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Rethinking neo-Salafism through an Emerging Fiqh of Citizenship: The Changing Status of Minorities in the Discourse of Yusuf al-Qaradawi and the 'School of the Middle Way'

DAVID H. WARREN and CHRISTINE GILMORE

This quick study will trace on-going evolutions in the thought of the Egyptian Shaykh Yusuf al-Qaradawi and his "School of the Middle Way" or *al-Madrasa al-Wasaṭiyya* over the period 1985 to 2010. While al-Qaradawi's early work on the citizenship status of non-Muslims was neo-traditionalist in that it advocated retaining the *dhimma* system, a minority citizenship model based on differential rights and responsibilities which emphasises communal autonomy for minorities within a *sharīʿa* regime for the Muslim majority, we will show that he has since moved away from this position and is actively engaged in the process of developing an innovative and inclusive theory of "Islamic Citizenship" that endows non-Muslims with equal civil and political rights and responsibilities.

In calling for a more inclusive definition of national community based on the concept of *muwāṭana* (national belonging) this emerging theory of Islamic Citizenship is of relevance to concerns that the electoral success enjoyed by "Islamist" political parties in the wake of the Egyptian and Tunisian revolutions will bring an inevitable "regression into a quasi-*dhimmī* status".[1] Moreover, the fact that the concept is grounded in Salafi methodology (*manhaj*) should both enable its defenders to legitimise their radical innovations and help these gain popular acceptance, something which thinkers who have grounded their criticisms of the *dhimma* system in historical or secular arguments have conspicuously failed to achieve. Not only that, the characterisation of the Salafi *manhaj* in this instance as both innovative and liberating, on the grounds that it legitimates al-Qaradawi and his colleagues' circumvention of the entire legacy of the Islamic legal heritage and their then eclectic selection of what is popularly known as the "Constitution of Medina" (*ṣaḥīfat al-madīna*) as a potential framework for managing a heterogeneous society, in spite of its apparent abrogation under the rules of traditional jurisprudence, seeks to provide grounds for reconsidering the phenomenon of "Salafism" as more than simply puritanical and literalist.

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[1] David Zeidan, "The Copts – Equal, Protected or Persecuted? The Impact of Islamization on Christian-Muslim Relations in Modern Egypt", *Islam and Christian-Muslim Relations* 10:1 (1999) 53-67 (53); Raymond Baker, *Islam without Fear: Egypt and the New Islamists* (Cambridge, Massachusetts: Harvard University Press, 2003) 5-9.

To date, most Western analysts of Political Islam have focused on the positions of neo-traditional or radical Islamists like *al-Ikhwān al-Muslimūn* (the Muslim Brotherhood) or *al-Gamīʿa al-Islāmiyya* (the Islamic Group) who in general support implementation of the *dhimma* system as codified in classical Islamic jurisprudence, which combines toleration towards protected minorities with a degree of communal autonomy. Once lauded as a progressive model for the treatment of minorities, however, critics like Tariq Ramadan argue that it no longer provides a suitable basis for citizenship relations in a modern state because the very idea of "minority citizenship" based on relations of tolerance and unequal rights and duties "legitimises de facto discrimination"[2] and "asserts a hierarchy of importance"[3] between free human beings who, as the Qur'an indicates, are equal in dignity and worth.[4]

While critics like Ayoubi[5] and Zeidan maintain that "a radical re-interpretation of the *sharīʿa 'dhimmī'* concept in favour of non-Muslim equality is [necessary but] at present unlikely",[6] it appears that important steps have been taken in recent years to ground the concept of equal citizenship firmly within Islamic principles. Employing *ijtihād* (interpretation of the Qur'an and Sunna), the transnational intellectual School known as "*al-Madrasa al-Wasaṭiyya*", a loose collection of "independent Islamists", scholars, intellectuals, journalists and activists that includes Fahmi Huwaydi, Muhammad Salim al-ʿAwa and Tariq al-Bishri[7] are attempting to develop a *fiqh* of citizenship that upholds equal civil and political rights for non-Muslims, thus distinguishing their conception of an Islamic State from a Muslim State, that is to say, a state *for* Muslims in which non-Muslims do not participate in the political process on an equal basis.

As Rachel Scott points out, in recent years this School (with minor variations among its members) has advanced the concept of "*muwāṭana*" as an authentically Islamic solution to the problems raised by critics of the *dhimma* system, notably the unequal rights and duties it grants Muslims and non-Muslims. Often glossed as "citizenship", the word *muwāṭana* has strong connotations of national-belonging and compatriotism[8] as part of a political settlement based on national unity, shared values, and common priorities. Crucially, it is the bond of *muwāṭana*, "characterised by belonging and neighbourliness" and shared by all citizens regardless of religious affiliation, which was only to be enjoyed by Muslims under the *dhimma* model in which non-Muslims occupied a position more akin to subjects.[9] It is this emphasis on shared values, rights and responsibilities, therefore, which distinguishes the concept of Islamic Citizenship from the *dhimma* system.

Uri Davis defines *muwāṭana* as referring to full civil, political and economic rights of all citizens as opposed to merely "*jinsiyya*" or passport citizenship that is restricted, as in the notion of *dhimma*, to the right of abode and state protection, and this distinction is maintained by al-Qaradawi.[10] Thus we argue here that, in many respects, the emerging concept of

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[2] Tariq Ramadan, *The Quest for Meaning: Developing a Philosophy of Pluralism* (London: Allen Lane, 2010) 168-9.

[3] Khaled Abou El-Fadl, *The Place of Tolerance in Islam* (Boston: Beacon Press, 2002) 13.

[4] Ibid, 48.

[5] Nazih Ayubi, "State Islam and Communal Plurality", *Annals of the American Academy of Political and Social Science* 524 (1992) 79-91 (79).

[6] Zeidan, "The Copts – Equal, Protected or Persecuted?" 64.

[7] For a more detailed discussion of their positions in the specifically Egyptian context see Rachel Scott, *The Challenge of Political Islam: Non-Muslims and the Egyptian State* (Stanford: Stanford University Press, 2010) esp., 122-36 and also Baker, *Islam without Fear*.

[8] Ibid, 125.

[9] For a discussion on the difference between citizenship and subjecthood see Mary-Ann Tétrault, "Gender, Citizenship and State in the Middle East", in Nils Butenschon (ed.), *Citizenship and State in the Middle East*, (New York: Syracuse University Press, 2000) 70-87 (73-75).

[10] Uri Davis, "Conceptions of Citizenship in the Middle East: State, Nation and People", in Nils Butenschon (ed.), *Citizenship and State in the Middle East*, (New York: Syracuse University Press, 2000) 49-69 (52-55);

muwāṭana resembles the liberal citizenship model in according all citizens an undifferentiated bundle of rights and responsibilities regardless of race, class, gender or religious affiliation. However, the fact that equal citizenship rights are justified from an appeal to religious values distinguishes it from the "difference-blindness" of the liberal approach which relegates religious considerations to the private sphere and advocates a secular doctrine of "benign neglect" towards religious groups in order to preserve state neutrality towards competing conceptions of the good.[11]

In describing *muwāṭana* as citizenship, however, the term is not defined in its normative liberal sense but as the basic contractual relationship between individuals and the state which constitutes political communities and erects boundaries to inclusion,[12] thus potentially allowing for a decentring of the Western model and the emergence of more plural, indigenous notions of citizenship. Justified not from an appeal to political liberalism or secular neutrality but the Islamic texts themselves, the concept of *muwāṭana* may yet prove more applicable, and indeed durable, in a regional context in which secularism (*ʿilmāniyya*), discredited by damaging associations with colonialism and dictatorship, has been rejected by voters in favour of parties advocating a so-called "Civil State with an Islamic reference (*al-dawla al-madaniyya bi-marjaʿiyya islāmiyya*)" in elections following the revolutions of 2011 in both Egypt, Tunisia and Libya.

The most important and influential of the thinkers engaged in developing the concept of Islamic Citizenship is arguably Yusuf al-Qaradawi, not only because he is the figurehead of the *Wasaṭiyya* movement, which he founded along with Muhammad al-Ghazali (d.1996), but because he is recognised as the most influential representative of Sunni jurisprudence alive today, described as the Muslim Brotherhood's "Spiritual Guide" or even, on his return to Cairo and with the delivery of his famous Taḥrīr Square Sermon on 18th February 2011, as the "Egyptian Khomeini". Where al-Qaradawi leads, it appears, others soon follow especially since, as Tammam has observed, "there is a remarkable parallel development in the thought of Yusuf al-Qaradawi and that of the larger Islamist movement",[13] and we would argue that his views are worthy of consideration on this basis.

However, there have been suggestions that al-Qaradawi has not made the fundamental shift from defending the *dhimma* contract to endorsing equal citizenship for non-Muslims in the Islamic State. This view, advanced by Rachel Scott in her recent study *The Challenge of Political Islam: Non-Muslims and the Egyptian State* (2010) stems from statements made in his earlier work, notably *Non-Muslims in the Islamic Society* (1985), which indicate that *dhimma* is not merely an historical, contingent, and thus "human contract"[14] that may be discarded by later generations (as other members of the *wasaṭiyya* movement like al-ʿAwa and Huwaidi[15] have suggested) but a divinely mandated and "everlasting"[16] compact. Moreover, Scott suggested that al-Qaradawi does not see a conceptual difference between

Yusuf al-Qaradawi, *al-Waṭan wa'l-Muwāṭana fī Ḍawʾ al-Uṣūl al-ʿAqdiyya wa'l-Maqāṣid al-Sharīʿiyya* (Cairo: Dār al-Shurūq, 2010).

[11] Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Harvard: Harvard University Press, 2002) 28.

[12] Nils Butenschon, "State Power and Citizenship in the Middle East: A Theoretical Introduction", in Nils Butenschon (ed.), *Citizenship and State in the Middle East*, (New York: Syracuse University Press, 2000) 3-27 (3-7).

[13] Husam Tammam, "Yusuf Qaradawi and the Muslim Brothers", in Bettina Gräf and Jakob Skovgaard-Petersen (eds.), *The Global Mufti: The Phenomenon of Yusuf al-Qaradawi.* (London: C Hurst and Co, 2008) 55-84 (65).

[14] Fahmi Huwaidi, *Muwāṭinūn lā Dhimmiyyūn* (Cairo: Dār al-Shurūq, 2005) 124-125. This states "*al-dhimma ʿaqd wa-laysa waḍaʿ* (*dhimma is a contract and not a status*)".

[15] Muhammad Salim al-ʿAwa, *al-Niẓām al-Siyāsī fi'l-Islām* (Damascus: Dār al-Fikr, 2004) 274.

[16] Yusuf al-Qaraḍawi, *Non-Muslims in the Islamic Society*, trans. Khalil Muhammad Hamad and Sayed Mahboob Ali Shah (Washington DC: American Trust Publications, 2005) 2.

"*dhimmīs*" and "citizens", engaging instead in a largely cosmetic *ijtihād* to make controversial terms like *dhimma* and *jizya* more palatable to minorities by simply discarding the "*kalima*" (word) rather than rethinking the *mafhūm* or *muṣṭalaḥ* (concept).

By contrast, our continuing analysis of al-Qaradawi's three major texts concerning the citizenship status of non-Muslims, namely *Non-Muslims in the Islamic Society* (1985), *Religious Minorities and the Islamic Solution* (1997) and *The Nation and National-Belonging in the Light of Doctrinal Foundations and the Purposes of the Sharia* (2010), highlights his gradual movement "away from a stress on minority-ness (ʿaqalliyya) towards an emphasis on the notion of citizenship (*muwāṭana*)".[17] As early as 1997, passages of *Religious Minorities and the Islamic Solution* suggested that any legitimate Islamic state must enjoy the support and agreement of non-Muslim members of society. Despite adhering to the *dhimma* compact, it seeks not simply to impose it on non-Muslims because it forms part of classical Islamic *sharīʿa* but to persuade them to back it on the basis that an Islamic State would provide a better fit with their religious beliefs and duties than a "Godless" secular order.[18] Similarly, it promotes an inclusive understanding of "Civilisational" Islam as a cultural and social heritage shared by both Muslims and non-Muslims as a means of building an overlapping consensus of values between religious communities from which consensus on matters of common public interest, like the punishment of offenders,[19] can be authentically generated

With the publication, in 2010, of *The Nation and National-Belonging in the Light of Doctrinal Foundations and the Purposes of the Sharia*, al-Qaradawi went one step further by shifting away from the *dhimma* model towards a regime of equal citizenship. This is based on a reading of the "Constitution of Medina" ratified between Muslims and non-Muslims in the first year of the Hijra as according individuals of all faiths the same political rights and duties. Preferring to stress its emphasis on equal participation in government, social welfare and national defence al-Qaradawi conceives the Constitution as an exclusively *political*, not religious, arrangement in which, notwithstanding their multiple, and often competing, affiliations to both religion and clan, the inhabitants of Medina form one society based on mutual solidarity and support.[20]

For al-Qaradawi the Constitution's significance lies in the fact that it defined Muslims and non-Muslims as members of the same polity, and thus differs fundamentally from the peace treaty the early Muslims ratified with the Christians of Najran, which is mentioned in the *ḥadīth* (prophetic sayings) and forms the basis of the *dhimma* system.[21] This is indicated by Articles 2 and 40 which state that they "are one community to the exclusion of all others" and that "Yathrib (Medina) will be a sanctuary for the people of this document"[22] while the

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[17] Alexandre Caeiro and Mahmoud al-Saify, "Qaraḍāwī in Europe, Europe in Qaraḍāwī: The Global Mufti's European Politics", in B. Gräf & J. Skovgaard-Peterson (eds.), *The Global Mufti: The Phenomenon of Yusuf Al-Qaradawi* (London: C. Hurst & Co. 2008) 109-148 (114).

[18] Yusuf al-Qaradawi, *al-Aqalliyyāt al-Dīniyya wa'l-Ḥall al-Islāmī* (Cairo: Maktabat Wahība, 1997) 12.

[19] Ibid, 71.

[20] al-Qaradawi, *Al-Waṭan wa'l-Muwāṭana,* 30-32. Unlike the secular conception of citizenship which is "blind" to religious affiliations al-Qaradawi argues that the Islamic notion of "*Umma*" recognises citizens' multiple, and sometimes competing, identities without treating them as a barrier to political equality. Comprising an exclusive religious meaning which denotes solidarity between believers; a political meaning inclusive of citizens from all faiths; a territorial meaning equated with the boundaries of the state; and a social meaning linked to the bonds of kinship and social solidarity, he insists that the Medinan model differentiates between exclusive faith communities and the wider political community that collaborates on matters of common concern including national defence and public welfare.

[21] Ibid, 33. In al-Qaradawi and his colleagues' interpretation, the Treaty of Najran focused on protecting the lives, money, property, livestock, and religious liberty of the conquered Christians in return for a small tribute paid to the Muslim armies, with the intention that the state's internal "status-quo shall be maintained".

[22] Ibid, 24.

notion of compatriotism between Muslims and non-Muslims is enshrined in clauses describing the Jewish tribes of Medina as an "*umma maʿ al-muʾminīn* (one community *with* the believers)" as opposed to an "*umma min al-muʾminīn* (one community *from* the believers [that is a political society made up only of Muslims])".[23] Similarly, al-Qaradawi indicates that both the principles of mutual aid (*jiwār*) and the bonds of brotherhood (*al-ukhūwa*) are not restricted to the obligations Muslims have to their fellow believers[24] but are generated by the fact of belonging to a shared homeland.[25]

Since no such mutual bond of *muwāṭana* existed between the Christians of Najran and the inhabitants of Medina, al-Qaradawi appears to suggest that the *dhimma* contract refers to a very different kind of political settlement from the Constitution of Medina and is therefore not a model to be copied in a modern, heterogeneous nation state. This has important ramifications during a period in which Muslims and non-Muslims are engaged in redrafting their national constitutions as members of the same *waṭan*, or homeland, as well as for clarifying the citizenship status of Muslims residing in the West within Islamic political thought. Perhaps for the first time, an Islamic thinker has explicitly suggested that because they share the bond of *muwāṭana* (as opposed to merely *jinsiyya*) Muslim minorities in the West also "become one with the people of [these Western nations] as far as rights and obligations are concerned", as do non-Muslim minorities in the Middle East.[26] This further illustrates that the bond between citizens of an Islamic state is not intrinsically "Muslim", but is divorced from any religious specification and hierarchy.

Al-Qaradawi's development of the emerging concept of *muwāṭana* thus moves beyond apologetic re-interpretations of the Islamic legal tradition towards dispensing with classical jurisprudence and going back to the sacred texts as a means of seeking out new, but authentically Islamic, solutions to social problems. In so doing, it is important to stress that he is adopting the methodology of the jurisprudential paradigm known as "Salafism" to affirm that principles of equal citizenship are rooted in the values of the Medina Constitution as enacted by the Prophet Muhammad. This quick study is therefore starting to build an argument based on the premise that this innovation demonstrates the liberating aspects of Salafism in the context of Islamic jurisprudence, specifically in relation to the principles in juridical theory regarding the perceived opposition or disagreement (*taʿāruḍ* or *ikhtilāf*) between certain legal proofs, evidences and the principle of abrogation (*naskh*).[27]

The reason why so little has been heard about the Medina Constitution in the realm of Islamic jurisprudence until relatively recently has been that this agreement was considered to be no longer of juridical relevance because it was cancelled, or abrogated.[28] This abrogation was based on the fact that it occurred earlier than Qur'anic verses such as the so-called "Verse of the Sword (*āyat al-sayf*)" (9:5) reading, "Then, when the sacred months have passed, then slay the idolaters wherever ye find them".[29] While a neo-traditionalist *faqīh*

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[23] Ibid,28.

[24] Ibid, 24, 44. The verses al-Qaradawi specifically refers to are 26:123-4, 26:141, 26:160-1.

[25] Ibid, 24.

[26] Ibid, 63-4.

[27] It should be noted that in classical jurisprudence there is a difference between opposition or disagreement (*taʿāruḍ* or *ikhtilāf*) and the actual contradiction of legal proofs and evidences (*tanāquḍ* or *taʿānud*).

[28] Burhan Zuraiq, *al-Ṣaḥīfa: Mithāq al-Rasūl* (Damascus: Dār al-Numayr, 1996) 216; This is similarly the position adopted by major classical exegetes such as Ismail Ibn Kathir (1301-1373) or Abu 'Abd Allah al-Qurtubi (d.1273).

[29] The translation is from Maramduke Pickthall, *The Meaning of the Glorious Qur'an: An Explanatory Translation* (Birmingham: Islamic Dawa Centre, 2004). A particularly accessible discussion of these issues, as well as that of abrogation (*naskh*) can be found in Jasser Auda, *Maqasid al-Sharia as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought, 2008) esp., 218-26 and Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence* 3rd edn. (Cambridge: Islamic Texts Society, 2005) esp., 139-54.

would be required to engage with their scholarly forebears in a technical refutation in order to demonstrate why the Medina Constitution had not been abrogated in spite of a Qur'anic verse occurring later seeming to suggest otherwise, a scholar employing the Salafi *manhaj* in the vein of Muhammad ʿAbduh is not constrained in such a manner and may legitimately adopt a seemingly eclectic, and indeed anachronistic, approach to the legal legacy.[30]

As can be seen, the Salafi *manhaj* has provided al-Qaradawi and his colleagues with the conceptual space to formulate an extraordinarily progressive new Islamic theory of citizenship in a manner that is seen as genuine and, above all, legitimate, because it emulates the example of the first Muslims (*al-salaf*). In contrast to various analysts' and media sources' simplistic characterisations of Salafism as a monolithic, ultra-conservative and puritanical movement therefore, we are beginning to build an argument that it can also be viewed as a dynamic and reformist approach to the Islamic legal legacy that contains both revolutionary and reactionary potentials in equal measure.

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[30] It was Muhammad 'Abduh (1849-1905) who similarly first claimed the right of *talfīq*, literally meaning "patching", by which an Islamic jurist could eclectically choose varying interpretations from across the legal schools and combine, or patch them together, into a single ruling. Kate Zebiri, *Maḥmūd Shaltūt and Islamic Modernism*, (Oxford: Clarendon Press, 1993) 96. It is worth highlighting in many quarters this practice is still considered extremely contentious. Mustafa al-Tarablusi, *Manhaj al-Baḥth wa'l-Fatwā fi'l-Fiqh al-Islāmī: Bayna Inḍibāṭ al-Sābiqīn wa-Iḍṭirāb al-Muʿāṣirīn al-Sayyid Sābiq wa'l-Ustādh al-Qaraḍāwī Namūdhajan* (Amman: Dār al-Fatḥ, 2010) 403-8.

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