



Behavior and Financials

“A Handbook for Islamic Institutions”

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There’s a plethora of issues we face in the Muslim-American community. Simply put, all of the issues that plague Americans in general, affect Muslims to some degree. No matter the ethnicity, financial status, or country of origin of the people that make-up our Islamic institutions, we are not absolved or saved from the ills, poor habits, and inappropriate behavior of the broader community. This handbook can hopefully assist in helping Masjid and other Islamic institutions’ officials to run them with *ihsaan* (proficiency and beauty). This handbook focuses on four (4) specific areas:

- A. Misappropriation of public assets
- B. Recordkeeping and transparency
- C. Sexual misconduct
- D. Procedural fairness

Over the years, multiple instances of unbecoming behavior within our Muslim-American community, and institutions specifically, have warranted more education on the aforementioned subjects. Some actions have been centered around conscientious stupidity and sometimes pure ignorance on the part of our institutions’ officials. Moreover, there’s a dearth and lack of sharing of information and training within and between some of our institutions that could help to avoid or mitigate this very problem. Of course, mismanagement is a historical problem for all groups of people, we are speaking of the more public examples of poor administration habits and tactics. If need be, we have to teach people in leadership positions on how to be good administrators or they have to demonstrate their skill in such, to gain, maintain, or warrant public trust.

None of this handbook's contents should be misconstrued as legal advice. Before implementation of the handbook's suggestions, officials should do *shura* (consultation) with their respective team, which can include: an accountant, an attorney, an insurance agent, and an ethicist (or a person/people considered of high *akhlaaq* (character) who understand the nuances and subtleties of Islamic jurisprudence (*fiqh*)), and other Masjid officials (e.g., Imams). The latter would also ideally be a person experienced and skilled in effectively running an institution.

For some of our very small institutions, information gathering and sharing with other institution leaders, may appear to be sufficient; thus, no need to sit with any professionals. However, we believe the apparent sufficiency may be upended with just one allegation and/or charge of a crime or inappropriate behavior, that could destabilize and/or interrupt the necessary services that are normally provided by the institutions' workers.

We pray that the contents are practical and beneficial. Ideally, it would be reviewed, disseminated amongst an institutions' officials, studied, critiqued appropriately, and for the contents that are applicable, practiced wholeheartedly.

The use of the term '*official*' is intended to cover all individuals working in an Islamic institution, whether as an employee or volunteer, Muslim or non-Muslim. The term 'institution' covers our Masaajid and non-profit organizations. Even the ones that aren't formally registered with the government as such, but collect public funds.

The recommendations that are provided at the end of each section are non-exhaustive. Meaning, I do not intend to list or mention everything to do. Just some things that are deemed necessary and actionable to realize performing with *ihsaan*. Admittedly, there are other measures Islamic institutions can and probably should take to avoid or alleviate potential or current problems.

Optimistically, this information will spark change within our institutions or reaffirm current sound behavior. But in either case, essentially help Islamic institution's officials be on the right side of history with regards to standing before Allah, and in this world, avoid pain, conflict, and fragmentation.

I intend to update the manual every so often, *inshaaAllah* (God willing). Free copies are available on my website, mediationbip.com, under publications. There, one can download the handbook to their device or print it, to be read at their leisure. Please feel free to contact me with any questions, comments, or corrections (mediationbip@gmail.com).

A. Misappropriation of Public Assets

Handling monies and other assets obtained from the public is a type of *amaanah* (trust/responsibility). Allah (glory be to Him) mentions in the Quran, chapter 17, verse 34, “*and fulfill your commitments, for you will surely be questioned about them.*” Also, “*O believers! Do not betray Allah and the Messenger, nor betray your trusts knowingly.*”¹ The Arabic root word used for betraying is *khaana*, which can mean to cheat, to mislead, to let down, to betray, to fail (e.g., with regards to a promise), etc. Prophet Muhammad (saws) said: “*fulfill the trust of those to whom they are due...*” That trust is weighty, needed, and rewarding. It's weighty in that the assets are for the strict upkeep and/or benefit of an institution, e.g., the Masjid, and if need be, the appropriate people (e.g., stipends, salary).

Some *Masaajid* are organized legally in America as an endowment or trust (*waqf*), some are a type of non-profit entity, and some are sole proprietorships. Whatever structure that's employed, they are not private property (or their assets, in the *sharee'ah* sense), to be used for an individual to solely benefit from. Of course, part of the upkeep are the salaries, wages, and/or stipends deemed necessary for the Masjid to operate; thus, operational expenses, but there's no intentions for a person to gain more and more money, specifically at the expense of the congregants and as a sole purpose.

The *amaanah* is rewarding in that whenever a Muslim fulfills an obligation or recommended act, they are recompensed for their sincere efforts.

¹ Quran 8:27

According to the Cornell Law School, misappropriation is “*the unauthorized, improper, or unlawful use of funds or other property for purposes other than that for which intended.*”² For our purposes, we can say it is the improper use or misuse of public assets.

To allow for a clearer understanding of the term, we’ll use a few examples:

- a. An Imam using money earmarked for the roof of the masjid, to fund the Eid celebration. Assuming this act is not in compliance with the rules and proper guidelines of the institution, or not explained prior to money being given.
- b. Using an Islamic institution’s van to shop regularly for personal use. Without authorization and knowledge from the proper people.
- c. Selling an Islamic institution’s computers for personal gain.

Keep in mind, even if someone authorized the act, a question should be asked, is it considered *halal* to personally benefit from public assets that are intended for the public? Also, when analyzing the few examples above, remove any variables that can alter understanding the problem with misappropriation. For example, urgent and pressing matters may require some leniency.

Umar ibn Khattab (may Allah be pleased with him) was known for his carefulness with regards to public funds. To illustrate, one time he sent messengers to a ruler. And before they departed, Umar’s wife gave them a present of jewelry to be given to the ruler’s wife. Upon the messengers returning, they gave Umar’s wife a gift, sent by the ruler’s wife, as a return show of generosity. Once Umar was made aware of the exchange, he questioned his wife. She simply stated that it was a good gesture on both sides. Umar rhetorically queried, you used public funds to send a private gift (paraphrasing)! And took the gift from his wife, for it to be placed in the *bait-ul maal* (public treasury). This example gives us insight to the duty and seriousness of handling public funds. Also, that we should be

² Misappropriation. (July 2020). Cornell Law School. Retrieved from, law.cornell.edu. September 20, 2021.

careful with mixing private and public matters, for personal reasons, even if they're altruistic in nature.

According to a study authored by Dr. Ihsan Bagby, there was a 31% increase in the number of Masjids from 2010 (2,106) to 2020 (2,769). Moreover, that the median budget of a Masjid was \$80,000 in 2020.³ With these trends and facts in mind, our practices of handling public assets should be very concerning, requiring eagle eyes.

Real example: A brother whom acted in the capacity of an Imam and Quran teacher, misappropriated public funds. In order for someone to receive zakat assistance, a woman in need, was instructed to clean the Imam's residence, which was located on the Masjid property. He offered her more money when she cleaned his residence another time. After he sexually battered her, she was unsure whether the money was for sex or to remain silent.⁴

This real example of an American Muslim leader using his public status to do the *haram* is unfortunate to say the least. Using *zakat* monies to establish or further a sexual relationship, whether with or without consent is categorically inappropriate and clear misappropriation.

Some of the problems that can come from misappropriating public funds are: the public losing-out on needed services or products (e.g., food, shelter, etc.), someone being injured, loss of credibility and trust, issues of concern not being addressed, incarceration, an Islamic institution's loss of support, gaining of a bad deed, as well as an unexpected governmental audit.

The following are recommendations to avoid misappropriating public assets:

1. **Separation of powers:** This entry focuses on differentiating certain roles within an organization. For instance, there should be two different people handling accounts

³ Bagby, Ihsan. (June 2021). *The American Mosque 2020: Growing and Evolving* [PDF]. The Institute for Social Policy and Understanding.

⁴ Salem, A. (2019). *FACE Report: Moataz Muftah*. Facing Abuse in Community Environments. Retrieved from, [facetogether.org](https://www.facetogether.org)

receivable and accounts payable respectively. If one person is responsible for both, a door can be open for theft. Another would be, those who collect monies (and count, if applicable) at a Masjid should not be the ones who deposit those funds in an account, and/or distribute/pay vendors.

2. **Keep cash locked-up safely & limit who has access to bank accounts.** Cash should be immediately (within reason) either deposited in an account and/or placed in a safe-place (e.g., a fire proof safe). Bank account and combinations for safes, should be changed when officials change due to: death, new staff, change of positions, etc. Moreover, if physical checks are still used, they could be signed by two officials, to avoid one person being able to authorize money given to themselves, a shell (dummy) company, or providing money for someone else (e.g., extortion, return of a favor, etc.).
3. **Higher-up officials should perform (or solicit the services of skilled professionals) random and annual internal evaluations of all monies.** The reason for random reviews is mainly three-fold. Firstly, to give the presence of overview, which keeps volunteers/workers on their toes. Secondly, to be on the look-out for misappropriation. And thirdly, to learn the best and bad practices, to improve the organization. Also, with regards to random evaluations, volunteers/workers will not feel targeted or singled-out.
4. **If something doesn't look or smell right, don't assume, investigate thoroughly.** If there's a check signed over to a third party, missing receipts, an imbalance between bank statements and services received or rendered, etc., there may be misappropriation going on or sincere but costly mistakes. Never assume someone has stolen (unless there's clear circumstantial evidence), investigate (internal audit) the matter to get to the truth. Remember, a false accusation is un-Islamic and it can lead to a lawsuit. Prophet Muhammad said, "*It is an evil mount for a man to rely upon what others merely assert.*"⁵ But investigating a matter for *yaqeen*

⁵ The word '*matiyah*' was used by the Messenger (peace be upon him), suggesting or indicating a type of reckless expediency. And *za 'amoo* is translated to mean what others claim or assert, with its root being to claim or to pretend.

(clarity/certainty) is totally valid for caretakers, administrators, and leaders in general.

5. **Have clear rules for the collecting, storing, and spending of public funds and using public assets.** This entry may be overlooked, but it's significant. Some Masaajid do not have a specific written policy on the aforementioned activities. For example, can a Masjid official use the money from the *sadaqah* (charity) box for gasoline for their personal vehicle that they often use to transport children and elders that need a ride to the Masjid? If so, is the money considered to be a stipend, salary, or a gift? Does the official need to make a notation, and subsequently provide a record of their activities? Can a Masjid official use the collected money from a fundraiser for maintenance of the Masjid on sisters in the community that need assistance for living expenses? How long should the money collector hold the funds in their possession? Some of these decisions are difficult in nature, but if there's a policy, the decision has been made; thus, compliance is what's left to do. By definition, acquired monies that have been earmarked (set-aside) for one thing shouldn't be used for another, no matter the importance. If a situation comes-up that warrants a policy change, that should be explored with the proper decision-makers, but ideally not by one person who has to answer to others. Also, Masaajid can avoid some of these quagmires by allowing givers to check-off on an envelope (or have separate categories on web page), what they prefer their money to go towards. For instance, there may be such options on an envelope next to the collection boxes or on their web page: *zakaatul-maal*, *zakaatul-fitr* (when appropriate), facility expenses, general charity, other (with a space to write something), etc. This should also be explained and displayed in a well trafficked area of the Masjid. Therefore, when money is collected, if the previous is employed, and there's no mention or notation of a specific target for the money, the Masjid is free to use it for what they determine to be necessary, and avoiding the confusion of asking for money for the roof, then using it for the carpet.

B. Recordkeeping & transparency

In the context of this handbook, recordkeeping is documenting an organization's activities. Whether they are financial or not; thus, this a broad topic.

The Arabic term normally used to denote the office of recordkeeping or the actual records is *deewaan* (usually spelled: *diwan*). Its root is *da-wa-na*, meaning to record or to write down. According to Al-Maawardi, in the Persian language *divan* means 'devil,' and the word *deewaan* is derived from the former.⁶

Too many times in our masaajid, there's no public knowledge concerning their finances. Some institution-heads are secretive when it comes to the organization's financial picture. Understandably, there are possibly people with bad intentions coming in and out of our religious facilities. The ill-intended people may use the organization's financial information to try to inflict harm. However, this handbook doesn't suggest in any manner the publicizing of pertinent information like bank account username and password, PIN numbers, or any other information that would allow a person not authorized to take monies from accounts or use assets unknowingly. Bad actors will always try to foil a Masjid's plans, but that should not be an excuse to be secretive with publicly acquired and owned assets, that one is the steward of.

Some of the benefits of good record-keeping and transparency are:

- Transparency allows for a type of visual access to community assets.⁷
- Good recordkeeping can avoid confusion and misunderstandings, and give clarity.⁸

⁶ Al-Mawardi. (1100's). *Al-Ahkam al-Sultaniyya* [The Ordinances of Government] (W.F. Wahba, Trans.). Garnet Publishing.

⁷ This does not suggest physical access. This speaks more to an understanding of what is usually behind the curtain. Normally, when matters are hidden, it opens the door for some level of misappropriation. And disclosing these matters can help to alleviate such problems, *inshaaAllah*.

⁸ It is said that Umar (ra) used to keep a chest of documents, especially the ones that involved treaties between him and others. And the governors in the Islamic world did likewise, to keep a tab of very important information.

- If information is stored for easy retrieval, it can then be shown to donors in an organized and credible manner. Which could alleviate possible hesitation from donors.
- The administrators (e.g., imams, board of directors, etc.) will have a fuller picture of the institution's financial health.
- In some cases, it can eliminate fraudulent behavior.
- The history of the institution's actions can be used for future generation administrators, and better decision-making.
- Shows some level of evidence of stewardship with *ihsaan* (proficiency).
- Through good recordkeeping, institution officials can be held more accountable. Basically, it could help to answer the question, have they done or tried their hardest to do what they were charged to do?

Recordkeeping recommendations:

1. **Mandate a receipt for all purchases:** The Masjid may have a designated location (e.g., a physical file within a cabinet) to place all receipts or person to hand them to, in order to organize their activities.
2. **Use cloud storage services and physical copies for important documents.**⁹
3. **Use purchase orders for all products and services obtained.**¹⁰
4. **Record all marriages, weddings, divorces, deaths from members, births, officials (and their contact information), within your facility's sphere of influence, in a log.** Instituting this entry and masjids sharing this information with other masjids, when appropriate, can possibly avoid brothers trying to get married to multiple women,

⁹ Cloud or data storage entities like Google Drive and Microsoft One Drive are products and services easily available that can help Islamic institutions save their important information on the internet, on-demand. However, there are major privacy concerns with cloud services. Institutions should choose wisely, what information will be in the cloud. Cloud services should be used as an addition to physical flash drives and paper copies of sensitive information, but never a substitute.

¹⁰ Purchase orders (PO) initially are internal requests (from a buyer) for services or products from an external supplier (seller). In the end, it's a good way to keep track of all orders officially generated by an organization. The PO's also will standardize an organization's actions.

unbeknownst to the women, by hopping from one masjid to another. And sisters from marrying while in *'iddah* (women's waiting period).

5. **Have a clear policy on which documents to store.** As well as where, how, and when sensitive documents that are no longer necessary to keep, should be shredded or deleted properly."
6. **Be mindful that documentation creates statistics, and in this day and age, data represents money! Islamic institutions should never sell or give away to a third party, congregants personal information, even with their consent, for any type of consideration (money, tickets, favorable ruling, etc.).** Only in urgent and necessary situations should they share such, but not for any consideration (e.g., money). Publishing basic statistics about those involved in the organization, without attaching personal identifying indicators of the subjects, for informational purposes to the public, is not a bad thing. But again, if it's for some type of gain, there's an ethical problem.

Depending on the institution's method, there could be one log or multiple logs, for the different activities.

Remember that recordkeeping and misappropriation of assets go hand-in-hand. One of the main mechanisms used to avoid misuse, intentionally or unintentionally, is documenting all monies received. Also, any other assets should be accounted for appropriately. Whether it's a vehicle, tools, equipment, zakat merchandise, etc.

Prophet Muhammad (peace be upon him) gave advice to a man by saying, "*...You must be transparent and avoid secrecy.*" One of the words in Arabic for transparent that was used by the Messenger (peace be upon him) is *'alaaniyah.*' Its root is *'a-la-na,* which means, to open, reveal, to make public, to disclose, etc. Appropriate transparency begets certainty. One of the legal (*shar'i*) axioms of Islamic Jurisprudence (*fiqh*) is, *'certainty is*

¹¹ Remember to review with your team (an accountant, attorney, insurance agent, and ethicist) which documents to retain or discard. Sometimes there are laws on the length of time an institution is required to keep certain documents.

never removed by doubt. Thus, our scholars (*'ulamaa*) traditionally placed a high value on *yaqeen* (certainty). The two, certainty and transparency, are tethered.

During Umar's (ra) time as the *khalifah*, when he appointed governors (sometimes termed Amirs), he created a contract. Part of which stipulated that the new governor would not eat the best, dress the best, or use the best transportation. The idea was to create an example of a moderate lifestyle. Moreover, Umar (ra) instructed his governors, that when they enter Madinah, they should do so during the day, not at night. The idea was for common people to see the wealth and booty that was brought, so that it would be easier for people to ask questions, as they can physically see public funds. Then officials could be held more accountable.¹²

Recommendation to be more transparent: Inventory/assess then publicize (thru website and posted in the Masjid) most of the assets, revenues, expenses, and important information in list and pie graph form, for easy understanding. The publicizing can be done at minimum, once a year; however, we suggest monthly for more transparency and accountability. For example:

Masjid A's monthly breakdown of expenses, financial obligations and/or donations:

Utilities - 43%

Sadaqah distribution – 24%

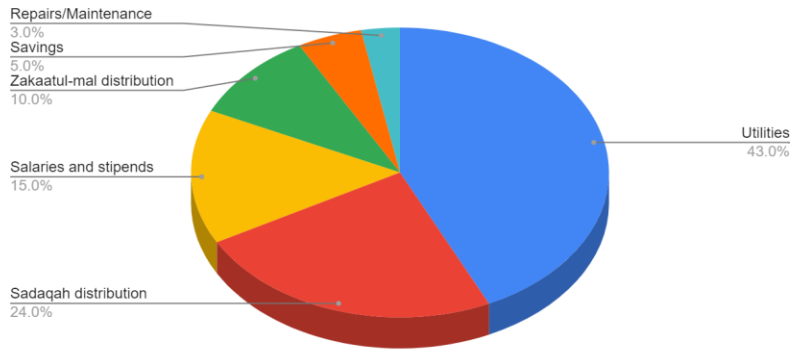
Salaries and stipends – 15%

Zakaatul-maal distribution - 10%

Savings – 5%

Repairs - 3%

¹² As-Sallabi, Dr. Ali Muhammad. (n.d.). *Umar ibn Khattab: His life and times*. International Islamic Publishing House



Masjid B's total monthly revenue and its origins:

Donations/ Sadaqah - \$21,600

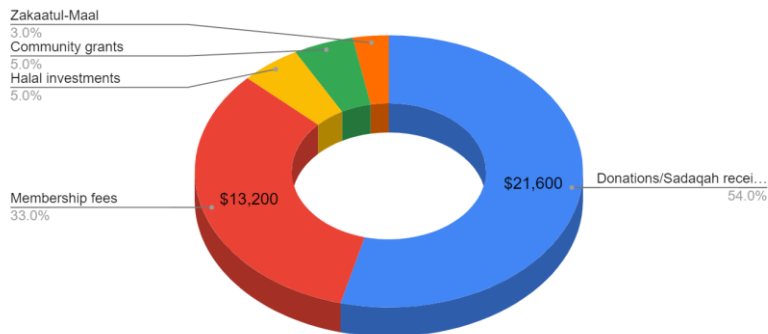
Membership fees - \$13,200

Halal investments/ Business deals - \$2,000

Community grants - \$2,000

Zakaatul-maal - \$1,200

April's 2020 total revenue - \$40,000.00



Masjid C's inventory of monthly assets:¹³

- a. The Masjid proper/facility
- b. Two 15 passenger vans
- c. One residential rowhome

The main idea behind good record-keeping and transparency is that if an institution seeks public donations for the upkeep of the institution, there's a type of trust (*amaanah*) handling the affairs of the public. *Amaanah* could also be translated to mean 'responsibility.' In essence, information should be readily available and accurate.

None of this is in any way is suggesting that Imams or Masjid/institution officials are using public monies for any nefarious or *haram* purposes. The objective is to help institutions avoid misuse, gain credibility, and be in-line with Islamic norms, so the necessary work can continue with *ihsaan*.

C. Sexual misconduct¹⁴

The EEOC (Equal Employment Opportunity Commission) defines sexual harassment as "*unwelcome sexual advances, request for sexual favors, and other verbal and physical conduct of a sexual nature*" If the actions of someone creates a hostile, intimidating, or offensive environment, it is a type of harassment. From the previous definition, the operative word in American law is 'unwelcome.' Although, an additional term that is troublesome for Muslims would be 'advances.'

Sexual misconduct has a broader definition than sexual harassment or sexual assault. It is: *a non-legal term used informally to describe a broad range of behaviors, which may*

¹³ The idea in this section of 'assets' is to list all things of tangible value, and of concern to the average layperson. There's no need to mention every single item owned by the Masjid, like: 30 gallons of water, 10 ceramic plates, 2 mounted monitors, etc. Yes, these items should be accounted for from an inventory standpoint, and to protect against thievery, but there's not necessarily a need to mention them in a monthly statement to the public.

¹⁴ For the purpose of this publication, sexual misconduct in an Islamic institution is the focus, not necessarily Muslim's private homes.

*or may not involve harassment.*¹⁵ Sexual misconduct may not even involve criminal behavior, from an American legal standpoint.

In Islam, intentions and actions are of great importance. Of course, we don't always know someone's intentions, but their actions can indicate their motives. And even if there was a mistaken action, that doesn't excuse poor, illegal, and/or *haram* conduct. Whether a person gained a sin or not is inconsequential as a public concern (in this context).

In Islam, we have a firm understanding concerning harm to others. Prophet Muhammad (peace be upon him) said:

- *“The believer is one who is trusted by people. The Muslim is one from whose tongue and hand Muslims are safe...”*
- *“There shall be no harm nor reciprocating harm.”*

The previous are quotes that can be applied in various subjects. Specifically with regards to sexual misconduct, our Islamic tradition expressly addresses the behavior of offenders or possible offenders.

Any type of sexual misconduct should be avoided. And this understanding is so clear within Islam that moderate or lengthy explanations are uncalled for. However, Islamic institution officials (people in leadership positions) are charged with providing a safe and productive environment, that is commensurate with our Islamic teachings.

Recommendations:

1. **Create, maintain, and update, when necessary, a code of conduct**, that would specifically address *khalwah* (seclusion), the manner to report inappropriate behavior, and the process of internal investigations.
2. **Provide resources (internal and external) that will assist those victimized by sexual misconduct, and for those proven to have perpetrated sexual misconduct.** And for

¹⁵ *Sexual Harassment*. (n.d.). Retrieved from, www.tainn.org

those who has not been proven to be violators of sexual misconduct, but they continue to put themselves in bad situations, they too, need training.

3. **Provide annual training** (or refer such services) for all Islamic institution officials/workers/ volunteers, to avoid unbecoming behavior.
4. **Address allegations with seriousness and carefulness.** Understand that if an institution is made aware of certain types of sexual misconduct, and turns a blind eye, they may be held accountable in American law.
5. **No Islamic institution officials should retaliate against a complainant, in any form.** Whether through direct physical harm and/or intimidation, or through indirect means: a loss of membership benefits, termination, etc.

If an Islamic institution official is accused of committing an act of sexual misconduct, they should:

- ✓ If the allegations are true, make *tawbah* (repentance).¹⁶
- ✓ If the allegations are baseless and false, make *du'a* for the truth to come out and be recognized.
- ✓ Explain matters to your team of advisors. In this case, an attorney and ethicist (an Imam, high character individual, etc.).
- ✓ Don't respond publicly with your version of events in the early phases of the situation, use this time for prayer (to collect one's thoughts), consulting the right people, and organizing information that can be used as evidence or proof.
- ✓ If reasonably possible and appropriate, don't have contact with the accuser/claimant.
- ✓ Never ignore demand letters, cease and desist letters, a summons, or any other notice of a lawsuit or complaint. This can prove to be damaging in the long run. Talk to your advisors.

When an imam counsels a sister and/or take on the role of *wakeel/walee* (in this context, a male guardian), to help her find a husband, the imam can put the sister in an

¹⁶ The four aspects of repentance to Allah (glory be to Him) are: to stop committing the act (if applicable), intend to never do it again, sincerely ask Allah for forgiveness, and right the wrong (if applicable).

awkward situation if he tries to propose to marry her. Even if she's interested, this can be looked at as a form of manipulation. Whereas all the previous conduct by the imam was simply advances to marry her, he just planted seeds in her head, waiting for the idea to sprout at the right time. If there's a possibility that an imam may be interested in the sister whom he is asked to be the *walee*, he should allow or appoint someone else to perform such role. And if after the fact he realizes his interest in marrying the sister, he should recuse himself from being her *walee*. This way, avoiding his status and privilege, in being able to "jump the line." Marrying or making advances on a sister the imam is supposed to be helping to get married is not necessarily *haram* or a form of sexual misconduct, but its mention is warranted. Because once word gets around, the imam, and by extension the other masjid officials, will be looked at as if they are predators, waiting to pounce on the next apparently attractive sister coming through the community.

D. Procedural Fairness

For this handbook, procedural fairness is the idea and process where an institution handles allegations, reasonable assumptions, and dispute proceedings with fairness, transparency, and consistency.¹⁷ The purpose of procedural fairness is essentially to gain (or maintain) credibility, compliance, and produce just outcomes.¹⁸ Ideally, the general process would be in writing and posted in a conspicuous area of the institution (e.g., next to the community board, next to a main bathroom, on the website, emailed to members, etc.) for easy reading and retrieval.

If an institution's procedure for handling difficult topics, disputes, and situations are not fair, compliance may either erode or it's never realized. And just outcomes in many cases begets accountability. According to the *American Judges Association*, "*those who*

¹⁷ Throughout this section, it's important to understand that institution officials are exercising a type of perceived (sometimes actual) moral authority. Their actions, intentional or not, can go a long way, and have very serious implications and unintended consequences.

¹⁸ In my opinion, credibility has four legs: competency/knowledgeable, character, care, and consistency. All make-up the understanding of an entity being able to be believed or trusted (both words are akin to the word credibility).

come in contact with the court form perceptions of fairness from the proceedings, from the surroundings, and from the treatment that people get.”¹⁹ Also, “Research has shown that higher perceptions of procedural fairness lead to better acceptance of court decisions, a more positive view of individual courts and the justice system, and greater compliance with court orders.” Islamic institution’s proceedings are not necessarily court proceedings, but they do have major moral, emotional, financial, societal, and even *fiqh* (Islamic law) implications.

During any type of inquiry or proceeding, it’s important that the Imam or person in charge (PIC) maintain civility (a sense of *adab*).²⁰ To maintain civility, the person (or people) in front should:²¹

- ✓ **Prioritize courtesy and treat others with respect at all times.** One of the main ways to respect people is to give them their rights (e.g., salaams, truthful words, avoiding backbiting or slander, etc.). Remember that people within or outside of an Islamic institution, may reasonably see the actions of the officials as an extension of Islam, and all other Muslims, including themselves. The way an official treats a person can reflect the onlooker’s social status, whether high or low. All people deserve a fair amount of attention; therefore, looking at cell phones, laptops, or showing signs of disengagement, should be avoided, as these are actions considered disrespectful, if done without a need.²² The Institution official needs to model good *aadaab* (plural of *adab*) throughout the process, even in the face of rudeness. Whether via emails, text messages, face-to-face meetings, or virtual meetings, *aadaab* should be

¹⁹ American Judges Association, The Center for Court Innovation, The National Center for State Courts, and The National Judicial College. (2012). *Procedural fairness/procedural justice* [PDF File]. Retrieved from, www.judges.org

²⁰ *Adab*, meaning: decorum, humaneness, good manners, decency, etc. From the root *a-du-ba*, meaning: to be well-mannered.

²¹ *The Principles of Civility: A Judges Guide*. (2013). Retrieved from, www.judges.org

For the purposes of the targeted audience, I made some slight modifications of the four ways of maintaining civility from the original source.

²² An official staring at the opposite gender, from an Islamic standpoint, could be problematic, even if not in a lustful manner. Therefore, officials should be conscious of how long and where their eyes are fixed. No matter the gender, officials ought to give the proper attention to the participants without appearing to be groping or displaying any body language that can be interpreted as disinterest, such as constantly having their head down. A quick explanation at the beginning of the session/proceeding/meeting may be sufficient, we pray.

maintained. As a side note, if handling a dispute case, it's preferable to allow the claimant to state their claim for the record (or the official can read (or state from memory)) at the beginning of the proceeding, then asking them if there's anything they would like to modify, retract, or clarify, prior to the respondent's time.

- ✓ **Remember that time is precious, for everyone.** There should be clear 'bookends' for the meeting, interview, or proceedings in general. This entry also includes the understanding that officials need to be fair with regards to equitable time with each party. For instance, if there's a dispute an official is handling, they should give each party the same amount of time to present their side. For some cases this may not be as vital, but in many, if the balance of time given is on one side, the procedure could be looked at as flawed, and even worse, biased.
- ✓ **Preserve and improve the process when deemed necessary.** Improvement cannot come if there's no evaluation. A simple way of evaluating procedures and the individuals conducting such is analyzing the Strengths, Weaknesses, Opportunities, and Threats (SWOT) of both. There has to be a commitment from the top officials to have a fair administration of justice. And that is practiced by constant evaluation, at worst, annually, and when an issue is raised, that is considered of high importance. Additionally, taking advice from past or current participants can assist in improving the process, as well as an external analysis from a person or group skilled in such. One of the main ways to improve a process is to check for procedural gaps. Each step of the process needs to be accounted for, to avoid further problems.
- ✓ **Effectively and clearly communicate your role and any expectations you may have.** In my opinion, unmet expectations are one of the leading causes for conflict. Therefore, the official should clearly state to the participants, their role, duties, and interest in the proceedings. As well as any expectations such as: truthfulness, cancellation due to lack of compliance, etc.

Muhammad ibn Maslamah (ra) was the chief investigator during the time of Umar's (ra) *khalifah* (stewardship). Once, a group of people complained about their governor, Sa'd ibn Waqqas (ra). Interestingly, they picked a time for Umar (ra) to hear their complaints,

that was difficult for the Muslims, for the Persians were preparing to attack the Muslims in a certain area. However, Umar (ra) still heard their case, which showed his dexterity and willingness to hear public concerns, even from shady people with ulterior motives, and at a very difficult time period.

I suggest that in cases where a Muslim couple comes to an Imam for counseling, specifically for a troubled marriage (on the verge of divorce), that the Imam follows the guidance of the Quran, and get the husband and wife to bring a person on their respective sides, to meet with the Imam or other Masjid official(s).

If you anticipate a split between them, appoint an arbitrator/mediator (or third party) from his family and another from hers. If they desire reconciliation, Allah will restore harmony between them. Surely Allah is All-Knowing, All-Aware. (Quran 4:35)

The imam would simply play referee and scribe, to ensure the proceedings move along properly, as it pertains to Islamic law and time. The two respective representatives, after hearing the concerns of the married couple, would then caucus (privately meet) to discuss what they believe to be the best course to take for the couple.²³ Then they would present their findings and action steps to the imam first, and then to the couple. If there is a problem, Islamically or mechanically, with their conclusion, the imam would be able to catch it before it is presented to the couple. Handled in this manner, it would be more difficult for one of the spouses to claim unfairness, as their chosen representative was a part of the decision for the next steps.

There are multiple forms of alternative dispute resolution (ADR), to name and briefly explain the main two:

Arbitration: Arbitration is where one person or a group of specialists or non-specialists, decide on a case before them. Their decision, if handled properly from an Islamic standpoint, would be final, with some exceptions. Meaning, there would be a moral

²³ If the two reps are of the opposite gender and are not of close blood relation, then the imam would be present for the private meeting without the couple (the caucus). Or they could meet where they are not secluded in any manner. This depends on their level of comfort and the rules laid-out by the Imam or Masjid.

obligation (some cases legal) for the claimant and respondent to move forward based off of the arbitrator's decision(s).

Mediation:²⁴ We define mediation as a process facilitated by an omni-partial entity, guiding people/disputants from conflict to resolution.²⁵ With this form of ADR, the disputing parties decide the outcome. As the official would only be a referee and scribe. People may choose mediation because of mainly a few factors: its expeditiousness, low-cost (in most cases), confidentiality, and that it is party driven.

Institution officials should carefully decide which type of ADR to practice, depending on experience, training, time, urgency, and the specific situational facts. They all have their pros and cons. Sometimes officials say mediation, but in practice the proceedings are a type of arbitration. Officials could institute a type hybrid of the two, arbitration and mediation, med-arb, to get the best of both models. Clarity is the main key.

Prophet Muhammad (peace be upon him) said: *al-majaalisu bil amaanah...*, roughly translated as “*all meetings are confidential.*” Therefore, it is of the utmost importance that officials do not disclose pertinent or damaging information gained from proceedings, unless deemed necessary for the public or whomever it's conveyed to. Again, a policy on such should be created, made available, and updated every so often.²⁶

Inevitably an Islamic institution will need to conduct investigations of allegations and/or reasonable assumptions of foul play.²⁷ Optimally, the procedure for investigating matters would be conducted by an experienced and/or knowledgeable person or group who's also known for their *akhlaaq* (comportment/character) and *'adaalah*

²⁴ A form of ADR that is often conflated with mediation is conciliation. I am of the opinion that there's a slight, but meaningful difference between the two. With conciliation, the conciliator gives insight and opinions on the matter. A mediator usually doesn't give their opinion concerning the topic of dispute, nor offer insights as to how a court of law would rule on the matter.

²⁵ I use the term 'omni-partial' as opposed to 'neutral' because with a neutral official, they neither are for or against the parties. Whereas the term omni-partial signifies that the official is for all parties equally. Put another way, the official deeply cares about each person's well-being, not indifferent to both.

²⁶ After the proper people and professionals are consulted.

²⁷ An Islamic institution's investigation is more akin to a workplace investigation, even if all the officials are volunteers. And should not be confused with a criminal investigation.

(justice/fairness/integrity). For some of our institutions, we don't have those people within our mist, nor do we have the monies to obtain their services.²⁸ If that's the case, we cannot simply leave important matters to chance and time, investigations are still needed. We propose that if an institution doesn't have seasoned people or monies to get their services, that an appointed or selected person (or group), handle future investigations, while using the following as guidance:

- Understand that you have an *amaanah* (responsibility) to uphold justice (*'adaalah*) and fairness (*insaaf*), and conduct the investigation thoroughly (*ihsaan*).
- An investigation is starkly different from an interrogation. The latter usually attempts to find guilt by using different tactics. Whereas the former simply seeks to find factual information.

In reference to the leadership of Islamic institutions, that produce investigative reports, whether oral or written:

1. No matter the outcome, **officials should not retaliate for alleged or proven poor behavior**, and also be vigilant not to allow any retaliation to the victims or accusers within an investigation. Prophet Muhammad (peace be upon him) said, "*there shall neither be harm nor reciprocating harm.*"
2. **They should never disclose the results/findings, prior to their proper protocol for disseminating such.** Meaning, if someone was to ask about the findings in advance of their official release, the institution worker will not oblige, unless necessary.
3. **Have someone trained in these types of investigations** run, or at the very least, be consulted, before the conclusion of an investigation, and the subsequent decisions.

Conclusion

Masjid personnel should fervently take seriously the aforementioned topics: misappropriation, record keeping, sexual misconduct, and procedural fairness. Poor

²⁸ Amongst the type of professionals to look for to fill this void are people experienced and/or knowledgeable in human resources management (HRM), or reputable lawyers and attorneys.

performance can lead to a loss of public trust, loss of an asset, loss of freedoms, and/or sins on one's record. Those harbingers of *fitnah* should have been mitigated or cut-off. We see case after case of Islamic institutions' troubles making their way to the public domain for scrutiny. Often leaving aside basic Islamic warnings of backbiting, lying, and privacy. Each side pushing their narrative.

If a Masjid official is proven to have acted unbecoming, they should be appropriately reprimanded. Too many times we solely focus on the victim of an act, which to a large degree is warranted, but the offender is left struggling in the community, with no support. Of course, of their doing, but alone nonetheless. And without getting the proper help, possibly ready and waiting to commit the same act. Prophet Muhammad (peace be upon him) told his companions to help their brother when he is right and wrong.²⁹ The way we help or assist our religious brethren in wrong is to stop them, meaning, do the best thing for them spiritually (and sometimes worldly). In the end, we need programs for offenders and victims, not either or.^{30 31}

It can be beneficial for Islamic institution heads to annually review material such as this handbook, to make sure that individuals are kept abreast of Islamic expectations and societal norms that are consistent with Islam. Once reviewed, all volunteers and/or workers would attest to their fundamental, yet functional understanding of the topics covered, leaving little to no excuses for mis-behavior.

²⁹ Anas ibn Malik reported: The Messenger of Allah (peace be upon him) said, "Help your brother, whether he is an oppressor or is being oppressed." It was said, "O Messenger of Allah, we help the oppressed, but how do we help an oppressor?" The Prophet said, "By seizing his hand."

³⁰ Offenders being, those whom have loss the public's trust, by engaging in very clear unbecoming behavior, whether legal or illegal, and need to take meaningful corrective steps to better themselves and regain the public's trust.

³¹ Hopefully at some point in the future, we can produce a handbook for offenders.