САКРАЛЬНІ ТЕКСТИ СХОДУ

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CONSTRUCTING THE WILL OF GOD: THE INTERPRETATIONS OF AL-MĀ'IDAH: 33-34 IN MEDIEVAL AND MODERN QURANIC EXEGESIS

From the early days of Islam the Quran has been perceived by the majority of its followers as the main source of everything that guides individual and collective behavior of the believers. The origin of this view can be traced to the practice of the prophet Muhammad himself who from time to time resorted to the authority of revelation in order to resolve various situations of both his personal life and the relations within the early Muslim community.

It is not at all surprising then that in later periods the view had emerged that the Quran should contain a norm or at least a general principle for the solution of all convoluted issues of building a new society. The ideal of living in full accordance with the will of Allah also prompted many scholars to delve even deeper than some clearly stated rules in search of other recommendations for organizing daily life of the Muslims. This process has resulted in appearance of a body of norms that are only generally based on a Quranic verse or supported by it.

As I have argued elsewhere [Shestopalets 2014; Шестопалець 2013], this effect was achieved through the elaborate procedures and discursive strategies of argumentation, which involved active reinterpretation of the texts of the Quran and Sunnah. At the same time, the basis for this was principally laid down by early Muslim scholars during the first three centuries of Islam. Later generations of both exegetes and jurists merely restated, elaborated and legitimized the norms without an attempt to challenge the views and provide a different interpretation. It is rather clear that the unchangeable character of the norms that are considered to be prescribed by God himself (especially hudud) was crucial for sustaining the status of the whole system of Islamic law as divinely sanctioned order. No need to argue that this idea of divineness is what supplies the sharia with its status of absolute legitimacy while other rational and textual arguments serve as a dressing for the whole system.

The verses al-Ma'idah: 33–34, as it will be shown, can be seen as a good illustration of how the norms of Islamic law are constructed within the framework of the interpretation of the sacred texts. In this paper, I will solely use the materials of tafsir treatises, which for the most part present and repeat already well-developed tradition of analyzing these verses.

As it is fully accepted in the Sunni tradition, al-Mā'idah: 33 belongs to the category of hudūd which establish a clear-cut punishment for certain criminal offences, such as stealing and adultery. These particular ayahs in their turn, in view of Muslim jurists, regulate the punishment for *highway robbery*:

Those who wage war against God and His Messenger and إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهُ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْض strive to spread corruption in the land should be punished فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُمَيَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجَلُهُمْ مِنْ by death, crucifixion, the amputation of an alternate hand خِلَافٍ أَوْ يُنْفُواْ مِنَ الْأَرْضُ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ and foot, or banishment from the land: a disgrace for فِي الأَخِرَةِ عَذَابٌ عَظِيمٌ (33) them in this world, and then a terrible punishment in the Hereafter.

unless they repent before you overpower them – in that إِلَّا الَّذِينَ تَابُوا مِنْ قَبْلِ أَنْ تَقْدِرُوا عَلَيْهِمْ فَاعْلَمُوا أَنَّ اللَّهَ case bear in mind that God is forgiving and merciful.

The first aspect that draws the attention of the scholar in interpretations of these verses is rather scarce information on the reasons behind their origins. Despite its significance as supposedly prescribing a *hadd* punishment, the opinions of the scholars on the subject of the historical background, or causes of revelation, are rather diverse. What is even more important, those views do not seem to be substantiated by the solid evidence from the narratives of the Sunna. Among other things, this may point to the fact that attention to this ayah in the early period of the formation of Islam was not sufficient enough for the production of a wide range of stories.

The narratives on al-Mā'idah: 33–34 found in the voluminous treatise of al-Tabari "Jāmi' al- bayān 'an ta'wīl' āy al-Qur'ān" obviously present mere variations of the hadith from the authoritative collections of al-Bukhari and Muslim [al-Bukhari, *IV*, 254–255; Muslim, *V*, 145–148]. The only stumbling block for the *mufassirs* in them was determining the religious affiliation of the nemesis of the early Muslim community mentioned in the ayah. While some of the narratives attribute the appearance of this verse to the conflict of the prophet Muhammad with *ahl al-kitāb* (Jews or Christians) or *mushrikūn* (polytheists), others seem to link this ayah to the case of the converted Arab tribes '*urayna* (عدينة) or '*ukil* (عدن). This latter narrative, which has gained most support and dominates the discussion, in one of its numerous versions is presented in the collection of al-Bukhari as follows:

«Narrated Anas bin Malik: A group of eight men from the tribe of 'Ukil came to the Prophet and then they found the climate of Medina unsuitable for them. So, they said, "O Allah's Apostle! Provide us with some milk". Allah's Apostle said, "I recommend that you should join the herd of camels". So they went and drank the urine and the milk of the camels till they became healthy and fat. Then they killed the shepherd and drove away the camels, and they became unbelievers after they were Muslims. When the Prophet was informed by a call for help, he sent some men in their pursuit, and before the sun rose high, they were brought, and he had their hands and feet cut off. Then he ordered for nails which were heated and passed over their eyes, and they were left in the Harra (i. e. rocky land in Medina). They asked for water, and nobody provided them with water till they died (Abu Qilaba, a sub-narrator said, "They committed murder and theft and fought against Allah and His Apostle, and spread evil in the land")» [al-Bukhari, IV, 254–255].

The first thing that could be mentioned in connection with this narrative is that the ayah was sent because of a relatively minor episode in the life of early Muslim community, especially if compared to the episodes of struggle for dominance with the Meccan elites. Another evident point is that the prophet Muhammad is represented in the story as a rather merciless and revengeful person who is not averse of using cruel tortures for those who cast doubt on his authority.

It is interesting to note that the demonstrative brutality of this punishment was evident already for the medieval interpreters. None of them, of course, dared to openly state that the punishment did not match the crime. Yet, the indirect evidence of such attitude can be seen in the specific approach to the interpretation of this verse taken by the majority of mufassirs [al-Tabari, *IV*, 150–195; al-Qurtubi, *III*, 456; Ibn al-Kathir, *II*, 194–212; al-Razi, *II*, 219–233; Ibn Atiyya, *II*, 492].

As the abovementioned story has it, the Prophet Muhammad did not just kill, crucify and dismember the participants of the rebellious group, but he also blinded them. For the later Muslim scholar, it was unclear why the Prophet would do this to his enemies if the ayah in the Quran did not mention such type of execution. In order to resolve this

puzzling question, they came to the conclusion that the ayah was in fact sent a) *after* Muhammad had already dealt with the rebels and b) as a *reproach* (*itab*) to him for the gratuitous cruelty and harshness [al-Tabari, *IV*, *155*]. Thus, in the concurring view of the exegetes, not mentioning the punishment of blinding in al-Mā'idah: 33 was a manifestation of Allah's mercy and his way of softening the punishment [al-Tabari, *IV*, *155*; al-Razi, *II*, *220*].

Another issue which is of special importance for this analysis is the understanding of the nature of the crime mentioned in the verse. In contrast to al-Mā'idah: 38 and al-Nūr: 2, al-Mā'idah: 33 does not provide a clear cut definition of the offence giving only a general formulation. On the one hand, it is evident that it speaks of a form of *rebellion* against the power of the Prophet awarded by Allah himself or an act that undermines the authority of Muhammad ("wage war against God and His Messenger"). On the other hand, however, the second part of this formula ("strive to spread corruption in the land") leaves a vast space for interpretations as the key term here, *fasād*, involves many, if not all, different forms of disorderly and anti-social behavior.

Despite the relative clarity of the first part of the ayah, the interpreters quite surprisingly were very reluctant to see it as prescribing punishment for apostasy (*irtadd* or *riddah*) or political rebellion against the Muslim authorities [al-Tabari, *IV*, 164; al-Razi, *II*, 220–221]. Instead, from the medieval period the understanding of the whole verse, including the terms *fasād* and *muhārabah* (derived from the verb hāraba), was narrowed by the scholars to various kinds of *robbery* as the main form of conflict with the state power and non-obedience to them [al-Tabari, *IV*, 160; al-Qurtubi, *III*, 458; Ibn al-Kathir, *II*, 195; al-Razi, *II*, 222; Ibn Atiyya, *II*, 495].

It remains unclear why jurists and exegetes were so insistent in their attempt to make this verse the *hadd* punishment for this particular offence. It does not seem to be logical, as from an outside observer perspective, the verse contains no explicit reference to robbery.

It seems that the most common source for this interpretation was the narratives about the Prophet's conflict with the tribe of 'urayna. All the available versions do speak about the people's rebellion against the Prophet, yet the conclusion about robbery per se does not clearly follow from them either. In general, the interpretation of this verse is rather scarcely supported by the text from the Sunna: exegetes use very little of such materials and almost without resorting to the classical collections of hadith. Moreover, it is evident that Muslim scholars had no clear understanding of the historical origins of this verse having to rely on different versions none of which has enough credibility.

As it has been mentioned above, in this interpretation, the mufassirs were completely dependent on the founding fathers of Islamic jurisprudence; they never questioned the validity of such definition, but simply repeated the views of authorities. Certainly, such an approach is not specific to dealing with this particular verse.

Yet another feature of al-Mā'idah: 33 is that in comparison to other *hadd* verses, this one contains not just one type of punishment, but a whole variety of forms of execution including crucifixion and amputation of limbs. In addition to this, the verse establishes such form as "banishment from the land" which is typically understood as exile. It is obvious that this vast set of severe penalties is provided to send a message about the inadmissibility of the rebellion against the authority of the prophet Muhammad.

However, here, as in many other places, jurists and exegetes had to face the issue of the lack of clarity regarding the procedures of implementation of this spectrum of punishments, which vary from mere "killing" to a slow and painful execution to a forced expulsion from homeland. One view of Muslim scholars, which has not received a widespread support, was that the seriousness of the crime calls for all these forms of execution to be performed at the same time [al-Tabari, *IV*, *187*; al-Qurtubi, *III*, *464*; Ibn al-Kathir, *II*, *202*; Ibn Atiyya, *II*, *498*]. Other group of legal authorities – as some mufassirs outline in their treatises – insists that the range of punishments is arbitrary; thus, the imam as the ruler of the Muslim

population is completely entitled to make his own choice as to which punishment to pick [al-Tabari, IV, 160; al-Qurtubi, III, 458; Ibn al-Kathir, II, 195; al-Razi, II, 222].

In contrast to these views, as with the punishment for stealing in al-Mā'idah: 38, the majority of jurists preferred to see this list as an instruction to assess the amount of damage inflicted to individuals and their property in each separate case [al-Tabari, *IV*, *166*; al-Qurtubi, *III*, *460*; Ibn al-Kathir, *II*, *195*; al-Razi, *II*, *224*]. For instance, it is agreed that the worst case scenario of highway robbery (which constitutes "spreading the disorder") is when a gang kills someone during the attack and take away the property of the victim. In this situation, according to Muslim jurists, they deserve what appears to be the most severe punishment on the list, namely crucifixion. In the cases of robbery without murdering someone Muslim jurists establish the option, which is close in spirit to the punishment for theft – cutting off a hand and a leg from the opposite sides of the body [al-Tabari, *IV*, *184*; al-Qurtubi, *III*, *461*; Ibn al-Kathir, *II*, *198*; al-Razi, *II*, *224*]. In case the robber kills someone but does not take any property of the victims, he is bound to be just killed in a quick and efficient way – in contrast to the cruel and unusual punishments mentioned above.

Finally, the option of "banishment from the land" which in this list appears to be rather soft is established for those who were "scaring people on highways" without taking any of their property or murdering anyone [al-Tabari, *IV*, *185*; al-Qurtubi, *III*, *462*; Ibn al-Kathir, *II*, *195*; al-Razi, *II*, *224*; Ibn al-Jawzi, *II*, *378–379*]. Although this type of behavior and its presumed purposes remains rather unclear to the contemporary reader, it might be assumed that it is reserved for the cases when robbers did not have time to commit a serious crime during the attack or were forced to retreat because of the resistance.

In this context, "banishment from land" as a penalty seems to have been also puzzling for the medieval Muslim scholars themselves. They tried to conceptualize it in different ways which would explain its substantial social benefits. However, the fact that this type of lenient punishment was inconsistent with the general level of harshness in the verse may have prompted some exegetes to see it not as signifying exile *per se* but as an euphemism for death penalty, i. e. banishment from the face of the Earth. This evidently makes the final form of punishment more consistent with others mentioned in the verse.

In a milder version, though, the jurists presume that there is a necessity to pursue the offenders until they are caught or chased out of their homeland [al-Tabari, *IV*, 193; al-Qurtubi, *III*, 466]. Others preferred to adopt a more evident view that a robber should be expatriated from his native city or even from *dar al-islam* altogether [Ibn al-Kathir, *II*, 199; al-Razi, *II*, 227; Ibn al-Jawzi, *II*, 380]. Another interesting interpretation of *nafy* shifts the focus of punishment to denying the offender his personal freedom of movement – it suggests that "banishment from land" means putting him in prison (*sijn*) until his complete repentance [al-Tabari, *IV*, 193; al-Qurtubi, *III*, 466]. Yet, a more balanced conclusion about this type of punishment offered by al-Tabari offers combination of banishment of the offender from his native land with putting him into jail in the foreign land to which he is sent [al-Tabari, *IV*, 193].

Similar difficulties for Muslim scholars in figuring out procedural details can be attested in the way of execution through crucifixion which sometimes is viewed as not just hanging the robber but also ripping his stomach open [al-Tabari, *IV*, 211; al-Qurtubi, *III*, 473; Ibn al-Kathir, *II*, 199; al-Razi, *II*, 226].

It must be noted that al-Mā'idah: 33 in one particular aspect bears similarity to other verses that prescribe punishments for various forms of social misbehavior. As al-Nūr: 4 and al-Mā'idah: 38, it is followed by an ayah that talks about the possibility of lifting the punishment in case of criminal's repentance. In al-Nisa: 16, such an option is included in the verse itself. On the other hand, the verse al-Nūr: 2 which establishes the penalty for adultery does not allow an individual any clearly defined subterfuge to avoid lashing.

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا نَكَالًا مِنَ اللهِ وَاللهِ عَزِيزٌ حَكِيمٌ (38)

Al-Mā'idah: فَمَنْ تَابَ مِنْ بَعْدِ ظُلْمِهِ وَأَصْلَحَ فَإِنَّ اللهَّ يَتُوبُ عَلَيْهِ إِنَّ اللهِ غَفُورٌ رَحِيمٌ(39) 38-39

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ
شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبُلُوا لَهُمْ
شَهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبُلُوا لَهُمْ
شَهَادَةً اَبَدًا وَاُولَئِكُ هُمُ الْفَاسِقُونَ (4)

إلا الدِّينَ تَابُوا مِنْ بَعْدِ ذَلِكَ وَأَصْلُحُوا فَإِنَّ اللهَ
غَفُورٌ رَحِيمٌ (5)

If two men commit a lewd act, punish them both; Al-Nisa': 16 وَاللَّذَانِ يَأْتِيَانِهَا مِنْكُمْ فَآذُوهُمَا فَانْ تَابَا وَأَصْلَحَا alone – God is always ready to accept repentance, He is full of mercy.

- 38. Cut off the hands of thieves, whether they are man or woman, as punishment for what they have done – a deterrent from God: God is almighty and
- 39. But if anyone repents after his wrong-doing and makes amends, God will accept his repentance: God is most forgiving, most merciful.
- 4. As for those who accuse chaste women of fornication, and then fail to provide four witnesses, strike them eighty times, and reject their testimony ever afterwards: they are the lawbreakers,
- 5. except for those who repent later and make amends – God is most forgiving and merciful.

Although this question requires a separate examination, one immediately notices that in interpreting of these verses Muslim exegetes are somewhat reluctant to include repentance as a real factor that cancels punishment for the offender. This is completely understandable since that would inevitably entail the abuse of the system on the part of criminals who might get away with their crimes by pretending to honestly repent for

For instance, as I have shown in a different paper [Shestopalets 2014], Muslim jurists have given a lot of space to the discussion of this issue in connection to the penalty for theft. They seem to be almost unanimous in the view that the corporal punishment for stealing (cutting off a limb) is not cancelled even if the thief does repent. Instead, Muslim scholars opt for the view that repentance lifts the punishment for the offender in the afterlife [Шестопалець 2013, 14]. In this case, the interpreters are clearly aware of the fact that the wording of the verse presents only a general formula without giving any clear guidance. However, it might be assumed that they prefer the stricter version of interpretation (inevitable punishment) which to them looked more beneficial for maintaining the public order in the Muslim societies in any specific situation.

In contrast to al-Mā'idah: 39, the formulation of the earlier verse al-Mā'idah: 34 is much more precise which leaves the interpreters less space for maneuver:

unless they repent before you overpower them – in that إِلَّا الَّذِينَ تَابُوا مِنْ قَبْلِ أَنْ تَقْدِرُوا عَلَيْهِمْ فَاعْلَمُوا أَنَّ اللَّهَ case bear in mind that God is forgiving and merciful.

The appearance of a specific condition for exoneration in the verse ("before you overpower them") has left Muslim exegetes no other choice but to consider it as a command to cancel the corporal punishment for the offender in this world. Some scholars put additional stress on this difference and even try to rationalize it by juxtaposing the seriousness of the crimes of stealing and robbery [al-Tabari, IV, 204; al-Qurtubi, III, 471; Ibn al-Kathir, II, 199; al-Razi, II, 229; Ibn al-Jawzi, II, 380].

Thus, this aspect clearly demonstrates again how the prescriptions of the sacred text are manipulated to adjust their general wording to the necessities of the social reality.

The contemporary tafsir treatises do not go further than the well-trodden path of the predecessors. In dealing with this verse modern mufassirs, even those preoccupied with the task of reviving or reforming Islam, simply reiterate the early medieval juridical injunctions while trying to decorate these conservative views with some modern day legitimations.

For S. Qutb, al-Mā'idah: 33, as any other ayah similar to it, cannot be considered as applicable outside the true Islamic state. He carefully restates the whole schema of *dar al-harb* and *dar al-silm* stressing that the criterion for this division is in the role and the status of the sharia in society. In other words, *dar al-silm* is seen as the territory where the sharia has the supremacy above every aspect of social, political and personal life of individuals [Qutb 1968, 873–874]. In contrast to this sharia-based social order, *dar al-harb* is where Islamic law is not practiced even though the power may belong to the Muslim ruling elites [Qutb 1968, 873–874].

In this context, S. Qutb pays much more attention than any other exegete to the meaning of *al-hiraba* as the rebellion against Allah and the prophet Muhammad. For instance, he argues that only those Muslim sultans who rule by the law of sharia can claim the authority of representing the heritage of the Prophet [Qutb 1968, 879]. Thus, the verse al-Mā'idah: 33 does not guarantee protection to Muslim governments, which do not represent a truly Islamic social order guided by the sharia. Following this Qutb underscores that there have been Muslim rulers, who have abused this norm with the purpose of securing their illegitimate position [Qutb 1968, 879].

In his turn, another influential *tafsir* author of the XX century Abul Ala Maududi practically ignores interpretation of this verse, perhaps considering it as requiring no special treatment. Yet, similarly to Qutb and many other commentators he finds it necessary to underscore the undisputable continuity between the prophet Muhammad and the truly Islamic government, which would base its power and authority on the sharia [Maududi, 449–450]. Thus, in this way the verse is employed to serve for the protection of the idea of Islamic social order or, to be precise, for securing its unquestionable status not just by means of symbolic submission to Allah but under the threat of corporal penalty.

In contrast to Qutb and Maududi, Muhammad Shafi deals with the issues of this verse more extensively taking some space to explain types of punishment in the sharia as well as legal particularities of their interplay in the case of highway robbery. In general, in his interpretation he simply repeats already well-developed legal approach to this issue. However, as many other mufassirs, he appears to be uncomfortable with the option for criminals to avoid punishment, which is presented in al-Mā'idah: 34. As reluctant to admit it as any other exegete, Shafi nonetheless resorts to justification of such leniency as necessary and wise. For instance, Shafi argues that this provision is a real way to annihilate the gang of rebels/robbers at lesser cost, especially if they cannot be defeated by force [Shafi, *III*, 139]. Also he stresses that given the harshness and severity of the punishment, it was God's intention to allow more space to legitimately escape from it [Shafi, *III*, 139].

In addition to these arguments, the mufassir also emphasizes that killing is an extreme option of dealing with the offender. Thus, according to the spirit of Islamic law, it should happen as rarely as possible even to downright criminals. This principle is even more important because there might be the necessity to execute the whole group for a severe offence of just one its member who, for instance, killed a victim during the crime [Shafi, *III*, 139].

However, the main issue that draws attention of a scholar of contemporary Quranic exegesis is the complete absence of justifications for the harshness of the forms of executions mentioned in the verse or legitimation of their applicability in a modern context. In contrast, the justification of the harshness and severity constitutes a very significant part of the modern interpretations of other punishment verses of the Quran such as where adultery and theft are discussed (al-Nūr: 2 and al-Mā'idah: 38 respectively).

These preliminary remarks on the verses al-Mā'idah: 33–34 demonstrate again that even some seemingly clear legal norms in the sharia often come as the result of the constructive work of the Muslim scholars who are originally faced with rather general and vague statements of the will of God in the Quran.

Even though the wording of the ayah itself might seem obvious and unequivocal, it is still nowhere near enough for it to become a legal norm in itself. Usually, many aspects of it demand either clarification or additional set of rules to adapt it to the complexity of the real-life situations. This latter part usually provokes significant disagreement among religious specialists, who often express opinions that cannot be reconciled due to their polarity. In the case of Islamic law, this gives a good answer to the question of why *taqlid* (or a blind following the authorities) is such an essential principle of exegesis even in the modern context when the early jurists' views are more of an impediment than help. To put it even more boldly, if that classic corpus of knowledge which was formed by *al-salaf al-salih* is called into question, the whole system of law may fall apart and it would require a disproportionate amount of efforts to achieve even basic consensus on many and many purely legal or ritual questions.

Thus, it is quite understandable why modern interpreters of the Quran are so much reluctant to adopt a reformist stance and disturb the balance by reconsidering even the smallest or most pressing issues. In other words, the solidified tradition of the interpretation of the Quran holds together not by the belief in the will of God or by the rational reasoning as such, but by the necessity to preserve authority of the sacred texts and their early commentators. The same principle applies to the question of al-Mā'idah: 33 which seems rather clear in its statement of God's will. All of the approaches to its interpretation regardless of their level of rationalization point to the fact that there is a huge gap between even the clearest presentation of the will of God and its practical implementation.

However, with this particular verse one encounters even more complex situation. From a pure historical point of view, it is understandable that the stories about the Prophet and the tribe of 'urayna' could be a later invention in the tradition introduced to explain the appearance of the verse or its historical embeddedness. The hadith on this verse was meant to connect the ayah to the life of Muhammad and thus confirm its practical significance. Yet, at the same time al-Tabari and other mufassirs obviously accepted that in resolving the conflict with the tribe and in dealing with his enemies the Prophet was acting of his own accord – without the sanction of Allah. In other words, if al-Mā'idah: 33 was sent post factum after the whole issue had happened, the range of cruel punishments in it was the result of Muhammad's creative thinking, which only later was "reconfirmed" in the verse of the Quran. At the same time it also should be taken into consideration that this verse was, in the eyes of many exegetes, sent by Allah as a reproach to the Prophet for the severity of tortures he had chosen.

Looking at the big picture, it becomes obvious that this approach reflects a perpetual effort of Muslim scholars not just to make sense of the text which originated in a certain period of time and under certain cluster of circumstances, but also to invest it with a system of meanings and ideas which would prove its status as a universal and unquestionable will of God.

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