

Iran's revolutionary justice is not Islamic

By M. Cherif Bassiouni

The toll of executions must be about 600 as a result of decisions by the "Islamic Revolutionary Tribunal" of Iran.

But Iran's "Islamic Revolutionary Tribunal" is all revolutionary and very little Islamic. That reality has seldom if ever been expressed.

The Western world's media have not in any way focused on the Islamic criminal justice system. Had they done so, it would have been clear to the world that those minimum rights guaranteed that are considered part of international human standards of due process are embodied in the Islamic legal system. That they have been violated in Iran is beyond question.

To clarify the question of Islamic criminal justice the First International Conference on the Protection of Human Rights in the Islamic Criminal Justice System was held at the International Institute of Advanced Criminal Sciences at Siracusa, Italy, in May, 1979. There were 55 scholars and experts from 24 countries, of which 16 Islamic ones, represented mostly by government officials, agreed with their colleagues from the Western world to the following resolution:

WHEREAS the First International Conference on the Protection of Human Rights in the Islamic Criminal Justice System has been held in Siracusa, Italy, at the International In-

stitute of Higher Studies in Criminal Sciences, May 28-31, 1979;

WHEREAS it has been established to the satisfaction of all participants from both Islamic and non-Islamic nations that the letter and spirit of Islamic Law on the subject of the protection of the rights of the criminally accused are in complete harmony with the fundamental principles of human rights under international law as well as in complete harmony with the respect accorded to the equality and dignity of all persons under the constitutions and laws of Muslim and non-Muslim nations of the world;

WHEREAS the basic human rights embodied in the principles of Islamic Law include the following rights of the criminally accused, inter alia:

- (1) the right of freedom from arbitrary arrest, detention, torture, or physical annihilation;
- (2) the right to be presumed innocent until proven guilty by a fair and impartial tribunal in accordance with the Rule of Law;
- (3) the application of the Principle of Legality which calls for the right of the accused to be tried for crimes specified in the Qu'ran or other crimes whose clear and well-established meaning and content are determined by Shariah Law (Islamic Law) or by a criminal code in

conformity therewith;

- (4) the right to appear before an appropriate tribunal previously established by law;
- (5) the right to a public trial;
- (6) the right not to be compelled to testify against oneself;
- (7) the right to present evidence and to call witnesses in one's defense;
- (8) the right to counsel of one's own choosing;
- (9) the right to a decision on the merits based upon legally admissible evidence;
- (10) the right to have the decision in the case rendered in public;
- (11) the right to benefit from the spirit of mercy and the goals of rehabilitation and resocialization in the consideration of the penalty to be imposed; and
- (12) the right of appeal;

WHEREAS the aforementioned rights of due process of law contained in Islamic Law are in complete harmony with the prescriptions of the International Covenant on Civil and Political Rights which has been signed or ratified by many nations including a significant number of Muslim and Islamic nations and which reflects generally accepted principles of international law contained in the Universal Declaration of Human Rights of 1948,

Minimum Rules for the Treatment of Offenders;

NOW THEREFORE the participants of the Conference in their individual capacities, desirous of upholding the aforementioned principles and the values they embody, and desirous of ensuring that the practices and procedures of Islamic and Muslim nations conform thereto, solemnly declare that:

Any departure from the aforementioned principles would constitute a serious and grave violation of Shariah Law, international human rights law, and the generally accepted principles of international law reflected in the constitutions and laws of most nations of the world.

The resolution implicitly condemns the practices of the Iranian "Islamic Revolutionary Tribunal" by unequivocally showing that it has failed to follow the very precepts of Islam by which it claims to be bound. Thus it confirms that the tribunal is simply a revolutionary one and it should be judged as such. If so, its practices should be viewed within a political and not a legal or Islamic context. Criticism should therefore fall within a political revolutionary classification as opposed to the implicit message conveyed by the Western media that the Islamic criminal justice system permits such practices.

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