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The Constitutional Applications of ISIS and Its Problematic in Islamic Legislation

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ABSTRACT

This study starts from an important hypothesis, which is that the emergence of the ISIS state came in record time, and this could not have come from a vacuum, so it was necessary to know the most important factors of emergence and speed of launch. Because any country that wants to build its existence for it must start from an intellectual and human basis that takes decades, if not centuries, to put after it its first stone, then what we call the constitution and then the law that establishes the legitimacy of any state will be launched. And because ISIS claims that it is based on Islamic principles, we must therefore pause at these allegations to respond to them and prove the truth of that. The importance of the study lies first in that this experience that the people of Iraq and Syria are still suffering from will not be the last because the thought from which it came is still rooted and deep in the heads of many and is waiting for any opportunity to emerge again, so it is necessary to beware of it, then that Islam is innocent of this violence that it adopted. These groups, which we call the least terrorist, have no Islam, no pictures, and no pictures. In the curriculum, we adopted the analysis in terms of presenting the point of view of the ISIS state, then responding to it with legislative facts in Islamic jurisprudence based on the Qur'an and Sunnah. The research consisted of three demands, an introduction, conclusion, recommendations and a reference page.

THE CONSTITUTIONAL BASIS FOR CHOOSING A CALIPH

2. 1 First Lineage of the Caliph

ISIS claims that the caliph of his state is from the Quraysh, Abu Bakr al-Baghdadi, whose full name is Ibrahim bin Awad bin Ibrahim al-Badri al-Husayni al-Qurashi, so he is the most deserving of the state's caliphate in their opinion. Only Allah suppressed it in the fire in the face of what they established the religion. In response to this claim, we say that there is no truth to Al-Baghdadi's lineage to the lineage of the Prophet Muhammad (PBUH), as the Islamic State Mufti Turki Al-Binali, known as Abu Hammam Bakr bin Abdul Aziz Al-Atheer, issued a pamphlet which he called the extension of the

hands to pledge allegiance to Al-Baghdadi in which he invented an honorable lineage to the Caliph Al-Baghdadi that made it extend to the Prophet PBUH Without mentioning a single source from the history and genealogy books that confirms and supports this lineage. Rather, we found someone who proved by evidence that Turki al-Binali stole the lineage of Sheikh Subhi al-Samarrai, a sheikh from the Sheikhs of the Sunnis in Iraq, who is Subhi bin Jassim al-Badri al-Samarrai al-Husayni, and claimed that he was for al-Baghdadi, and this we say that the Caliph Abu Bakr is not from the lineage of Hassan and Hussein (peace be upon him).

After the foregoing, it appears that this claim is a lie to the legitimacy of ISIS and its organization and to obtain fatwas that would mislead, and the Mufti of ISIS in what I called, and this is what deceives and seduces the young Muslim who has respect and appreciation for the Prophet (PBUH) and because the young Muslim memorizes the hadith of the princes from the Quraysh.

2. 2 Choosing a Successor

ISIS indicated that their imam had been appointed by the method of oppression and victory, and by the method of allegiance to the people of the solution and the contract. And it was also mentioned that Al-Baghdadi was the Emir of the Islamic State of Iraq by pledging allegiance to its Shura Council and the people of the solution and contract in it. It also stated that the origin of the Islamic State in Iraq was a legitimate and correct and unblemished origin, as the Islamic State of Iraq was established after the meeting of most of the Mujahideen factions in the Alliance of the Mutayibin, and after consulting Sheikh Abu Omar Al-Baghdadi, the Emir of the Islamic State pledged allegiance to him, and the state was established on large parts of The land of Iraq and claimed to its emir the pledge of allegiance to the imamate by choosing the majority of the people of the solution and the decade as they see it.

And after the martyrdom of Abu Omar al-Baghdadi, the State Shura Council convened and chose an Emir of the Islamic State in Iraq, Abu Bakr al-Baghdadi, and the pledge of allegiance to him was held by choice and advice, as was convened for his predecessor, Abu Omar. Here we show that this contradiction in the method of choosing the caliph reveals the great contradiction between the legitimacy of ISIS, and that this indicates the invalidity of the state of Al-Baghdadi and the corruption of the ideologues of the Islamic State, because combining the two extremes at the same time is what has not happened in the whole history, as how is the caliphate of the pledge of the people of the solution and the contract From the majority of the struggling factions and at the same time is also oppression and conquering it and the third by choosing the people of the solution and the contract from the same organization as coercion and choice do not meet together.

It may be permissible for those who do not understand the conditions of legal allegiance and what are the legal caliphate and its tasks and wants people to receive from it the lack of jurisprudence as legal knowledge, but this does not comply with the principles of jurisprudence, Sharia and logic.

2. 3 Declaration of Allegiance to the Caliph

On June 29, 2014, Abu Muhammad Al-Adnani, the spokesman for the ISIS organization, announced the establishment of the caliphate, choosing Al-Baghdadi and pledging allegiance to him as a caliph for the Muslims, and Al-Adnani added in an audio recording published by the Al-I'tisam Foundation. The prophethood and the most dangerous in Al-Adnani's words is sending a message to all the currents, organizations and jihadist cells on the face of the earth, calling them to pledge allegiance to the Caliph and saying "Fear Allah in yourselves as today for those who fight under the banner of the caliphate".

We point out that declaring a caliphate in Islamic legislation is not done in this way that is devoid of any of its components. Because the country is still occupied and in a state of war and there is no empowerment for the establishment of a state, as well as a violation of all Muslims in all their countries; because the caliphate and the rulings that follow it from the great imamate come as a result of mastery in the country, not just by declaring or striving to do so. Which is indisputable, and that whoever disobeys it is outside the obedience of the legitimate imam, it is difficult for the row to separate the group, and because of that, great corruption and great evil appeared, and because of it, Muslims were killed and their blood, money and honor were permitted.

The ISIS group has reached an exaggeration in the name of the state in them, a strange amount, as their slogan and slogan have become and they described it as the rest and forced people to sell them. In the state of Al-Baghdadi, those who do not believe in their faith will suffer starvation, and those who have intercession and facilities will be those who drip people's blood from between their fingers, and those who boast of cutting off more heads or those who bring them the spoils and money by plundering, plundering and kidnapping and these are abnormal behaviors that are not accepted by Islam. And by studying the reality of ISIS and the suffering of its residents and witnessing the actions and behavior of its fighters and the application of ISIS to the legal limits, it became clear that it did not carry out the main tasks of the Islamic caliphate and that the Caliph Al-Baghdadi did not achieve any of the tasks of the Muslim caliph in the Islamic state, and this is explained:

2. 3. 1 Preserving the Religion

The first legal principles of the Islamic state are preservation of religion, and here we find that they did not preserve the religion, rather their main concern was that of all the servants of Allah who disagreed with them, and their judgment of apostasy against those who did not obey their rule or openly not pledge allegiance to their successor. In preserving order and the state from aggression, and thus they gave a bad image of the virtues, justice and tolerance of Islam.

2. 3. 2 Preventing Injustice and Arbitrariness

ISIS's crimes and brutality were clearly visible to the whole world; because the grievances of the state of ISIS exceeded all limits, killing them by thousands and displacing them with hundreds of thousands and the money they raped under the pretext of spoils, and violated the sanctities.

So women were sold and raped by their men as slaves, slaves and slaves of them, especially the brutality with which they treated Yazidi women.

2. 3. 3 Establish Boundaries

The ISIS group did not apply the limits on its legitimate face, but rather forcing people by means of the punishments that they apply, which are not applied to their followers except against those who rebel against the organization, so they get rid of it under the pretext of establishing the border. Here comes the question: where is the judiciary and where are the usual procedures from investigation records, criminal evidence, evidence and evidence and others.

2. 3. 4 Fortify the Frontiers and Fight the Enemies

In building its new state, the organization relied on strengthening its influence instead of fortifying its loopholes, as is customary in every legitimate state weapon and violence

2. 3. 5 Collecting Light and Distributing Gifts

The state group in ISIS robbed the people of their money and their homes; they stole the nation's money, and made use of it to its leaders, and desire to buy off the debts, so they emptied mosques and factories and sold them at a time when people were suffering from hunger. Then they imposed taxes and financial penalties and burdened people with taxes that they could not afford, instead of being. The coming of the state to impose justice, distribute giving and provide job opportunities. If a state had the least affiliation to the Islamic religion, it would have acted.

As the Holy Prophet Muhammad (PBUH) did, but instead of this they worked to plunder and plunder the people and take everything under their hands for those who work under their command Naturally, their leaders will have the largest share.

2. 3. 6 Direct People Matters

Every religious or civil state must be primarily concerned with the subjects and the interests of the citizens, but the leaders of the state group were busy with themselves and they dominated the necks of foolish people and young people who had no knowledge of the provisions of the Sharia and did not understand the politicization of the people and therefore they made wrong behaviors. Bad and insulting to the law and humanity, for example, one of the ISIS legislators, Abu Abdullah al-Kuwaiti, issued a fatwa for the apostasy of the Shaitat Muslim clan, which led to the killing of more than a thousand Sunni Muslims at the time.

Here, it is necessary to examine the words of Al-Adnani in describing his state to the phrase "Caliphate on the Method of Prophethood", so we say that ISIS did not carry out the tasks of the true Islamic caliphate that bore within it the principles of the authentic Muhammadan Islam, which we found its real applications in the state of the Messenger of Allah, which called for what Allah has commanded it and it is the ruling of justice, as it was mentioned in

the Almighty's saying "O David, we have made you a successor on earth, so judge among people with truth, and do not follow the blessing of joy".

2. 4 The Characteristics of the Caliph in the State of ISIS

2. 4. 1 The Personality of the Caliph

Abu Bakr Al-Baghdadi was the caliph they brought, and therefore it is necessary to analyze this personality that is supposed to be their example and their best, but this personality has been proven weak, as was shown by his companions. ISIS leaders also believe that al-Baghdadi is in a state of hibernation in winter and is unable to answer and respond; as instead of him he who is proficient in cursing and stoning stands.

Abu Abdullah Muhammad Al-Mansour - who was a friend of Al-Zarqawi - and knows Abu Bakr Al-Baghdadi closely - believes that through his accurate knowledge of him and regardless of his intellectual and ideological deviation: that he is of limited intelligence, not suitable for leadership at all, and for the benefit he adds that he is at the end of the thirties and this age does not correspond to Dire tasks that a ruler or successor has. In another opinion of Abu Abdullah Muhammad Al-Mansour and his fame Al-Issawi, who is the commander of the Mujahideen Army, that according to his knowledge of him that he is a common Muslim man and that he is neither a mujtahid nor a scholar nor a skilled student of knowledge and he has not established a foundation in the Sharia sciences and is not a scholar of the hadith of the Messenger of Allah (PBUH) and he is not a scholar or an interpreter or Any of the forensic sciences proficient.

It has been proven through the aforementioned research that Al-Baghdadi is a weak personality that does not have any basis for its success, and that just choosing a successor to the state does not mean that he is right in his jurisprudence and legitimate choices, and that he is one of the unknown leaders of the organization who embrace deviant ideas and beliefs and reach power by deceptive and criminal methods.

2. 4. 2 Black Turban Uniform Application

The Islamic State of the Caliphate had nothing but the outfit that they were keen to wear, which is the black turban, and ISIS inferred this through a hadith saying that the Messenger of Allah (PBUH) sermonized people with a black turban. And they used to see that as evidence of worship or adherence to religion or the validity of jihad, such as lengthening hair and wearing clothes in a certain style, such as clothes that were famous in the country of Afghanistan, or even a turban or black color and so on. These matters and their likes, so we say that the dress they mentioned if it was a right would have been more appropriate That all political differences after the Messenger of Allah and the most important of which is the Rightly Guided Caliphate, as history has not mentioned to us that the Caliphs after the Messenger Muhammad (PBUH) had worn these clothes and they were more likely than others to ascend, worship, justice and jihad as they witnessed battles and fighting, but without these matters, they are not An indication of religion and religiosity or the validity of jihad or method as they claim.

2. 4. 3 State Territories: The Borders of the ISIS State

The owners of ISIS believe that the golden era in Islam is manifested through the re-establishment of an Islamic caliphate that depends on the jihadist Salafist application of Islamic law. Unilateral until the end of the Iraqi and Syrian lands and the overthrow of the regimes in Baghdad and Damascus, and thus spreading from there to the entire region, most of which are located in the Levant, Syria, Iraq, Lebanon, Israel, Palestine, Jordan, and even Kuwait. Thus ISIS's ambition extends beyond the regions of the Levant.

According to his vision will be the caliphate in the Levant, the heart of the vast Islamic Caliphate, which includes countries in the Middle East and North Africa, parts of Iran, Pakistan, Afghanistan, and European countries that were in the past under Muslim rule in Spain and the Balkans and other Islamic countries such as Turkey and the Caucasus.

2. 4. 4 ISIS Calls for the Invasion of Rome

The organization of ISIS is inferred by several narrations mentioned in hadith books, including what was mentioned in Sahih Muslim on the authority of Abu Hurairah that the Messenger of Allah (PBUH) said that the Hour will not come until the Romans descend into the depths or in Dabiq, and an army will come out to them from Medina from the choice of the people of the Earth that day. We fight between us and those who have been insulted, and the Muslims say, we do not separate between you and our brothers. In another narration by Muslim, on the authority of Yaseer bin Jaber, he said: (A red wind blew in Kufa, and a man who did not have a hijri came: except to worship Allah Ibn Masoud, the hour has come. He said, so he sat reclining and said that the hour does not rise until he does not divide an inheritance and does not rejoice with a spoil, then he said with his hand thus, then he turned it towards the Levant So an enemy said they would gather for the people of Islam and the people of Islam would gather for them. I said the Roman means Say Yes.

It can be answered that the battle that the Prophet (PBUH) talked about and which Muslims will fight the Christians in Marj Dhi Toul, and which was said that the area is Dabiq in the countryside of Syria preceded by a major joint battle in which Muslims fight with the Christians another enemy without them and Muslims will win and gain and this has not yet been achieved And the one who goes out to fight the Romans.

They are the Christians, and they are in Dabiq in the Levant with an army of the people of Madinah are the choice of the people of the earth, not from Iraq only, as ISIS theorists claim today. Fire, as it was described on the authority of the Prophet (PBUH) as saying (they hung their swords with olives), and it is preceded by the great battle in which the liberation of Palestine and the elimination of the Jews so that no single Jew remains.

THE ORGANIZATIONAL STRUCTURE OF THE ISIS STATE

It consists of eight basic joints:

3. 1 The Caliph

He is Abu Bakr Al-Baghdadi, which is his common name. The relative name is: Ibrahim bin Awad bin Ibrahim al-Badri, the caliph of ISIS and its emir and his nickname is Abu Duaa (al-Nisbi) and Abu Bakr (al-Harki).

3. 2 Deputy Caliph

He is Abu Muslim al-Turkmani, whose name is Fadel bin Abdullah al-Hayali Abu Mu'taz. He is an officer in the former Iraqi army and he is now supervising the walis.

3. 3 The Shura Council

It is considered the highest body after the caliph and the formation of all other councils from the military council to the governors needs to be recommended by the Shura Council and the number of members ranges between 9-11 members and they are among the leaders of the organization and in theory the Shura Council can remove the caliph.

3. 4 The Military Council

It consists of a president, Abu Ahmed al-Alwani, an officer in the former regime, and three officers from the former army who joined the organization after 2006, and these are appointed by al-Baghdadi and recommended by the Shura Council, whose mission is to plan and manage the military leaders in the states and follow up on the results of those invasions.

3. 5 The Security and Intelligence Council

It is headed by Abu Ali Al-Anbari, a former army intelligence officer and two other members of the former army intelligence, and his duties include providing protection and responsibility for Al-Baghdadi's movements and appointments, following up on decisions decided by Al-Baghdadi and their implementation by the governors, supervising the implementation of judiciary rulings, establishing borders, and supervising the maintenance of the organization from penetration.

3. 6 The Sharia Board

It has two basic tasks, the first is the judiciary and the separation of litigations, the enjoining of good and the prevention of evil and the establishment of borders, and the second is guidance, recruitment and follow-up of most of its members, Arabs and Saudis, but it is headed by Abu Muhammad al-Ani from Iraq.

3. 7 Media Institutions

The Al-Furqan Media Foundation and the Al-Fajr Media Center, headed by Abu Atheer Amr Al-Absi, a Syrian national.

3. 8 The House of Money

It is headed by Abu Sufyan al-Tikriti, who was killed in mid-November 2014, and the House of Money is under the direct supervision of al-Baghdadi, where funds are collected to him, and he is the only one who decides how to spend and pensions ranging between four hundred dollars for Syrian fighters and

seven hundred dollars for Iraqis and those living from abroad and larger pensions according to the role. The tasks and needs amounting to two thousand dollars for the various other leaderships.

THE SYMBOLIC IMPLICATIONS OF THE ISIS STATE

4.1 The Flag

The Islamic State has a square black flag with the inscription of Muhammad, the Messenger of Allah. They are evidenced by the hadith that the Messenger of Allah had a black square flag and the ISIS flag has the name of the banner of Muhammad: The punishment is a predatory bird of prey.

The Response: It was not reported from the Messenger of Allah (PBUH) that he adopted a single color or shape for the flags in the war. It was proven that the Prophet (PBUH) had a black flag and sometimes a white flag and it was also said that it was yellow. He writes something on those banners as some later people fancy him and what was narrated on the authority of Ibn Abbas that the banner of the Prophet was written on it "there is no Allah but Allah and Muhammad is the Messenger of Allah". The followers of ISIS have tried to imitate the flags of truth, which are the black flags that come from Khurasan, but Allah Almighty and through his honorable Messenger and his pure house wanted us not to be deceived by those black flags because they are misguided flags.

So we find the organization raising these black flags everywhere and spreading them widely. In Internet networks and social media sites, to emotional grooming youth and trying to recruit them to organize by employing the noble hadith.

4.2 The Human Body

The ISIS militants were keen to photograph the powers of their bodies, and we have seen this in several videos. In the videos, the ISIS is depicted as a huge, long and broad-shouldered person, and the face of the ISIS does not appear in many of the videos, even though stress is the expression of the individuality and purpose of the person behind that disguise. Therefore, those who do not have the same goals, and when ISIS carries out executions, it is carried out by people with full bodies and empty shrines and standing upright in front of the cameras, which is part of the climate of spreading fear among the recipient visually of those images.

4.3 The Significance of Color

The color orange is predominant in ISIS videos and ISIS was not the first to use it. Before ISIS, Al Qaeda used this orange uniform in 2004, where it broadcast a video clip of the American engineer Paul Johnson who was kidnapped in the Arabian Peninsula and beheaded, and the use of orange was a response to the uniforms of Guantanamo prisoners who wear the color orange.

4.4 Dress and Disguise

Daeshis are distinguished by their different outfits in the videos, the ISIS members wear black uniforms, while their victims wear orange uniforms that appear to be accurate and with blood, the ISIS militants try to hide their faces, as they live in fear of revealing their faces.

The British newspaper *The Independent* reported that clothing merchants in Indonesia are investing in the war in Iraq and Syria and providing what it said are (terrorist merchandise), where designs for the uniforms worn by jihadists, shirts, hats and headscarves are all bearing designs and drawings taken from ISIS propaganda.

4. 5 The Woman

The image of ISIS's favorite woman is the veiled woman who carries arms to defend the principles of ISIS. There is a special dress for women. The al-Khansaa brigade has put in place strict instructions and dress specifications that require all females in the age of puberty to wear two women together to hide the details of the body, black gloves to cover their hands and three headaddresses to prevent them from looking at their faces even in direct sunlight, women are also trained to fight, espionage and transmit information.

CONCLUSIONS

5. 1 Findings

After this presentation, we get to several things:

1. The state of ISIS has nothing to do with Islam or any other religion on earth.
2. This state has been formed and it needs a principle to be based on, and when they wanted it to be in the land of the Arabs, it had to adopt Islam as an idea and a starting point on it.
3. The policy of violence adopted by ISIS was not born today. Rather, there must have been introductions on which to rely, such as financing, training and gathering material, human and intellectual resources. This must be behind it a great power benefiting from this group as it plans and the organization has nothing but implementation, hearing and obedience.

5. 2 Recommendations

1. All Muslims should pay attention to the presence of great powers surrounding them to undermine them.
2. Attention and caution against spreading a culture of hatred, hostility and violence directed at humanity, regardless of whether people differ in ideology, race or belonging.
3. Urging to spread the culture of love, tolerance and coexistence, because this is in the first place the spirit and character of Islam, for which the Mohammedan religion aims.
4. Reconsidering the narrative texts on the noble Sunnah and the explanations that followed it, and studying the chain of narrators and the body of what are considered constants.
5. Reconsidering the jurisprudential opinions that have stopped at the schools of jurisprudence that have thrown the door of *ijtihad* to work on following Muslims in their new lives that are full of technology and political conflicts, and for the purpose of keeping up with the development of civilization not only by opening the door to *ijtihad* alone, but also reviewing the entire Islamic intellectual, cultural and political heritage.

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