

The influence of Muhammad's life on the Development of Islamic Law

*A critical analysis of Prof. Dr. Muhammad Said Ramadan Al Buti's study: "Jurisprudence in Muhammad's Biography."**

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Foreword

It is of the utmost importance that Westerners not only listen to Islamic representatives¹ here in the West who emphasize the necessity of dialogue but to study sources that come directly out of the Islamic world, as well.

In Syria, author Ramadan Al Buti is a recognized authority on Islam and taught Islamic-Law in the Law Department of the University of Damascus for many years. One could say that his views and statements represent (to a certain extent) contemporary orthodox Sunni-Islam as a whole².

I have presented Ramadan Al Buti's statements without much added commentary, so that the reader is able to develop his own unbiased perspective and opinion. Keep in mind that the author taught in socialist Syria where the Muslim Brotherhood (an islamistic movement) is suppressed. The author's legal view-

* Scientific and Systematic Studies of Lessons, principles and constitution. By Dr. M. Said R. Al Buti, Prof. at Faculty of Theology, Damascus University, Damascus, 1992². I'll quote from the English text because the Arabic was not available.

¹ See Michael Molthagen's commentary to the „Charta of the Central Council of Muslims in Germany“ (ZMD), in: „Islam and Christianity“ 2/2002, p.3ff

² The author visited Syria numerous times and witnessed such discussions.

points are proof that the theories of Islamic law and the reality of their being lived-out don't always coincide. But still Ramadan Al Buti has continued to strongly influence the beliefs and views of many Muslims, despite this discrepancy.

For this review I'll focus primarily on Al Buti's legal teaching views. His book contains many ethical viewpoints too that have been derived from the example of Muhammad. I also found his explanations for understanding the Quran and Muhammad's biography very interesting, as well as his polemic against western methods of studying history.

1. Fundamental Considerations

The author's goal, as stated in his foreword, is to show that *“the Moslem creed or doctrine [are] entirely embodied in Muhammad' life”* (p.9). *“His life was a radiant and concrete image of all the regulations and principles of Islam”* (p.9). M. had been a superb teacher, in that he *„did his best to explore the most advantageous methods of education”* (p.10). Al Buti does however concede that not everything M. did was of divine revelation (p.93). His human side was sometimes exposed as he fulfilled his duties in his role as governing leader.

„His life and traditional commands and instructions were the indispensable keys for understanding the Koran” (p. 11). Al Buti emphasizes that the life of M. (from here on ‘M.’) has been studied with historical accuracy and the true traditions distinguished from the untrue. This study of the life of M. has made it possible to „study and record historical incidents generally“ (p. 11). Muslim historians have been able to apply „an objective method of narration.“ „free from any subjective analysis or whims of reactions due to environment or dogmatism“ (p. 12).

Law historians have been able to derive „general rules, judgements and laws” (p. 12) based on these true and exacting traditions and customs. That is why they believe that „the legislation and jurisprudence of Islam are God-made and not created by an illiterate people“ (p. 16).

Al Buti also explains why Islamic Law surpasses earlier revelations: „there are not different heavenly religions but there are different heavenly laws, the preceding ones being abolished till the latest heavenly ones were established – those brought by Muhammad“ (p. 20). His logic remains consistent as he further explains, „Yet the Israelites and the Christians adopted different creeds and fabricated what their prophets did not teach them“ (p. 21). The author is proclaiming the Islamic assumption that the divine revelation of the Judeo-Christian Bible has been falsified.

Al Buti claims that the westernized methods of historical research are „subjective“, unlike the, in his opinion, objective methods of the Muslim historians (p. 13), and that the main proponent of this 19th century methodology was Sig-

mund Freud. The author expresses his regret that so many Muslims have adopted these subjective methods and ideas. „We see facts distorted, glories disfigured and down trodden, and innocence oppressed or persecuted“ (p. 13). He believes that this development began with the occupation of Egypt by the British in 1888³. The author claims that the British planted their liberal ideas among the Muslim scholars (e.g. the Al-Azhar in Cairo) who were suffering at that time from inferiority complexes (p. 13). As expected, Al Buti sharply criticizes Muslims who now live in the west "disregarding anything that might hint or refer to his [Muhammad's] prophecy or divine revelation“ (p. 14). „To strip Islam from its metaphysic is to destroy it, for divine revelation, the fountain spring of Islam, is in itself the top of all metaphysical miracles“ (p. 15).

Today, these modern developments have been somewhat thwarted in that „The cultured and educated generation of today agree, that miracles or extraordinary deeds do not really contradict scientific facts and logical standards“ (p. 15). There remain, however, things that are „beyond our intellect; faith requires taking such things for granted if their report is true“ (p. 94). Describing the battle carried out by Uhud (pp. 97-100) Al Buti shows the fatal outcome of some of the first Muslims based on the misconduct of just a few Muslims, proving that „the Muslims are overcome by foreign non-Muslim states“ (p. 101). With the growing threat of the secularization of

³ This presumption is not historically valid. The Western influences on the Orient began as early as 1798 when Napoleon invaded Egypt and had already begun to influence India under British rule in the mid-1700's.

Islam on its own turf, the author expresses his concern about modern Muslims, who, under the pretext of reformation and modernization, offer erroneous legal opinions to religious questions in order to fulfill the will of unjust rulers (p. 141). According to Al Buti, Muslims must keep an even sharper lookout for these modern-Muslims than for the enemies of Islam.

2. General religiousness, ethics and apologetics

Many of the conclusions that Al Buti draws from the life of M. have a more ethical rather than legalistic character, as in the example of M.'s meditations on Mount Hira: *“Isolation illuminates and clarifies the heart and gives it the purity it loses in the stagnant, filthy mud of this world. Another extremely important requisite is the enhancement of the love of God in the heart which is the corner stone of sacrifice. To be infatuated with the love of God is not a product of rational belief in Him: the means leading to this - after belief - is contemplation through his [God's] infinite bounties and majestic splendour and His mention during intermittent intervals of seclusion away from temptations, which is called sufism”* (p. 36).

In the depiction of M.'s monogamous relationship with his first wife Khadidja, the author cannot resist the following comment: *„This fact would bridle the tongues of the missionaries, the orientalist and their satellites whose hearts are burnt with envy and malice against Islam“* (p. 32) *„It is well-known that missionaries and a few orientalist are the professional opponents of Islam. The simple-minded people who imitate these*

inveterate enemies of Islam are agents of intellectual imperialism who sold themselves out without trying to argue or discuss“ (p. 33).

In regards to M.'s fight against the pre-Islamic idol worship of the Arabs, the author concludes the following: *„religion fights imitation and favours free thinking and common sense“* (p. 48). At the capture of Mecca, when M. destroyed the idols of the holy shrine of the Kaaba, he purposed Mecca to be *“the center of a new civilization and a new culture, that will be comprehensive to all humanity“* (p. 134).

Al Buti praises the sacrificial courage of the Muslims in their defence of M., the reason for which is their *„love to Muhammad“*. Without this love and devotion, their faith would be incomplete (p. 104). There is a tremendous difference between mere Islam and a true faith (p. 132). As a result of one of the many victorious battles of the Muslim army under Hunein in the year 630, Al Buti depicts the Muslims as a people not harbouring hatred toward their enemies, but rather fighting to spare their enemies from an eternity of agony in Hell (p. 137).

3. Legalism

a. Solidarity within the Islamic community

According to the author, joint-prayer represents the foundation of Muslim brotherhood, equality and solidarity: *“Brotherhood and mutual affection make for unity and solidarity that constitute any state. The feeling of brotherhood must be based on a creed that unifies this state”* (p. 85).

M.'s „*pact of Medina*“ (an attempt to verge the first Muslim community with a legal fellowship) revealed that the legal fellowship was stronger than family and traditional loyalties. The devout Muslims would have to punish those who broke any laws, including their own family and children. A Muslim would not be permitted to kill another Muslim as an act of revenge for the murder of a pagan relative, nor was a Muslim permitted to assist a heathen relative in conflict against a fellow Muslim (p. 86). It was also forbidden to shelter or support in any way a deserter or sectarian. Those who did faced the wrath of Allah (p. 86).

The author draws the following conclusion from the „*pact of Medina*“: *“It is a constitution which deals with all relationships within the state and abroad. It is divinely inspired. Its constitutional and administrative constituents are based on the unity of Islamic nations. It refutes the claims of those who allege that Islam is a religion between man and the Lord and that it lacks the foundations upon which a state is built”* (p. 86). Al Buti draws the conclusion: *“Muslim faith is the only factor that makes Muslims united in one state and the foundation of the Muslim society”* (p. 87).

It is obvious that the author believes that a Muslim's first loyalty is to the Islamic community. This viewpoint does not, in fact, allow for Muslims to integrate with western culture. The author rejects the “secular state”, even though he teaches and writes in Syria, a land where the separation of religion and state is officially propagated.

b. Relating to non-Muslims

Referring to the time when M.'s following was still relatively small and he

was not preaching publicly, the author defines the principle of relating to non-Muslims: *“Religious propagandists ought to be, according to circumstances, lenient or forceful, and choosing secrecy or publicity. Muslim theologians are agreed that caution and discretion are necessary when the number of believers is scanty for their victory is doubtful and this is in the interest of religion itself. To sum up, it is necessary to be peaceful and work in secret if fighting and working publicly are disadvantageous. When Muslims have power and means of defence they must fight the unbelievers inside their territory”* (p. 44).

The author maintains that the first Muslims were simple people who were suffering under the rule of non-believers. The battles that later followed were explained as freeing the oppressed Muslims and give them the chance to convert to Islam. The author quotes an example of the warrior Ribī'i Ibn Amir, who, before a battle, was asked by the Persian General Rustum, *“What has caused you to fight us and attack us in our territory?”* The Muslim warrior answered: *“We have come to help bring those out who desire to worship God rather than human beings.”*

The Conquest of the Oasis Khaibar (in 628), in which the predominantly Jewish population did not attack the Muslims and therefore cannot be labelled as a defensive battle, leads the author to the conclusion that it is permitted for Muslims to attack such nations without warning and without a renewed call to Islam, if they had previously been informed about Islam (p. 122).

The author draws the following conclusions from the ousting of the Jewish tribe of the Banu Qainuqâ'a from Me-

dina: “Muslims are prohibited to patronize or aid non-Muslims ... They are not permitted to make them their allies or bosom friends unless they are too weak and compelled to do that” (p. 96). Non-Muslims are to be treated justly and fairly, but “Muslims are one people alone. Their fraternity and friendliness must be restricted to Muslims only” (p. 97).

Drawing an example from the violent oppression of the Jewish tribe of the Quraiza in Medina, the author proclaims the legitimacy of initiating a fight with anyone with whom a Muslim had a signed contract or protection-agreement but had broken such agreement (p. 116). As portrayed in the battle of Badr (in 624), a Muslim ruler can make peace with his enemies until the opportunity arrives when it is convenient to fight them once again. It would, however, not be acceptable to make peace with the enemy if he has invaded and attacked on Muslim territory (p. 93).

The peace-agreement that was signed with the heathen Meccans in Hudaibija in 628 M. shows, says the author, that it is not forbidden to sign peace-agreements that have time limits. There should, however, be no humiliating payments attached to such agreements, unless death or imprisonment is feared by the Muslim party (p. 120). Such peace-agreements are limited to ten years, and the conditions of the agreement should not reduce the honour and power of the Muslims, e.g. by being forced to give up weapons or paying the other party (p. 121).

The author concludes the following from the conquering of Mecca in 630 (which took place despite the Hudaibija-agreement): a peace-agreement can be broken when the other party turns on a

Muslim ally (p. 131). In addition, should the agreement be suddenly broken by the other party, it is permitted for Muslim rulers to invade the land of the treacherous people breaking the agreement (p. 132). The author quotes Sure 8:58 where even the suspicion of a broken treaty permits the annulment of an agreement: „And if you fear treachery from any folk, then throw back to them (their treaty) fairly!” Muslims are not permitted, under any circumstance, to begin friendships, alliances or to even help anyone considered to be an enemy of Allah. „It is the problem of many so-called Muslims nowadays. They pray, magnify Allah and devote themselves to the rituals, but worldly interests and gains, desires and injustice are their main concern. Those people are the hypocrites who have caused the backwardness, the disunion and deterioration of Islam” (p. 132).

The author maintains that it is merely a claim of the Orientalists that the Holy War of Islam is solely a defensive war (p. 143). The Holy War can be better defined as having the following three aspects: 1) advice, instruction and direction; 2) in another situation a defensive war with advice, instruction and direction; or 3) an offensive war, which is the most honourable battle. The true and righteous Muslim ruler can decide which form is called for in each given situation (p. 144).

c. The Practice of Belief

Due to the fact that the first mosque was a brick building, the author concludes that it is permitted to build mosques as permanent structures but without embellishment of decorative inscriptions. “Even inscriptions of Koranic verses over the niche is disliked when it

is artistic and diverts the concentrated attention of the congregation” (p. 84).

The author draws the following conclusion from the “trench war” in 627, during which the Muslims could not faithfully perform their afternoon prayers: it is permitted to postpone prayers to a later time when it is impossible to perform them at the predetermined times (p. 116). The author endorses the destruction of idols and statues based on the destruction of the idols of the Thaqif-Arabs (p. 146). (Such statements were cited by the Taliban in Afghanistan in the destruction of Buddhist statues.)

d. The Muslim Woman’s Place

In a socialistic attitude, the author maintains that Muslim women and men are equal and both are required to help those in need. He cannot resist a verbal criticism of western liberalism when he speaks of “*superficial traditions*”, “*applauded by lovers of modern civilization for satisfying their animal instincts in caressing females for recreation and amusement*” (p. 87).

The early Islamic reports that a Jew in Medina ripped the veil from a Muslim woman’s face and thereby initiated the expulsion of the Qainuqâ’a Jews from Medina brings the author to the conclusion that it is absolutely necessary for women to wear veils in public! It is only permitted to remove the veil before a judicial court, in school or for a doctor (as well as with her closest family) (p. 96). With reference to the example set by M. after the conquering of Mecca in 630 when he refused to shake the hands of new female converts, who swore their oath of allegiance to him, Muslims are not permitted to come in contact with the skin of a woman who could potentially become

his wife. The exceptions would be medical treatment by a doctor, etc. (p. 134).

The author maintains that birth-control methods (contraceptives) are permitted, as long as the woman is in agreement. Contraceptives, however, are reprehensible if used out of fear of poverty or higher living costs (or if required by the government for economical reasons) (p. 111). It is permitted to abort the embryo before it becomes a fetus (p. 111).

e. Advertising Islam

Al Buti explains that all Muslims must take part in spreading Islam, even if there is risk in doing so (p. 104). Muslims should not linger in areas of non-believers unless they are actively calling people to convert to Islam (p. 104). The author proclaims Muslims as sinners when they (or at least a large representative of each city) are not preaching about Islam with everything they have. Their tactics should not include, however, the use of threats or compulsion or the breaking of Islamic law (p. 148). In reference the 7th century when M. demanded the rulers to convert to Islam or face war, the author says, “*Interested foreign intellectuals intrigue against Islam and maintain that holy war in Islam is essentially based on defence and the repulse of aggression which are now the functions of the U.N.O. ... The mentality of a European is mature enough to respond to pure and sincere invitation to believe in Islam especially when this invitation is associated with self-sacrifice*” (p. 125). “*The attitude of Heraclius towards the issue that he confronted (embracing Islam) revealed obstinacy, fanaticism and self-conceit that characterize most followers of the so-called Christianity*” (p. 126).

4. Conclusions

Al Buti is on one hand very rational but at the same time fights against a modern Islam. He rejects a secular government, in which the citizens all have equal rights, no matter what their religion is. The first loyalty for Muslims is not the state government where he is living, but the Muslim Community. Non-Muslims should, therefore, not be supported, according to Al Buti.

Al Buti defines a difference between a superficial Islam and the true Islam. He rejects everything that could be associated with heathen traditions and takes a rigorous posture for traditional Islamic cultural issues. He rejects exaggerated ornamentation in the mosques as well as the dancing and music of the “*dancing dervishes*,” and he encourages the destruction of idols, pictures and statues of gods.

For Al Buti, Islam is the most wonderful and perfect social-system and a complete lawful society. He renounces reducing Islam to its religious aspects and confirms that Islam also includes the offensive war for Islam – to win others to Islam, sparing them from eternal damnation in hell. In the war against non-Muslims, Muslims can determine whether they momentarily adapt to the situation or raise an attack. Only temporary peace-agreements are allowed. As soon as the opportunity arises to accuse the enemy of breaking the agreement, the standstill is void and immediately ended.

On one hand, the author emphasizes the equality of men and women, but on the other hand maintains the importance of wearing a veil in public. He allows birth control and even abortion.

According to Al Buti, non-Muslims

are subject to Islamic law and adversaries of Islam should be persecuted. Regarding Christians, Al Buti comments unkindly: They stubbornly follow their out-dated beliefs. Orientalists and western intellectuals are both enemies of Islam, and Muslims must protect themselves from the west. Only for reasons of reaching non-believers and for limited intervals are Muslims permitted to settle in “*enemy territory*”. Above all, the people of the world must be continually invited to convert to Islam. Preaching about Islam is of the utmost importance to Al Buti and is the first duty of all Muslims. Learning foreign languages and exercising hospitality are used only as tools to spread Islam.

Even when such statements do not carry legal force, they influence and strengthen the beliefs of many Muslims due to the fact that they are a part of the teachings in the schools, the preaching held in mosques and the non-stop propaganda in the media. The western reader might ask himself if the author, with his views about the often hidden agenda of Islamic groups, might actually foster the commonly discussed suspicion that Islamistic groups in the West only accept western laws out of tactical reasons, but secretly try to achieve different goals. Al Buti strongly defeats those Muslims who have insisted in the West that Islam does not know an offensive war and “mission work”. The author does not use this Christian term “mission” but the propagation of Islam (Da’wa) is indeed the most important duty of all Muslims for him.

After reading the views and beliefs of Al Buti, Westerners need to ask themselves the following:

1. How is integration of Muslims in

western, secular society feasible in regard to Al Buti's views?

2. How can meaningful dialogue with Muslims really take place?

3. How can the equality of all people, including the right to religious freedom be accomplished in the Muslim world?

Die Bedeutung Mahmud Tahas und der „Republikanischen Brüder“ im Sudan

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Mahmud Muhammad Taha: Märtyrer, Mystiker and Muslimischer Reformier

Wegen Abfall vom Islam wurde Mahmud Muhammad Taha am Freitag, den 18. Januar 1985 im Alter von 76 Jahren in der sudanesischen Hauptstadt Khartoum hingerichtet. Er war das geistliche Oberhaupt der islamischen Reformbewegung der „Republikanischen Brüder“ (RB) und hatte die Einführung des islamischen Gesetzes (der Scharia) im Sudan durch Präsident Numairy im Jahre 1983 offen kritisiert. Auch in anderen Punkten wichen die RB von den orthodoxen Auffassungen der anerkannten Rechtsschulen ab.

Unter folgenden Gesichtspunkten ist eine Auseinandersetzung mit der Bewegung der RB von Bedeutung: Zuerst

einmal mag es überraschen, daß es überhaupt islamische Gruppierungen gibt, die den Koran völlig unorthodox auslegen und folglich auch zu ganz anderen Ergebnissen in der Theologie kommen. Zweitens wird aus dem Grad der Verfolgung der „Republikaner“ deutlich, warum nur wenige Muslime sich die Freiheit zur Schriftauslegung nehmen (*bab al-ijtihad*). Und schließlich ist die Theologie Tahas von Interesse, weil sie Parallelen zum christlichen Verständnis des Alten Testaments aufweist. Wie Jesus unterscheidet Taha zwischen dem „Buchstaben“ und dem „Geist des Gesetzes“, der wichtiger ist als äußerlich vollzogene Glaubenspraktiken. In gleicher Weise erkennt Taha als „Zweite Botschaft“ im Koran eine höherstehende Ethik, deren Befolgung eine gerechte, ideale Gesellschaft (*mujtama salih*) zur Folge haben würde, in der es Religionsfreiheit sowie soziale und wirtschaftliche Gerechtigkeit geben würde. Die sudanesischen Christen und das Vorbild Jesu wurden von den RB hoch geschätzt.

Im Sudan ist der Islam innerlich gespalten. Die beiden einflußreichsten Gruppen sind die „Ansar“ (eine theolo-

* Der Autor, der am 18. 1. 1985 Zeuge der Hinrichtung Mahmud Tahas wurde, beschäftigt sich seit 1982 mit dem Sudan. Seine Informationen über die Republikanischen Brüder gehen auf persönliche Kontakte mit Anhängern und Sympathisanten der Bewegung zurück.