Excerpts: Their Highnesses the Aga Khans III and IV on Islamic Law and the Sharia

Geoffry Barker: Westerners see an incongruity in your dual roles as a religious leader and international businessman. Do you think you are an incongruous religious leader?

Aga Khan: The incongruity exists through your tradition, through your experience, the Augustinian interpretation, if one can call it that, of Christianity.... In Islam there is no reason why a dichotomy should exist. Every Muslim no matter what sect he comes from, will tell you Islam is a way of life. If you read the Qur'an you will find that a very substantial part of Islam and Islam's teaching has to do with the individual's behaviour in society in totally secular matters -- how you behave in your relations with other people in society, in your business transaction, in your family, in your friends....

Geoffry Barker: Westerners are often appalled by the literal implementation of savage Qur'anic laws which permit, for example, public beheading of adulterers, the chopping off of hands and flogging for breach of alcohol prohibition. How would you as Imam defend these laws? Do you insist on their implementation among the Ismailis Muslims?

Aga Khan: You must be careful not to refer to Islamic law. There is no such thing as 'Islamic law'. There are four basic schools of Islamic law in the Sunni Muslim world, there are several schools of Islamic law in the Shia Muslim world. Our attitude is simply that codes change and that what is important is the purpose behind the code.

I must say that in certain areas of the Muslim world there is a very rigid application ... I am not at all saying that today the Ismaili
world would encourage mutilation or flagellation or things like that ... Flagellation, beheading, mutilation, these sort of things, may be a totally temporary aspect which is put forward as maybe a justification at a time of crisis.

I think you will find that generally speaking the Muslim world will not be going in that direction.

His Highness the Aga Khan's 1979 The Age Interview with Geoffrey Barker (Melbourne, Australia)
http://www.nanowisdoms.org/nwblog/10329/

Michael Charlton: But in this conflict between the orthodox, who say that the Qur’anic teaching, like Khomeini appears to be saying in Iran, are immutable and even if the majority wishes them to be changed -- they can not be changed because the teaching itself is unchanging and must not be changed -- in that context, between those who think like that and those who think that Islam can not survive unless it adapts, where do you stand yourself?

Aga Khan: I think the question is where you start from. Are you starting from the Qur’an? Are you starting from the Sharia? Are you starting from secular Christian law? Where are you starting from? The Qur’an is not a body of law, and that, I think, is a statement that every Muslim will make. What is referred to today as Islamic law is a compilation of views expressed by law makers who lived well after the revelation of the Qur’an, well after the time of the Prophet. The interesting thing is that in the Qu’ran, for example, a lot of the things which I would refer to as punishment, are punishment as deterrent. The punishment itself is not the issue at stake. The question is you have got to stop certain things from happening for the good of society. Now if that’s the starting point, then I would say a lot of things do not have to be done, which maybe being done today in the Muslim world. That is my position, because I will start from the Qur’an. I will not start from an interpretation made five or six generations after the life of the Prophet. If we’re talking about fundamentalism, lets start at the revelation of Islam.
"It must not be forgotten that, according to the principle of Ijma already mentioned, the interpretation of the precepts and laws which regulate the lives of the Faithful, as laid down in the Qur'an and in the Traditions of the Prophet, can be done at any time and for any generation. Such an interpretation, by means of the Ijtihad which is a personal and living research, can be made, within the general limits of the Qur'an and Traditions. The suppleness of Muslim Law enhances its value, and its broad lines leave room for vigorous growth and adaptation to the changing and unforeseeable circumstances of international life. Muslim Law must, therefore, be freed of the rigid character, given to it by ancient codifications. It would be erroneous to assume that the door to interpretation has been shut, because the four leading juridical schools of Muslim orthodoxy had already decided, for all time, as to the prescriptions of Muslim Law.

"Even with regard to these four schools (Hanafite, Shafi’ite, Malikite and Hanbalite), an individual Muslim is free to choose among them the rules to follow on different points; and to do that, he may not be obliged to strictly adhere to a single school. The practical result of this universally admitted freedom is quite obvious; it simplifies the carrying on of law and more easily meets modern conditions of life.

"As regards the Qur'an, we stress the fact, that to be better understood -- without being blindly attached to the exegesis of ancient authorities -- it would inspire Muslims to a revival of religious thought and action. The Traditions and Sayings of the Prophet are to be seriously and critically studied with a view to freeing them from posterior deviations and infiltrations. As regards the four juridical schools, we may point out that their divergences are of little importance, and there are no antagonisms between them."
"The second factor which stood in the way of pan-Islamism was one of the ideas which I mentioned as a possible source for the new flame. This was the internal movement within the religion itself. The close contacts between the Muslims and the West which were brought about by the war made many people think, and analyse their faith. The more progressive Muslims asked for changes in their civil and criminal law; they asked for Western type laws of succession and Western codes, and they also found that many of their traditions could not be kept up, were they to move as rapidly as Europe. One of these traditions was the wearing of the veil and the sore question of giving secular education to women.

"These problems may have been solved had there not been at least ten different forms of Islamic law already in use. I sometimes doubt whether the solution would have been found even if there had only been one practised code. But there were the four Sunni schools and there were the Shia schools; and there were the Muslim schools that had been influenced by Greek and Byzantine tradition.

"The Muslims were unable, simply because of the background in which they had lived, to reach a common agreement."

His Highness the Aga Khan's 1957 address to the Dar es Salaam Cultural Society, 'Harvard University and Studies of the Middle East' (Dar es Salaam, Tanzania)
http://www.nanowisdoms.org/nwblog/908/

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