

The 6th Annual AMJA Conference

Held in Montreal – Canada

During Dhul Qi'dah 9 – 13, 1430 (Hijri) / October 28 – 31, 2009

All praise is due to Allaah, and may peace and blessings be upon the messenger of Allaah, his family, companions, and those loyal to him. Proceeding:

During the period of the 9th – 13th days of the month of Dhul Qi'dah 1430, which coincide with the 28th – 31st days of the month of October, 2009, the 6th annual conference of the Assembly of Muslim Jurists of America commenced in Montreal, Canada, under the title of: “Contemporary Challenges that Arose Outside the Lands of Islam.”

Throughout the four consecutive days, detailed and elaborate discussions took place around the topics presented to the esteemed members of the assembly and its experts which pertain to Muslims in America particularly and emigrant Muslims at large. Due to the absence of some of the esteemed members of the assembly from attendance because of inability to acquire visas, the assembly came out with certain decisions that were decided by the head panel of the assembly that were to be mailed to the rest of the assembly's members for their scrutiny/inspection by the 20th of December. Then it is to come back to the head panel to be investigated once more before being finalized upon the head panel's approval. This period was extended to the end of December as per the suggestion of some of the esteemed members. The assembly received and considered some suggestions during this period, then transferred them over to the head panel for approval, concluding with this treatise. And Allaah is The Grantor of success....

Decisions Regarding Contemporary Aqeedah Challenges

The Debated Relationship between Religious Loyalty and Nationalistic Affiliation

- Religious loyalty mandates loving the people of the religion, supporting them in it, disavowing those that oppose them in it, and not supporting them in that with statement nor action. This portion is shared at the religious and human level; agreed upon by all religions and creeds.
- The default in the word ‘brotherhood’ in the absolute sense is that it refers to the brotherhood of religion. But, the brotherhood of religion does not negate any other

brotherhood of lineage, tribe, clan, or country, nor does it deny what arises from that of rights and responsibilities. This is so long as it doesn't lead to denying truth or enforcing falsehood. Brotherhood has circles that overlap and aren't separate. Atop these is the brotherhood of religion, and for every level of them there are rights and obligations affirmed by Islam.

- Loving the people of religion religiously doesn't negate what kinship, social relationships, and human interaction cause to arise of love and natural affection – so long as this doesn't include supporting them in falsehood or taking part in injustice.
- Support amidst the people of religion doesn't negate what arises of treaties and legitimate covenants to support the oppressed, rescuing the afflicted from even amongst the non-Muslims, and stopping the oppressor and preventing him from oppression even from amongst the Muslims. This is due to the generality of the principle of aiding in goodness and piety and not aiding in enmity and sin.
- Affiliation to a nation or people is (Islamically) legitimate so long as it doesn't become the basis of allegiance and enmity. Taking pride in colors and ethnicities and taking that as a means of vilifying others is Jahily (Pre-Islamic Ignorance) bigotry. Allaah has made his slaves into nations and tribes so they may know one another, not for some to transgress over others, nor for some to become proud over others. The most noble of people with Allaah are the most pious of them.
- There is no harm in citizenship if it is taken as means of organizing the affairs of the residents outside the lands of Islam and establishing da'wah and founding their institutions. This is so long as its (the citizenship's) possessor keeps his loyalty to his creed and nation (i.e. Islam and the Muslims), fulfills his covenant with Allaah and His messenger, and he and his family are secure of tribulation in their religion.
- The legal framework that governs the relationship with the hosting nations outside of the lands of Islam is the contract of security. This is what is stipulated in the official residency documents. Of its implications is the abidance by the laws and local regulations as long as it doesn't drive one to commit a sin or abandon an obligation. Fulfilling this contract is a necessity by sharee'ah and for the sake of da'wah. Upon conflict (of one's legal vs. Islamic obligation), reservation (from participating in the Islamically impermissible) is to be made in the item that conflicts, and all else remains on the default of abidance.
- The default is taking part in the actualization of the general welfare of the societies and hosting nations. There is no harm in it if the intentions are good. The principle of aiding in goodness and piety is general legislation. Secondly, it is a method among the methods of

interaction with non-Muslims outside the lands of Islam using the principles of Islam, its fundamentals, and rulings.

- The default is that the sanctity of the blood of those whom we have a contract of security is that of the sanctity of Muslim blood. The implications of this contract are that for them is what is for us and upon them is what is upon us. It is impermissible though for anyone to take part in unjust wars, regardless of whether it is under a Muslim banner or that of another. It is permissible for one to rescue someone oppressed who sought his support and he is capable of supporting them, regardless of whether he is of the Muslims or otherwise.

Decisions Regarding Contemporary Challenges in Worship

- The default is that prayers are to be offered in their times. It is consented, when there is a conflict of examination time with prayers time and it isn't possible for the student to reschedule the examination time, to not attend the Jumu'ah prayer, or to combine between Dhuhr and Asr, or Maghrib and 'Ishaa. This is due to what missing the examination results in of great harm and waste of intellectual efforts and material investment throughout the term of study.
- Upon conflict between study times and prayer times along with the inability of the student to adjust his schedule, it is consented for him to temporarily miss Jum'uah prayer until he can adjust his schedule to remove this conflict. It is incumbent upon him to work hard in that (i.e. schedule adjustment). If he is unable to do that, then it isn't right that he should remain continuously absent from the Jumu'ah prayer for study reasons, and its becomes an obligation on him to search for an appropriate exit (from this situation).
- It is consented to combine between Dhuhr and Asr, or Maghrib and 'Ishaa, in strenuous times such as those of education and examinations for those that need that. The Muslim, be he a student or not, should safeguard offering the prayers at their times as much as possible.
- It is consented to have multiple Jumu'ah prayers in one masjid if the place is tight and doesn't accommodate all those making the prayer, or for those that weren't able to be granted permission to offer this prayer in the same time, then each group prays at a different time. It isn't amongst the legitimate excuses to have multiple Jumu'ah(s) the simple desire to make a Jumu'ah available for the Arabic speakers and another for those that speak another (language). This is because translation removes the need which is necessary for the license to have multiple prayers as opposed to the original ruling.

- If the necessity or need demands that the Jumu'ah prayer or the sermon is moved forward to before the Zawaal (i.e. Dhuhr time), it is permissible to do so, acting upon the madhhab of Imam Ahmad, rahimahullaah.
- The default is that the Jumu'ah sermon is to be delivered in the Arabic language. If this isn't feasible, or the attendees don't understand the Arabic language, then it is correct to deliver it in the language that the attendees understand – so long as the pillars of the sermon, the Qur'anic verses, and prophetic ahadeeth are in the Arabic language.
- The default is that Jumu'ah is to be held in the masjid. If offering it in the masjid isn't feasible, then it can be offered in the workplace or place of study if there is a need for that and its minimal threshold is met. Determining the minimum is a subject of scholarly dispute. Some said it is fifty (attendees), and some said two is sufficient other than the Imam, and this matter is wide.
- It is correct to advance and combine between Dhuhr and Asr or between Maghrib and 'Ishaa in the case of rain that wets the clothes or snow, mud, or fierce winds. This is the case even if the daily living activities aren't cancelled, so long as the excuse continues until the commencement of the second prayer.
- The default is that masjid(s) are to be built with pure wealth. It is impermissible to borrow on interest in order to build the masjid(s). If it is built with an interest-based loan, prayer in it is correct and the sin is upon the borrower.
- If there is a discrepancy in the calculation of prayer or fasting times in some lands, those praying and fasting should be precautionous to distance themselves from liability if they are unable to determine the stronger or more correct view.
- In the lands that the night or day extend to more than 24 hours, its people should act upon the times of the nearest normal lands to them. (These are the lands that share the same longitudinal lines and are found at latitude of 45 degrees south for the southern areas or north for the northern areas.)
- The default is that rituals are to be offered in their legislated times. If the night or day are unusually long but can be distinguished (i.e. one from another) and it is too difficult to offer the prayers in their respective times, then it is consented to combine between two prayers for whoever has a need to in order to repel the harm and difficulty. As for fasting, it is upon the Muslim to fast from the break of dawn till sunset unless severe exhaustion incapacitates him, in which case he breaks his fast and makes it up. (The Assembly advises with the presentation of the research of assembly member Dr. Abdul-Latif Aal Mahmoud regarding (An Opinion to Determine Worship Times in Places where Legislative Signs are Intertwined) to a committee of jurists and astronomers for discussion).

- The default is that the Muslim is to safeguard fasting Ramadan and realize that intentionally breaking the fast is of the destructive sins. It is consented to break the fast for students who are plagued with fatigue beyond the normal fatigue wherein it would impede them from taking the examination due to the length of the exam or much exhaustion if they feel the need to do so, and upon them is to make it up.
- The default is that children are to be ranked in prayer behind the ranks of the men. If the need demands that they pray on the edges of the men's rows, then there is no harm.
- The prayer of a woman in thick, loose pants is correct if there is a garment over it that conceals the top of her body to the knees. Her prayer in a long garment that covers the tops of her feet is more preferred and God-fearing.
- There is no harm in the one menstruating reciting the Qur'an from heart with the intent of worship. As for learning Qur'an and teaching it, it is allowed for her to recite from the Mushaf – acting upon the Madhhab of Imam Maalik rahimahullah, it is one report from Ahmad, and was preferred by Shaykhul Islam Ibn Taymiyyah. This should be done with a barrier of gloves or its liked, or through a Mushaf that has a translation or interpretation to avoid the area of difference (i.e. the scholarly difference opinion on the subject).
- It is permissible to allow women without hijab to attend the mosques. There should be khimaar (s) that fit the sharee'ah requirements made available though so that they may offer the prayer in the legislated manner.

Decisions Regarding Contemporary Challenges at the Social Level

Firstly: Regarding the Intermixing between Men and Woman:

- Intermixing is a concise expression. There is the permissible of it as well as the impermissible. Of this and that there is the agreed upon and of it is the differed over.
- If what is intended by it is the basic gathering of men and women in open places to take part in shared acts of religion or worldly affairs – along the consideration of the sharee'ah etiquettes of hijab, lowering the gaze, organizing the gathering with what aids that, then there is no harm in it. Of this is the gathering of men and women in the open spaces to attend the two Eid prayers, the rituals of Hajj, the open gatherings of knowledge whether it is in the masjid or elsewhere, and the going out of women to tend to their needs amidst the people. This is so alongside seeing that the women properly observe Hijab and they are

distanced from men as best they can. Also, both parties are to observe reservation and the lowering of the gaze. Emphasis is made though on the importance of separating between the genders in the educational institutions, for this is more preserving of values, more distant from tribulation, more severing of means (towards promiscuity), and more prompting of the student of knowledge's mental focus. Some educational institutions in the west have even begun to realize this.

- If what is intended by it is the mingling of the two parties and permeation of their ranks (by one another), then this is upon the default prohibition so long as no urgent necessity or strong need recognized by sharee'ah arises. Of these needs are those explicit in the texts, and of them are those that are deduced by qiyas (i.e. juristic reasoning via analogy), and from them is what exists in wars, legal proceedings, medical treatments, and their likes. This is so while keeping in mind that urgent necessities and strong needs are to be given their proper estimate.
- In the case where intermixing is permissible due to an urgent necessity or strong need, there are guidelines that must be attended to in all cases. Of them are: lowering the gaze, avoiding immorality and informality, forbidding seclusion and bodily contact, preventing crowding, reserved conduct, concealing the 'Awraat (i.e. body parts whose public visibility is forbidden in sharee'ah), and organizing the gathering in a manner that would aid in lowering the gaze as much as possible.
- Placing women in public gatherings as program introducers or hosts of the guests or the likes isn't included among the acceptable needs, while there are in the gathering men that can assume these actions with the same degree of performance.
- Familial gatherings on shared, mixed tables for the sake of some social activity such as fundraising or a wedding dinner or its likes isn't included among the acceptable needs.
- There are factors that affect the tightening and loosening (of rulings) around this subject. What appears from textual analysis and the actions of the salaf is that intermixing differs depending on the ages of the men and women, the need prompting it, and the atmosphere it is found in of tribulation or lack thereof. The determining factor in this is the weighing of the pros and cons involved, and it is upon those responsible to seek the verdict of the people of knowledge in their particular environment and act upon their fatwa in that.
- The prime stance in this issue is that it is mandatory to safeguard the Islamic values that the sharee'ah directs to of virtuosity, shame, concealment, and reservation, while acknowledging the need for men and women to share in the fields of good actions and cooperation upon righteousness and piety, da'wah and reform, and the like- to give

precedence to the outweighing benefit over the imagined harm (i.e. fallaciously assumed danger).

Secondly: Regarding the Relationship between the Two Genders:

- The exchange of emotional expressions before marriage is impermissible due to it being a means to tribulation and a medium for falling into fornication. This is especially so in this age of our where the authority of religion in the souls has weakened, the morals have been corrupted, and the virtuous principles have declined. There is no harm in speaking with a foreign woman in goodness if there is no seclusion or doubt (i.e. fear of temptation) and there is a legitimate urgency or need for that, be it religious or otherwise.
- There is no harm in the communication of the two genders in goodness if there be a need and an absence of doubt. We advise that the one of the guardians takes part in the correspondence so as to repel the possibility of (falling under the ruling of) seclusion. As for simple chit-chat and spending time (together), then this is of the means of tribulation, and of the footsteps of Shaytan.
- The default is the lowering of the gaze in gatherings of men and women, and it is consented to look at women for a need such as education, testimony, judicial proceedings, medical care, and the likes.
- The default is that the woman isn't to travel except with a husband or a Mahram relative. It is permissible though, with the consent of the husband or guardian, the availability of trustworthy companionship, and the absence of doubt, for the woman to travel without a Mahram for a legitimate need such as attending beneficial Islamic conferences, keeping ties of kin, exercising necessary rights like asking the ruler or filing a complaint, etc... if there is a Mahram for her at her destination or she is secure of harm therein.

Thirdly: Regarding Dress and Adornment:

Description of the Muslim Woman's Garments in Sharee'ah:

- (1) To cover the entire body, and they differed on the face and hands when there is security of harassment/harm.
- (2) To not be a decoration in and of itself.
- (3) To be wide so as not to be illustrative (of the body's shape).
- (4) To be thick so as not to be transparent.

- (5) To not be scented.
 - (6) To not resemble the garments of men or non-Muslim women in what is particular to them.
 - (7) To not be a garment of fame/prominence by way of color or design. This is what is worn of conceit or can lead to it. It is also what is out of the customary and attracts attention.
- It is impermissible for the woman to wear pants in the prominent fashion in the presence of foreigners because it shows her attractions, but she may don trousers that are wide that don't illustrate and thick and not transparent if above them is a long garment to the knees.
 - It is impermissible for the woman to use cosmetic products outside of her home with the exception of what is customary such as rings and dye where there is security from temptation. This is with certain conditions:
 - (1) That it doesn't change or disfigure the original form of creation.
 - (2) That its usage doesn't result in bodily harm.
 - (3) That it doesn't prevent water from reaching the skin's surface during ablution or bathing as is the case with nail-polish.
 - (4) That it isn't with the intent of imitating men or non-Muslim women.
 - (5) That it doesn't reach the extent of extravagance and wasting.
 - (6) That it doesn't result in wasting the time of the obligations.
 - It is impermissible for males to wear earrings and bracelets due to what that contains of imitating women or the flagrant sinners, which is forbidden. Not included amongst that are what are worn of plastic bracelets as identification in some jobs, organizations, and the likes.

Fourthly: Regarding The Woman & The Masjid:

- Women should not be prevented from attending the activities of the masjid. This is emphasized even more so outside of the lands of Islam since there is a dire need for the masaajid considering they are the only medium to acquiring knowledge, hearing exhortation and staying connected with the Muslim community. The masaajid should be prepared to fulfill their (the women's) needs and safeguard their chasteness.
- There are guidelines for a woman going out to the masjid. Of them we will mention:

- (1) Not frequently going to the masaajid without need. In the hadeeth that gives preference to the woman's praying at home is an indication of her home's need for her.
- (2) That her going out is to be with the consent of the guardians or husbands.
- (3) Abiding by the Islamic Hijab and not adorning nor perfuming herself.
- (4) Maintaining distance from the crowding of men in the masaajid and outside of them except for a need.
- (5) Lowering the gaze, and that her speech to others is with goodness.

- The default is that the rows of the women are behind the rows of the men, for this was the way in his masjid, peace and blessings be upon him.
- If this is unachievable, then there is no harm in the women's rows being beside the men's rows with the presence of an appropriate barrier that doesn't prevent hearing nor seeing the Imam, or a gap between the men and women that prevents tribulation, maintains particularity (between the two genders), and aids in lowering the gaze.
- Placing barriers between the men and women in prayer is not amongst the definite unvarying matters of sharee'ah. It is possible to do without it by using the prophetic measures that were taken in his time, peace and blessings be upon him. Of them are:

- (1) That the woman come to the masaajid in their Hijabs and without adorning themselves with decoration as the female companions, may Allaah be pleased with them, used to do.
- (2) That they exit immediately after the prayer as they did, may Allaah be pleased with them, to such an extent that they couldn't be recognized from the dark as they exited from the Morning Prayer.
- (3) That the men do not turn around until the women exit.
- (4) That there is a separate door exclusively for their entrance and exit.
- (5) Reverence and reservation; minimizing their communication with the men except for a need.
- (6) That they do not crowd the men inside the masjid, at the doors, in the elevators, et al.

- What is more proper for the masaajid in the West, especially due to their small size and the absence of these measures, is that the barriers remain for the protection of the woman and her comfort, to close the door to tribulation, to protect the purity of the masaajid, and to safeguard the sanctity of the prayer.
- Whatever barriers are placed between the men and women should not prevent the woman's side from seeing and hearing what would enable them to follow the Imam. Also,

there should be made available in the woman's prayer area whatever means of comfort and hospitality exist in the masjid's main hall.

- There is no harm in the women attending the gatherings of knowledge without there being a barrier between them and the men wherever the space's width is accommodating. This is so long as the general etiquettes of sharee'ah are conformed to. Of them is their (the women) being behind the men, or reasonably distant wherein the space between the men and women aids in lowering the gaze. It is befitting that this barrier remains in places that are tight, especially in the likes of these times, as much as possible.
- The Imams of the masaajid and those that oversee them are to keep in mind the Muslim woman's need for knowledge as the messenger of Allaah, peace and blessings be upon him, did. Of that is his particularizing a class for the women. Having the women share in the open lectures and benefit from them is a matter that should be keenly guarded.
- The assembly advises the Muslims in these lands to dedicate care to the establishment, building, and preparation of masaajid with all that is necessary to be the haven of the Muslims and nest of their hearts. The masjid in the West is Noah's Ark for those living in these lands, and its importance and role far surpasses that of its counterpart in the East with its respective magnitude.

Fifthly: Regarding the Supervision of the Youth's Communication(s):

- It is upon the parents and the educational and disciplinary institutions to make the youth aware of the rulings of interactions, relations, and communications amongst one another. It is important also that the relationship between the parents and children be based on a foundation of communication, openness, constant closeness, productive dialogue, giving advice and direction, and maintaining trust and good assumptions of the children. It is of the responsibilities of the parents to supervise the actions, relations, and communications of the youth that have yet to reach the age of responsibility in a wise and appropriate way.

Sixthly: Regarding Benefitting with Beneficial Audio or Video Programs that may be Tainted with some Violations:

- The default in musical instruments is that they are unpermitted because they are of the prohibitions or doubtful matters at the very least. Exempted from that is the duff (tambourine) during weddings and the likes. It is consented to benefit with what others prepared of instructional programs, documentaries, and historical programs that serve a

purpose, as well as beneficial cartoons with regards to children. If something taints it of instruments that don't incite lusts nor ignite desires, then considering the inability to avoid it (due to it being so widespread), the scarcity of available alternatives, the differentiation between hearing and listening since this music that accompanies (the program) was not intended to be heard in and of itself, nor does the onlooker lend it his ear, nor focuses on it, then it is resembling the musical intermissions in news broadcasts that the vast majority have agreed on consenting to listening to it and watching it – while calling attention to the ruling on instruments and minimizing it as much as possible.

Seventhly: Regarding Exchanging Congratulations with Non-Muslims:

- The default is kindness and justice in dealing with Non-Muslims. Of that is congratulating them in the shared social issues such as marriage, new-borns, and the likes. As for religious holidays, the default is that it is of the particularities of the religions and creeds. Therefore, it remains specific to its people (i.e. we don't share in it with them), and there is no harm in general courteous words that don't imply violating these particularities nor imply approval of their religions or pleasure with it in cases where there is an outweighing benefit.

Decisions Regarding Contemporary Challenges at the Economic Level

Firstly: Student Loans

- The default is the forbiddance of interest-based loans regardless of whether these loans are for students or otherwise due to it falling under the clear interest that the scholars unanimously agreed, past and present, on its impermissibility. It is incumbent that all efforts are spent in finding permissible alternatives before leaping to the justification of urgency or need.
- In the world of Western Universities, academic scholarships are granted for the outstanding (students) and unable (to afford), alongside work-study opportunities that allow for combining between studying and earning, by which one can avoid falling into these loans. Also, there may be subsidized loans that the nation pays its interest if the student is able to repay all he owes within six months of his graduation. In addition, there are grants provided by some companions and institutions in exchange for employment contracts with it after graduation. It is incumbent that one spends his efforts in (trying) all this.

- If all of these are inexistent, and the interest-based loans are the only way to facilitate the beginning or continuation of a university education, or the only way to secure the Muslim communities need for what cannot be done without of professions and expertise, then this is considered an urgent necessity that removes the sin even though the ruling of impermissibility remains. This is upon the condition that the one forced to this isn't an aggressor nor transgressor, and this is by giving the urgent need its proper estimate, and by continuing to search for a permissible alternative and breaking free of these interest-based loans when one is first able to do so in order to minimize the interest amount paid as much as possible. We emphasize the need to return to the people of Fatwa (i.e. qualified to passed a juristic opinion on Islamic Law) to estimate these needs and urgencies. It isn't correct that for just anyone to assume the responsibility to do this, or to measure his need on the need of others.

Secondly: Life Insurance that some Companies Grant Their Employees since it's among the Job-Benefits:

- The default in trade-insurance that is governed by trade-insurance laws and practiced by its companies is that they are invalid contracts due to what spoils them of deception, ambiguity, interest, and others that add to its corruption. Nothing is permitted of it except either what the laws oblige or the general need drives them to it, in which case it would be given the status of an urgency.
- If the insurance that the company grants to the employee is compensative (i.e. paid for from your salary) , it is permissible regardless of it being compulsory or optional. If the insurance is optional and separate from the job and doesn't come with it, then it is impermissible because it is an invalid contract forbidden by sharee'ah and therefore not allowed to enter in it to begin with.
- If this insurance is provided as an outright gift and is of the benefits of the occupation, without taking anything out for it from the employee's monetary rights, then there is no harm in it since it is a gift from the employment's side. His (the employee's) inheritors are eligible to receive it after him, and all the consequences fall on the employer alone; there is no liability in this on the employee.

Thirdly: The Muslim Hiding some Sources of His Monetary Income that Affect His Eligibility for some Governmental Aid Opportunities:

- The default is abidance by the local laws of the host country. Whatever these laws oblige with are obligatory religiously, except what conflicts with a clear-cut matter in sharee'ah. The laws that organize aid and grants are a part of these laws. Therefore, it isn't allowed for the Muslim to hide some of the sources of his monetary income that affect his eligibility for some governmental aid opportunities due to what doing this includes of violating the principles in our religion of honesty and trustworthiness.

Fourthly: Trading in Merchandise with Counterfeit Trademark Logos via Production, Buying, and Selling:

- The rights of ownership and creativity are protected rights and it's forbidden to violate them. Hence, imitating trademarks is considered cheating and fraud in they eyes of the religion, as it is considered a criminal offense that results in civil and criminal punishment. Therefore, it isn't allowed to trade with these merchandises that contain counterfeit trademark logos by producing, buying, or selling them, so long as one knows of their non-genuineness... If its imitation has become widespread and legally consented, then buying and selling it is allowed. Whoever has bought or sold any of this (i.e. the impermissible image of this transaction mentioned above) out of ignorance, then there is no sin upon him. It is upon every Muslim in the West to be a good representative for his nation and religion, and not impede people from Islam by way of his evil decisions that both the sharee'ah and man-made laws have agreed on its condemnation.

Fifthly: The Ruling on Duplicating what is Classified as Copyrighted like Educational Computer Programs, Books, and the likes:

- It was aforementioned that ownership and creativity rights are protected and that it's forbidden to violate them. Therefore, whatever the laws that protect these ownership and creativity rights allowed of its duplication, then this is allowed, otherwise no.
- Making a copy for sheer personal use in the case of inability to acquire the original copy does not contain sin. This is because his inability to acquire an original copy, along with his serious need for it, is considered a general need that takes the status of an urgency.