

English Translation of Sheikh Taha Jabir Al-Alwani Fatwa

In The Name of God The Most Gracious, The Most Merciful.

All praise is due to God. May prayers and peace be upon the messenger of God, his family, his companions and those who believed in Him.

I have been requested to comment on an issue that took place in Malaysia during the past two weeks. The case is that someone has accused Datuk Seri Anwar Ibrahim of committing a sexual violation. The judiciary or the investigators in Malaysia have recommended inviting the accuser and the accused to a qasamah, swearing of an oath, so as to arrive at the verdict of guilt or acquittal.

What is the true *shar'i* position regarding swearing oath in cases like these? Does the person who has been sexually violated have to swear oath to exonerate himself? And more particularly, is swearing oath in this case meant to be like the repeated oath-taking that is found specifically in matters of murder, as is known by jurists and specialists?

So I say, and with God is all success:

Indeed Imam Ibn Al-Qayyim in his work, *al-Turuq al-Hikmiyyah (Judiciary Procedures)*, and other scholars besides him, have rejected the allegation made by men of dubious reputation, suspect character, and questionable social standing who accuse those of honesty, integrity, and public figures. Their accusations are to be considered defamatory and categorically rejected. I consider the issue a case of slander and the accuser the slanderer based on what has come in revelation in *Surah al-Nur (The Light)*:

Surah Nur (24), Verse 4

And those who accuse honorable women but bring not four witnesses, scourge them (with) eighty stripes and never (afterward) accept their testimony--They indeed are evildoers. (Picktall)

Surah Nur, Verses 11-19

Lo! they who spread the slander are a gang among you. Deem it not a bad thing for you; say, it is good for you. Unto every man of them (will be paid that which he hath earned of the sin; and as for him among them who had the greater share therein, his will be an awful doom. (12) Why did not the believers, men and women, when ye heard it, think good of their own folk; and say: It is a manifest untruth? (13) Why did they not produce four witnesses? Since they produce not witnesses, they verily are liars in the sight of Allah. (14) Had it not been for the grace of Allah and His mercy unto you in the world and the Hereafter an awful doom had overtaken you for that whereof ye murmured. (15) When ye welcomed it with your tongues, and uttered with your mouths that whereof ye had no knowledge, ye counted it a trifle. In the sight of Allah it is very great. (16) Wherefore, when ye heard it, said ye not: It is not for us to speak of this. Glory be to Thee (O Allah); This is awful calumny. (17) Allah admonisheth you that ye repeat not the like thereof ever, if ye are (in truth) believers. (18) And He expoundeth unto you His revelations. Allah is Knower, Wise. (19) Lo! those who love that slander should be spread concerning those who believe,

theirs will be a painful punishment in the world and the Hereafter. Allah knoweth. Ye know not. (Picktall)

2) The practice of defamation and slander has commonly been used by secular and anti-religious groups, especially in the Arab world, to damage and destroy the reputation of otherwise innocent targets. This was so because it was an easy means of tarnishing the reputation of prominent Muslim leaders and undermined the public's trust in them. Moreover, it presented a way to busy the Muslim leaders in exonerating themselves and fighting off the accusations and doubts raised against them in the hopes of retrieving the public's trust. The Communists in Iraq and the Ba'thists after resorted to this method them since they knew that the capital of Muslim leaders is their moral commitment, their honor, and their disdain of disgraceful behavior.

3) Indeed we are deeply disheartened that the investigation in Malaysia and the authorities in the government have descended to this despicable level and these low methods in political antagonism. We had hoped they would deem themselves above this practice and refrain from sinking politically to this abject level for the sake of protecting the dignity of the country, its interests. They should know that allowing such unethical practices to happen will backfire on themselves and their own families.

4) Datuk Seri Anwar Ibrahim during his youth was a founding leader of the Malaysian Islamic Youth Movement (ABIM). He directed and supervised more than twenty-five schools for boys and girls across the Malaysian states, and was not accused of the least bit of suspicion nor was his conduct touched by the smallest scratch. On the contrary, he was the object of trust for all parents, guardians, and families together. Yet that was only in his youth, so what then would be the case today for this mature man of sixty years of age? And it is today that he leads the political opposition in the country, as a husband, father, and grandfather.

How could this be and ten years before his enemies tried similar despicable methods to destroy him? After years of torture, imprisonment, and longing, the court declared him innocent only to return today to those disgraceful allegations made by people who no one will testify to their fairness, uprightness, and trustworthiness.

5) Indeed on the topic of swearing oath, our jurists have only said that in cases of murder between two villages, where no one knows who the murderer is in either village, then as some of the scholars have said: the people of each village are to swear fifty oaths to remove the accusation from them. But the issue of slander that is the topic of the proposed question has no relationship to this. Here we have two sides: the sinning, oppressive slanderer whose testimony is not worthy of consideration and the innocent and oppressed victim who is not demanded to do anything to prove his own innocence. In fact, his record, reputation, and honesty is satisfactory to refute all such baseless accusations. Otherwise any sinful criminal like the one who accused Datuk Seri Anwar can launch the same accusation against the Agong, or a Sultan, or Prime Minister, or any minister of Malaysia, and destroy the dignity and status of all them when they are given the same status with the accuser who the *Qu'ran* describes as a pervert and a discredited witness. As for the cases of allegations and accusations on honor and reputation, the *shar'ia* treats it as slander according to what is revealed in *Surah Nur* as previously stated.

I emphasize here from what I have witnessed personally acts committed by the Communists and Ba'ath parties in my country, Iraq. The Communists in the forties and fifties of the last century accused the then leader of the Islamic movement in Iraq the late Shaikh Muhammad Mahmoud al Sawaf (May Allah have blessings on his soul) of similar crimes, and leveling the same slanderous accusations against the grand Shaikh Shaheed Abdul Aziz al Badri also in the sixties. Both men were known for their high integrity and ethics. Both men were at the time of their accusations at the helm of Islamic reform movement. Both men were considered a threat to the corrupt authoritarian Ba'ath regime. The undersigned has also been the victim of similar smear campaigns.

6) Indeed Datuk Seri Anwar Ibrahim was a minister for the youth, responsible for the young people of UMNO for many years. No one from among those youth who worked with Anwar in the ministry nor those from the party said that Anwar had participated in any harassment with any person. How is it then he is accused of such heinous crimes after he became the leader of the opposition? Whoever wants to accuse someone, it is incumbent upon him to accuse him of something that could be reasonable even if partially rational.

Let us have *taqwa*, for indeed this world is a passing shade. There is an afterlife and there is accountability and punishment waiting for the corrupt on the day where neither wealth nor children will be of benefit, but only one who comes to Allah with good deeds and a sound heart.

I call on the political leaders of the government of Malaysia to uphold the truth and to fear God, exercising wise judgment and deal with political differences and disputes in a climate of honesty and integrity, adhering to high Islamic morals of truthfulness and trustworthiness. If not, they would do well to remember that injustice and oppression are embers in a fire which if not put out will engulf everything in its path including those who perpetrate or condone injustice and allow it to happen, leading to the spread of chaos and the loss of trust and the shattering of society.

We ask Allah for the ability to do the what is right and to protect the country and worshippers.

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