-the-west/ .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Noncombatants Islam	GW3.1	Elias, Abu Amina. “Protection of Civilian Non-Combatants in Islam.” <i>Faith in Allah</i> . Last modified April 3, 2016. Accessed January 17, 2018. https://abuaminaelias.com/protection-of-civilian-non-combatants-in-islam/ .
Noncombatants Islam	GW3.2	Kabbani, Hisham. “Jihad, Terrorism and Suicide Bombing: The Classical Islamic Perspective - Page 15.” <i>The Islamic Supreme Council of America</i> . Accessed January 17, 2018. http://www.islamicsupremecouncil.org/understanding-islam/legal-rulings/21-jihad-classical-islamic-perspective.html?start=14 .
Noncombatants Islam	GW3.3	“When Is the Killing of Non-Combatants Permitted in Islam?” <i>Religious Tolerance</i> . Accessed January 17, 2018. http://www.religioustolerance.org/islkill.htm .
Noncombatants Islam	GW3.4	Landau-Tasseron, Ella. <i>Non-Combatants in Muslim Legal Thought</i> . Translated by Judith Loebenstein-Witztum. Research Monographs on the Muslim World. Washington, D.C.: Hudson Institute: Center on Islam, Democracy, and the Future of the Muslim World, December 2006.
Noncombatants Islam	GW3.5	Ammar. “Islamic Treatment of Non-Combatants.” <i>Right Islam</i> . Last modified October 10, 2015. Accessed January 17, 2018. http://r-islam.com/en/index.php/rs-articles/islam/truth-of-islam/1353-islamic-treatment-of-non-combatants .
Noncombatants Islam	GW3.6	“Killing of Non-Combatants.” <i>Controversial Islam</i> . Accessed January 17, 2018. https://controversialislam.wordpress.com/killing-of-non-combatants/ .
Noncombatants Islam	GW3.7	“Combatants and Non-Combatants in Islam Who Is an Innocent and Who Isn’t in Islam?” <i>Just Paste It</i> . Accessed January 17, 2018. https://justpaste.it/combatantsinislam .

Table A1—continued

Keyword Search Terms	Abbreviation	Result
Noncombatants Islam	GW3.9	“Chapter 4: Rights Of Enemies At War.” <i>Al-Islam.Org</i> . Accessed January 17, 2018. https://www.al-islam.org/al-tawhid/vol-4-n-3/human-rights-islam-allamah-abu-al-alamawdudi/chapter-4-rights-enemies-war .
Noncombatants Islam	GW3.10	“Intentional Killing of Non Combatants Is Not Permitted.” <i>The Final Revelation</i> . Last modified August 23, 2014. Accessed January 17, 2018. https://the-finalrevelation.blogspot.com/2014/08/intentional-killing-of-non-combatants.html .

APPENDIX 2

JSTOR SEARCH RESULTS

Table A2. JSTOR search results

Keyword Search Terms	Abbreviation	Result
Islam women and divorce	JD1.1	Smith, Jane I. "Women in Islam: Equity, Equality, and the Search for the Natural Order." <i>Journal of the American Academy of Religion</i> 47, no. 4 (1979): 517–37.
Islam women and divorce	JD1.2	Aghajanian, Akbar. "Some Notes on Divorce in Iran." <i>Journal of Marriage and Family</i> 48, no. 4 (1986): 749–55.
Islam women and divorce	JD1.3	Muedini, Fait A. "Teaching 'Islam and Human Rights' in the Classroom." <i>PS: Political Science and Politics</i> 45, no. 1 (2012): 101–105.
Islam women and divorce	JD1.4	Trent, Katherine, and Scott J. South. "Structural Determinants of the Divorce Rate: A Cross-Societal Analysis." <i>Journal of Marriage and Family</i> 51, no. 2 (1989): 391–404.
Islam women and divorce	JD1.5	Seedat, Fatima. "Islam, Feminism, and Islamic Feminism: Between Inadequacy and Inevitability." <i>Journal of Feminist Studies in Religion</i> 29, no. 2 (2013): 25–45.
Islam women and divorce	JD1.6	Doumato, Eleanor A. "Hearing Other Voices: Christian Women and the Coming of Islam." <i>International Journal of Middle East Studies</i> 23, no. 2 (1991): 177–99.
Islam women and divorce	JD1.7	Ahsan, Sonia. "When Muslims Become Feminists: Khana-Yi Aman, Islam, and Pashtunwali." In <i>Afghanistan's Islam: From Conversion to the Taliban</i> , 225–42. From Conversion to the Taliban. Oakland: University of California Press, 2017.

Table A2—continued

Keyword Search Terms	Abbreviation	Result
Islam women and divorce	JD1.9	Gage-Brandon, Anastasia J. “The Polygyny-Divorce Relationship: A Case Study of Nigeria.” <i>Journal of Marriage and Family</i> 54, no. 2 (1992): 285–92.
Islam women and divorce	JD1.10	Ahmad, Fawzia. “Engaging a New Discourse: Teaching ‘Women in Islam’ in the American University Classroom.” <i>Journal of Feminist Studies in Religion</i> 18, no. 2 (2002): 131–40.
Islam rights of women divorce	JD2.1	Repeated result from prior search
Islam rights of women divorce	JD2.2	Repeated result from prior search
Islam rights of women divorce	JD2.3	Repeated result from prior search
Islam rights of women divorce	JD2.4	Osanloo, Arzoo. “Islamico-Civil ‘Rights Talk’: Women, Subjectivity, and Law in Iranian Family Court.” <i>American Ethnologist</i> 33, no. 2 (2006): 191–209.
Islam rights of women divorce	JD2.5	Repeated result from prior search
Islam rights of women divorce	JD2.6	Repeated result from prior search
Islam rights of women divorce	JD2.7	Cooke, Miriam. “Prisons: Egyptian Women Writers on Islam.” <i>Religion & Literature</i> 20, no. 1 (1988): 139–53.
Islam rights of women divorce	JD2.8	Jacinto, Leela. “Abandoning the Wardrobe and Reclaiming Religion in the Discourse on Afghan Women’s Islamic Rights.” <i>Signs</i> 32, no. 1 (2006): 9–14.
Islam rights of women divorce	JD2.9	Kandiyoti, Deniz. “Women, Islam and the State.” <i>Middle East Report</i> , no. 173 (1991): 9–14.
Islam rights of women divorce	JD2.10	Ahsan, Sonia. “When Muslims Become Feminists: Khana-Yi Aman, Islam, and Pashtunwali.” In <i>Afghanistan’s Islam: From Conversion to the Taliban</i> , 225–42. Oakland: University of California Press, 2017.

Table A2—continued

Keyword Search Terms	Abbreviation	Result
Khul Islam	JD3.2	Layish, Aharon, and Avshalom Shmueli. "Custom and 'Shari'a' in the Bedouin Family According to Legal Documents from the Judaeen Desert." <i>Bulletin of the School of Oriental and African Studies</i> , University of London 42, no. 1 (1979): 29–45.
Khul Islam	JD3.3	Stern, Gertrude H. "Muhammad's Bond with the Women." <i>Bulletin of the School of Oriental Studies</i> , University of London 10, no. 1 (1939): 185–97.
Khul Islam	JD3.4	Anderson, J. N. D. "Reforms in the Law of Divorce in the Muslim World." <i>Studia Islamica</i> , no. 31 (1970): 41–52.
Khul Islam	JD3.5	Copt, Atallah S. "The Naqshbandiyya and Its Offshoot, the Naqshbandiyya-Mujaddidiyya in the Haramayn in the 11th/17th Century." <i>Die Welt des Islams</i> 43, no. 3 (2003): 321–48.
Khul Islam	JD3.6	Smith, Jane I. "Women in Islam: Equity, Equality, and the Search for the Natural Order." <i>Journal of the American Academy of Religion</i> 47, no. 4 (1979): 517–37.
Khul Islam	JD3.7	"Front Matter." <i>Bulletin (British Society for Middle Eastern Studies)</i> 17, no. 1 (1990): 1–3.
Khul Islam	JD3.8	Not considered – not in English
Khul Islam	JD3.9	El-Rouayheb, Khaled. "The Myth of 'The Triumph of Fanaticism' in the Seventeenth-Century Ottoman Empire." <i>Die Welt des Islams</i> 48, no. 2 (2008): 196–221.
Khul Islam	JD3.10	"Front Matter." <i>International Journal of Middle East Studies</i> 14, no. 4 (1982): 458–558.
Islamic finance	JM1.1	Wilson, Rodney. "Review of Interest in Islamic Economics: Understanding Riba; Islamic Finance: Law, Economics and Practice; Islamic Finance in the Global Economy." <i>British Journal of Middle Eastern Studies</i> 36, no. 3 (2009): 463–66.
Islamic finance	JM1.2	Nomani, Farhad. "Review of Islamic Finance: Law, Economics, and Practice." <i>International Journal of Middle East Studies</i> 40, no. 2 (2008): 349–51.

Table A2—continued

Keyword Search Terms	Abbreviation	Result
Islamic finance	JM1.4	Pollard, Jane, and Michael Samers. “Islamic Banking and Finance: Postcolonial Political Economy and the Decentring of Economic Geography.” <i>Transactions of the Institute of British Geographers</i> 32, no. 3 (2007): 313–30.
Islamic finance	JM1.5	Rethel, Lena. “Review of Pious Property: Islamic Mortgages in the United States.” <i>American Ethnologist</i> 37, no. 2 (2010): 413–14.
Islamic finance	JM1.6	Malley, Mohammed, and Samuel L. Hayes. “Review of Islamic Law and Finance: Religion, Risk, and Return.” <i>International Journal of Middle East Studies</i> 31, no. 4 (1999): 670–72.
Islamic finance	JM1.7	Wilson, Rodney. “Review of A Bibliography on Islamic Banking.” <i>Bulletin (British Society for Middle Eastern Studies)</i> 14, no. 2 (1987): 240.
Islamic finance	JM1.8	Gökarıksel, Banu, and Anna Secor. “Islamic-Ness in the Life of a Commodity: Veiling-Fashion in Turkey.” <i>Transactions of the Institute of British Geographers</i> 35, no. 3 (2010): 313–33.
Islamic finance	JM1.9	Wilson, Rodney. “Review of Directory of Islamic Financial Institutions.” <i>Bulletin (British Society for Middle Eastern Studies)</i> 17, no. 1 (1990): 98–99.
Islamic finance	JM1.10	Wright, Jr., J. W. “Review of Arab Islamic Banking and the Renewal of Islamic Law.” <i>International Journal of Middle East Studies</i> 29, no. 2 (1997): 284–85.
Mudaraba	JM2.1	Gerber, Haïm. “The Muslim Law of Partnerships in Ottoman Court Records.” <i>Studia Islamica</i> , no. 53 (1981): 109–19.
Mudaraba	JM2.2	Hardie, Alexandra R., and M. Rabooy. “Risk, Piety, and the Islamic Investor.” <i>British Journal of Middle Eastern Studies</i> 18, no. 1 (1991): 52–66.
Mudaraba	JM2.3	Goldberg, Jessica L. “Choosing and Enforcing Business Relationships in the Eleventh-Century Mediterranean: Reassessing the ‘Maghribi Traders.’” <i>Past & Present</i> , no. 216 (2012): 3–40.

Table A2—continued

Keyword Search Terms	Abbreviation	Result
Mudaraba	JM2.5	Mandaville, Jon E. “Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire.” <i>International Journal of Middle East Studies</i> 10, no. 3 (1979): 289–308.
Mudaraba	JM2.6	Philipp, Thomas. “The Idea of Islamic Economics.” <i>Die Welt des Islams</i> 30, no. 1/4 (1990): 117–39.
Mudaraba	JM2.7	Baader, Hannah, and Gerhard Wolf. “A Sea-to-Shore Perspective Littoral and Liminal Spaces of the Medieval and Early Modern Mediterranean.” <i>Mitteilungen des Kunsthistorischen Institutes in Florenz</i> 56, no. 1 (2014): 2–15.
Mudaraba	JM2.8	Ianeva, Svetla. “Financing the State? Tax-Farming as a Source of Individual Wealth in the Nineteenth Century.” <i>Oriens</i> 37 (2009): 209–24.
Mudaraba	JM2.9	Noorzoy, M. Siddieq. “Islamic Laws on Riba (Interest) and Their Economic Implications.” <i>International Journal of Middle East Studies</i> 14, no. 1 (1982): 3–17.
Mudaraba	JM2.10	Litvak, Meir. “Money, Religion, and Politics: The Oudh Bequest in Najaf and Karbala’, 1850-1903.” <i>International Journal of Middle East Studies</i> 33, no. 1 (2001): 1–21.
Islam interest	JM3.1	Smith, Jane I. “Islam in America.” <i>The Journal of Religion</i> 93, no. 1 (2013): 77–87.
Islam interest	JM3.2	Motadel, David. “Islam and the European Empires.” <i>The Historical Journal</i> 55, no. 3 (2012): 831–56.
Islam interest	JM3.3	Heschel, Susannah. “German Jewish Scholarship on Islam as a Tool for De-Orientalizing Judaism.” <i>New German Critique</i> , no. 117 (2012): 91–107.
Islam interest	JM3.4	Flower, Scott. “The Struggle to Establish Islam in Papua New Guinea (1976–83).” <i>The Journal of Pacific History</i> 44, no. 3 (2009): 241–60.
Islam interest	JM3.5	Byrd, Dustin J. “Professing Islam in a Post-Secular Society.” In <i>Islam in a Post-Secular Society: Religion, Secularity and the Antagonism of Recalcitrant Faith</i> , 1–42. Brill, 2017.

Table A2—continued

Islam interest	JM3.6	Azad, Arezou. “The Beginnings of Islam in Afghanistan: Conquest, Acculturation, and Islamization.” In <i>Afghanistan’s Islam: From Conversion to the Taliban</i> , 41–55. Oakland: University of California Press, 2017.
Islam interest	JM3.7	Mandaville, Peter. “Islam and Exceptionalism in American Political Discourse.” <i>PS: Political Science and Politics</i> 46, no. 2 (2013): 235–39.
Islam interest	JM3.8	Horvatic, Patricia. “Ways of Knowing Islam.” <i>American Ethnologist</i> 21, no. 4 (1994): 811–26.
Islam interest	JM3.9	Ryad, Umar. “Salafiyya, Ahmadiyya, and European Converts to Islam in the Interwar Period.” In <i>Muslims in Interwar Europe, 47–87. A Transcultural Historical Perspective</i> . Boston: Brill, 2016.
Islam interest	JM3.10	Formichi, Chiara. “Building the Islamic State: From Ideal to Reality (1947-1949).” In <i>Islam and the Making of the Nation: Kartosuwiryo and Political Islam in 20th Century Indonesia</i> , 109–144. Boston: Brill, 2012.
Just war Islam	JW1.1	McCants, William. “Review of Arguing the Just War in Islam.” <i>Journal of the American Academy of Religion</i> 76, no. 4 (2008): 1028–031.
Just war Islam	JW1.2	Boyle, Michael J. “Review of Arguing the Just War in Islam.” <i>International Affairs (Royal Institute of International Affairs 1944-)</i> 84, no. 2 (2008): 377–78.
Just war Islam	JW1.3	Parens, Joshua S. “Review of Arguing the Just War in Islam.” <i>The Review of Metaphysics</i> 63, no. 3 (2010): 705–07.
Just war Islam	JW1.4	Johnson, James Turner. “Review: Thinking Comparatively about Religion and War.” <i>The Journal of Religious Ethics</i> 36, no. 1 (2008): 155–79.
Just war Islam	JW1.5	Smith, Jane I. “Islam in America.” <i>The Journal of Religion</i> 93, no. 1 (2013): 77–87.
Just war Islam	JW1.6	Muedini, Fait A. “Teaching ‘Islam and Human Rights’ in the Classroom on JSTOR.” <i>Political Science and Politics</i> 45, no. 1 (2012): 101–105.

Table A2—continued

Keyword Search Terms	Abbreviation	Result
Just war Islam	JW1.8	Formichi, Chiara. “The ‘War of the Roses’: The Islamic State and the Pancasila Republic (1949-1962) from Islam and the Making of the Nation: Kartosuwiryo and Political Islam in 20th Century Indonesia on JSTOR.” In <i>Islam and the Making of the Nation: Kartosuwiryo and Political Islam in 20th Century Indonesia</i> , 145–70. Boston: Brill, 2012.
Just war Islam	JW1.9	Motadel, David. “Islam and Germany’s War in the Soviet Borderlands, 1941–5 on JSTOR.” <i>Journal of Contemporary History</i> 48, no. 4 (2013): 784–820.
Just war Islam	JW1.10	Heschel, Susannah. “German Jewish Scholarship on Islam as a Tool for De-Orientalizing Judaism.” <i>New German Critique</i> , no. 117 (2012): 91–107.
Jihad	JW2.1	Heck, Paul L. “‘Jihad’ Revisited.” <i>The Journal of Religious Ethics</i> 32, no. 1 (2004): 95–128.
Jihad	JW2.2	Milton-Edwards, Beverley. “The Concept of Jihad and the Palestinian Islamic Movement: A Comparison of Ideas and Techniques.” <i>British Journal of Middle Eastern Studies</i> 19, no. 1 (1992): 48–53.
Jihad	JW2.3	Gompert, David C. “Thoughts of the Jihad.” In <i>Heads We Win--The Cognitive Side of Counterinsurgency (COIN): RAND Counterinsurgency Study--Paper 1</i> , 19–28. Pittsburgh: RAND Corporation, 2007.
Jihad	JW2.4	Aaron, David, ed. “Seeds of Jihad.” In <i>In Their Own Words: Voices of Jihad- Compilation and Commentary</i> , 37–72. Pittsburgh: RAND Corporation, 2008.
Jihad	JW2.5	Jihad, Umm. “An Interview with Umm Jihad.” <i>Journal of Palestine Studies</i> 17, no. 4 (1988): 147–48.
Jihad	JW2.6	Aaron, David, ed. “Life in Jihad.” In <i>In Their Own Words: Voices of Jihad- Compilation and Commentary</i> , 9–36. Pittsburgh: RAND Corporation, 2008.

Table A2—continued

Keyword Search Terms	Abbreviation	Result
Jihad	JW2.8	Rabbani, Mouin. “Between Hamas and the PA: An Interview with Islamic Jihad’s Khalid Al-Batsh.” <i>Journal of Palestine Studies</i> 42, no. 2 (2013): 61–70.
Jihad	JW2.9	Halevi, Leor. “The Consumer Jihad: Boycott, Fatwas, and Nonviolent Resistance on the World Wide Web.” <i>International Journal of Middle East Studies</i> 44, no. 1 (2012): 45–70.
Jihad	JW2.10	Lambton, Ann K. S. “A Nineteenth Century View of Jihād.” <i>Studia Islamica</i> , no. 32 (1970): 181–92.
Noncombatants Islam	JW3.1	Jollimore, Troy. “Terrorism, War, and The Killing of the Innocent.” <i>Ethical Theory and Moral Practice</i> 10, no. 4 (2007): 353–72.
Noncombatants Islam	JW3.2	Toft, Monica Duffy. “Getting Religion? The Puzzling Case of Islam and Civil War.” <i>International Security</i> 31, no. 4 (2007): 97–131.
Noncombatants Islam	JW3.3	Kelsay, John. “Democratic Virtue, Comparative Ethics, and Contemporary Islam.” <i>The Journal of Religious Ethics</i> 33, no. 4 (2005): 697–707.
Noncombatants Islam	JW3.4	Downes, Alexander B. “Restraint or Propellant? Democracy and Civilian Fatalities in Interstate Wars.” <i>The Journal of Conflict Resolution</i> 51, no. 6 (2007): 872–904.
Noncombatants Islam	JW3.5	Strawson, John. “Islam and the Politics of Terrorism: Aspects of the British Experience.” In <i>Fresh Perspectives on the “War on Terror,”</i> 9–26. ANU Press, 2008.
Noncombatants Islam	JW3.6	Prorok, Alyssa K., and Benjamin J. Appel. “Compliance with International Humanitarian Law: Democratic Third Parties and Civilian Targeting in Interstate War.” <i>The Journal of Conflict Resolution</i> 58, no. 4 (2014): 713–40.
Noncombatants Islam	JW3.7	Harbour, Frances V. “Islamic Principles and the Chemical Weapons Convention of 1993.” <i>The Journal of Religious Ethics</i> 23, no. 1 (1995): 69–92.
Noncombatants Islam	JW3.8	Rabasa, Angel, Cheryl Benard, Lowell H. Schwartz, and Peter Sickles, eds. “Road Map for Moderate Network Building in the Muslim World.” In <i>Building Moderate Muslim Networks</i> , 65–90. RAND Corporation, 2007.

Table A2—continued

Noncombatants Islam	JW3.9	Johnson, James Turner. “Human Rights and Violence in Contemporary Context.” <i>The Journal of Religious Ethics</i> 26, no. 2 (1998): 319–28.
Noncombatants Islam	JW3.10	Goodwin, Jeff. “A Theory of Categorical Terrorism.” <i>Social Forces</i> 84, no. 4 (2006): 2027–046.

APPENDIX 3
RELEVANCE RESULTS

Table A3. Relevance of the search results

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
GD1.1	X	X	X	X		
GD1.2	X	X	X	X		
GD1.3	X	X	X	X		
GD1.4	X	X	X	X		
GD1.5	X	X	X	X		
GD1.6	X	X	X	X		
GD1.7	X	X	X	X		
GD1.8	X	X	X	X		
GD1.9	X	X	X	X		
GD1.10	X	X	X	X		
GD2.1 (repeat)						
GD2.2	X	X	X	X		
GD2.3 (repeat)						
GD2.4	X	X	X	X		

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
GD2.5 (repeat)						
GD2.6 (repeat)						
GD2.7 (repeat)						
GD2.8 (repeat)						
GD2.9	X	X	X	X		
GD2.10	X	X	X	X		
GD3.1	X	X	X	X		
GD3.2	X					X
GD3.3	X	X	X	X		
GD3.4 (repeat)						
GD3.5	X	X	X	X		
GD3.6	X	X	X	X		
GD3.7	X	X			X	
GD3.8 (YouTube video)						
GD3.9	X	X	X	X		

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
GD3.10	X	X	X	X		
GM1.1	X	X	X	X		
GM1.2	X	X	X	X		
GM1.3	X	X	X	X		
GM1.4	X	X			X	
GM1.5	X	X			X	
GM1.6	X	X			X	
GM1.7	X	X			X	
GM1.8	X	X	X			
GM1.9	X	X	X	X		
GM1.10 (no result)						
GM2.1	X	X	X	X		
GM2.2	X	X	X	X		
GM2.3	X	X	X	X		
GM2.4	X	X	X	X		
GM2.5	X	X	X	X		
GM2.6	X	X	X	X		
GM2.7	X	X	X	X		
GM2.8	X	X	X	X		
GM2.9	X					X
GM2.10	X					X

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
GM3.1	X	X	X	X		
GM3.2	X	X	X	X		
GM3.3	X	X	X	X		
GM3.4	X	X	X	X		
GM3.5	X	X	X	X		
GM3.6	X	X	X	X		
GM3.7 (slideshow)						
GM3.8	X	X			X	
GM3.9	X	X	X	X		
GM3.10	X	X	X	X		
GW1.1	X	X	X	X		
GW1.2	X	X	X	X		
GW1.3	X	X	X	X		
GW1.4	X	X	X	X		
GW1.5	X					X
GW1.6	X	X	X	X		
GW1.7	X	X	X	X		
GW1.8	X	X	X	X		
GW1.9	X	X	X	X		
GW1.10	X	X			X	
GW2.1	X	X	X	X		

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
GW2.2	X	X	X	X		
GW2.3	X	X	X	X		
GW2.4	X	X	X	X		
GW2.5	X	X	X	X		
GW2.6	X	X			X	
GW2.7	X	X	X	X		
GW2.8	X					X
GW2.9	X					X
GW2.10	X					X
GW3.1	X	X	X	X		
GW3.2	X	X	X	X		
GW3.3	X	X	X	X		
GW3.4	X	X	X	X		
GW3.5	X	X	X	X		
GW3.6	X	X	X	X		
GW3.7	X	X	X	X		
GW3.8	X	X	X	X		
GW3.9	X	X	X	X		
GW3.10	X	X	X	X		
JD1.1	X	X	X	X		
JD1.2	X	X	X	X		
JD1.3		X				X

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
JD1.4		X				X
JD1.5		X				X
JD1.6	X	X	X	X		
JD1.7		X				X
JD1.8	X	X	X	X		
JD1.9		X				X
JD1.10		X				X
JD2.1 (repeat)						
JD2.2 (repeat)						
JD2.3 (repeat)						
JD2.4	X	X	X	X		
JD2.5 (repeat)						
JD2.6 (repeat)						
JD2.7		X				X
JD2.8		X				X
JD2.9		X				X

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
JD2.10 (repeat)						
JD3.1	X	X	X	X		
JD3.2	X	X	X	X		
JD3.3		X				X
JD3.4	X	X	X	X		
JD3.5		X				X
JD3.6 (repeat)						
JD3.7		X				X
JD3.8 (not English)						
JD3.9		X				X
JD3.10						X
JM1.1	X	X	X	X		
JM1.2	X	X	X	X		
JM1.3	X	X	X	X		
JM1.4	X	X	X	X		
JM1.5	X	X	X	X		
JM1.6		X				X
JM1.7		X				X
JM1.8		X	X		X	
JM1.9		X				X

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
JM1.10	X	X	X	X		
JM2.1	X	X	X	X		
JM2.2	X	X	X	X		
JM2.3		X				X
JM2.4	X	X	X	X		
JM2.5	X	X	X	X		
JM2.6	X	X	X	X		
JM2.7		X				X
JM2.8	X	X	X	X		
JM2.9	X	X	X	X		
JM2.10		X				X
JM3.1		X				X
JM3.2		X				X
JM3.3		X				X
JM3.4		X				X
JM3.5		X				X
JM3.6		X				X
JM3.7		X				X
JM3.8		X				X
JM3.9		X				X
JM3.10		X				X
JW1.1	X	X	X	X		
JW1.2	X	X	X	X		

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
JW1.3	X	X	X	X		
JW1.4	X	X	X	X		
JW1.5		X				X
JW1.6		X				X
JW1.7	X	X	X	X		
JW1.8	X	X			X	
JW1.9	X	X	X	X		
JW1.10		X				X
JW2.1	X	X	X	X		
JW2.2	X	X	X	X		
JW2.3	X	X	X	X		
JW2.4	X	X	X	X		
JW2.5		X				X
JW2.6		X				X
JW2.7	X	X	X	X		
JW2.8		X				X
JW2.9		X				X
JW2.10	X	X	X	X		
JW3.1		X				X
JW3.2		X				X
JW3.3	X	X	X	X		
JW3.4		X				X
JW3.5	X	X	X	X		

Table A3—continued

Result	Topicality	Pertinence	Utility	Relevant	Partially Relevant	Not Relevant
JW3.6		X				X
JW3.7	X	X	X	X		
JW3.8	X	X	X	X		
JW3.9		X				X
JW3.10		X				X

APPENDIX 4
QUALITY RESULTS

Table A4. Quality of the search results

Result	Good	Adequate	Poor
GD1.1		X	
GD1.2		X	
GD1.3	X		
GD1.4		X	
GD1.5			X
GD1.6		X	
GD1.7		X	
GD1.8		X	
GD1.9		X	
GD1.10			X
GD2.2		X	
GD2.4			X
GD2.9			X
GD2.10	X		
GD3.1		X	
GD3.3			X
GD3.5		X	
GD3.6		X	
GD3.7			X

Table A4—continued

Result	Good	Adequate	Poor
GD3.9		X	
GD3.10		X	
GM1.1		X	
GM1.2		X	
GM1.3	X		
GM1.4		X	
GM1.5	X		
GM1.6		X	
GM1.7		X	
GM1.8		X	
GM1.9	X		
GM2.1		X	
GM2.2			X
GM2.3		X	
GM2.4		X	
GM2.5			X
GM2.6			X
GM2.7		X	
GM2.8			X
GM3.1		X	
GM3.2		X	
GM3.3			X
GM3.4			X
GM3.5			X

Table A4—continued

Result	Good	Adequate	Poor
GM3.6			X
GM3.8			X
GM3.9			X
GM3.10			X
GW1.1	X		
GW1.2		X	
GW1.3	X		
GW1.4		X	
GW1.6			X
GW1.7	X		
GW1.8			X
GW1.9			X
GW1.10		X	
GW2.1		X	
GW2.2		X	
GW2.3	X		
GW2.4	X		
GW2.5	X		
GW2.6		X	
GW2.7	X		
GW3.1			X
GW3.2		X	
GW3.3			X
GW3.4	X		

Table A4—continued

Result	Good	Adequate	Poor
GW3.5			X
GW3.6			X
GW3.7			X
GW3.8			X
GW3.9		X	
GW3.10			X
JD1.1	X		
JD1.2	X		
JD1.6	X		
JD1.8		X	
JD2.4	X		
JD3.1	X		
JD3.2	X		
JD3.4	X		
JM1.1	X		
JM1.2	X		
JM1.3	X		
JM1.4	X		
JM1.5	X		
JM1.8	X		
JM1.10	X		
JM2.1	X		
JM2.2	X		
JM2.4	X		

Table A4—continued

Result	Good	Adequate	Poor
JM2.5	X		
JM2.6	X		
JM2.8	X		
JM2.9	X		
JW1.1	X		
JW1.2	X		
JW1.3	X		
JW1.4	X		
JW1.7	X		
JW1.8	X		
JW1.9	X		
JW2.1	X		
JW2.2	X		
JW2.3		X	
JW2.4		X	
JW2.7	X		
JW2.10	X		
JW3.3	X		
JW3.5	X		
JW3.7	X		
JW3.8		X	

APPENDIX 5

A COMPARISON OF ENGLISH AND ARABIC SEARCH RESULTS

The current study delimits itself to the English language. However, not all searching is done in the English language. This appendix briefly presents a comparison of the results of a search in English and Arabic. The goal is to determine the similarities and differences of the contents of a search in both English to Arabic.

This appendix does not thoroughly dissect the issue, but briefly conducts an analysis using a case study. It is acknowledged that further research in this area would be helpful and this section only briefly attempts to present the basics of how such a study could be conducted, though it would necessarily need to be expanded. This appendix in no way offers a significant finding, but merely attempts to aid the current study by looking at an area the current study delimits.

The methodology for this comparison is to conduct one search in Google and JSTOR using the English word “zakat” and the Arabic word “زكاة”. Zakat is one of the five pillars of Islam and essential to Muslim faith and practice.

Google returned results for both the English and Arabic search. Interestingly, JSTOR returned no results for the Arabic search, so a comparison will not be conducted between the JSTOR results, though that was the initial plan. The top five search results in both English and Arabic were compared. The results from the Arabic search were translated using the translate feature of the Google Chrome browser. The searches were conducted using the incognito setting of the Google Chrome browser to avoid personalization of the results.

The Searches

A brief description of each of the search results is provided. The description notes the type of website and important information from the search result.

English Search Results

This section contains the results of the Google search in English.

Result 1. “Zakat.” *Wikipedia*. Accessed October 17, 2018.

<https://en.wikipedia.org/w/index.php?title=Zakat&oldid=863854839>.

The first result of the English search is a Wikipedia article on zakat. The article recognizes Zakat as one of the five pillars of Islam. It covers the etymology of the word, the doctrine, the historical practice, the contemporary practice, and related terms. When printed as a pdf, the article contains approximately 20 pages of information. Included in the article are over 100 footnotes, along with a section for further reading.

Result 2. “Zakat.” *Islamic Help*. Accessed October 17, 2018.

<http://islamichelp.org.uk/zakat/>.

The second result of the English search is a webpage on zakat from Islamic Help. Islamic Help appears to be an organization that takes contributions. The page starts by explaining zakat and providing qur’anic justification for the zakat. It then answers the following questions: Why do we give Zakat? When should we give Zakat? Who can receive Zakat? How is Zakat calculated? and Should I use gold or silver to calculate Nisaab? The page includes links to donate as well as a calculator for calculating zakat.

Result 3. “Zakat.” *Islamic Relief USA*. Accessed October 17, 2018.

<http://irusa.org/zakat/>.

The third result of the English search is a webpage on zakat from Islamic Relief USA. The page starts with a qur’anic reference about zakat. The page then answers the following questions: What is Zakat? and Who is eligible for Zakat? The next section deals with zakat on gold that includes information on what assets are used to calculate zakat. The page also includes a place where the zakat can be paid to the organization.

Result 4. “Zakat Foundation of America.” Zakat Foundation of America.

Accessed October 17, 2018. <https://www.zakat.org/en/>.

The fourth result of the English search is a webpage on zakat from the Zakat

Foundation of America. The top banner of the page is about hurricane relief concerning a recent natural disaster in Florida. Four boxes are located below the banner: Emergency Relief, Seasonal Programs, Orphan Sponsorship, and Development & Sadaqa Jariyah. The page includes a pie chart on how the organization spends the money concerning fundraising, administrative, and programs/services. The page includes a place to click to give.

Result 5. “Zakat.” Muslim Aid. Accessed October 17, 2018.

<https://www.muslimaid.org/zakat-charity/>.

The fifth result of the English search is a webpage on zakat from Muslim Aid. The top banner is “Religious Dues.” It offers a downloadable fifteen page guide to zakat. The page offers qur’anic support for zakat as well as a brief explanation. It also offers a zakat calculator with a button to donate at the bottom.

Arabic Search Results

This section presents the results of the Google search in Arabic.

Result 1. “زكاة.” *Wikipedia, the Free Encyclopedia*. Accessed October 22, 2018.

<https://ar.wikipedia.org/w/index.php?title=%D8%B2%D9%83%D8%A7%D8%A9&oldid=31211490>.

The first result of the Arabic search is a Wikipedia article on zakat. The article recognizes zakat as one of the five pillars of Islam. It covers the definition of zakat, the date of zakat, zakat in Islamic history, evidence for imposition of zakat, prevention of zakat, jurisprudential rulings about zakat, zakat banks, contraindications of zakat, amount of zakat, voluntary charity, condoning the matter, and the difference between zakat and taxes,. When printed as a pdf, the article contains approximately 23 pages of information. Included in the article are over 100 footnotes, along with a section of margin notes.

Result 2. “المال زكاة.” *Wikipedia, the Free Encyclopedia*. Accessed October 22,

2018. https://ar.wikipedia.org/w/index.php?title=%D8%B2%D9%83%D8%A7%D8%A9_%D8%A7%D9%84%D9%85%D8%A7%D9%84&oldid=30685831.

The second result of the Arabic search is a Wikipedia article on zakat money. The article focuses on the assets on which zakat is due. The article has sections on the definition of money, conditions for zakat on money, obligatory alms guide, quorum and zakat money. When printed as a pdf, the article contains approximately 10 pages of information. Included in the article are 29 footnotes.

Result 3. والدخل للزكاة العامة الهيئة "الأولى الصفحة". Accessed October 22, 2018. <http://www.gazt.gov.sa/ar>.

The third result of the Arabic search is a webpage from the Saudi Arabia General Authority of Zakat and Tax. It includes information on VAT, income tax, zakat and trade shows, communications, fatka law, and selective commodity tax, along with links to learn more about each of those areas.

Result 4. موضوع "المال زكاة تحسب كيف". Accessed October 22, 2018. https://mawdoo3.com/المال_زكاة_تحسب_كيف.

The fourth result leads to what appears to be an Islamic question and answer website. This page appears to answer the question: How do you calculate zakat on money? It contains five main sections: zakat, how do you calculate zakat on money, ruling on zakat, conditions of zakat and references. It recognizes zakat as one of the five pillars of Islam. It includes some qur'anic statements as well as reports from hadith collections concerning zakat.

Result 5. موضوع "الزكاة هي ما". Accessed October 22, 2018. https://mawdoo3.com/الزكاة_هي_ما.

The fifth result leads to the same website as the fourth result. The question being answered on this page is What is Zakat? It contains four main sections: definition of zakat language and terminology, conditions of zakat, zakat banks, and references. The page contains one qur'anic reference.

Summary

For both the English and Arabic searches, a Wikipedia article on zakat was the first result. However, the articles were not exactly the same, though they were both approximately 20 pages as a pdf and contained over 100 citations. The majority of the English results were organizations attempting to collect zakat contributions. Additionally, these organizations attempted to define zakat and provide guidance on how to calculate zakat. In contrast, the majority of the Arabic sources did not seek to collect zakat payments, but provide information about zakat. One Arabic source, was a government entity of Saudi Arabia tasked with handling the collection of zakat in that country.

Conclusion

This study demonstrates both similarities and differences between the results of a Google search in English and Arabic. It is interesting to note the first result of both the Arabic and English searches pointed toward Wikipedia, though different versions of Wikipedia. A common theme among the search results was defining and calculating zakat. The primary differences noted are the sources of information. Even the Wikipedia articles were not the same in English and Arabic, though the content was not closely scrutinized. The rest of the results delivered different sources of information in each search. Further research could be undertaken to conduct an in-depth comparison of the search results of concepts in world religions searching in two different languages.

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ABSTRACT

DIVORCE, BANKING, AND WAR IN ISLAM: EVALUATING THE RELIABILITY AND COVERAGE OF COMMON WORLD RELIGION RESEARCH TOOLS

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This dissertation is a study of Google's ability to function as an expert in the field of world religions. Employing three case studies within the area of Islamic ethics, this study determines Google's ability to function as an expert compared to a leading research tool in the humanities, JSTOR. The study incorporates a literature survey of the three areas of Islamic ethics (divorce, banking, and war) to serve as a baseline for the evaluation of Google and JSTOR search results. The study utilizes a two-level comparison.

Chapter 1 outlines the work and sets the stage for why the work is important. The chapter also outlines the methodology of the work.

Chapter 2 delves more deeply into the methodology by outlining the study upon which the first-level comparison is based. The chapter also describes how the current study expands and adapts that methodology for its purposes.

Chapters 3 and 4 survey literature related to the three areas of Islamic ethics: the rights of women in divorce, *mudaraba* banking, and just war. Chapter 3 surveys primary sources, while Chapter 4 surveys secondary literature. The literature survey provides a baseline the study uses to analyze the reliability and coverage of Google and JSTOR.

Chapter 5 contains the results of the first-level comparison. The chapter

compares Google and JSTOR search results to determine the relevance and quality of the results.

Chapter 6 conducts the second-level comparison. This chapter compares and analyzes the content of the relevant results. The contents of the search results are first compiled. Then, a point-by-point comparison is conducted to determine the reliability and coverage of Google to function as an expert in the field of world religions. In short, Google functions just as well as JSTOR as an expert in the field of world religions. Furthermore, Google answers questions with relevant and reliable content, while also demonstrating coverage in the same manner as the literature survey.

Chapter 7 is a conclusion. The chapter reviews the findings of the study, notes the significance of the study, and provides thoughts on further study.

VITA

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