



Islamic Jurisprudence and the Recognition of Israel

Egyptian Muslim Brotherhood political bureau chief, *Isam Al-'Aryan*, indicated that if and when the Brotherhood attains power, they would abide by existing treaties with Israel. That would mean, *de-facto*, recognition of Israel. This generated condemnation by other leaders within the Brotherhood and a debate within all Muslim circles. [See-PI 509 & PI-B103]

Two days ago, an analysis by a young up and coming sheikh, *Osama al-Mu'āsiri*¹, citing that event, was published on “Islam Online,” the popular site of sheikh *al-Qaradawi*. The analysis set out a detailed religious argument, based on the concept of *Fiqh Al-Muwazanāt* [**Jurisprudence of Priorities**], supporting the proposition that there are circumstances under which Muslims – specifically the Palestinians – could recognize Israel. While the arguments are nuanced and qualified, publication of this article on *al-Qaradawi's* website signals that, while he was a strong advocate of this concept and a sign of moderation on other issues, that he may have shifted his previously intransigent position on Israel.

Al-Mu'āsiri bases his conclusion concerning the recognition of Israel on three separate lines of reasoning: 1) the practical situation on the ground; 2) Islamic jurisprudence; and 3) the *hadith*.²

- 1) On the practical side, based on an Arabic saying that “necessity has its own laws,” *al-Mu'āsiri* advises the Palestinians to obtain the best possible deal under the circumstances. At the same time, he reminds them that, while accords concluded under duress must be respected, they do not bestow legitimacy to the unjust party. Thus, he adds, later generations may be able to rectify the wrong.
- 2) On the religious front, he bases his analysis on the concept of *Fiqh Al-Muwazanāt* [**Jurisprudence of Priorities**], which is concerned with weighing the perceived benefits and harms of alternative approaches to a situation. This “Realpolitik” approach allows Muslims the flexibility to strike a balance between Islamic principles of faith and the realities of a particular situation, without being accused of fomenting strife [*fitna*] between Muslims.
It is known that *Qaradawi* and another popular centrist Sheikh, “Al-'Awdah,” support this principle.³ It is from this principle that the concept *Fiqh al-tanazulat* [**Jurisprudence of Concessions**] is derived. It is this latter concept that is usually the main point of contention between those who, having analyzed the situation, consider concessions necessary to achieve a greater good for Muslims versus those who totally reject compromise, regardless of the consequences.
- 3) *Al-Mu'āsiri* also relies on a historical event to support the religious framework of his argument. According to the *Hadith*, the prophet *Muhammad* concluded the “treaty of *Hudaybiyyah*” in which he made concessions, out of necessity, to the *Quraysh* tribe.

¹ Born in 1979 and graduated from Al-Azhar in 2003, *Osama Muhammad Al-Mu'asari* is the Imam of Al-Salam Mosque in the city of Basyun in the Gharbiyyah Province of Egypt – same area where Al-Qaradawi comes from

² The Hadith: The collection of words and deeds attributed to the prophet Muhammad.

³ Al-Qaradawi, Yusuf (1998) *Al-Siyasah alSyariyyah fi Dhaw' Nusus alSyariah wa maqasidiha*, Cairo: *Wahbah* bookstore page 301

It is noteworthy that, while several Arab governments have already recognized Israel, the author insists that the justification under Islamic law for Palestinian recognition of Israel does not extend to these other Arab governments because they have not endured the duress that necessitates this kind of concession. It is therefore unclear whether the author is simply hedging or whether he would actually take issue with The Muslim Brotherhood's *al-Aryan* on the question of Israel.

It is clear however, that the author views the existence of Israel as a fact that cannot be ignored by the Palestinians who, therefore, have the choice under Islamic law, as discussed above, to recognize Israel for survival reasons. *Al-Mu'asiri* concludes by asking Islamic religious institutions to provide a unified declaration supporting the Palestinian prerogative to take such an action.

Source: Islam Online – author: *Osama Muhammad Al-Mu'asari* – Date: 10/28/2007

URL: http://www.islamonline.net/servlet/Satellite?c=ArticleA_C&cid=1193049191608&pagename=Zone-Arabic-Shariah%2FSRALayout#***1

