

Challenges of Muslim-Christian Co-existence in a Multi Religious Nation: The Role of Muslim Orthodoxal Jurisprudence

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Abstract

Religious rancour has assumed a major feature in heterogeneous society in the contemporary time. Many factors account for this negative phenomenon, lack of proper education about the teachings of religion stands tall among them. This study attempts to examine the role and contribution of Muslim orthodoxal interpretation on some issues in impeding a peaceful and harmonious co-existence among the adherents of Christianity and Islam in a multi-religious setting. Three issues which include: Jihad, apostasy and killing a Muslim who kills a non-Muslim were used as case study for manifestation of intolerance, ideological discrimination and inadaptability to the natural requirements of a heterogeneous society in the orthodox context. The orthodox interpretation in the given religious matters are characterized by superficiality and rigidity as a result of ignoring the flexibility nature of Shari'ah vis-à-vis the peculiarity of every given society and age. The study concludes that Islam has laid down principles capable of triggering harmonious and peaceful relation among adherents of various faiths and these were manifested in the Prophet in Madinah which seemed to be a typical heterogeneous community. Hence, the laid down principles should be taken superior above all human interpretations and fallible opinions.

Introduction

A characteristic feature that distinguishes current globe from ancient setting is the extreme intermingling and co existence of adherents of various faiths. Contrary to the ancient time when virtually every community was dominated by only its natives who seem to subscribe to the same belief and culture, the recent globe takes exception to that phenomenon due to easy accessibility and free contact that characterize the setting of current society. Although there existed a very few of multi-religious community in those days, the dominant phenomenon was

the afore mentioned. The multi-cultural and religious phenomenon in current times has posed a great challenge for the peaceful and harmonious co-existence among adherents of various religions. Hence, the bid to curb this challenge has given rise to the concept of Inter Religious Dialogue (Bidmos, 2006). This concept is motivated by the usually religious rancour and grudge that often retard the development and growth of a particular society (Denffer, 1982). In view of the foregoing, many scholars of Christianity and Islam have taken up the task of proffering theories and principles in each of the aforementioned faiths that can minimize religious tension in the contemporary globe. Quadri (1978), Balogun (1978), and Dopamu (1978) have all contributed to this aspect.

Against this backdrop, this paper is aimed at examining the role of Muslim orthodoxal jurisprudence in souring the relation among adherents of Christianity and Islam in a multi-religious nation. Three issues namely: *Jihad*, apostasy, killing a Muslim who kills a non-Muslim have been used as case study. The aforementioned issues are chosen because of being rules that affect non-Muslims. In addition to this, these issues in the orthodox context seem to have tainted the religion of Islam with impressions portraying it as unqualified to meet up with the modern requirements of peaceful co-existence in a multi-cultural and faith society.

Islamic Jurisprudence between Orthodoxy and Modernism

One of the features that mark the Islamic scholarship in modern time is the dichotomy of traditionalism and modernism. Many factors are responsible for this division. Akbar (1988), has argued that this dichotomy is a conspiracy of some western orientalists. They design the modernists as liberals, humanists, progressives and thus good guys, and design the orthodox as fanatics, retrogressive and thus bad guys (Akbar, 1988). Contrary to the foregoing assertion, it is more proper to attribute this division to difference in place and time context that characterize scholarship of the two groups (Qardawi 1994). Hence, it is accurate to assert at this juncture that the traditional or orthodox trend in Islamic scholarship seeks to address contemporary issues and problems with traditional verdicts and solutions. In a striking contrast, the trend of modernism in Islamic scholarship is aimed at resolving contemporary issues with modern patterns. Beyond this dichotomy, there are other dynamics to it. This can be explained in the debate over the status of Islamic law being rigid or flexible codes of law. Although, Muslim scholars agreed that *Shari'ah* contain both rigid and flexible law, they, however, differ on the status of some specific issues vis-à-vis rigidity and flexibility. This,

perhaps, explains the cause of heated disagreement between the orthodox and modernists over addressing some issues in contemporary time. Various rules in Islam have been misconceived as holistic, rigid and inadaptable to change of place and time; the negative fall-outs of which gave birth to modernism in Islamic scholarship. It is indisputable that Muslims in the contemporary globe are faced by peculiar challenges spread across globalization, communication, westernization, colonization and technological advancements. The aforementioned do not have precedent in Islamic history and thus behooves contemporary scholars to exert unique modalities for addressing them.

The historical factor for the emergence of the trend of modernism in Islamic scholarship is given by Noel (2006). According to him, the doctrine of the early jurists came to be invested with an authority which they themselves had never claimed. Their written works became, in the language of jurisprudence, “the mother-books” of the school. The doctrine thus became settled and ratified, at least within each school, by the general consensus, and the belief gained ground, in the circles of jurists, that the door of *Ijtihad* had been closed. It may have been that Islamic law remained relatively static for an extremely protracted period. But this was essentially because Islamic society itself remained static throughout this time. There was in fact no real social impetus to challenge the authority of the medieval legal manuals until the past few decades of the present century. But now, when Islamic society has come to accept different values and standards of behaviour, the traditional doctrine has been challenged and the principle of *Taqlid* (imitation) called more and more into question (Noel 2006). It is noteworthy that modern scholars of the calibre of Muhammad Abduh in Egypt and Iqbal in India were at the forefront of this trend. They propounded the concept of new “*Neo-Ijtihad*”. The concept is defined as intellectual re- interpretation of various issues (Doi, 1990). According to Ajetunmobi (1989), *Neo Ijtihad* is an offshoot of an early *Ijtihad* of the earlier generation of Muslims (*salaf*) which is now reinterpreted so as to bring out new legal rulings according to culture and custom (*Urf and Adat*) of particular society.

However, in the course of pursuing *Neo-Ijtihad*, some modernists have gone extreme. It is observed that some liberal scholars in a bid to please the westerners are deliberately gearing the culture of Islam towards conforming to the western style. Examples abound for such religious distortions: permitting adoption of children in contradiction to Q33: 5; legalizing marriage with non-Muslim (Christian) for a Muslim female in contradiction to Q60:10; and

equalizing the portion of female to male child in inheritance as against Q4:11. (Qardawi, 1994). It is due to the manipulation of textual evidences by some so called modernists that the traditional scholars have superficially attributed notoriety to modernism. With the need to avert such impression, Adegoke (2011) has recommended that the employment of *Neo-Ijtihad* should be limited to those Islamic scholars who are specialists in the Principles of Islamic Jurisprudence (*Usul al-fiqh*).

It should be asserted that though modernism is inevitable for addressing some contemporary issues, it is also worthy of mention that issues abound in contemporary time which need no modern pattern for resolving them, rather than the traditionally fixed patterns. Those issues which can only be addressed traditionally include the doctrinal corruption, moral perversion and spiritual dwarfism. The aforementioned are the bedrock of Muslim triumph, and still many modernists paid little attention to them. It is obvious that the orthodox scholars spread across *Salafi* and *Sufi* scholars do perform in these areas more than their counterparts. However, issues and aspects where modernism seems to have contributed, and perhaps, worthy of praise more than the traditionalism, include the reinterpretation of the concept of the *Jihad*, re-assessment of woman's status in Islamic culture and revitalization of Muslim social sciences. Thus, it is submitted that the existence of both trend in Islamic scholarship is favourable to the current atmosphere. Hence, each trend should be channeled to areas and aspects it best suits. It is apparent that problem lies in the situation whereby the orthodox scholars seem to impose traditional modality on modern problems that call for modern patterns. Resort to traditionalism in the area of political and economic quagmires will not be effective in view of the complicity and dynamics that characterize every aspect of human's endeavors in recent time. In addition to this, viewing the dominating heterogeneous nature, and the globalization syndrome of current society, many orthodox interpretations which are largely influenced by the homogeneous nature and cultural context of the ancient simple society, can not answer the currently complex posers. The struggle to ascertain those issues and areas where traditionalism or modernism suits better, among current Muslim scholars, continues.

Issues in focus

The issues to be discussed here have, in the orthodox context and perspective, gathered momentum in recent time. This arises from the fact that they have a stake in the freedom of

religion, dignity of life of non-Muslims and religious tolerance. The afore-mentioned are considered to be the essential ingredients of peaceful co-existence among the adherents of various faiths.

i. The Concept of Jihad

Jihad is one of the most mis-conceived issues in Islam by Muslims and non Muslims alike. Some critics have associated violence with Islam particularly in contemporary time. Such violence is erroneously attributed to the concept of *Jihad*. (Islamic Education Trust, 2009). Contrary to the famous belief that *Jihad* is reducible to physical attack against non Muslims, the use of that word in the Glorious Qur'an and Prophetic traditions reveals that it broadly connotes any sense of struggle in God's cause (which could include fighting). In the *Makkan* revelations (*Makkiyyah*), it is conventionally known that Muslims had not been permitted to engage in physical fighting with the disbelievers, yet Allah still commanded the Prophet to observe *Jihad*. Q25:52 provides:

*Therefore, listen not to the unbelievers, but engage in Jihad (striving) against them. In the same vein, Q29:69 provide:
And those who engage in jihad (striving) in Our (cause) we will certainly guide them to our paths.*

Q29:6 also provides:

And whoever engages in jihad (striving) he does so for his own soul.....

The fore-goings point to the fact that *Jihad* is more than militancy and fighting. Even in the Prophetic traditions, it is obvious that the word has been used for various struggles in the cause of Allah. The Prophet describes the best *Jihad* as a word of truth before an oppressive ruler. (An-Nasai, no. 4209). In another instance, he describes *Hajj* as the best *Jihad* for woman (Al-Bukhari, no. 2784), Ibn Umar also reported the Prophet to have said that the best *Jihad* is to strive against one's self. (Al-Albani, no. 1129). The Prophet in the same vein also directed a man to exert utmost *Jihad* in the service of his parent instead of fighting the disbelievers in the battle field (Muslim, no.2549). However, the jurisprudential elaboration and legal regulation on the military form of *Jihad* has unfortunately led many students of Islam to conclude that *Jihad* has the exclusive meaning of fighting or warfare (Islamic Education Trust, 2009). This orthodox concept of *Jihad* has prompted some contemporary Muslim sects to embark on military *Jihad* in reaction to the oppressions of western super powers and Muslim rulers,

ignoring other lesser means of *Jihad* that can combat and out root such oppressions. Such military *Jihad* is branded in the contemporary common language as terrorism and insurgency. Abu Yusuf (2008) advocates for such a military means to change the unIslamic system of governance in Nigeria, and his advocacy has resulted into Boko Haram insurgency which is the currently gravest obsession with Nigeria. Many organisations have recently ensued purposely to pursue the military *Jihad* against all that is considered as oppression. Hence, the implication for such restricted context of *Jihad* is terrorizing the populace in the guise of fighting for cooperate right.

The over stressing of military *Jihad* has brought another issue to the fore, and this is apparent in the famous poser: is the primary rule for the relation among Muslims and non-Muslims a peaceful or hostile relation? According to the former, non-believers enjoy peaceful co-existence with Muslims even with their disbelief, while according to the latter, disbelief attracts hostile and aggressive relation. Thus, unbelievers deserve to be punished for the belief with which they are convinced, except they are ready to be bound by humiliating conditions given by Muslim community. Some *Salafi* scholars like Madkhali (2001), Fawzan (2001) and Ibn Baz (1998) subscribe to the view that hostility should be the rule guiding relation among Muslims and non-Muslims because of the faith of the latter. However, the secret behind the inclination of these scholars to this view may be attributed to the influence of purely Islamic state in which they live. Such a view can never hold water in a multi religious society where tolerance and respect for others' conviction are the only prerequisite for a peaceful co existence. Other contemporary scholars who have had the taste of heterogeneity are of the view that non-Muslims are at freedom to profess their faith peacefully and should enjoy the respect of Muslims so far they do not seem hostile to the Muslim community (Sieny,2005). Qardawi asserts that as Muslims we are fighting the Jew purposely to recover our stolen land and not for the reason that they do not embrace Islam (Qardawi, 2005). In the same vein, Qutb (2004) stresses that non Muslims are free to practice their faith peacefully. The latter view is more accurate and goes in consonance with the Qur'anic injunctions .Various Qur'anic provisions postulate that violence or war should be waged against the unbelievers only to combat their oppression.

Fight in the cause of Allah those who fight you, but do not commit aggression, for God loves not the aggressors. (Q2:190)

In the same direction, another Qur'an verse provides:

Permission is given to those who fight because they have been oppressed...
(Q22:39)

Other verses of Qur'an that point to this view are Q4:75 and Q9:12-13. However, there is a claim by some jurists that all the aforementioned verses that assert that military *Jihad* is against oppression and should be combative are abrogated by a verse that provides thus:

Once the sacred months are past, (and they refuse to make peace) you may kill the polytheists when you encounter them, punish them and resist every move they make. If they repent and observe the formal prayers and give the obligatory charity, you shall let them go. Allah is The Forgiver, Most Merciful. (Q9:5).

In other words, it is claimed that after the revelation of Q 9:5, Muslims can never have peaceful relationship with any non-Muslims (Abdul Qadir, 1998). Various scholars spread across the ancient time and contemporary time have taken up the task to refute this alleged abrogation. Ibn Taymiyyah, as cited by Talimah (2000), was reported to have refuted this claim holding how prohibiting from aggression as entrenched in Q2:190 should be abrogated. Also Ibn 'Abbas, Umar ibn Abdul-Aziz, Mujahid and others have rejected the abrogation (Qurtubi, 2005), Ghazali (2001) and Asad (1980) assert that Q 9:5 is referring specifically to those pagan Arabs that violated the terms of their peace treaty and who were bent on exterminating the Muslim community. Safi (2001) argues that classical jurists whose stance was that military action should be undertaken against all non-Muslim states because of their disbelief did not intend to position it as a holistic theory with universal application rather the rulings relating to war and peace with non Muslims arose in a historical context-in particular the armed struggle between the Abbasid Islamic caliphate and the various European dynasties (Safi, 2001). It is, therefore, safe to conclude that exoteric and in-contextual interpretation may be responsible for the intolerant view of some orthodox scholars, particularly in cases like this. Hence it is submitted that peculiarities of multi-religious society in this modern day cannot condone such a bias and oppressive manner of co-existence. It is also worthy of note that *Qur'an* abound with provisions that give religious freedom to everyone such as Q2:256, Q88:21-2 and Q2:62.

i. Apostasy

Apostasy which is the act of withdrawing from Islam after espousing it is condemnable in bold term in the provisions of Qur'an. Q2:217 which provides that anyone who withdraws from Islam after he had espoused it shall be culpable to eternal hell in the hereafter and his deeds in this world shall be rendered rewardless. Allah also cursed those who died as disbelievers Q2:161. However, it is obvious from the Qur'anic contents that apostasy is condemnable, but there is no direct provision for legal punishment on the act (Rahman 2006). Although, some scholars like Hamidullah referred to some indirect verses of the Qur'an as bearing on the punishment for apostasy, viz, Q5:54 and Q33:57. (Hamidullah,1966).The above mentioned verses do not pronounce capital punishment on apostasy, rather they refer to the punishment awaiting the apostates in the hereafter. It is noteworthy that the prophetic traditions contain provisions for death sentence on apostasy. Ibn Mas'ud reported that Prophet Muhammad said:

It is not permitted to shed the blood of a Muslim except for three reasons: a married fornicator, killer of another soul and one who left his religion (Bukhari, no. 6878)

Ibn Abbas also reported that the Prophet said:

Anyone who substitutes his faith should be executed. (Bukhari, no. 3017)

Based on the aforementioned *Ahadith*, the orthodox scholars have agreed that an apostate should be killed as a legal punishment for the act (Ibn Rajab, 2010). This view is challenged by the dominating contemporary heterogeneous setting and the Universal Declaration of Human Rights by the General Assembly of the United Nations, which provided that everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief (Article 18 of the Universal Declaration of Human Right). These two factors have prompted some modern scholars to revisit the issue. The former Chief Justice of Pakistan, S.A. Rahman, former Mufti of Egypt, Mahmud Shaltut and Chandra Muzaffar are very prominent. Rahman (2006) and Shaltut (1986) have respectively concluded that there is a distinction between 'Peaceful conversion' and 'violent defection'. According to them, a peaceful conversion does not attract death punishment, however, due to political stability, they held that a violent defection attracts death punishment. Rahman is of the view that none appreciation of the two identified modes of apostasy by orthodox and classical jurists has led

to the blind conclusion that mere withdrawing from Islam calls for death. This view conforms to the tradition narrated by 'Aisha in other chains of the tradition on apostasy that the Hadith contained the followings phrase:

Also, a man who withdraws from Islam and thus wages war against Allah and his Apostle. Such person should be killed; or hung over or should be expelled from the town.(Nisa'i, no. 4048).

The connotation of the aforementioned Hadith reveals that it is only when treason goes with conversion that it should be punished with death sentence. It is note-worthy that some ancient scholars like Abu Qilabah (d.198) also expressed such view.(Ibn Rajab,2010). Rahman's assertions at this juncture are spell-binding:

Historically speaking, the defectors from faith, in olden times, almost invariably joined the enemy ranks and became violent antagonists of Muslims. That seems to be the genesis of the prescription of the capital sentence for apostasy and no necessity was apparently felt of analyzing the circumstances of each individual case to discover whether the element of *Hirab* coexisted with apostasy or not (Rahman, 2006).

Be it as it may, the punishment for apostasy which has been conservatively regarded among the seven fixed punishment of crimes poses a challenge to the implementation of Islamic law, most especially in multi-religious society where the man made constitution often used to subject all other laws to 'repugnancy test'. It is therefore suggested that the punishment for apostasy can be restricted to Islamic states like Saudi, Iran and Afghanistan, where the interest of preserving dignity of Islam over-rides all other interests. The implementation of such punishment in heterogeneous community will catapult the society into religious war. Hence, the view of some modern scholars on this issue is more suitable and conforming to multi-religious society, while the view of the orthodox scholars conforms to the ancient setting of Islamic state. It is, thus, safe to conclude that the views of the two schools are influenced by the context of society under which the scholars are inspired.

ii. Killing a Muslim who kills a Non-Muslim

Another issue that affects peaceful co-existence among Muslims and the Christians is the orthodox view which holds that the soul of a non-Muslim is inferior to Muslim's. Thus, according to this view, a Muslim would not be killed in lieu of committing murder against a

non-Muslim (Ibn Rajab, 2006). The dust raised by this view is further heightened by the agitation of the minority non-Muslims in Muslim states over the indignity of their life under the shade of *Shari'ah* (Qardawi, 1998). The view of orthodox jurists is based on the tradition narrated by 'Ali that the prophet was reported to have said:

A Muslim should not be killed in lieu of Killing a non-Muslim (Bukhari, no. 111)

The Maliki, Shafi'i and Hanbali schools of thought subscribe to the simple connotation of this tradition. Hanafi school, however, differs with them holding that a Muslim should be killed in retaliation for killing a non-Muslim (Ghazali, 2001). The view of Hanafi is corroborated by evidences in the Qur'an and Sunnah. It is held that the aforementioned tradition of Ali goes contrary to the general rule of Qur'an which provides that a soul should be executed in retaliation for killing a soul. (Q5:45). The verse does not distinguish between Muslim and non-Muslim. Furthermore, the tradition of Ibn Mas'ud also supports that no difference between Muslim and non-Muslim vis-à-vis the law of retaliation (Muslim, no. 1676). In addition to this, the tradition of 'Ali which is the basis for the majority's view has been interpreted in a deep-rooted manner that negates any room for contradiction or disharmony among the textual evidences. According to At-Tahawi (1978), there is an addition (Ziyadah) for the tradition of 'Ali which comes in another chain (Isnad) that a Muslim and also a non-combatant non-Muslim (Dhu'ahd) should not be killed if either of them kills a combatant non-Muslim. It there follows that the non-Muslim mentioned in the tradition of 'Ali is warring non-Muslim (Al-Harbiy). Hence, a Muslim should not be killed if he kills a warring non-Muslim. (At-Tahawi, 1978). Analogically, a Muslim's hand should be amputated, according to the unanimity of Muslim scholars, if he committed theft against a non-Muslim, it therefore follows that the dignity attached by Islam to the property of a non-Muslim should be extended to his life, which is more dignified (Talimah, 2000). Many modern scholars prefer the view of Hanafi above the majority's view. Qardawi is leading the vanguard of this advocacy. The great Imam of Egypt, Mahmud Shaltut is also of this opinion (Shaltut, 2004). Other scholars who promote this view in contemporary time are Zidan (1996), Abu Zahrah (2003) and Al-Mawdudi (1995). In the opposite side, many *Salafi* scholars uphold the orthodox view and maintain that the soul of non-Muslim is inferior to Muslim. Prominent among these scholars

are Albani (2002) who condemned Al-Mawdudi for holding contrary view; also Abu Malik (2003) and virtually all Salafi scholars.

It is note-worthy that this orthodox view cannot thrive with such hostile tendencies against non-Muslims, who are also a key member of the society in a multi-religious Nation. It is therefore worthy to submit that explicit provision of the Qur'an does not support the orthodox view and accurate interpretation of prophetic tradition also goes contrary to that view. Hence, infringement on human's soul regardless of colour, ethnic and religion is condemned outrightly and punishable under the express provision of Qur'an and Sunnah.

Conclusion

Principles abound in the provisions of Qur'an that guarantee peaceful co-existence among Muslims and Christians. Generally, Qur'an provides that there is no compulsion in religion (Q2.256). This gives freedom of religion without molestation and harassment to every citizen of the society. It is observed that infringement upon this freedom often catapults the society into religious war and mistrust. Furthermore, Qur'an recognizes the Christians as adherents of revealed religion. Hence, special treatment is applied to them in contrast to the infidels (Quadri, 1978).

In the same vein, Prophet Muhammad has displayed in conformity to the teachings of the Qur'an, principles that regulate and harmonize the relations among Christians and Muslims in a multi religious society. On arriving to his new settlement, Prophet Muhammad in collaboration with representatives of other faiths: Christianity, Judaism and Infidelity, drafted the first constitution popularly known as "Madinah Charter." The constitution was created to end the bitter inter-tribal fighting between the rival clans of Banu Aws and Banu Khazraj in Madinah and to maintain peace and co-operation among all Madinah groups for fashioning them into a social unity. It ensured freedom of religious beliefs and practices for all citizens. The content of that charter, hitherto, remains preserved and treasured document that is very instructive for realizing a model and peaceful multi-religious nation.

It is apparent that the elusiveness of peaceful co-existence among Christians and Muslims in many nations of current globe is attributed to misapplication and misrepresentation of religious teachings. It is also submitted that some orthodox interpretations of Islam are capable of, and have been souring the relation among Christians and Muslims. Hence, we strongly

recommend on a concluding note that modern trend of Islamic scholarship should take up the task of re-interpreting some Islamic rules in a bid to meet up with the modern challenges of a contemporary multi-religious nation.

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