

Session 19: Distinctive Feature of Islam in the Realm of Politics and Government

Three views on determining the special function of government

Once we say that government is meant to implement law in society, or in other words, the two main pillars of government are legislation and implementation, law must have some criteria and authority on the basis of which rules and regulations are enacted. As such, this fundamental question is raised in political philosophy—what is the aim of forming a government? It was briefly touched upon in previous discussions. In this session, we shall examine it elaborately. Initially, we shall mention the three views on the purpose of forming a government so as to identify the logical connection between government and law. Then, we shall delve into the subject.

1. Individuals such as Thomas Hobbes, from among political philosophers after the Renaissance, are of the opinion that the objective and function of government is only to establish peace and order in society. In a broader sense, the objective is to establish domestic and external security. That is, the main duty of the government is to implement rules and regulations that prevent chaos and disorder in society and have a defense force against external threats so as to ensure the country's survival and territorial integrity.

2. Some have said that apart from maintaining and guaranteeing security, law and government need to implement justice in society. A profound debate on the relationship between law, justice and freedom, especially among the political sociologists, has started and many books have been written in this regard.

Once we accept that in addition to the maintenance of security, the duty of the state is to implement justice, the question arises: What does justice mean by itself? Many interpretations on the nature of justice and its manifestations have been offered by Muslim and non-Muslim scholars. Among them, the comprehensive and generally agreed upon concept of justice is that everyone must be given his or her rights. However, they differ on definition and scope of "rights". Since the term "rights" is included in the

definition of justice, we have no option but to embark on another discussion, and that is the relationship between freedom, law, rights, and justice.

For example, what is the relationship between rights and justice? Finally, the discussion concludes that the right of every person is that his or her natural interests and welfare should be ensured, and the just law is that which ensures the rights of individuals, i.e. what their natural needs demand, under the aegis of social life.

Now, this question is raised on the issue of rights: Who are those who have rights in social life? Do all the human beings have similar rights in social life? Or, who are those who have the right to share social benefits? In other words, some handicapped people cannot render any service to society. They are confined to hospitals and sanatoriums and cannot play any role in social life nor contribute anything to society. Do they have any rights? If rights emanate from services rendered by members of society, then such individuals have no right at all.

Of course, possibly some handicapped people can contribute to society intellectually, but do the handicapped, who since birth, have been deprived of all physical and mental capabilities have any rights? Another case is that of a person who, while strong, offered valuable services to society and later became physically disabled and could not render any form of service to society anymore. Does he have any right in society anymore?

According to some sociological tendencies, such individuals do not have any right in society and the state does not have any duty toward them. In the Marxist regime ruling the ex-Soviet Union, such individuals who made no contribution to society were eliminated under a certain pretext. Such tendencies also exist in other societies. Are rights linked with services individuals render to society?

Does the handicapped have any rights for being a human being, born and living among other human beings? Unfortunately, those who say that right is commensurate with the service rendered to society do not consider any rights for such individuals, saying that if out of compassion and humanitarian feeling, some people want to serve this stratum of society and build sanatoriums for them, they may do so. Yet, no one shall be responsible for their death!

3. The third viewpoint on the purpose of forming a government and state is the Islamic viewpoint which emphasizes—apart from maintaining security, implementing justice and providing material welfare—the satisfying of spiritual and religious needs.

Difference between the special function of the Islamic government and that of other governments

In Islam, maintenance of security, defense against foreign enemies, establishment of justice, and ensuring the rights of those rendering services to society are considered a part of government

obligations. In addition, benevolence [*ihsan*], i.e. service to the indigent and those who lack any potential to offer any service to society, is also a duty of the government. As God says in the Qur'an,

﴿إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ...﴾

“Indeed Allah enjoins justice and kindness...”¹

The duty of Muslims is not only to observe justice. Beyond that, they should also be benevolent. On account of their being human, the indigent, the disabled, and the handicapped, especially those born handicapped, have their legitimate rights in human society, and the Islamic state has to provide for their primary needs.

The other difference between Islam and other schools of thought is that Islam does not confine itself to material and physical needs but considers psychological, spiritual and otherworldly needs also. The burden of responsibility on the Islamic state is far heavier than that of liberal states. Logically, apart from providing the needs of individuals offering services to society, liberal states have no other responsibility. However, the Islamic state, in addition to satisfying the needs of those rendering service in the society, should help the handicapped.

As such, laws must be enacted and implemented in the Islamic state to ensure the provision of individual and social, material and spiritual, worldly and otherworldly needs of human beings, and not only provide the material needs for the active members of society.

The next question raised is: What is the proof of correctness of the Islamic theory and how can we know that the other theories are not correct? In a bid to reply to this question, there is a need to go a step backward and pose this question: What essentially is the reason behind the formation of human society?

Islam's view on the essence of human society

Before examining the reason behind the formation of human society, let me ask: Is man, like the termite or the bee, inherently a social being? Is social living something that man has selected and chosen by himself? There are many views but I shall touch upon two basic views in this regard. One is that social life has an optional humane objective. The second view is that social life has no purpose. For instance, it cannot be said why the bee has a social life and what its purpose in social life is.

Obviously, the bee has a natural and instinctive purpose and that is to produce honey and live. There is no other purpose of the bee's social life. Of course, God, the Exalted, has a purpose in creating these creatures, one of which is to serve mankind. However, setting aside the creational and divine aspect, the bee is not pursuing a volitional objective in its social life. Is the social life of man also a natural process

which has spontaneously arisen without having any purpose? Or, does it have a purpose which necessitates relations which, in turn, require orders?

From the religious point of view, the purpose of social life is human progress under the blessings of social living and getting closer to their objective. Then, you may ask: What is the purpose behind the creation of man? According to the divine perspective, the ultimate goal of man is nearness to God and this is the zenith of human perfection.

If we accept that the purpose behind creation is perfection attained under the auspices of nearness to God, then social life is a means for man to achieve this goal in the best way possible. In the absence of social life, human beings cannot acquire necessary knowledge and perform necessary acts of worship, nor attain ultimate perfection.

Therefore, it is under the blessings of collective life that teaching and learning are done; human beings identify better ways to live; conditions to continue on the way are provided; and as a result, human perfection becomes attainable. Once we accept these preliminary proofs, we can conclude that the objective of social living is to pave the way for human advancement and perfection not only in the material dimension but in all dimensions of man's existence.

Man is a multi-dimensional being who has diverse facets and dimensions. Therefore, the perfection of all dimensions constitutes true perfection; not only material perfection, industrial advancement, social progress, and economic growth. So, the best law is that which paves the way for the growth of man in all these dimensions and gives priority to the ultimate goal which is nearness to God.

Necessary qualities of the legislator

The Islamic government has to implement laws that encompass all dimensions of man's existence and ensure his interests in all dimensions, because such laws need perfect awareness of all aspects of man's existence. Depending on his expertise, each of the human beings that we know is aware of only some aspects of his existence. Earlier the philosophers made such claims, but nowadays, the ignorance of man has become manifest to him. In some cases, economic progress may conflict with spiritual or religious advancement.

Of course, we believe that the great divine system guarantees all human interests. But it is possible that in a certain society at a given time or place, a sort of conflict among the interests of people might emerge. As such, these interests must be categorized so that in case of conflict, the concerned authorities know what needs priority. Thus, it is the duty of the legislator also to identify the priorities, and it is here that the impotence of man to discern such a law manifests itself.

Apart from having a complete knowledge of all dimensions of man's existence, the more important quality of the legislator is that he should empty himself of all personal and group desires, and give

priority to the interests of society over individual, group or factional interests. Nobody can do this. In case of conflict between his and others' interests, and between his group's interests and that of others', any great man would overlook his personal and group's interests and voluntarily give priority to the interests of society over his personal interests. To find such persons from among members of society is problematic, and perhaps impossible. So, the legislator should also have the capability of giving preference to the interests of society over his own.

It is here that the superiority of divine law over all man-made laws becomes clear because, firstly, God, the Exalted, is the One fully aware of all the interests of human beings. Secondly, God does not acquire any benefit or loss from the actions of human beings for His interest to conflict with that of others. In Islam, however, we say that assuming that all the interests of human beings are ensured in their mundane life and social relations, still that society is not desirable and ideal because the ultimate and loftier perfection is under the auspices of nearness to God. This nearness to God can materialize only through worship, devotion, servitude, and obedience to God.

Physical wellbeing, peace and order of society, defense against enemies, justice, and social rights of individuals are a prelude to man's communication with God. The essence of humanity lies in this communication with God, and unless it is established, true humanity cannot materialize. Proximity to God is not a mere slogan. Rather, it is the true and spiritual communion of people with God. Human beings pass through different stages of life, traverse and ascend until they attain this station. Common people cannot discern that such a station exists for man, or that they can attain such a spiritual and celestial station.

Now, as God is not in need of our worship, why did He create man for worship and say,

"I did not create the jinn and humans except that they may worship Me"?²

The answer is that the ultimate perfection of man cannot be achieved except through the worship of God. So, one should recognize God and obey Him so that man can tread the path toward true perfection. It is through attention to these preliminaries that we say that the law desirable is that which, apart from ensuring the material needs of the active members of society, also guarantees the needs of those who make no contribution to society, such as the impotent, disabled and handicapped for, they also have rights. The Islamic state has to provide their needs for they are also servants of God and born in society. It is for this reason that in addition to justice, the Qur'an mentions kindness:

﴿إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ﴾

"Indeed Allah enjoins justice and kindness."³

This injunction of God is not only a moral admonition. Rather, it is an obligatory command which must be

obeyed. Thus, just as the observance of justice in society is obligatory, so is the observance of kindness because rights are not only established by rendering service. Rather, there is a series of rights that God has considered for every person. Even the one who is in the worst condition, deprived of eyes, ears and mobility has rights for the mere fact that he is alive. And the Islamic state must guarantee these rights.

So, we should not think that the sole responsibility of the state is the thing mentioned by Hobbes, Jean-Jacques Rousseau and other Western thinkers for, either they have not paid attention to the sublime stations of man, or they have imagined man to be wolf-like or an insect like the bee and termite. According to Islam, however, man is far ahead of such animals though they also live collectively.

Thus, law has to consider all the needs of man along his pursuit of ultimate perfection. Now, if law were to consider all interests, could it give man every kind of freedom? Can man move along any path and achieve this objective? Can those who have not recognized God, denied Him, stood up against Him and His worshippers, attain human perfection? Is not the worship of the One God the way to attain human perfection? If the duty of the Islamic state is to pave the ground for human perfection in all dimensions, the spiritual and religious dimension in particular, then the desires should, in a sense, be regulated, restrained and controlled, and a framework for them determined which does not conflict with sublime human interests.

Difference between Islamic laws and liberal laws

The difference between Islamic laws and man-made laws —especially laws of the liberal societies that consider right for the people in lieu of the services they render in the society— can be examined through the following perspectives:

1. Liberal societies, do not consider any rights of individuals who, due to physical disabilities or social deprivations, cannot contribute to society. Islam, however, gives rights to them as well. In order to guarantee these rights, the desires of others need to be restrained and a portion of public wealth allocated for these individuals, which is not liked by other people. So, their dislike should be restrained.
2. In social life, rights are given to society, which prevail in case of conflict with rights of individuals. The question on which rights should prevail in case of conflict is based on individual-oriented and society-oriented tendencies existing in Western societies today. Of course, the dominant and ruling tendency in the Western world is individualism; however, socialistic tendencies, more or less, exist. In Western societies today, socialist and social democratic governments are gaining momentum compared to other forms of government.

In contrast to the individualistic tendency in liberal societies, Islam gives preference to the rights of society. Liberal governments are willing to burn or throw millions of tons of foodstuff into the sea in order to prevent the market price from breaking down and the capitalists from incurring loss. They are willing to let millions of people die of hunger only to protect their material interests. Yet, Islam can never permit

such a thing. The desire of such elements should be restricted according to Islam. Economic freedom must not be ensured in any manner or any way, it should be limited. Just as the interests of the deprived stratum of society and the handicapped restrict the interests of society, similarly individual desires must be limited for the sake of ensuring the general interests of society.

3. In Islamic society, there are concerns which are basically related to the individual, but since it leaves an imprint on society, it is reckoned as part of social concerns. For example, if a person commits a sin in isolation at home while no one else is informed or a witness, obviously his sin is personal in nature, and the laws that restrict this kind of action are “moral laws” (without considering whether the use of the term “moral” in this context is correct or not).

That is, the jurisdiction of the state is related to society and not to the individual. But if the individual action is done in such a manner that it more or less affects others, at least encourages others to commit such a sin, it acquires a social dimension. If a person commits a sin in the street or in front of other members of the family, its hideousness will diminish and people will be encouraged and inclined to commit it, his action will no more be personal in nature. Do we have no right to interfere because it will only harm him? According to Islam showing of perversion is a social act. If a person commits a sin in front of others, it becomes a legal crime (in contrast to moral turpitude), and the state may interfere. The law that prevents such a sin is an administrative law backed by the state’s police force.

4. Damaging material interests of society is a crime. Morally damaging acts are also crimes. In every society, an attack on the integrity and honor of others, even if it is not a physical attack (libel, insult and mockery) is considered a crime and the state has the right to pursue the offender and penalize him. In such cases, the executive guarantee is law. In Islamic society, insult to religious sanctity is the most serious violation of the rights of Muslims. In Islamic society there is nothing more valuable than religious sanctity. Muslims are willing to sacrifice everything they have for its sake.

It is on this basis that the decree against apostasy [*irtidad*] and insult to religious sanctity can be justified and understood. This is why anyone who insults the Holy Prophet (s) and other religious sanctities is condemned to death by Islam. That is because he has committed the greatest of crimes. There is nothing more sacred than these sanctities for *Muslim* people and insult to these sanctities is the worst of crimes. This is also a fundamental difference between Islamic and liberal perspectives.

Offence against Islamic sanctities is not an offence against an individual for it to require a private complainant. Anyone who insults the Islamic sanctities in newspapers and speeches is condemned according to Islamic law. It is not a personal and individual issue but rather criminal and penal. No one can pardon this crime because it is a right that belongs to all Muslims, nay it is a right related to God.

These are issues which Muslim scholars, especially the students, should pay attention to and not imagine that the political and legal issues of Islam follow the limited and monolithic Western framework that only pays attention to the material, mundane and individual concerns in this world. According to

Islam, the rights of society take precedence over individual rights.

In view of what has been discussed, we can assess the distinctive features of Islamic law and the reason behind its superiority over other laws.

We can understand why individual desires are more limited in Islamic society than in secular and liberal societies. It is because in those societies the only thing that limits individual desires are individual and material interests. But in Islamic society spiritual and otherworldly interests require particular limitations. This is something which the nature of the Islamic government anchored in religious belief demands, and we shall defend these beliefs with utmost clarity and courage.

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1. Surah an-Nahl 16:90.
 2. Surah adh-Dhariyat 51:56.
 3. Surah an-Nahl 16:90.

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