

The Islamic Jurisprudence of Coexistence with Non-Muslims between Text and History: Toward Deconstructing Islamophobic Narratives

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Abstract

The paper investigates modern Islamophobic discourses, which, through the decontextualization of Islamic history and the reduction of Islamic law to its retributive aspects at the expense of its ethical dimensions, aim to essentialize Islam and reduce it to a single violent image. Such discourses result from reducing Islam to selected sacred texts and historical moments, irrespective of the complex juristic, interpretive, and institutional frameworks in which they are inscribed. The study finds that the dhimma covenant functioned as a legal solution for regulating religious diversity rather than merely as a model of exclusion. It also identifies patterns of interaction between Muslims and non-Muslims in the social, legal, and institutional spheres, revealing the limitations of narratives that reduce Islam to selected texts or modern stereotypes. The paper examines juristic texts, social history, archival materials, and public discourse through a critical historical-jurisprudential approach, drawing on Syriac sources, documents from the Cairo Geniza, and Ottoman archives. It concludes that an accurate understanding of the relationship between Islam and non-Muslims requires studies of Islamic jurisprudence to reintroduce history, plurality, institutions, and social experience into their analysis. Islamophobic narratives may thus be deconstructed without reducing Islam to a simplified image or retreating into apologetic discourse.

Keywords: Islamophobia; Islamic jurisprudence; non-Muslims; coexistence; dhimma covenant; religious diversity; social history.

1. Introduction

In recent decades, Islamophobia has grown into an influential epistemic and political framework for the representation of Islam and Muslims in media, academic, and political discourse by portraying Islam as a solid and fixed entity detached from its historical and social contexts (Benzehaf, 2017; al-Rawi, 2024). By using selective readings of Islamic

juristic texts lifted from their interpretive and historical contexts as “evidence” of the allegedly exclusionary nature of the relationship between Muslims and non-Muslims, these discourses downplay substantial parts of the historical experience of Muslim societies in managing religious and social diversity (Bos 2018; Penn 2015).

At the heart of the research problem of this study is the following question: Does the Islamic jurisprudence of coexistence display an inherently exclusionary character, or has it been represented as such by separating juristic texts from their historical and social applications? The working premise of this study is that the problem lies not in the juristic text itself, but in separating it from the contexts in which it emerged and from the patterns of legal and social practice that historically accompanied it. Accordingly, the study attempts to reread the jurisprudence of coexistence in light of the relationship between text and history and to examine juristic concepts in light of their historical applications. By so doing, the study seeks to contribute to the deconstruction of Islamophobic narratives that reduce Islam to a static legal or civilizational image.

Because many Islamophobic narratives rely on representations of traditional Islamic state institutions, such as the dhimma system and the Sharī‘ah judiciary, as evidence of an unchanging exclusionary structure within Islam, rereading the Islamic historical experience is of particular importance to the study of Islamophobic narratives. Such representations can be tested only by returning to historical practice itself rather than relying on abstract texts alone, especially through archival and non-Muslim sources that document social and legal life within Muslim societies from outside Islamic juristic discourse itself.

This study takes a theoretical approach and assumes Islamophobia to be a discursive construct that reproduces Islam and Muslims as a threatening “Other” through essentialization, selective quotation, and the removal of texts and events from their socio-historical contexts (Said 1978; Hall 1997). It also makes reference to works dealing with the links between Orientalism, contemporary discourses of security, and anti-Muslim racism, and focuses on the reconstruction of Islam along the lines of Western political and media discourses in the aftermath of 9/11 (Allen 2010; Hafez 2018).

The author here distinguishes between “Orientalism” as a system of knowledge which created images of the East and Islam by relying on the dichotomy between Western superiority and Eastern inferiority (Said 1978); “neo-Orientalism,” which reproduces the images created by Orientalism and employs them within a contemporary security-civilizational discourse (Kumar, 2012); and, finally, “Islamophobia” as a broad umbrella under which all these epistemic, political, and media factors intersect (Modood 2019; Bazian 2026).

The paper draws on three main strands of contemporary scholarship: the first reads Islamophobia as a discursive structure that constructs reductive representations of Islam and Muslims (al-Rawi 2024; Hafez 2018); the second debates Islamic juristic texts and the dhimma system, with some studies interpreting these texts and the system as expressions of a fixed discriminatory structure, while critical readings emphasise their juristic, interpretive, and, most importantly, contextual character (Akhtar et al. 2025; Belhaj 2025; Emon 2012); and the third consists of historical and archival studies that explore the legal and social life of Muslim societies through Syriac sources, documents from the Cairo Geniza, and Ottoman records. Such studies offer a more complex picture of relations between Muslims and non-Muslims (Goitein 2001; Penn 2015; Marglin 2017; al-Qattan 1999).

While these strands are significant, a clear separation remains between the examination of juristic texts and the analysis of their historical and social applications. Furthermore, there is little focus on the correlation between this separation and the formation of contemporary Islamophobic narratives.

The study employs a combined approach which incorporates the juristic analysis of scriptural texts with a comparative historical method using Syriac sources, documents from the Cairo Geniza, and Ottoman records to reveal the historical applications of those texts. In addition, it employs critical discourse analysis as a third research method to examine Islamophobic narratives. The study is divided into three parts. First, it discusses the normative framework of the Islamic jurisprudence of coexistence as presented in scriptural texts. Second, it examines this framework in light of its historical applications. Finally, it uses the findings drawn from examining these applications to deconstruct contemporary Islamophobic narratives.

The study's conclusions include that the jurisprudential framework of relations with non-Muslims cannot be reduced to an exclusion-based model and that its historical applications exhibit complex patterns of legal, social, and institutional interaction. Recovering the historical and interpretive links between juristic texts and their intellectual contexts helps to undermine what Islamophobic narratives rely upon, without leading to an apologetic rendering of the Islamic tradition.

2. The Normative Framework of the Jurisprudence of Coexistence in Scriptural Texts

In this section, the normative framework concerning relations with non-Muslims within Islamic jurisprudence, from the level of overarching values to the level of the juristic structure regulating religious diversity, will be analysed. The aim is to test the assumption that juristic texts have an inherently exclusionary and closed structure and to address

problems in contemporary readings that detach juristic texts from their historical and interpretive contexts and reinterpret them through reductive frameworks, thereby creating a methodological problem.

2.1 Governing Principles: From Values to Binding Norms

In the Islamic tradition, coexistence is not grounded in abstract moral principles alone. It is based upon a set of overarching principles which, in turn, were transformed within the juristic structure into binding rules governing relations with non-Muslims in times of peace and war, thereby making coexistence part of the legislative system regulating religious diversity within Muslim society.

In Islamic law, mercy manifests as a constraint on the legitimate use of violence. In the Qur'an, the concept of mercy is directly related to relations among human beings and to divine law. God Almighty says, "He has decreed upon Himself mercy" (Qur'an 6:12). The Prophet, may God bless him and grant him peace, also said, "The merciful are shown mercy by the Most Merciful" (al-Tirmidhī 2013 Ḥadīth no. 1924). The attribute of mercy has also appeared in Islamic rulings that do not regard disbelief alone as a reason for fighting (Ibn al-Humām 2017 vol. 5, p. 5; Ibn Rushd 2012 vol. 1, p. 281). These rulings prohibit attacking those who do not fight, mutilation, havoc, or the destruction of cultivated land during warfare (al-Nawawī 2004, vol. 12, p. 48; Ibn Qudāmah 2025, vol. 9, p. 326). They also protect the rights given to Ahl al-Kitāb who live under Islamic law through covenants and legal guarantees (Abū Yūsuf 2019, p. 163).

In a similar vein, justice acts to restrict the exercise of authority and to regulate internal and external relations. Muslims are commanded in the Qur'an to be just even in dealing with their adversaries: "Let not the enmity of others cause you to depart from justice. Be just, for that is nearer to piety" [Qur'an 5:8]. Jurists understood this verse as ruling out the justification of injustice or aggression on the basis of religious or political enmity (al-Qurṭubī 2013, vol. 10, p. 165). The establishment of justice, rather than domination alone, was associated with social stability in Islamic political thought (al-Māwardī 2013, p. 142; Khadduri 1946).

Respect for covenants was among the major legal foundations governing relations with non-Muslims. The observance of covenants and agreements is required by the Qur'an. Allah says: "Fulfil the covenant, for the covenant will be called to account" [Qur'an 17:34]. Jurists associated respect for treaties with the stability of political relations and legal confidence in the state (Ibn 'Āshūr 2021, vol. 15, p. 97). It was also forbidden to evade the terms of a peace treaty or to violate a covenant surreptitiously, even if betrayal by the other party was suspected. The Qur'an commands: "Then renounce the treaty to them on equal terms" [Qur'an 8:58] (al-Sarakhsī 2012, vol. 1, p. 300; Ibn al-'Arabī 2012, vol. 2, p. 420).

The idea of human dignity served as a constraint against denying legal personhood and humanity to non-Muslims. The Qur'an associates dignity with the human person as such. God Almighty says, "Indeed, We have honoured the children of Adam" [Qur'an 17:70]. An implication of such an understanding was the protection of life, property, and honour, together with restrictions on forms of aggression even in times of war, including the mutilation or disfigurement of the bodies of the deceased (al-Sarakhsī 2024, vol. 2, p. 20; Ibn 'Abd al-Barr 2018, vol. 14, p. 81; al-Shāfi'ī 2019, vol. 4, p. 162; Ibn Qudāmah 2025, vol. 9, p. 326). Human vicegerency was associated with the responsibility for upholding justice and promoting social development within society (al-Qurṭubī 2013, vol. 8, p. 124).

The principles of the Islamic jurisprudence of coexistence show that it developed as a normative and legal structure intended to regulate religious and social diversity, thereby limiting the transformation of religious difference into absolute legal exclusion through a set of constraints.

2.2. The Dhimma Covenant: From Conflict to Regulation

These principles of the Islamic jurisprudence of coexistence operated in practice through regulatory mechanisms, with the foremost among them being the dhimma covenant, through which the relationship between the Islamic state and non-Muslim communities within Muslim society was legally regulated. Rather than being practised as a rigid and uniform system, the dhimma system was subject to different juristic interpretations shaped by the political, social, and historical contexts in which they developed. In this regard, the significance of the dhimma covenant lies neither in presenting it as a model of modern equality in the contemporary sense nor in reducing it to a system of absolute religious exclusion. It should instead be understood as providing the juristic regulatory framework through which relations among religious communities within Muslim society were managed.

The residence of non-Muslims within the territory ruled by the Islamic state was governed by the dhimma covenant. This meant that the state and the non-Muslim communities were brought into a relationship in which each had commitments towards the other. The literal meanings of dhimma include covenant, security, and guarantee (Ibn Manẓūr 2021, vol. 6, p. 44). However, jurists formulated it as a juristic contract that brought the state of war to an end and ensured secure residence in the dār al-Islām (al-Sarakhsī 2012, vol. 1, p. 187).

This arrangement was based on the Qur'anic verse concerning the jizyah: "Fight those who do not believe in God or in the Last Day ... until they pay the jizyah directly while being subdued" [Qur'an 9:29]. A substantial body of juristic texts understood this provision as marking a transition from conflict to contractual relations and regulated peace within the Islamic state. The Prophet's practice further reinforced this understanding through his

covenant with the Christians of Najran, which guaranteed their protection and freedom to practise their religious rites (Abū Yūsuf 2019, p. 84).

This legal notion was also expressed by ‘Alī ibn Abī Ṭālib (may God be pleased with him): “They paid the jizyah so that their property would be like our property and their lives like our lives” (al-Sarakhsī 2024, vol. 1, p. 290). Within this strand of juristic thought, the jizyah was thus linked to protection and political belonging rather than merely to religious punishment. This is further supported by the fact that its imposition was restricted to adult men who could fight and earn a livelihood, while women, children, the elderly, religious clergy, and the poor were exempted (Ibn Rushd 2012, vol. 2, p. 166; al-Sarakhsī 2024, vol. 10, p. 87). Some historical examples show a similar tendency: the jizyah was not imposed on those who fought in defence, and collected payments were returned when the state was unable to provide protection (Arnold 1913, p. 61).

Nevertheless, within the traditional juristic structure, non-Muslims occupied a distinct legal position that formed part of an overall system of law seeking to regulate relations among different groups within Muslim society through particular contractual and institutional frameworks, rather than on the basis of the modern notion of equal individual citizenship. For the non-Muslim communities, this meant that they could remain in the Muslim realm while preserving their religious institutions and a reasonable degree of legal and social autonomy, in contrast to some historical models that moved toward religious exclusion or forced conversion, as the Muslims of al-Andalus later experienced upon the fall of Islamic rule (Carr 2017).

Islamic jurisprudence acknowledged a range of rights and guarantees for the ahl al-dhimma, such as security and protection, freedom to practise their religious rites, and the rights to own property and engage in work and trade. The jizyah was also waived for those who were unable to pay it or had lost the capacity to earn a livelihood (al-Kāsānī 2019, vol. 7, p. 111). They were required to pay the jizyah and abide by the public order of the Islamic state; in return, they retained a degree of autonomy in practising their faith and managing matters of personal status (al-Khalidi 2025).

Historically, different types of arrangements were formed between the Islamic state and non-Muslim communities on the basis of military cooperation or special treaties, such as the Constitution of Medina, the Baqt Treaty with Nubia, and the agreement with the Jarājima (Hamīd-Allāh 2009, pp. 59, 266; al-Balādhurī 2014, vol. 2, pp. 123, 602).

Juristic texts and historical applications indicate that, owing to political, social, and doctrinal differences, the dhimma system appeared in varying forms rather than as a static system. The extent of the restrictions imposed on, or freedoms granted to, the ahl al-

dhimma—including the clothing of the ahl al-dhimma, the building of churches and display of religious rites, public offices, the jizyah, and certain conditions attributed to ‘Umar—were issues that triggered controversy among jurists (al-Khalidi 2022). Certain applications of the dhimma system reveal a degree of flexibility, whereas other periods witnessed restrictions due to prevailing political or security conditions, as reflected in certain policies of the later Abbasid and Fatimid periods (al-Ṭabarī 2017; al-Maqrīzī 2013). Moreover, the juristic instruments of *ijtihād*, public interest, and custom enabled jurists to reapply legal rulings in response to changing contexts and circumstances (Hallaq 2001; Emon 2012).

The findings indicate that the dhimma system was a juristic and regulatory framework for dealing with religious diversity within Muslim society through legal differentiation, legal guarantees, and contractual arrangements that regulated relations among different communities within the Islamic sphere.

3. Coexistence in Historical Practice

The study of the Islamic jurisprudence of coexistence is, however, not limited to normative material alone; it is also essential to examine how religious diversity was addressed in historical and social practice. It is for this reason that the ways in which legal, social, and institutional relations between Muslims and non-Muslims were managed are examined through Syriac sources, documents from the Cairo Geniza, and Ottoman records. In a departure from common narratives through which the Islamic historical experience is reduced to a continuous trajectory of exclusion and conflict, the study reintroduces “lived history” into the analysis of relations between religious communities in Muslim societies. This reveals their complexity and, hence, the inadequacy of a binary opposition between absolute tolerance and absolute persecution.

3.1. Syriac Sources

Syriac Christian writings from the early period of the Islamic conquests are amongst the most important non-Muslim sources on the nature of Muslim-Christian relations in the early Islamic period, since they stem from communities that lived under Islamic rule as early as the seventh century CE. In recent scholarship, such writings have increasingly been used as primary sources for reconstructing the history of the Near East in Late Antiquity, rather than as peripheral sources alongside Islamic ones (Bos 2018; Howard-Johnston 2010). Nevertheless, such writings should not be taken as neutral reflections of historical reality, as they were shaped by the social, political, and theological contexts in which Christian communities lived, as well as by the extent of their integration into the nascent Islamic order (Ginkel 2006).

Some Christian sources presented a relatively positive view of Muslims. The Arabs were not always considered an absolute religious enemy, but rather a political force that had changed the balance of power in the region. This view of the Arabs is apparent in some early sources. For instance, in a letter, Isho 'yahb III stated: "[The Arabs] honour the priests of our Lord and assist the churches and monasteries" (Hoyland 2014). Michael the Syrian depicted Islamic rule as salvation from cruel Roman rule, which persecuted Syriac churches that followed religious doctrines different from official Byzantine doctrine (Ginkel 2006). A similar tone is demonstrated in the Chronicle of John bar Penkāyē, in which he viewed the coming of the Arabs as part of divine providence (Brock 2017). Therefore, in Christian accounts, Arab rule could represent a political shift that brought a degree of religious and administrative stability compared with the preceding Byzantine rule.

But Syriac writings did not present a uniformly demonised picture of Muslims, nor did all writings view them with animosity. Some apocalyptic writings viewed the Islamic conquests not simply as a religious conflict but as divine punishment arising more from ecclesiastical divisions and internal corruption than from purely religious hostility. The same idea was also present in the Apocalypse of Pseudo-Methodius and the writings of John bar Penkāyē. The events of war and political change became a reason for the Christian community to reflect on itself and understand its crisis within a theological and moral framework (Ginkel 2006; Brock 2017).

On an institutional scale, it appears from the Syriac evidence that churches and monasteries continued to operate and that ecclesiastical structures did not fall apart entirely under the Islamic order. Syriac bishops served in religious, administrative, and judicial roles. Some bishops continued to deal with terms of surrender and local treaties. For example, Constantine, Bishop of Edessa, negotiated terms of surrender with 'Iyāḏ ibn Ghanm, while Theodotus, Bishop of Amida, was tasked with ransoming captives from both sides, which indicates considerable mutual trust (Mazzola 2024). The bishops' courts continued to hear civil disputes among Christians and even helped administer some financial and administrative matters. This indicates that the nascent Islamic state relied on local elites to govern society and maintain stability (Hoyland 2014).

The sources also illustrate other forms of cultural and social interaction. Syriac Christians were active as translators and were also involved in scholarly and administrative life (Penn, 2018), while there were indications of intermarriage and social interaction within Muslim cities. Jacob of Edessa recounts the story of a Muslim husband who defended his Christian wife's right to practise her religious rites, threatening the priest when he refused to administer the Eucharist to her. This account points to the presence of forms of coexistence in everyday life (Penn 2015).

Jacob of Edessa reported an incident involving a Muslim husband who threatened to assault the priest if the priest refused to administer the Eucharist to his Christian wife (Penn, 2015). The husband also defended her right to practise her religious rites. Such interaction and cultural dialogue were also reflected in the literary world, as a substantial body of Syriac and Christian Arabic literature developed within an Abbasid milieu characterised by dialogue and theological disputation.

The dialogue attributed to Patriarch Timothy I and the Abbasid caliph al-Mahdī is a prominent example of this intellectual interaction. Its content relates mainly to questions of prophethood, the Trinity, and the Incarnation, which were discussed in a structured manner and with mutual respect over two days in Baghdad in 781 CE (Lim 2021). In like manner, the Syriac–Arabic translation movement represented one of the most significant forms of intellectual cooperation during the Abbasid period, as Ḥunayn ibn Ishāq and other Syriac translators participated in transmitting the Greek intellectual heritage into Arabic through projects patronised by the Abbasid state (Griffith 2008; Cooper 2019).

The ways in which Syriac Christians reacted, as depicted in the documents, do not fit the logic of civilizational rupture typical of anti-Muslim discourses, according to which relations between Muslims and Christians always follow the same pattern of religious conflict. Instead, they reflect a complex political and social situation characterised by ongoing negotiation, adaptation, and the restructuring of institutional relations between different communities. They reveal how Christian communities did not regard Muslims merely as the absolute religious “Other” but sometimes saw Muslim rule as a political authority under which it was possible to coexist and within whose structures they could negotiate. This challenges representations of Islamic history that reduce it to a fixed model of religious conflict.

3.2. Documents from the Cairo Geniza

The Geniza documents vividly illustrate the daily social, economic, and legal interactions that would have characterised the lives of Muslims, Jews, and Christians in medieval Muslim society. Taking the form of letters, contracts, and records of day-to-day commercial life, they collectively provide one of the most substantial documentary sources available for understanding the Muslim urban sphere of this age (Rustow 2020). They are particularly useful to this study because they do not simply represent theoretical concepts about the legal, social, and economic systems operating among the inhabitants of Islamic cities but display, through their portrayal of these relations, a more practical and realistic situation as it existed among these communities.

Muslim cities were not so strictly segregated; networks of interaction flourished among Muslims, Jews, and Christians in their everyday urban and economic lives, as demonstrated by these documents. Property changed hands among Muslims, Jews, and Christians and was sometimes jointly owned by members of different communities within the same quarters (Goitein 2001). One house, for example, was first owned by a Muslim official, then by Christian clerics, and finally by a prominent Jewish merchant. This indicates that members of different communities participated in a shared property market in medieval Muslim cities (Goitein 1999, vol. 4, p. 98).

Geniza letters reveal the continuity of family and social ties as well. In cases where the wife converted but the husband remained in his original religion, or vice versa, the couple's household became religiously mixed (Yagur 2020). Despite religious change and legal separation, the letters document continued relationships among family members, illustrating the flexibility of social relations within an Islamic urban environment.

In addition, the interaction developed in the cultural sphere. The majority of the letters and contracts written by Jews were in Arabic and used terminology commonly employed in the Islamic legal and commercial environment. Literary texts written in Judaeo-Arabic show the development of a shared cultural memory within the Islamic Mediterranean among different communities (Sheir 2025). The role of Arabic went beyond serving as a means of communication. Arabic also helped to create a shared cultural space among these communities.

Economically, Muslims traded with Jews across vast distances through complex networks based on partnership, credit, and agency, extending from al-Andalus in the west to India in the east, as recorded in the Geniza documents (Ackerman-Lieberman 2011). The documents show that Jewish traders did business in the same Islamic market, used the same language, and adhered to the same commercial customs, and that they were part of the economic networks of Islamic cities (Goldberg 2012).

The Geniza documents show a somewhat more fluid legal picture than might be suggested by the model according to which religious communities were divided along separate judicial lines. Jews frequently had cases relating to trade, divorce, and other family matters heard in Islamic courts, even in circumstances where neither party was Muslim (Pregill 2014). In a document dated to 1030 CE, Shlomo ben Yehuda stated, with a clear sense of dismay, that Jewish leaders prohibited Jews from resorting to Islamic courts, although they nevertheless initiated proceedings there to claim money. He also complained that many Jews resorted to Islamic courts because, unlike Jewish courts, they could compel wealthy litigants to comply with judicial rulings (Islam 2025).

The documents provide further evidence that some Jewish women had recourse to Islamic courts to claim financial rights that were not always secured to the same extent within the traditional rabbinical framework. Mubāraka, for example, claimed her portion of her father's estate before an Islamic court in order to secure her legal rights, but was threatened with exclusion from the Jewish community (Zinger 2020). These cases show the movement of individuals between different judicial authorities according to considerations of legal effectiveness or economic interest.

Some juristic and historical texts also document extensive forms of social and religious interaction between Muslims and non-Muslims. Muslim participation in certain religious festivals and shared visits to shrines and sacred sites was criticised by some jurists, suggesting that such practices were sufficiently widespread within Muslim cities to attract juristic criticism (al-Maqrīzī 2013, vol. 2, p. 28). Such evidence supports the argument that members of different religious communities interacted not only in the economic and administrative domains but also in many aspects of daily life.

The Geniza documents do not portray an idealised picture free from signs of inequality or tension. After all, the non-Muslim population occupied a distinct legal position within the traditional juristic structure, and restrictive measures came to be imposed on occasion, especially during the rule of the Fatimid caliph al-Ḥākim bi-Amr Allāh (Cohen 2021). Overall, though, the documents show medieval Muslim society developing within a shared urban space in which different religious communities interacted to varying degrees in social, economic, and legal matters.

Geniza documents are not merely about instances of coexistence or evidence of “tolerance” or the absence of conflict. Instead, they give us a glimpse of a social and institutional sphere in which Muslims, Jews, and Christians forged economic, legal, and social relations through their day-to-day contacts. Their significance extends beyond attesting to particular instances of coexistence, as they help to deconstruct the notions of civilizational separation or structural isolation among religious communities within Muslim societies. In these sources, one glimpses a mode of negotiating religious diversity in the medieval Islamic experience, which relied less on the separation of communities and involved complex relations and forms of negotiation and integration within a shared social and institutional sphere.

3.3. Ottoman Records: Coexistence as a Legal and Institutional Structure

Living together within the Islamic historical experience, as shown in the Ottoman records, was more than just a matter of moral value: it was a legal and institutional practice linked with the administration of religious diversity within the state. These records have special

importance in that they move the discussion from theoretical conceptions to everyday judicial, administrative, and social practice and allow a reassessment of classical representations of the Islamic state as lacking legal rationality.

One area in which studies based on Ottoman court registers have been useful is in re-examining Weber's thesis of "qadi justice" (Kadijustiz), in which he argued that Islamic adjudication relied chiefly on the personal authority of the judge rather than on a stable procedural system (Weber 2019). A re-examination of the Ottoman archives has, however, revealed that the Shari'ah courts functioned as part of a formal legal-administrative apparatus operating under stable rules governing procedure and documentation (Jennings 1978a; Rabb 2015).

The Shari'ah courts acted simultaneously as courts of law common to Muslims, Christians, and Jews. Christians and Jews went to the Muslim courts to register contracts, to sue or be sued, to establish ownership of land, to demand payment of debts, or to conclude trading partnerships, all of which feature heavily in the court records (Jennings 1978b). Najwa al-Qattan demonstrates that the non-Muslims of Ottoman Damascus did not confine themselves to using the courts of their own communities but also went to the Shari'ah courts and did not hesitate to bring their claims before them, even though they were able to resort to their own communal courts in several matters. This also suggests that the non-Muslim population had integrated into the state's legal apparatus and showed confidence in the effectiveness of the Shari'ah courts (al-Qattan 1999).

Engagement with the Shari'ah courts stemmed not from a lack of alternatives but from the pluralistic structure of the Ottoman state, in which Christians and Jews maintained their communal courts and also extensively used Shari'ah courts. The coexistence of these courts offered non-Muslims a choice of courts and room for judicial negotiation. Court records, however, reveal that Christians and Jews extensively resorted to Islamic courts throughout the Ottoman Empire, contrary to Runciman's view that the non-Muslim population generally displayed a strong reluctance to bring their disputes before courts administered by the qadi and based on the principles of Islamic law (1968). This extensive resort to Islamic courts led Barkey to describe the qadi's court as "the preferred court for non-Muslims" (2013, p. 90).

Non-Muslims were not just communities subject to the Shari'ah legal system, but they were also legal actors who effectively used Islamic justice for economic and family matters at their discretion. Non-Muslims would go to Shari'ah courts to record their commercial contracts, sales, and mortgages because the courts gave these documents legal enforceability and official recognition (Hacker 2018). Christians would resort to the Shari'ah system even in personal status matters when Shari'ah rulings that differed from those of

their Christian communities could serve their individual interests. For example, some Christian wives resorted to Islamic courts to obtain a divorce or resolve family disputes (Wittmann 2008). These cases seem to suggest that people could indeed appeal to the most convenient judicial authority, where they could obtain greater legal effectiveness or better protect their social interests.

The Shari‘ah court was not regarded as being for Muslims only or as an alternative to non-Muslim institutions, but simply as another part of the system through which different communities administered their own affairs and resolved their own disputes. Some Christian and Jewish religious leaders themselves even resorted to the Shari‘ah courts to execute wills or settle internal disputes when they felt that they required the enforcement power of state institutions (al-Khalidi 2025).

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The importance of this institutional dimension at the heart of the central state was reflected in the Mühimme Defterleri, collections of imperial mandates issued by the Imperial Council and executive orders concerning subjects, governors, and judges. They are a primary source for the study of the administrative and legislative history of the Ottoman state, representing the dynamic interaction between Islamic law and sultanic legislation in the administration of a society of many creeds and cultures (Başol & Kantaroğlu 2023). These imperial mandates, which brought together Shari‘ah rulings and sultanic legislation, were direct imperial orders expressing the sultan’s supreme executive authority and dealing simultaneously with military, fiscal, and administrative matters. Among the most notable were orders regulating the payment of jizyah, securing the protection of the places of worship of the dhimmīs, and addressing other similar matters, thereby demonstrating the institutional character of the relationship between the state and its non-Muslim subjects (Hüseyinli 2023).

The records also confirm a limited degree of flexibility in applying legal provisions and adjusting administrative processes in relation to the empire’s network of commercial and diplomatic interests. This is visible in the more extensive use of written documents, the development of certain rules concerning the provision and evaluation of evidence, the acceptance as evidence of some testimony from European non-Muslims in certain commercial cases, and the occasional intervention of the Imperial Council in instructing

judges in the interests of the state's economic and administrative stability, as the Ottoman records suggest.

For this reason, these cases show that coexistence in the Ottoman context was an everyday legal and institutional practice related to the working of the courts, the administration, and mechanisms of judicial negotiation in a poly-communal society, rather than being either a scholarly debate or a temporary political anomaly. The evidence also clearly shows that the Ottoman state managed religious diversity not via rigid segregation or formal exclusion, but through different modes of legal negotiation and administrative interaction within a complex state structure. In these respects, these cases also undermine models that present the early modern Islamic state as either entirely lacking stable legal institutions or being founded solely on domination in the name of religion. According to the Ottoman records, non-Muslims belonged to the state's judicial and administrative domain and were involved in the working of its everyday institutions.

4. Deconstructing Islamophobic Narratives

Islamophobia in this study is considered a political and epistemological structure that reproduces Islam as a fixed entity and a permanent source of threat in the civilisational and security discourse of our time through the interaction of media discourse, security policies, selective readings of history, and modes of knowledge production (Kathawalla et al. 2024). Its effects extend beyond the political and media spheres to social practices and institutions that reproduce feelings of exclusion and non-belonging among Muslims (Mirza 2019). Contemporary Islamophobia has long-standing historical links to religious, political, and colonial discourses, which have been recontextualised within modern security and media contexts to construct Islam as a permanent "civilisational other" (Choudhury & Beydoun 2020).

Detached from their historical and interpretive contexts, Islamic legal texts and Islamic jurisprudence are reduced to images of violence and authoritarianism. Moreover, historical and social experiences of interaction and coexistence among different communities within Muslim societies are marginalised. Therefore, this section analyses the essentialisation and decontextualisation of texts, civilisational and security narratives, and the marginalisation of social and institutional history in an attempt to unravel the epistemic and methodological mechanisms through which such narratives about Islamic law are constructed.

4.1. Essentialisation and Selective Textualism: The Epistemic Basis of Islamophobic Narratives

Contemporary Islamophobia is not simply born out of spontaneous hostile attitudes towards Muslims; it is also grounded in an epistemic structure that pictures Islam as a fixed,

homogeneous unity removed from history and social reality. Through essentialisation, by which Islam is reduced to a fixed “essence” that explains all Muslim conduct across different periods and contexts, and selective textualism, according to which religious and Islamic legal texts are stripped of their historical and interpretive specificities and pictured as the only or most telling expressions of Islam, this structure reduces the divergent Islamic traditions to monolithic images of Islam as violent, rejecting pluralism, or hostile to modernity. It resonates with today’s civilisational discourses portraying Islam as a threat to the Western world and security narratives associating Muslims with terrorism (Kumar 2012).

The imagination of the Muslim in modern Western representation through normative classifications such as the “good Muslim–bad Muslim” binary, which reframes Muslims with reference to how closely they conform to important values or political aims by depicting some forms of Islamic religiosity as compatible with integration and others as markers of threat or extremism, is also related to this conception (Selod & Garner 2015). By reconstructing the Muslim as a security, social, and economic subject, neoliberal and security discourses also relate Islamophobia to wider modes of managing difference in contemporary Western societies (Latif 2026).

Essentialisation, therefore, is related to the decontextualisation of textual evidence, whereby Qur’ānic and Islamic legal texts are taken out of their interpretive and social contexts and employed as the sole and sufficient evidence through which Islam and Muslims can be understood. Said posits that, through Orientalist discourse, Orientalists did not come to know the East as an objective reality but instead constructed it as a fossilised territory defined by its negative difference from the West (Said 1978). Likewise, Abou El Fadl and Hallaq argue that meaning in Islam does not lie solely in texts, but develops through interpretation and juristic reasoning within the different social and political arenas in which Islamic thought developed (Fadl 2014; Hallaq 2009). In Islamophobic discourse, which equates religion with political activity and historical Islamic jurisprudence with current violence, the relationship between religious and social elements in the construction of Islamic thought is ignored, producing an “imagined Islam” within contemporary discourses of civilisational clash and security.

4.2. Civilisational Narratives and Securitisation: From the “Clash of Civilisations” to Islam as a Permanent Threat

Beyond essentialism and the decontextualisation of the Qur’an and Sunna, Islamophobia takes on a political dimension through recourse to civilisational discourse and securitisation. By portraying Islam as a homogeneous and ahistorical civilisational other at the heart of Western global imaginaries, civilisational discourses represent religious and cultural difference as a permanent source of threat, irrespective of socio-historical

contingencies. Thus, the “clash of civilisations” thesis has contributed to consolidating the view of Islam–West relations as an enduring civilisational conflict, thereby reproducing Islam as a fixed cultural other within contemporary political and security discourse (Huntington 1997; Kundnani 2015).

This relates to the notion of the “securitisation of Islam,” which transforms Muslims from diverse religious and social communities into a security object to be watched, surveilled, and rendered intelligible through the logic of suspicion. In this context, the media have played an important part through the repetition and recreation of representations, including images and discourses concerning terrorism and extremism. In this way, the media have strengthened the association between Islam and violence, thereby creating and fostering a particular perception of Islam among the public (Benzehaf 2017; al-Rawi 2024).

The securitisation of Islam and Muslims is not limited to media discourse but can also be seen within the institutional and legal apparatus of the contemporary state. Following the attacks of 9/11, policies made Islam and Muslims permanent objects of security surveillance through mass-surveillance programmes, immigration policies, and the expansion of the powers of security agencies. These policies led to the movement of Islamophobia from the discursive field into public policy and legal institutions within the United States, taking the form of the USA PATRIOT Act, the NSEERS programme, and executive orders imposing travel restrictions on nationals of certain Muslim-majority countries (Choudhury & Beydoun 2020). Similarly, within Europe, certain policies, such as the UK’s Prevent strategy, have expanded the meaning of “extremism” in such a way that certain expressions of Islamic religiosity and forms of community engagement have been brought under persistent security suspicion (Kundnani 2015).

The article analyses how contemporary Islamophobia is manifested not only in the production of stereotypes but also through the reconceptualisation of Islam within the security and political structures of the modern state. Muslims are presented as a community posing a potential threat even though they have not yet committed any actual threatening act, and their relationship then shifts from the realm of citizenship and social difference to the purview of “risk management.” As a result, the article views Islamophobia not merely as an expression of cultural or religious prejudice, but as a way in which the modern polity governs difference and through which religious identities become objects of surveillance, classification, and continuous security intervention.

4.3. The Reduction of Islamic Jurisprudence: Shari‘ah as a Synonym for Violence and Authoritarianism

For example, Ibn Warraq reduces Shari‘ah to “tyrannical punishment” and describes Shari‘ah law generally as merely providing “a selection of cruel and unusual punishments,” including “the stone pelting of a married woman guilty of adultery by half a dozen Muslim hoodlums” and “the public flogging of a young Sudanese teacher.” This is nothing more than a stereotypical caricature of Islamic law itself, further strengthening the portrayal of Shari‘ah as anti-pluralist, anti-freedom, and anti-modern (Hafez 2018, p. xx).

The Islamophobic approach presumes that an Islamic “essence” can explain Muslim historical practices, overlooking the fact that Islamic jurisprudence developed through interpretation and juristic pluralism. Rather than developing as an isolated and static system, Islamic jurisprudence developed through differing interpretations of texts, arrangements of legal proofs, assessments of interests, and applications of rulings to changing contexts. Juristic disagreement has formed a structural part of the interpretive tradition since the age of the Companions (Qurāb 2021). Furthermore, differences among Islamic legal schools in their approaches to social, civil, and political questions can be clearly seen in their differing literal, contextual, and purposive readings of texts (Belhaj, 2025). Through tools including independent juristic reasoning, the weighing of competing opinions, public interest, and custom, Islamic jurisprudence also continued to develop through interaction with social transformations and political institutions (Hallaq 2001; Emon 2012).

The combination of stability and flexibility is therefore a major feature of the Islamic legislative structure. Texts that are definitive in both authenticity and meaning, and therefore cannot be changed or interpreted in any other way, are comparatively few. They constitute a small sphere compared with the ample field that Islamic jurisprudence has left open to *ijtihād* and juristic reasoning in accordance with varying times, places, and circumstances. Stability corresponds to overarching objectives, values, and principles, whereas flexibility can be found in means, juristic interpretations, and the mechanisms by which legal rulings can be practically applied (al-Qaraḍāwī 1999).

The issue is not that there are texts or rulings associated with particular political and social contexts. The problem begins when certain rulings or past practices are turned into a fixed and unchanging image of Islam and Shari‘ah that is taken to represent the whole. A literalistic approach that reads texts selectively ignores juristic diversity as well as the historical development of Islamic practice. Recent studies show that Muslim experiences differed according to their respective social, cultural, and political environments, indicating that there is no single, homogeneous model of Islam (Hallaq 2009; Fadil & Fernando 2015).

Within the discourse on Islam and Shari‘ah presented above, contemporary Islamophobic discourse, in Khaled Abou El Fadl’s analysis, reduces Shari‘ah to its most austere readings

while ignoring juristic traditions that valued justice, mercy, the prevention of harm, and sensitivity to social and historical contexts (Fadl 2014). The crude and reductive representations transform Shari‘ah into a kind of “media Shari‘ah”: an abridged form of the juristic tradition is paraded in political and media discourses, in which it is taken to be the authentic and complete expression of Islam, thus erasing a rich record of plurality, *ijtihad*, and institutional diversity. The media’s portrayal of violence and terrorism, as well as its avoidance of historically and socially complex accounts of Muslim societies, contributes to constructing such a partial image of Islam and Shari‘ah (Benzehaf 2017; al-Rawi 2024).

The reduction of Shari‘ah to certain applications or strict readings therefore ignores the interpretive and pluralistic character of its jurisprudential traditions, as well as the complex relationship between revelation, juristic reasoning, and historical reality in the Islamic experience.

4.4. Towards a Critical Historical–Jurisprudential Approach

Contemporary expressions of Islamophobia represent a methodological problem that should not be tackled through the creation of a similar but rival defensive narrative, but through the re-establishment of the relationship between texts, history, institutions, and society as part of a broader, more complex approach. This is because such narratives remove texts or their partial applications from their historical periods and from their social and institutional contexts. In such selective readings, Islam ceases to be a dynamic, multifaceted religious, jurisprudential, and intellectual tradition and becomes a static and sealed civilisation (Said 1978; Hafez 2018).

For this reason, a historical-jurisprudential approach should move from addressing the question, “What does Islam say?”—to which there is no fixed and history-free answer, and for which the search for such an answer is itself futile—to asking how Islam has been shaped in different societies, institutions, and social contexts. Islamic jurisprudential texts are never separated from reality; it is through *ijtihad*, interpretation, legal institutions, customs, and social practices that these texts gain their meaning (Hallaq 2001; Fadl 2014). This is why the relationship between Muslims and non-Muslims cannot be understood through jurisprudential texts isolated from reality; we have to examine how these texts have been employed historically and how they have been recontextualised in response to changing realities.

It is by examining the relationship between such jurisprudential texts and their social and historical applications, rather than by treating the texts in essentialist terms, that we can move beyond essentialist accounts. The historical Islamic experience was not merely a matter of texts or ideas. It was also shaped by the practice of *ijtihad*, legal practice, and the

institutional and social structures that functioned to regulate relations among different communities within Muslim societies. Together, Syriac sources, Geniza documents, and Ottoman records show that there is a disparity between monolithic images of Islam as closed and exclusionary and a historical reality in which varying degrees of legal, social, and economic interaction existed among different communities (Penn 2015; Goitein 2001; al-Qattan 1999).

The value of these sources lies not only in the information they contain as additional evidence, but can also be seen in their role as important critical tools that enable us to recognise the limitations of readings that reduce Islam to selected texts or to its most restrictive historical applications. In his critique of Bat Ye'or's books, which constructed the relationship between Muslims and non-Muslims as one of continuous persecution, Mark Cohen showed that portraying Jews living under Muslim rule as undergoing "thirteen centuries of suffering and humiliation" (Ye'or 1985) creates a misleading picture that limits the Jewish historical experience to what he termed "the dhimmi condition," while disregarding broad areas of social and institutional history and everyday life revealed by archival materials, especially those from the Cairo Geniza (Cohen 1996; Cohen 2021).

For the foregoing reasons, there is a strong case for bringing social and archival history back into the study of relations between Muslims and non-Muslims, as opposed to relying exclusively on legal texts and polemical interpretations detached from their historical contexts.

Through this, it also indicates that Islamophobia does not simply produce stereotypes about Muslims. Instead, it reproduces within political, media, and security spheres an "imagined Islam"—a monolithic, unchanging entity that is always presented as threatening (Kumar 2012; Kundnani 2015). Fragments of texts or isolated incidents act as indicative tools through which a preconceived idea of Islam is turned into an essentialised, textually decontextualised, and securitised image in the minds of its audiences, while the rich jurisprudential, social, and institutional diversity that characterises the Islamic experience itself is disregarded. In this sense, Islamophobia is something more than cultural or religious prejudice. It is a way of creating knowledge by remoulding Islam and representing it in the public sphere (Said 1978; al-Rawi 2024).

This approach further reveals a methodological problem stemming from superimposing notions of the modern nation-state and the model of contemporary liberal citizenship onto premodern societies that were organised around multiple forms of legal, religious, and social hierarchy, in the Islamic world as elsewhere (Emon 2012; Hallaq 2009). Therefore, the presence of forms of legal differentiation within the historical Islamic tradition does not have to entail existential exclusion or make coexistence impossible. Such differentiation needs

to be viewed within the historical and institutional contexts in which systems for dealing with religious and social diversity evolved. Coexistence, on the other hand, does not mean the absence of conflict or tension, but rather the presence of legal, social, and institutional mechanisms that allowed differences to be managed and negotiated within the Islamic realm (Barkey 2013; Jennings 1978b).

Within this context, such an approach, combining jurisprudential analysis, social history, archival studies, and discourse analysis, would allow the complex relationship between Islam and non-Muslims to be reconsidered anew, beyond closed civilisational binaries and reductionist readings that fail to locate texts within their historical and institutional conditions. The purpose of reintroducing history, diversity, and lived experience is less to excuse the past or deny its complexities than to move away from essentialist readings that reduce Islam to a fixed image detached from its historical development and internal diversity.

Table 1. Mechanisms for Constructing Islamophobic Narratives and Approaches to Their Historical and Jurisprudential Deconstruction.

Mechanism for constructing Islamophobic narratives	Epistemic effect	Proposed alternative approach	Research and methodological implications
Essentialisation and textual decontextualisation	Reducing Islam to a fixed “essence” isolated from history	Analysing texts within their jurisprudential, historical, and social contexts	Shifting the study of Islam from the search for a “fixed essence” to the analysis of processes of interpretation, ijtihād, and historical application
Civilisational narrative and securitisation	Transforming Islam into a permanent civilisational and security threat	Studying Islam as a diverse historical, social, and institutional experience	Deconstructing the presumed association between Islam and violence, while highlighting the role of political and media contexts in producing the image of the “imagined Muslim”
Reduction of Shari‘ah	Confining Shari‘ah to its punitive and authoritarian dimensions	Understanding Islamic jurisprudence as a diverse and evolving interpretive tradition	Highlighting doctrinal diversity and the mechanisms of ijtihād, public interest, and custom as structural elements in the development of Islamic jurisprudence
Erasure of social and institutional history	Disregarding historical practices of coexistence and interaction among different communities	Employing social history and archival sources to reconstruct the complexity of historical realities	Reintegrating lived experience and legal and social institutions into the study of relations between Muslims and non-Muslims

Projection of contemporary legal concepts onto the Islamic jurisprudential tradition	Interpreting historical jurisprudential systems outside their original contexts	Reading jurisprudential applications in light of their historical and institutional circumstances	Achieving a more balanced understanding of the historical jurisprudential experience
Media selectivity and security amplification	Persistently associating Islam with terrorism and extremism	Analysing media discourse and security policies within their contemporary political contexts	Revealing the role of media and security policies in reproducing Islamophobia as an institutional practice rather than merely a form of cultural prejudice

Hence, a counter-defensive narrative is not offered, for the intention is to look again at the relationship between Islam, society, and history within its changing institutional and jurisprudential contexts, rather than simply to reread texts in the abstract, dissociating them from their social and historical environments.

5. Conclusions

Overall, my work demonstrates that the core problem in a large body of contemporary Islamophobic accounts is not to be sought only in jurisprudential texts or historical arrangements that might legitimately be considered problematic or open to reinterpretation, but also in the way these texts and experiences are represented in isolation from their jurisprudential, historical, and institutional contexts. Islam is thereby rendered into a fixed “essence” and presented as an inherently hostile and closed system. Contrary to a logic of outright exclusion, Islamic jurisprudence conceived relations between Muslims and non-Muslims as situated within a normative and institutional nexus aimed at regulating religious and social plurality through a combination of governing values, legal arrangements, and mechanisms of negotiation and regulation. This nexus, in turn, remained open to reinterpretation and contextual application in response to changing political and social circumstances.

The study has equally shown that Syriac sources and Geniza documents from Cairo, along with documents from the Ottoman period, reveal that the reality of relations between Muslims and non-Muslims is more complex than the simplifying accounts that portray these relations as either perpetual conflict or a dichotomy between two entirely detached civilisations. These sources show that various forms of social, legal, and institutional interaction existed within the domain of Islam, dispelling ideas that portray the Islamic experience as either absolute tolerance on the one hand or absolute persecution on the other. This evidence, therefore, highlights the need to restore social and archival history as

major components of the academic study of Islam and religious diversity, rather than relying solely on selected texts or abstract readings detached from their historical and institutional contexts.

Therefore, the study attempts to integrate jurisprudential analysis, social history, archival studies, and discourse analysis to look again at the relationship between Islam and non-Muslims in a way that goes beyond essentialist readings that detach texts from historical and social practice. At the same time, the study attempts to show how Islamophobia is driven not only by political and media discourse, but also, at the epistemic and methodological levels, by essentialisation, textual decontextualisation, and the erasure of social history. These mechanisms contribute to the reproduction of an “imagined Islam” as a fixed “reality” and, therefore, a perpetual threat.

Future research on the relationship between Islam and non-Muslims requires a more integrated study of texts and their social and institutional contexts, relying on jurisprudential analysis, social history, and archival studies rather than on isolated textual readings. Moreover, the study recommends that researchers extend their research to non-Islamic sources such as Syriac documents, Cairo Geniza documents, and judicial and administrative records to study the texture of social and institutional life in Islamic societies without falling into the trap of reductionist narratives. The study concludes with a call for more comparative studies that look at patterns in the governance of religious diversity in Islamic societies and other historical contexts, so as to gain a balanced view of the nature and development of legal and social distinctions. Moving beyond Islamophobic narratives therefore requires not so much the production of a counter-defensive reading as a reconsideration of the relationship between Islam, history, and society within its changing jurisprudential and institutional contexts.

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