

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION CIVIL**

**APPEAL NOS. 10866-10867 OF 2010**

**IN THE MATTER OF: -**

M. Siddiq (D) Thr. Lrs.

...Appellant

**VERSUS**

Mahant Suresh Das & Ors. etc. etc.

...Respondents

**AND**

**OTHER CONNECTED CIVIL APPEALS**

**ISLAMIC RELIGIOUS TEXT ON MOSQUE**

**[ADDITION TO DR. RAJEEV DHAVAN, SENIOR  
ADVOCATE'S SUBMISSION ON REFERENCE TO A LARGER  
BENCH OF SOME ASPECTS IN ISMAIL FARUQUI'S CASE]**

**PAPER BOOK**

(PLEASE SEE INDEX INSIDE)

**COMPILED BY:-**

EJAZ MAQBOOL, ADVOCATE FOR THE APPELLANTS

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**AND****OTHER CONNECTED CIVIL APPEALS****A. RELIGIOUS TEXT ON MOSQUE****I. ESSENTIALITY AND IMPORTANCE OF MOSQUE IN ISLAM****VERSES FROM HOLY QURAN:****1. Holy Quran Chapter 2 Surah Al Bagarah: Verse No.114**

Who is more cruel than the one who prevents the mosques of Allah from His name being recited therein, and strives for their destruction? It was not for such men to enter them except in awe. For them there is disgrace in this world, and for them there is a mighty punishment in the other world.

**2. Holy Quran Chapter 9 Surah Al Taubah: Verse No.18**

In fact, the mosques of Allah are built-up only by those who believe in Allah and the Last Day and those who establish Salah and pay Zakah and who fear none but Allah. So, it is hoped that they are to be among those on the right path.

**3. Holy Quran Chapter 72 Surah Al Jinn: Verse No. 18**

And that Masjid (Mosques) belong to Allah; so, do not invoke anyone along with Allah,.

**4. Holy Quran Chapter 62 Surah Al- Jummah: Verse No. 9**

O you who believe, when the call for Salah (prayer) is proclaimed on Friday, hasten for the remembrance of Allah, and leave off business. That is much better for you, if you but know

**VERSES FROM HADITHS:**

1. It was narrated from Abu Hurayrah (may Allah be pleased with him) that the Messenger of Allaah (peace and blessings of Allah be upon him) said: "By the One in Whose hand is my soul, I was thinking of ordering that wood be gathered, then I would have ordered that the call to prayer be given, then I would have told a man to lead the people in prayer, then I would have gone from behind and burned the houses of men who did not attend the (congregational) prayer down around them. By the One in Whose hand is my soul, if any one of them had known that he would get a bone covered with good meat or two sheep's feet with meat in them, he would have turned up for the 'Isha' prayer." **Narrated by al-Bukhaari, 618; Muslim, 651**
2. It was narrated from Abu Hurayrah that the Messenger of Allaah (peace and blessings of Allaah be upon him) said: "The most burdensome prayers for the hypocrites are 'Isha' and Fajr.

If they knew what (reward) is in them, they would come to them even if they had to crawl. I was thinking of ordering that the call to prayer be given, then I would tell a man to lead the people in prayer, and I would go out with men carrying bundles of wood to people who do not come to the prayers, and I would burn their houses with fire around them.”

**Narrated by al- Bukhaari, 626; Muslim, 651**

3. Abu Huraira reported: There came to the Messenger of Allah, a blind man and said: Messenger of Allah, I have no one to guide me to the mosque. He, therefore, asked. Allah's Messenger permission to say prayer in his house. He (the Holy Prophet (Peace Be Upon Him) (hereinafter also known as PBUH) granted him permission. Then when the man turned away he called him and said: Do you hear the call to prayer? He said: Yes. He (the Prophet then) said: Respond to it. **Sahih Muslim**  
**653/ USC-MSA web (English) reference: Book 4, Hadith 1374**
4. Abdullah (bin Mas'ud) reported: I have seen the time when no one stayed away from prayer except a hypocrite, whose hypocrisy was well known, or a sick man, but if a sick man could walk between two persons (i.e. with the help of two persons with one on each side) he would come to prayer. And (further) said: The Messenger of Allah taught us the paths of right guidance, among which is prayer in the mosque in which the

Adhan is called. **Sahih Muslim 654 a/ USC-MSA web (English) reference: Book 4, Hadith 1375.**

5. Jabir bin Abdullah narrated: Our houses were situated far away from the mosque; we, therefore, decided to sell our houses so that we may be able to come near the mosque. The Messenger of Allah forbade us (to do so) and said: There is for every step (towards the mosque) a degree (of reward) for you. **Sahih Muslim 664/ USC-MSA web (English) reference: Book 4, Hadith 1406**
6. Abu Huraira reported: The Messenger of Allah (may peace be upon him) said: He who purified himself in his house, and then he walked to one of the houses of Allah for the sake of performing a Fard (obligatory act) out of the Fara'id (obligatory acts) of Allah, both his steps (would be significant) as one of them would obliterate his sin and the second one would raise his status. **Sahih Muslim 666/ USC-MSA web (English) reference: Book 4, Hadith 1409**
7. It was narrated that 'Umar bin Khattab said: "I heard the Messenger of Allah say: 'Whoever builds a mosque in which the Name of Allah is mentioned, Allah will build a house for him in Paradise.'" **Sahih (Darussalam) Sunan Ibn Majah 735**
8. It was narrated that 'Uthman bin 'Affan said: "I heard the Messenger of Allah say: 'Whoever builds a mosque for the sake

of Allah, Allah will build something similar for him in Paradise."

**Sahih (Darussalam) Sunan Ibn Majah 736.**

9. It was narrated that 'Ali bin Abu Talib said: "The Messenger of Allah said: 'Whoever builds a mosque for the sake of Allah (from his own wealth), Allah will build a house for him in Paradise. **Daif (Darussalam) Sunan Ibn Majah 737**
10. It was narrated from 'Aishah that: The Messenger of Allah commanded that mosque to be built in (Ad-Dur) villages, and that they be purified and perfumed. : **Sahih (Darussalam) Sunan Ibn Majah 758**
11. It was narrated from Hazarat Aishah that: The Messenger of Allah commanded that places of prayer be established in villages, and that they be purified and perfumed. **Sahih (Darussalam) Sunan Ibn Majah 759**
12. It was narrated that Ibn 'Umar said: "The Messenger of Allah said: 'The prayer of a man in congregation is twenty-seven levels more virtuous than a man's prayer on his own.'" **Sahih (Darussalam) Sunan Ibn Majah 789**
13. It was narrated that Abu Hurairah said: "The Messenger of Allah said: 'I was thinking of commanding that the call to prayer be given, then I would tell a man to lead the people in prayer, then I would go out with some other men carrying bundles of wood, and go to people who do not attend the prayer, and burn their

houses down around them.” **Sahih (Darussalam) Sunan Ibn Majah 791**

## II. IMPORTANCE OF CONGREGATIONAL PRAYER IN MOSQUE

1. Humran, the freed slave of 'Uthman b. 'Affan, reported on the authority of 'Uthman b. 'Affan that he heard Allah's Messenger say: He who performed ablution for prayer and performed it properly and then went (to observe) obligatory prayer and offered it along with people or with the congregation or in the mosque, Allah would pardon his sins. **Sahih Muslim Volume 1 Hadith No.549**
2. Narrated Abu Hurairah: The Prophet (PBUH) said: whoever performs ablution, and performs his ablution perfectly, and then goes to the mosque and finds that the people had finished the prayer (in congregation), Allah will give him a reward like one who prayed in congregation and attended it; The reward of those who prayed in congregation will not be curtailed. **Sunan Abu Dawood, Volume 1, Hadith 564**
3. Narrated Tariq ibn Shihab: The Prophet (PBUH) said: The Friday prayer in congregation is a necessary duty for every Muslim, with four exceptions; a slave, a woman, a boy, and a sick person. Abu Dawud said: Tariq bin Shihab had seen the Prophet (PBUH) but not heard anything from him. **Sunan Abu Dawood, Volume 1, Hadith 1067**



4. It was narrated that 'Uthman bin 'Affan said: I heard the Messenger of Allah say: 'Whoever does wudu' properly, then walks to (attend) the prescribed prayer, and prays with the people or with the congregation or in the Masjid, Allah will forgive him his sins. **Sunan Nisai, Volume 1, Hadith 869**
  
5. It was narrated from 'Umar bin Khattab that: The Prophet (PBUH) used to say: Whoever performs prayer in congregation at the mosque for forty nights, never missing the first Rak'ah of the 'Isha' prayer, Allah will thereby decree for him salvation from the Fire. **Sunan Ibn Maja, Volume 1, Hadith 798**
  
6. It was narrated that 'Umar bin Khattab said: I heard the Messenger of Allah say: 'Whoever builds a mosque in which the Name of Allah is mentioned, Allah will build a house for him in Paradise. **Sunan Ibn Maja, Volume 1, Hadith 735**
  
7. It was narrated from 'Aishah that: The Messenger of Allah commanded that mosque to be built in (Ad-Dur) villages, and that they be purified and perfumed. **Sunan Ibn Maja, Volume 1, Hadith 758**
  
8. The Prophet (PBUH) never did Itikaf<sup>1</sup> but in mosque. **Al Mausua Alfiqhiyat 34/213)**

<sup>1</sup> an Islamic practice consisting of a period of staying in a mosque for a certain number of days, devoting oneself to ibadah/ worship during these days and staying away from worldly affairs; Also done during the Holy Month of Ramazan/ Ramadan

9. The Sunnah for one who is observing I'tikaf (in a mosque) is not to visit a patient, or to attend a funeral, or touch or embrace one's wife, or go out for anything but necessary purposes. There is no I'tikaf without fasting, and there is no I'tikaf except in congregational mosque. **Hasan Sahih (Al-Albani) Sunan Abi Dawood 2473**
  
10. Narrated/Authority of Abu Huraira: The Prophet (PBUH) said, "Allah will give shade, to seven, on the Day when there will be no shade but His. (These seven persons are) a just ruler, a youth who has been brought up in the worship of Allah (i.e. worships Allah sincerely from childhood), a man whose heart is attached to the mosques (i.e. to pray the compulsory prayers in the mosque in congregation), two persons who love each other only for Allah's sake and they meet and part in Allah's cause only, a man who refuses the call of a charming woman of noble birth for illicit intercourse with her and says: I am afraid of Allah, a man who gives charitable gifts so secretly that his left hand does not know what his right hand has given (i.e. nobody knows how much he has given in charity), and a person who remembers Allah in seclusion and his eyes are then flooded with tears." **Sahih Bukhari, Chapter No. 11, Call to Prayers (Adhaan) Hadith No: 629**
  
11. Narrated/Authority of Abu Huraira: The Prophet (PBUH) used to perform Itikaf every year in the month of Ramadan for ten

days, and when it was the year of his death, he stayed in Itikaf for twenty days. From: **Sahih Bukhari Chapter No. 33,**

**Retiring to a Mosque for Remembrance of Allah (Itikaf)**

**Hadith No: 260**

### **III. MOSQUES BUILT BY PROPHET (PEACE AND BLESSINGS OF ALLAH BE ON HIM)**

It is a historical fact that Mosques were built by the Messenger of Allah (Peace and blessings of Allah be on him) which are as follows:-

#### **(MASJID-E-QUBA)**

Quba is the place on the outskirts of Madinah where the Prophet (Peace and blessings of Allah be on him), accompanied by Abu Bakr (May Allah be pleased with him) arrived and first stayed after emigrating from Makkah. They arrived on Monday 12th Rab'i al-Awwal, and this date marks the beginning of the Islamic calendar (Hijra), (16th July 622 CE). A masjid was established here by the Prophet (peace and blessings of Allah be on him), the first to be built in Islam.

The Prophet (peace and blessings of Allah be on him) personally carried stones, rocks and sand with his companions for the construction work. Al-Tabarani quoted Al-Shimous Bint Al- Nuaman as saying, "I saw the Prophet when he constructed this mosque. He used to carry stones and rocks on his back until it was built. I also saw dust on his dress and belly. But

when one of his companions would come to take the load off him, he would say no and ask the companion to go and carry a similar load instead.”

### **(MASJID-E-NABWI)**

Masjid-e-Nabwi is the masjid (mosque) established by the Prophet (peace and blessings of Allah be on him) upon his migration to Madinah. It is the second most revered masjid in Islam and the second largest in the world, after Masjid al- Haram in Makkah.

When the Prophet (peace and blessings of Allah be on him) migrated to Madinah (then called Yathrib), the chiefs of the city and his immediate followers rode around his camel in their best clothes and in glittering armour. Everyone was hoping he would stop by their house. The Prophet (peace and blessings of Allah be on him) would answer everyone politely and kindly, “[This camel] is commanded by Allah; wherever it stops, that will be my home.” The camel moved on with slackened reins, reaching the site of the present masjid and knelt down. The Prophet (peace and blessings of Allah be on him) alighted and said, “This is the home” and inquired as to who owned the land. The land contained a few date trees, graves of polytheists, a resting spot for herds of cattle and was owned by two orphan brothers, Sahl and Suhail. The Prophet (peace and blessings of Allah be

on him) purchased the land, had the trees cleared and the polytheists graves dug up and levelled.

## **B. THE HOLY QURAN MAKES HADITH A BINDING SOURCE OF LAW FOR MUSLIMS**

The Hadiths are the sayings or traditions of the Holy Prophet Muhammad (PBUH). Hadiths are binding as a source of law. The Holy Quran ordains at several places that obey the Messenger, i.e. Prophet Muhammad (PBUH) which is mentioned hereinafter:-

### **(i) Holy Quran (Chapter 4: Surah-An Nisa-verse-14)**

Whoever disobeys Allah and His Messenger and transgresses the limits set by Him, He shall admit him to the Fire, where he will remain forever. For him there is a humiliating punishment.

### **(ii) Holy Quran (Chapter 4: Surah An-Nisa- verse-59)**

O you who believe, obey Allah and obey the Messenger and those in authority among you. Then if you quarrel about something, revert it back to Allah and the Messenger, If you believe in Allah and the Last day. That is good, and the best at the end.

### **(iii) Holy Quran Chapter 4: Surah-An Nisa: verse-80)**

Whoever obeys the Messenger obeys Allah, and whoever turns away, then, We did not send you to stand guard over them.

(iv) **Holy Quran (Chapter-24: Surah- An-Nur verse-52)**

Whoever obeys Allah and his Messenger and has awe of Him and observes Taqwa for His sake, then such people are the victorious.

(v) **Holy Quran (Chapter-24: Surah- An Nur -verse-56)**

Establish Salah and pay Zakah and obey the Messenger, so that you may be favored with mercy.

هَذَا بَيَانٌ لِلنَّاسِ وَهُدًى وَ مَوْعِظَةٌ لِّلْمُتَّقِينَ

This (the Quran) is a plain statement for mankind, a guidance and instruction to those who are Al-Muttaqoon (the pious)

قرآن کریم

## Quran-e-Karim

English translation by: Justice Mufti Taqi Usmani



<http://www.noorehidayat.org>

[quran@noorehidayat.org](mailto:quran@noorehidayat.org)

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113. The Jews say: "The Christians have nothing to stand on. and the Christians say "The Jews have nothing to stand on. while they both read the Book! Similarly, those who do not know have said like they (the Jews and the Christians) say. So, Allah will judge between them on the Day of Resurrection in what they used to dispute.

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115. To Allah belongs the East and the West. So, whichever way you turn, there is the Face of Allah. Indeed, Allah is All-Embracing, All-Knowing.

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116. They say: "Allah has got a son." Pure is He. Instead, to Him belongs all that there is in the heavens and the earth. All stand obedient to Him.

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16. Do you think that you will be left alone (without being tested), while Allah has not yet seen those of you who struggle in Jihad and never take anyone as their confidant other than Allah and His Messenger and the believers? Allah is fully aware of what you do.

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17. It is not for the Mushriks to build up the mosques of Allah while they are witnesses of their own infidelity. Those are the ones whose deeds have gone to waste; and in the Fire they shall remain forever.

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19. Have you taken the serving of water to the pilgrims and the maintenance of Al-Masjid-ul-Haram as equal to (the acts) of one who believes in Allah and in the Last Day, and carries out Jihad in the way of Allah? They are not equal in the sight of Allah. Allah does not lead the wrongdoing people to the right path.

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14. and that some of us are Muslims, and some of us are unjust. Now, those who submitted to Islam have found out the right path,

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15. As for the unjust, they have become firewood for Hell.”

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16. .(And it is also revealed to me) that if they (the people of Makkah) had stood firm on the (right) way, We would have supplied water to them in abundance,

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17. so that We test them thereby; and if one turns away from the remembrance of his Lord, He will thrust him into a severe torment,

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19. and that when Allah’s servant stood invoking Him, they almost rushed on him in crowds.”

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20. Say, “I invoke my Lord, and do not associate anyone with Him.”

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21. Say, “I possess no power to cause you any harm or bring you to a right way.”

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and He will tell you what you used to do.

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10. Then once the Salah is over, disperse in the land, and seek the grace of Allah, and remember Allah abundantly, so that you may be successful.

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11. And when they see some merchandise or amusement, they break away to it, and leave you (O prophet,) standing. Say, "What is with Allah is much better than the amusement and the merchandise, and Allah is the best giver of sustenance.

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where he will live forever. That is a great success.

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15. Those of your women who commit the shameful act, have four witnesses (against them) from among you. So, if they testify, then confine those women to their homes until death overcomes them, or Allah prescribes a way for them.

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16. Those two of you who commit it, chastise both of them. However, if they repent and make amends, then, overlook them. Surely, Allah is Most-Relenting, Very-Merciful.

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17. The relenting taken by Allah upon Himself is for those who do evil in ignorance, then repent shortly thereafter. So, Allah relents towards them. Allah is All-Knowing, All-Wise.

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55. So, there were some among them who believed in it, and there were others among them who turned away from it. Enough (for the latter) is Jahannam, a fire ablaze!

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56. Those who have disbelieved in Our verses, We shall certainly make them enter a fire. Whenever their skins are burnt out, We shall give them other skins in their place, so that they may taste the punishment. Surely, Allah is All-Mighty, All-Wise.

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57. As for those who have believed and have done good deeds, We shall admit them to gardens beneath which

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rivers flow, where they will live forever. For them there are wives purified. We shall admit them to an umbrageous shade.

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58. Surely, Allah commands you to deliver trusts to those entitled to them, and that, when you judge between people, judge with justice. Surely, excellent is the exhortation Allah gives you. Surely, Allah is All-Hearing, All- Seeing.

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60. Have you not seen those who claim that they have believed in what was revealed to you and what was revealed before you? They want to take their disputes to the Taghut, while they were ordered to reject it. Satan wants to mislead them to a remote wrong way.

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61. When it is said to them, “Come to what Allah has revealed and to the Messenger,” you will see the hypocrites turning away from you in aversion.

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62. But, how (apologetic) they are when they suffer a calamity because of the acts of their own hands, and they come to you swearing by Allah, “We meant nothing but to promote good and bring about harmony.”

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63. Those are the ones Allah knows what is in their hearts. So, ignore

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them, and give them good counsel, and speak to them about themselves in

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78. Wherever you will be, Death will overtake you, even though you are in fortified castles." If some good comes to them, they say, "This is from Allah." But if some evil visits them, they say, "This is from you." Say, "All is from Allah." So, what is wrong with these people, they do not seem to understand anything?

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79. Whatever good comes to you, it is from Allah and whatever evil visits you, it comes from your own selves. We have sent you to be a Messenger for the people. Allah is enough to be a witness.

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whom He wills to the straight path.

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47. They say, “We have believed in Allah and in the messenger, and have adopted obedience”, then a group from them goes back after all this. Those are no believers.

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48. When they are summoned to Allah and His messenger that he (the messenger) may judge between them, in no time a group of them turns averse.

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49. And if the right is theirs, they would come to him as (if they are) submissive ones.

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50. Is there a malady in their hearts or do they have doubt or do they fear that Allah and His messenger will do injustice to them? Rather they themselves are the unjust.

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51. The only reply of the (true) believers, when they are summoned to Allah and His messenger that he (the messenger) may judge between them, is that they say, “We listen and obey.” Such people are the successful.

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53. And they (the hypocrites) swear by Allah on forceful oaths that if you (O prophet) order them, they will certainly leave (their homes for Jihad). Say, "do not swear, (the reality of your) obedience is known. Indeed Allah is fully aware of what you do."

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54. Say, "Obey Allah and obey the messenger. But if you turn away, then on him (the messenger) lies (the responsibility of) what he is burdened with, and on you lies (the responsibility of) what you are burdened with. And if you obey him, you will get the right path. The duty of the Messenger is no more than to convey the message clearly."

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55. Allah has promised those of you who believe and do good deeds that He will certainly make them (His) vicegerents in the land, as He made those before them, and will certainly establish for them their religion which He has chosen for them, and will certainly give them peace in place of fear in which they were before; (provided that) they worship Me, ascribing no partner to Me. And those who turn infidel after that are the transgressors.

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57. Never think that the disbelievers are (able) to frustrate (Allah's plan) on the earth. Their abode is the Fire.

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Indeed it is an evil terminus.

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58. O you who believe, the slaves owned by you, and those of you who have not reached puberty, must seek your permission (to see you) at three times: before the prayer of Fajr, and when you take off your clothes at noon, and after the prayer of Isha'. These are three times of privacy for you. There is no harm, neither to you nor to them, after these (three times). They are your frequent visitors, as some of you are (frequent visitors) of the others. This is how Allah explains the verses to you. Allah is All- Knowing, All-Wise.

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59. When the children from among you reach puberty, they must seek

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permission, as the permission is sought by those before them. This is how

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