

Keywords: Divine law; Islamophobia; Terrorism; Death penalty; Transitional justice

On Islam and International Terrorism: Why Fallacy and Delusion?

On January 7, 2015—which remarks the Christmas day for Egyptian Coptic Christians, Egypt’s President ‘Abdel-Fattah El-Sisi makes noteworthy Christmas visit to Saint Mark’s Orthodox Basilica to share festivity with Christians and send a clear, recognizable, and vigorous message to fundamentalists and extreme Islamists, predominantly in light of the most recent discrimination of Copts at the hands of radical Islamic folks [1]. El-Sisi regarding his contemporary statement said that:

Islam must reform, its dialogue need to be change, and the Muslim community need a revolution in understating their Islamic religion and apprehending the accurate and correct interpretations of the Islamic provisions either the قرآن texts or the Prophet Mohammad’s teachings . . . [2]. In addition, Sisi has advised Egyptians to “correct and renew our religious discourse” — and his recommendation amounts to an order . . . he put it, “several factors combine to create terror and radical thinking, including ignorance, poverty, and our poor religious discourse, along with isolation and refusing to recognize the other’s culture.”

In the meanwhile, Sisi requests إصلاح , as he has made obvious that the indispensable improvement and renewal of the “discourse” must be realized solely by the State and religious specialists, first and foremost إصلاح . In this regard, the correct interpretation of the Islamic provisions or texts shall be done via the modest الفتاوى (schools of jurisprudential thoughts) by implementing the recognized utensils of Islamic interpretation either التأويل (analogical

reconciliation measures under *al-Qisas*, as the Prophet Mohammad said: “[I]f a relative of anyone is killed, or if he suffers *al-Jarh* (wound), he may choose one of three things: he may retaliate, or forgive, or receive compensation.” Justice plays a dominant theme in the *Shari’ah* as represents one of the Islam’s main purposes. In terms of retributive justice, Muslim *fuqaha* (scholars) splits crimes and punishments into three categories: *Hudud* are prescribed offences cover specific acts (e.g. the *zina*, adultery, slander...), *Qisas* means retaliation for murder, wounding, and mutilation and for community’s improvement, and *Tajzir* includes minor misbehaviors, crimes for which retribution is improper (or impossible), and offences not cited in the Qur’an and don’t have any fixed penalties as *Tajzir* and *Qisas*, which administered at the *Qadi*, (judge)’s discretion [6].

In terms of restorative justice, Islamic law endorses forgiveness, as Islamic literatures define reconciliation as flowing from God’s mercy to forgive the repentant, though forgiveness is conditional upon perpetrators’ repentance. Hence, this sort of Islamic justice is not exclusive or even favored means of punishment for killing crimes, the victim’s family always fortified to admit *diyya* (blood money) over retaliation, based on public interests and state goals [7]. There is no doubt that the three Abrahamic beliefs and traditions (Christianity, Islam, and Judaism) along with others have presented the popular of religious arguments for political reconciliation. Religious foundations for settlement, at least those in these dogmas, originate their instructions for horizontal affairs within political societies from the vertical link that God forges with humanity [5].

Inpenliguarapule forisd mt, tirhTETaysitris ,orgcomposcrimes/Spain_Ang.(en_US)/MCID ©BDC BTOW 99

and immunity of the judicature are two basic guarantees to safeguard rights and liberties. Penalty shall be personal. There shall be no crime or penalty except by virtue of the law. No penalty shall be inflicted except by a judicial sentence. Penalty shall be inflicted only for acts committed subsequent to the promulgation of the law prescribing them. In addition to that any defendant is innocent until he is proved guilty until he is proved guilty before a legal court, in which he is granted the right to defend himself. Every person accused of a crime must be provided with counsel for his defense and any person arrested or detained shall be informed forthwith of the reasons for his arrest or his detention. He shall have the right to communicate with whoever he sees fit and inform them of what has taken place and to ask for help in the way organized by law. He must be notified, as soon as possible, with the charges directed against him. Any person may lodge a complaint to the courts against any measure taken to restrict his personal freedom. The Law shall regulate the right of complaint as well.

By the same token, according to Egyptian Criminal Code, the country’s attorney general along with the defendants have the possibility to instinctively appeals death penalties to the Supreme Court (Cassation Court), which can order a retrial and if the retrial results in the same ruling, the defense attorney may over ask the court to grant a retrial procedure. According to Article 2 of the Egyptian Constitution 2014, “Islam is the State’s religion...and the principles of the *Shari’ah* is the principal source of legislation.” In light of this provision’s interpretation, the law of God requires that premeditated and serious offences be put to death which means the *Qisas* (equality principle) through sustaining the victims’ feelings and then social peace and criminal justice will conserve [8]. Orthodox Islamic scholars argued that Islamic standards are incontrovertible, based on the Supreme Constitutional Courts’ decision on the interpretation of the *Shari’ah* values [10]. Nevertheless, the court believes that the *Shari’ah* law include “relative” philosophies and “updated or modern” canons which are capable of being accustomed within the social future development through *Qiyas* (individual reasoning) and *Istisna* (precedential analogy) and without any paradox to the main *Maqasid* (objectives/bulk) of the Islamic *fiqh* (jurisprudence) [11]. In this area, the most conformist religious scholars go as far as to claim the renovation of the death penalty for all criminal offences identified in the *Shari’ah* and others moderate Islamic intellectuals claimed for the restoration of the *Qisas* whereby criminals can be (forgiven) whereby delinquents can be pardoned or acquitted by their victim’s family by giving them compensation [8]. Egypt’s Constitution stipulates that all those accused of a criminal offence are “presumed innocent until proven guilty in a fair legal trial in which the right to defend oneself is guaranteed.” The Constitution does not refer to the corporal punishment but confirmed a certain number of guarantees concerning the respect of individual public rights and freedoms.

In this regard, the Egyptian Constitution makes no mention to the death penalty. It declares a definite number of assurances concerning the respectability of individual freedoms, and it forbids arbitrary detention and torture. Furthermore, it instructs that every person should be adjudicated promptly by an independent judiciary. One provision sets out the right to legal assistance by one’s selected defense lawyer and preserves the presumption of innocence. In the same vein, the Penal Code sets this punishment for various crimes.

Crimes of this punishment are tried by the criminal circuits of the Appellate courts in which the criminal procedures does not offer a fair system of reasonable administration of justice which establishes a breach of the United Nations (UN) Safeguards guaranteeing defense

of the rights of those facing the death sentence [12]. The Penal code obliged the court to pass the case file to the *Mufti* (religious leader) for his opinion, before articulating this punishment decision to make sure if it is well-matched with Islamic law norms or not. In Egyptian law, execution can be suspended by retrial's request, as the right to request a retrial belongs to the prosecution or the defendant.

As a question on the *mufti* on the death penalty extermination, and based on the constitutional's sensible interpretation of Islamic law rules, as Islam should familiarize to the *sharia* which have come about since the Prophet's period, elaborating *fiqh*. Law is an old-fashioned practice which should be bartered by the legislature and the judiciary to end up the debate on death penalty not only in Egypt but also in the Islamic World. For decades, act of vengeance no longer introduces the basis for punishment, as any development appears to aggregate law's secularization, the goal of which is to isolate the Prince's law from God's law. Disappointingly, the rise in numerous fundamentalism's formulas is not favorable to this approach.

diversity of beliefs and performances. What is habitually practiced by one group may be prohibited by another.

Classical Muslim scholars were rigorously harsh toward revolutionaries who used what the jurists designated as furtiveness attacks and, thus, spread terror. Muslim intellectuals considered terrorist attacks against innocent and unarmed victims as dreadful and immoral severe criminal acts, and treated the culprits as the worst sort of criminals. In this respect, it should be emphasized that the Constitutional Rights Foundation notes that:

In the 19th Century, many Muslim countries came under the control or influence of Western colonial powers. As a result, Western-style laws, courts, and punishments began to appear within the Some countries like Turkey totally abandoned the and adopted new law codes based on European systems Modern legislation along with Muslim legal scholars who are attempting to relate the will of Allah to the 20th Century have reopened the door to interpreting the is has happened even in highly traditional countries with fundamentalist Islamic regimes have attempted to reverse the trend of westernization and return to the classic [15].

All in all, Islamic law has been implemented in numerous forms by several nations, fluctuating from a stringent interpretation in Saudi Arabia and others, to a moderately liberal interpretation in other places. Further, law is anticipated to be only applicable to Muslims and the non-Muslims are invented to be exempt from the provisions of the law; and this norm should universally followed.

Conclusion

It should be obvious that there is a likelihood that Islam can advance throughout much of the world toward more democratic, diverse humanities along with sharing the goals of endorsing rationalism, secularism, democracy, and human rights within Islamic society. But what is misplaced is a genuine and real action plan to achieve this. Of course, this need first to discover conducts and techniques to influence an adequate room with all those Muslims whose notion of their religion and whose personal routines (styles) are companionable now with humanity's ongoing synchronicity. . . . is won't materialize if we admit to Osama bin Laden the indication that his Islam is the "only true Islam" or postpone for the alteration of a billion Muslims to humanism. To enquire for all this at once is to ask for too much,

too soon. One of the main essentials that humanists should do is to lengthen a supporting and inspiring hand to those millions of Muslims who discard bin Laden's mentality on brand of angry, revengeful political policy and welcome them affectionately and gently into the modern world. It is just important do even better if we work hard to eliminate political, economic, and social inequalities to authorize the