

Religions and Islam: What is a fatwa? - Fatwas, opinions and Aristotle: 'The concept of dog does not bark'

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A 'fatwa' is an opinion by a Muslim cleric, or a well read believer, whose knowledge of religion is recognized and appreciated by the community in which he lives or is known. In other words, it is the opinion - on religious issues, or issues that can be related to religion - of someone you know and whose knowledge you trust.

Any scholar of Islam, any well read believer, can give a fatwa, i.e. his opinion, based on his religious knowledge.

Is that all, will you say? Yes, that is all there is to it.

One can decide to follow the opinion of the cleric or not. Or to seek another opinion. It is between you and your conscience, you and your god.

It is not a law, it is not legally enforceable in democracies.

Not unlike the role played by confessors in the Catholic Church only a few decades back, religiously inclined people would go to their nearest religious scholar and ask for his opinion on everyday matters in their lives that could be related to religious practice: whether they could do this or that without committing a sin ; how to practice their religion when they travel ; how to behave vis a vis a neighbor in a specific circumstance. Alternatively, if there is no one they trust near by, they can get a response in a more modern and anonymous way. For decades in many Muslim countries, daily papers have been full of such questions, and an appointed cleric answers them via his column in the newspaper. And now one can also get a fatwa on the internet.

Questions raised are often very down to earth and sometimes very crude : a woman would ask whether it would be sinful for her to visit and be acquainted to a woman neighbor whose reputation has been tarnished by gossips; a man would ask if a nocturnal emission during Ramadan forces him to immediately go for ablutions in the middle of the night and whether or not it annuls his day of fasting (in which case he will have to continue fasting for one more day at the end of Ramdan)

Of course, opinions differ, depending on who holds them.

Opinions

Catholics for Choice are best placed to understand that, on many issues, the opinion of someone affiliated to Opus Dei is likely to be in opposition to that of someone who stands with Liberation Theology.

While one would say- metaphorically at least - the adultress should be stoned, the other would ask : but who will cast the first stone?

One would excommunicate the woman using contraception, the other would support her attempt to survive with already too many children to feed. One will ban condoms, the other will advocate them in order to prevent the aids epidemic to spread.

It is most interesting to note that what is commonly accepted when it comes to Catholicism,- i.e. that there are different political trends within the Church and among believers as well-, is often so difficult to admit when it comes to Islam. The Other is seen as totally monolithic.

This is not the case, of course.

A good example is the difference between Algeria and Tunisia with regard to personal status laws on monogamic vs polygynic marriages, both countries claiming that their laws are rooted in Islam.

Please note the dates, they are important and we will come back to it.

Algeria, in 1984, legalized polygyny on the basis of the Qur'anic verse stating that: a man can have up to four wives ; Tunisia, in 1956 (nearly 30 years before Algeria passed its legislation), banned it and legalized monogamy on the basis of the second half of the verse : provided he treats them perfectly equally. Tunisian legislators argued that although a man could give the same amount of money, a house of similar value, equally costly jewelry, etc.. to his wives , he could not give them equal love - hence, they said, the Qur'an clearly indicated in this verse that polygyny was not something an ordinary man was able to practice while staying in conformity with the divine injunction.

If laws, based on different interpretations of the Qu'ran, can differ to the point of reaching radically opposed conclusions, we can imagine the differences in opinion of the numerous scholars and learned believers all over the Arab World, Asia and Africa who live in different cultures, not to speak of those now living in the diaspora in Europe and North America, who have been exposed to yet new ideas.

Coming back to our earlier examples, we can imagine that the learned scholar asked for his opinion could tell the woman who is afraid of committing a sin if she entertains good relations with her neighbor with bad reputation, that the best she can do is to go on behaving as a good neighbor and to have compassion for her neighbor ; but another scholar may as well express the opinion that the women should cease to meet this bad neighbor who should be chased out of the building or the town because the devil is in her ; then the word will spread that this is what his 'fatwa' (read 'opinion') is and people will take action on the basis of it . On several occasions, the opinion that a city should be cleaned from its 'bad Muslims' led to mobs attacking, stripping, burning, torturing and killing women or members of other Muslim sects.

Or in the case of the man with nocturnal emissions during Ramadan, a cleric can consider that he should go up in the middle of the night and he should fast an extra day. While another cleric can consider that this man is tired and that additional fast would not be appropriate as it would increase his fatigue, not would it be appropriate to force him to go out of bed for ablutions.

These opinions can either appease the fears and anguish of those who seek advice; or they can advocate punishment and stir violence.

Mediatic and non mediatic fatwas

The fatwas which reach international attention through the media are usually those advocating punishment and violence, inspired by the most regressive interpretations of religion. This definitely serves a political purpose, as it points at Islam as a religion of violence, in which one can be stoned to death for sex outside marriage, or beheaded for blasphemy.

It is not my purpose to defend here the idea that Islam is either this or that. It is no more reasonable to argue that Islam is a religion of peace and tolerance, than it is to say it is intrinsically violent. In sacred texts, one can read the god of war, the god of wrath, the god of terror ; or one can read the god of peace, the god of freedom, the god of compassion.

'Islam does not speak' argues the former Great Mufti of Marseilles, echoing Aristotle's comment on dog's barking. It is what Muslims do in its name that gives different contents to this religion. 'Islam' per se is always and necessarily mediated through human believers, their thoughts and their actions : by definition Islam - like any religion - is represented by people who deem themselves Muslims, and who have different opinions about what Islam was, is and should be.

The former Great Mufti in Marseilles marries religiously Muslim women who chose for life partner a Christian or a Jew (You certainly realize that if Muslim men can marry women from the 'religion of the Book', Muslim women cannot marry outside Islam!) But the Mufti does not believe that god created men and women unequal, only that men pretend they are superior.

An imam in a 'difficult ' suburb of Paris prone to communal conflicts regularly opens the mosque he is responsible for to his Jewish neighbors for meetings.

Their opinion is that what they do is perfectly compatible with their religion. (Try to say the same sentence, using a different word : 'Their fatwa is that what they do is perfectly compatible with their religion').

They even believe that what they do is commanded by their religion.

Both of them can give you numerous religious arguments to justify their conclusions, - and in Islam, at least in principle , there is nobody in between the believer and his god. No intermediary.

Have you heard of their fatwas? I believe you did not. Or may be you did know about what they were doing, but you did not consider that these were fatwas in their own right? They are.

The term 'fatwa' first made it to the international media when a cleric from Iran expressed his opinion on the literary works of a British author of Indian origin : the opinion of imam Khomeiny was that Salman Rushdie was to be put to death for having written a novel that the imam himself never read, but that - he was told - was blasphemous. A good number of prominent Muslim scholars and learned Muslim believers around the world issued fatwas (their opinion) stating that Imam Khomeiny's fatwa should not be followed. But they did not make it big in the media, to the point that relatively few people read their opinions.

I believe that opinions by progressive Muslim scholars are little known, whether in or outside the Muslim world ; such scholars are persecuted by far right regimes as well as fundamentalist non state actors who pretend to act in the name of Islam; often their books are burnt, and owning them is a punishable offense. And, alas, too often, they themselves are killed.

The question then arises : who chooses to popularize what, when and for what purpose?

The political role of exotic terminology

The mere fact of calling opinions anything else than 'opinions' amounts to legitimizing and sacralizing them as the true expression of a dogma inherent to Islam. To brand them with exotic terms such as 'fatwa' is a dangerous trend : how then - especially when one does not know what it means - can one go against a 'fatwa', without going against Islam itself?

The fear of being seen as anti-Islam has been shamelessly exploited by the Muslim religious Right in Europe and North America.

Claiming that they are the true representatives of Islam, if one opposes any of their diktats and fatwas, one is branded '*kafir*' (which in their views is punishable by death) or 'Islamophobic'.

While if one translates the term in a language one understands, what a relief : it was only an opinion!

If you want to, if you have doubts, if you are not satisfied with it, you can just get another opinion from another scholar to counter this one... It will be just as valid - or invalid - as the one you got in the beginning. This is between you and god to decide upon.

While journalists aim at attracting readers' attention by using exotic terms, they play a very dangerous political role. In many instances and out of sheer ignorance of the Arabic language, they inadvertently attribute to these foreign words the biased meaning that fundamentalists themselves are promoting.

Let me mention here that it is not just 'fatwas' which now pass off as 'laws' instead of opinions, but concepts like 'dijihad', or 'sharia', which are used in the wrong sense of the word.

A 'dijihad' is the internal combat that a believer launches against him/herself to become a better individual, to amend him/herself and subsequently to come closer to god. It is not a real war with weapons and people killed, as is now currently understood the world over, thanks to fundamentalist interpretations/opinions being relayed by international media. By using their terminology, we strengthen them politically.

Sharia is not, as you may have gathered from the media a divine law that governs all Muslims. 'Sharia' means : the path, the road, the way to god, - a highly individual and spiritual journey for believers to take. It has never meant any human law; it is not a legal corpus in existence in any 'Muslim country'.

If one compares the existing laws in different Muslim countries all across Asia , the Middle East and Africa - keeping in mind that all pretend they are in accordance with Islam -, one can find the most extraordinary variations [1]. Laws range from banning polygyny to making it legal; from equal rights and duties for both spouses in marriage, to the wife's obedience to her husband ; from secluding women, limiting their freedom of movement, requesting permission of their 'guardian' to work or to travel, to situations in which Muslim women can remain single if so they wish, become taxi drivers, imams, union leaders or Heads of State; from tolerance and freedom of opinion to death penalty for 'un-Islamic' behaviour or alleged blasphemy.

Any decent Arabic scholar would confirm how to translate dijihad, sharia or fatwa, as I did here. By using this exotic foreign terminology, rather than their exact equivalent in English, one unwittingly gives credence to fundamentalist views and interpretations of these terms. One grants an objective reality to what is only ... the opinion of extreme right-wing political forces working within religion.

The question of fatwas is intimately linked to that of democracy

It has not always been the case in history, but there is no denying that most predominantly Muslim

countries, in this time and age, are governed by repressive regimes using Islam as a way to silencing people. Hence a huge number of self appointed representatives of Islam impose their opinions (fatwas) on others and raise enough support from fanaticized crowds to have these opinions implemented, sometimes even regardless of the law of the land. Hence we can see so many cases of women and men stoned, lashed, amputated, after some self appointed extreme right-wing representatives of god issued 'fatwas' ordering these harsh punishments.

It is interesting to note that in many instances what they think is part and parcel of their religion is simply cultural and has nothing to do with Islam. A recent exemple is that of a cleric from the Middle East who came to preach in Tunisia: he advocated female genital mutilation as an Islamic practice. That came as a shock to Tunisians who have never heard of FGM, as it is not traditional a practice in North Africa. The reason for it is simple: FGM is an ante-Islamic pharaonic custom which flourished in the sphere of influence of Ancient Egypt, such as Sudan, the Horn of Africa, etc., but not in other parts of Africa.

However, it has been common practice for right-wing clerics to try and enforce anti women cultural practices by bringing in the sanction of Islam.

Hence, it is not just different interpretations of Islam that justify different opinions, but also traditions that have no relation to religious beliefs. And issuers of fatwas are either ignorant (hence should not be allowed to express religious opinions) or perversely manipulating the ignorance of their followers in order to bring about a backward societal project, under the cover of religion.

In the past twenty to thirty years, the rise of what has been coined as Muslim fundamentalism, in fact a Religious Far Right, has become visible to all. The progressive interpretations of Islam such as the Tunisian law on monogamy which, in 1956, was welcome and praised by Tunisian citizens themselves and by many Muslim believers around the world, have been replaced by regressive interpretations in many countries. Algeria legalized polygyny in 1984, twenty eight years after Tunisia outlawed it. Both did so in the name of Islam. This clearly indicates the present political trend: backward religious opinions - never the progressive ones - are slowly but surely replacing the law of the land.

Theocracies are on the rise which inforce on citizens a state sanctionned interpretation of religion. One switches from a democracy where laws are voted by citizens, to a theocracy when laws are decreed by clerics as interpreters of god. 'Divine' laws replace voted laws, thus eradicating democracy in the most littoral sense of the term : 'one person one vote'.

In this political context it is not surprising if women become the first targets of fatwas: like other Far Right movements of the past, Muslim fundamentalists aim at sending women back to their assigned place: the church (read the mosque), the kitchen and the cradle. One witnessed in the last few years a flourish of opinions according to which, for instance, early marriage of girls under 9 years of age, beating one's wife, or female mutilations are Islamic. The Muslim Brotherhood issued, during the March 2013 session of UN Commission on the Status of Women, devoted this year to violence against women, a statement [2] which declares CEDAW against Islam.

It is of crucial importance that those statements are taken for what they are : just opinions. And it is equally crucial to identify not in religious terms but in political ones those responsible for holding and making public such opinions. The debate is not whether those fatwas truly represent 'Islam', but which political brand of citizens voice them. It is the personal responsibility of people the world over, Muslims, non Muslims and atheists alike, to not be intimidated by the fear of speaking up against 'Islam' and to strongly condemn Extreme Right opinions passing off as religious ones.

The Algerian born former Grand Mufti of Marseilles, France, declared on March 13, 2013 [3] to a journalist asking him his opinion about fatwas spreading through international media :

'They are irrelevant. But they cause immense damage. A fatwa does not clear one of his/her personal responsibility, it remains just an opinion.'

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P.S.

* Siawi, March 2013, 17 August 2013 : <http://siawi.org/article5867.html>

* An edited version of this article was published in a special issue of Conscience on religious extremism: Conscience, vol XXXIV - N°2 2013

Unfortunately the edited version contains mistakes that were introduced without the consent of the author

Footnotes

[1] Knowing our Rights : Women, family, laws and customs in the Muslim world , WLUML 2006
www.wluml.org/node/588

[2] Muslim Brotherhood statement on CEDAW, Cairo, 13 March 2013

[3] Soheib Bencheikh, interviewed in *L'Expression* on March 13, 2013