Superiority of Islamic Laws

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Undoubtedly, the above two interpretations of justice - which are cited as an example - are in total conflict and disharmony with each other in practice. They seem to be intolerant, inconsistent and discordant with the divine laws and monotheistic beliefs. For example, we have a set of laws in Islam which, according to our ideological principles, are the best and most beneficial laws for society and certainly concordant with justice. However, these laws are unacceptable to many people in the world who regard them as unjust and oppressive. For instance, in many cases of inheritance the Islamic laws have set differences between the share of man and woman, though in some cases their share is the same. The difference is based on an explicit text of the Holy Qur'an which stipulates that the share of woman is half that of man: "Then for the male shall be the like of the share of two females."

Undoubtedly, those who are not familiar with the ideological and intellectual foundations of Islam regard such a law as unjust because according to them God has discriminated against women. On the other hand, in relation to the conjugal life of husband and wife, Islam makes it incumbent upon the husband to provide all the family expenses including food, clothing and lodging of his spouse and children. According to the Islamic perspective, the wife has the right to save all her earnings.

Her income and inherited property belong to her and she is not required to contribute even a small sum for the family expenses. She even has the right to ask payment for the services she is rendering at home, such as washing clothes, cooking food and even feeding her infant child. However, those who are not exactly acquainted with Islam, when they take such an order into consideration, even if they deal with it impartially they will say that Islam has nit enacted a just law.

In order to dispel the accusation and prove that such laws are just, we have to see which interpretation and definition of justice we have. If justice means equality, then all laws are unjust because equality is not observed in them. If justice has another interpretation, it must be seen what that interpretation is. Of course, it is not easy to know the essence of justice and the way to implement it. For this reason, great philosophers have conducted extensive research on the relationship between justice, freedom and law.

In sum, if we take justice as the criterion of credibility of law, the problem will not be solved. The first question we shall encounter is this: To which interpretation of justice shall we refer?

Interpretations of justice are subjective. What is just and credible for one is unjust and incredible for another.

Inapplicability of the second view

The second view is that a certain law is credible because it provides for the needs of society. Of course, this view is clearer and more acceptable because all, more or less, understand what the needs of society are. This is especially true if we consider that in the society we live in and our predecessors lived before us, a lawgiver or ruler was supposed to understand the needs of society and know how to provide for them.

The question and objection to this view is: The needs of society can be provided for in different ways, and this fact leads to the difference of opinion on the codification of law. For example, the beautification and cleanliness of a city is a public need and must be provided for. But from where should its budget be allocated? Should its budget be secured through the individual accounts of families—that is, to oblige every family to shoulder a part of the expenses for the city's beautification and cleanliness? The second option is that the current expenditure of the city should be secured from the general budget that is mainly secured through the taxes which are levied from the rich, while the poor are exempted from it.

The third option is to expect the government to provide for the needs of society from the exploitation of underground resources such as oil, copper and iron and their revenue.

Now, considering that providing for the needs of society is taken into account as the criterion of credibility of law and that each of the abovementioned options is meant to provide for the needs of society, which of them must be regarded as credible? Which of them do the people regard as the most proper and just? The answer will again be subjective. It shows that this criterion alone is not sufficient to determine the law's credibility.

Defects of the third view and extent of needs according to Islam

According to the third view, only the will of people is credible and whatever the people want should become law and be implemented. The question to be asked in this regard is: Does the criterion demand that all the people want the thing in question? Such a thing cannot be realized in the world. Among millions of laws there is not a single law which is unanimously approved by all people. A law may be accepted by the public but at least one or two percent of the people oppose it. As such, what is the criterion of credibility for those who oppose?

The other point is that if that which is liked by the people is repugnant to the spirit of justice, is it credible or not? Also, if what the people want is opposed to the second criterion; that is, what

the people want is not meant to provide for the needs of society, does it still have credibility? If a law requires the collection of money from the people, maybe most of them oppose it, just as when a new tax is levied, people accept it out of compulsion.

Nowhere is taxation warmly welcomed by people, and whenever the government wants to collect money to provide for the needs of society, the people accept it uneasily. In this case, if we want to act upon the will of people, the needs of society will not be addressed while it is assumed that one of the criteria of credibility is providing for the needs of society.

When the people's will is in conflict with providing for the needs of society, should the interests of society be upheld or the will of the majority? Undoubtedly, legislators and those whose function is to provide for the needs of society (executive officials) can actually observe that if they try to abide by the will of people in these cases, they cannot make any progress. (Of course, this issue can be traced to the discussion about democratic models which must be examined in another session.)

In any case, such objections to the criteria of credibility of law exist. Of course, in our opinion, the more fundamental and serious objection is that the abovementioned interests and needs are only material interests and needs. The general notion is that only these human needs must be provided for in society. Is the government obliged to address only the things related to the material and worldly affairs of people? Or, does the government also have a duty beyond them? In clearer terms, we Muslims and all those who follow one of the revealed religions believe that man has two components: body and soul. In addition, the view of most or all religions is that the soul is nobler than the body and the latter serves the former. These religions maintain that just as the body needs good health, its getting sick needs to be prevented and cured, the human soul also needs sound health, must be prevented from getting sick, and be cured in case of sickness. If we compare material needs with spiritual needs, we will find that spiritual and religious needs are more important.

Sickness of the body is less dangerous and serious compared to sickness of the soul because humanity and human merits and attributes are related to the soul, and if a person's soul gets sick, his humanity will also fade away.

All animals have bodies and different physical conditions and are in constant pursuit of material and physical enjoyments. What makes man special and constitutes the essence of humanity is his soul. Now, if that which is the criterion of humanity faces danger, man will experience real death. As God says,

أَوَ مَن كَانَ مَيْتًا فَأَحْيَيْنَاهُ وَجَعَلْنَا لَهُ نُورًا يَمْشِي بِهِ فِي النَّاسِ كَمَن مَّثَلُهُ فِي الظُّلُمَاتِ لَيْسَ بِخَارِجٍ مِنْهَا كَذَلِكَ زُيِّنَ

لِلْكَافِرِينَ مَا كَانُواْ يَعْمَلُونَ

Is he who was lifeless, then We gave him life and provided him with a light by which he walks“ among the people, like one who dwells in manifold darkness which he cannot leave? To the faithless is thus presented as decorous what they have being doing.”

In view of this fact, should the government which is in pursuit of securing the interests of society not pay attention to the spiritual and religious affairs of people? Is it the duty of government to provide only for the material needs of people? Or, is addressing the spiritual welfare also part of its duties and should it strive hard to provide it?