



المعهد المصري للدراسات
EGYPTIAN INSTITUTE FOR STUDIES

Islamic Movements

23 JANUARY
2018

Hamas vs. Sinai Province Sharia and Political Considerations

Mohamed Elhami



WWW.EIPSS-EG.ORG

f Eipss.EG t Eis_EG

TURKEY- ISTANBUL

Bahçelievler, Yenibosna Mh 29 Ekim Cad. No: 7 A2 Blok 3. Plaza D: 64
Tel/Fax: +90 212 227 2262 E-Mail: info@eis-eg.org

Hamas vs. Sinai Province: Sharia and Political Considerations

Mohamed Elhami

Sinai Province, a local affiliate of the Islamic State (in Egypt's Sinai), has recently sentenced one of its members, Mousa Abu Zammam, "to death for apostasy after being charged with supporting the polytheists", according to a statement that was recited by the organization's 'judge', who had convicted Zammam for "passing weapons to the apostates of Izz ad-Din al-Qassam Brigades (Hamas' military wing)," according to the statement. It is noteworthy that the Sinai Province has documented the execution of Zammam in a video recording, titled "Millat Ibrahim", which was released on January 4, 2018.

This paper is an attempt to discuss the issue of the Islamic Province's Sharia discourse (Sharia is the Islamic Law, but it is used in this context as a modifier meaning: legal according to the Islamic law) through analyzing the above "death sentence", in attempt to find out how far the legal procedures, starting from gathering evidence up to deduction of the judgment, were carried out accurately and in accordance with Sharia guidelines.

This requires discussing a number of points to ensure achievement of the ends of this Sharia ruling, most importantly:

- 1- Understanding the charges against Hamas.
- 2- The Sharia judgment for supporting polytheists.
- 3- Describing Hamas members as "polytheists" and "apostates".
- 4- Describing Mousa Abu Zammam as "apostate".
- 5- Considerations of the "fatwa" in this particular incident.

This paper attempts to discuss these points, based on the jurisprudential doctrines and the former positions adopted by the Salafi Jihadism current itself, especially "al-

Qaeda” as the sole representative of Salafi Jihadism, prior to the split that later took place and resulted in the emergence of the Islamic State organization.

This issue will be addressed in five axes:

First: To understand the charges against Hamas as presented by the “Sinai Province” organization, including: how the organization formed its Sharia conception and then issued its judgment against Hamas through the following charges:

- Empowerment of governance based on regulations other than what Allah has revealed (against Islamic Sharia).
- Waging war against the Mujahideen.
- Appeasement of the tyrants.

The video recording also mentioned [Immigration to Dar al-Islam (Home of Islam, meaning the lands that fall under the control of the Caliph or countries that adopt Islamic Sharia in governance)] which will be also addressed in this paper.

Second: The Sharia judgment for providing support to polytheists.

Third: Applying the description of “polytheism” and “apostasy” to Hamas and the problems it poses, according to the Salafi-Jihadism Blog itself and its approved references, including quotations from Ibn Taymiyyah (a medieval Sunni Muslim scholar, jurisconsult, logician, and reformer) on the Sharia side, and from Usama bin Laden on the political and organizational side – because both men are highly appreciated figures to the Islamic State organization.

In fact, there are six important points that a “mufti” or “judge” must consider before applying such descriptions (to individuals or organizations); and all these issues have already been discussed in al-Qaeda literature.

1- Did Hamas achieve “empowerment” in the Gaza Strip to the extent that allows it to apply the Islamic Sharia law there?



2- If the required degree of “empowerment” is achieved in the Gaza Strip, is this empowerment alone sufficient for the application of Sharia?

3- Can Hamas' policy towards the Sinai Province – whether inside the Gaza Strip, which is under its control, or outside Gaza, through relations with Egypt – Can it be identified as “waging war against Mujahideen”?

4- How can the use of weapons be considered “appeasement of tyrants”?

5. Can the lands that the Sinai Province controls in the Sinai Peninsula be described as “Dar al-Islam” that Muslims must move to?

6- How was the position of Salafi jihadism (Al-Qaeda) towards Hamas prior to the emergence of the Sinai Province organization? - where Hamas was considered in the Salafi Jihadism literature as being a “jihadi movement” although it does not embrace the Salafi Jihadism thought, taking into account the central role of Hamas towards the Al-Aqsa Mosque issue, and the movement’s status as a critical point in the relationship between “Jihad” and the “Muslim Brotherhood Approach”.

Fourth: Applying the description of “apostate” to Mousa Abu Zammam: If Hamas was still declared as an “apostate” organization by the Sinai Province even after the above points were comprehensively discussed, is this judgment sufficient to give the same description to those who may have attempted to support them with money or weapons, exactly as it happened in this particular case?

Fifth: What about the “fatwa” considerations in this case? It is known that the al-Qaeda literature used to consider the consequences and implications of the “fatwa”, even if it was addressing regimes accused by al-Qaeda of “infidelity” and “apostasy”.



Conclusion

However, this paper was only limited to discussing the Sinai Province's Sharia reasoning in the judgment against Mousa Abu Zammam that describes him as "apostate" for cooperation in smuggling arms to the Hamas movement in the Gaza Strip.

The study relies in this debate on the jurisprudence and the organizational blogs of the Salafi Jihadism current itself, represented in Al-Qaeda, concluding the following:

- 1- There are several restrictions on using any of the above descriptions for the incident in question.
- 2- This type of issues is not new to the jihadist current. It is a question that had been debated before and reached results.
- 3- The issue of Hamas was previously discussed in the Salafi Jihadist thought and the movement was not declared as "infidel", much less those who may cooperate with it.
- 4 - Adoption of the "apostasy" judgment in such incidents is a departure from the origins of the Salafi jihadism current itself. Accordingly, Daesh (the Arabic acronym for the Islamic State) appears to be closer to the "Khawarij" in adoption of declaring others "infidel" based on wrong or insufficient evidence. (The Khawarij or Kharijites are members of a group that appeared in the first century of Islam during the First Fitna, the crisis of leadership after the death of the third Caliph, Uthman. It broke into revolt against the authority of the Caliph Ali after he agreed to arbitration with his rivals.)
- 5- Even if this judgment was correct according to the Sharia percept, however the "fatwa" considerations in this case, in particular, prevent issuance of such a ruling – because of its effects and consequences that harm the whole community.
6. Finally, we should think seriously and deeply about differentiating between Daesh and the Salafi Jihadism current. In fact, we are in front of a more radical faction than

all Salafi Jihadism movements; and perhaps Salafi jihadism would be considered a more moderate and mature current, compared to Daesh.

