

Home > Islamic Political Theory (Legislation): Volume 1 > Session 23: An Examination of the Essence of Unity in Humanity and the Citizenship of Citizens > Functional difference between wilayah al-faqih and other systems

---

## **Session 23: An Examination of the Essence of Unity in Humanity and the Citizenship of Citizens**

### **Islam's view on root of emergence of rights**

Discussions in political philosophy have proximity with that of legal philosophy and are integrated in some areas. Common and similar issues are discussed; for example, a legal issue is examined in a political discussion. On this basis, in the previous session we mentioned an issue in legal philosophy, i.e. the essence of unity in humanity. We said that it is true that all human beings are common in humanity and according to Islam we do not have first class or second class human beings, but it does not necessarily follow that all people are equal in social matters in terms of rights and duties.

In this context, those who are pursuing mischievous motives by portraying themselves as revolutionary Muslim people and utilizing the achievements of the Revolution in favor of their motives are acting against the Revolution by saying that since we do not have first class or second class human beings, all people in society must have the same rights, such as forming a party and acquiring civil and military posts.

According to them, any person, irrespective of his conviction and ideology, can be the president or prime minister. He may form any party he wants. Their argument is that since all human beings are equal, it follows that in spite of their non-acceptance of the Revolution or the Constitution they have the right to enjoy all rights. In refutation of this fallacy, let us say that it is true that we do not have first or second class human beings, but the source of all rights and duties are certain qualities other than the essence of humanity.

Some have not properly understood this fact or out of wicked motives have interpreted it wrongly.

Someone says, “We have first class and second class citizens. The first class citizens are the clergy while the rest are considered second class citizens!” We have no option but to allocate this session to an examination of this allegation and its refutation.

In order to clarify this matter, one needs to pay attention to one of the serious debates among legal philosophers of the world on what is essentially the origin of rights? On what basis can we say that a person has the right to do a certain thing? Each of the different approaches in legal philosophy such as historical rights, positivism, natural law, and others, have given their own reply.

Islam also has its own distinct view. According to Islam, the source of all rights must be traced back to God, the Exalted, because all creation belongs to Him. Whatever anybody possesses comes from Him. In cosmic affairs, our existence and whatever we have belong to God—“Verily, we belong to Allah” [*inna lillah*]<sup>1</sup>—and everything is “from Allah” [*min Allah*]. Similarly, legislative affairs must also derive from God the Exalted. This is our general perspective on the origin and source of rights which can be summarized as follows: It is God who grants rights to others. Does God equally and evenly grant rights to all human beings?

Or, does He grant certain rights to some of His servants which He does not grant to others? Generally, we know that God has granted rights to the prophets (‘a) which He has not given to others; a certain right to parents and another right to children. Is the divine will senseless, does God give a right to a person without any basis and deprives another person of the same, or a certain criterion is actually taken into account? If there were any basis, what is it?

The basis of rights granted by God to His servants is the station and position they have in the universe. Conditions necessitate that they should have such rights for the specific duties they have. We have all been created to move by our willpower and freewill toward true and ultimate perfection. So, we have a general obligation to move along the path of perfection, which in Islamic culture is called “worship of God”:

﴿أَلَمْ أَعْهِدْ إِلَيْكُمْ يَا بَنِي آدَمَ أَنْ لَا تَعْبُدُوا الشَّيْطَانَ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ \* وَأَنْ  
اعْبُدُونِي هَذَا صِرَاطٌ مُسْتَقِيمٌ﴾

***“Did I not exhort you, O children of Adam, saying, ‘Do not worship Satan. He is indeed your manifest enemy. Worship Me. This is a straight path?’”<sup>1</sup>***

In another verse, God says:

﴿فَأَرْسَلْنَا فِيهِمْ رَسُولًا مِنْهُمْ أَنْ اعْبُدُوا اللَّهَ...﴾

***“And We sent them an apostle from among themselves, saying, ‘Worship Allah!’...”***<sup>2</sup>

So, the kernel of the call of all prophets (‘a) is the worship of God, and this universal obligation of all mankind has legal implications. That is, whenever man wants to move along the path of perfection and proximity to Allah, the necessary facilities and capacities must be at his disposal. Similarly, there must also be laws in society that facilitate this movement. Whenever man wants to move toward God, he must be alive. So, the right to life as the foremost of rights emanates from this. The second right is the freedom of movement because this wayfaring is not compulsory. He must be free in his choice to choose his way.

The third right is the enjoyment of material blessings of this world because if he does not make use of them, he cannot live and subsist. In order to survive and procure the provisions for this journey, he has the right to make use of clothing and food in this world. He has the right to use the instincts that God has endowed him with, including the sexual instinct. So, he must select his own spouse. As you can observe, rights are accompanied by obligations.

In previous discussions we also pointed out the relationship between rights and duties. Since we are bound to move toward God and obey Him, we must have certain rights, by exercising which we can continue treading this path. On this basis, anything in society and public life that hinders this movement for perfection of human beings must be controlled by an Islamic government. The government must thwart elements that obstruct and hamper this movement of an Islamic society toward God. In his personal life, the individual concerned is also bound to procure the effective and influential instruments in removing obstacles on his way. The basis of possession of rights is the capability of individuals and capacity of growth and perfection. Duties and obligations will be placed on their shoulders for which they will possess certain rights.

## **Impact of natural and acquired differences on rights and duties**

We are all essentially one in humanity but human beings have enormous differences that can be classified into two. The first category consists of natural and predestined differences and distinctions. The main category of differences among human beings can be traced to natural biological differences like gender differences between men and women. Physiologically, biologically, psychologically, and emotionally, there are differences between the two genders that are the very reason behind the difference in their respective rights and duties.

That is, it is true that man and woman are humans and they are both “first class” human beings, but because of the unique constitution of her body and her psychological makeup, woman must shoulder certain obligations. The role being played by woman in reproduction and breastfeeding can never be played by man. Therefore, certain obligations are set upon her. She is bound to play her pivotal role in bearing the fetus for nine whole months. Then, for two years she has the obligation to feed and foster the child. Correspondingly, special rights must also be considered for her.

If, on account of her natural and inherent characteristic, woman is supposed to bear a child, and then feed and foster it, and at the same time, work like man and be obliged to provide for her sustenance, she cannot discharge her main obligations, and this is an act of injustice against her. So, she must have special rights. That is, man is made responsible to provide for her sustenance and remove from her shoulder the burden of looking for her daily bread. If a woman was obliged to work, so many kinds of work would lead to her miscarriage or delay in her feeding.

Emotionally also, if the woman had no economic security and was concerned about her sustenance, her worry and stress would indirectly affect the child. It is scientifically proven that the more peace of mind the woman has, the greater are her chances of nurturing a healthier baby. For this reason, Islam has accorded special rights to women. For example, economically, the life of woman must be ensured by man. For breastfeeding her child, the wife could even ask for a stipend from her husband. That is, she must have privileges in the domain of family for her efforts and sacrifices.

Thus, concerning the rights and duties of man and woman, the notion that since both are human their rights and duties must also be the same is wrong. Woman has her own distinctions and so does man. These distinctions are the source of difference in duties as well as rights.

Therefore, one difference is natural and predestined. That is, no one has the choice of being male or female. This has something to do with the divine will:

﴿يَهَبُ لِمَن يَشَاءُ إِنَاثًا وَيَهَبُ لِمَن يَشَاءُ الذُّكُورَ﴾

***“He gives females to whomever He wishes, and gives males to whomever He wishes.”***<sup>3</sup>

So, the willpower and freewill of individuals has no hand in determining their own and their children’s gender. Therefore, these differences and distinctions which lead to differences in rights and duties are natural ones.

The other category of differences in human beings is voluntary in nature and applied to those who acquire special skills in life. For example, a person who acquires education will have to assume an obligation in society which cannot be assumed by an illiterate or ignorant person.

Also, if an uneducated person uninformed of political issues says, “I also have the right to be president,” he will be told, “To be president you have to qualify for the post. If you have the essential capability, you can file your candidacy and if people vote for you, you can become President.” He can not say, “Since there is no first or second class human being, it means that I also have the right to become president.” It is not legally correct for any person, who goes against the goals of a nation and does not accept its constitution, to say: “I want to be president of this country since I am also a human!”

For merely being a human being, you have no right to occupy any post in the country. A post demands

certain qualifications. For instance, in the Islamic republic, the president must be a Muslim. A non-Muslim—withstanding all the honor we accord him and the right accorded him by the Constitution—cannot be the president.

## **Determining different classes of individuals in laws of citizenship**

All countries of the world have special conditions for sensitive posts. Among such affairs is the issue of citizenship. Throughout the world citizenship is not identical and uniform. Anyone who has basic knowledge of private international law can understand this point. For example, if a certain Iranian wants to acquire citizenship of one of the European or American countries, first of all, the acceptance of his application for citizenship will have certain conditions. Even after the acceptance of his application for citizenship, he shall not be allowed to become president because he is a second class citizen.

Possibly, through a series of tests, he might acquire first class citizenship. In any case, it is not true that anyone who is a citizen of a country has all the rights enjoyed by all the people of that country, because citizenship has numerous classes. By merely stating that there is no first or second class humanity, we cannot conclude that there is also no first or second class citizenship or nationality. Every country has set certain conditions for its citizens. In Islam certain conditions have also been considered. So, the fact that all human beings are identical in humanity does not mean that they are also all equal in citizenship.

Thus, although all the people in every country are considered citizens of the said country, they do not possess the right to occupy all posts and positions as their rights are not the same. The basis and criterion of determining their rights are different. We believe that all of these must be traced to divine authorization. Those who live in liberal or democratic countries and do not accept divine laws assert that only the will of people must be followed, but we argue that apart from the will of people, there must also be divine permission. The will, vote and right must not be against divine permission and the law of God.

In any case, no country grants identical citizenship to all individuals, or negates second class citizenship merely on account of the absence of second class humanity. This issue is also mentioned in our Constitution. I wonder why our critics have missed out the legal provision which stipulates, thus: “Those who shall adopt Iranian citizenship shall enjoy all rights accorded to all Iranians except the right to be President, minister, deputy minister, or any foreign political officer.” That is, anyone who is granted Iranian citizenship has no right to be a political envoy, ambassador, chargé d’affaires, consul, or minister. He may have adopted Iranian citizenship and Iran may also have granted it, but he will not have those rights. This is the text of our law.

## **First and second class citizenship according to Islam**

We shall concisely state here that the main priority in the legal theory of Islam for the classification of

countries is the belief system, geographical boundaries having no genuine basis. The agenda of Islam is the establishment of a global Islamic government, which will be realized, God willing, by the advent of the Master of the Age (may Allah expedite his glorious advent), in which the geographical boundaries will be removed and all members of the Islamic *ummah* will be citizens of a single country and subjects of a single government with Islam as the basis of their citizenship.

In that government, rights and duties of a non-Muslim will be different from those of a Muslim. Non-Muslims do not perform all the duties of a Muslim, neither do they enjoy all the rights. Under certain circumstances the *wali al-faqih* and Islamic government can temporarily recognize geographical boundaries. As such, if today we recognize geographical boundaries, it is not based upon the agenda of Islam.

It is rather due to an exigency realized in the light of regional and international laws, which shall become binding on us by means of a decree issued by the *wali al-faqih*. In reality, those boundaries will be determined and confirmed by the *wali al-faqih*.

So, in Islam, one of the conditions of citizenship is being a Muslim in order to have first class citizenship while a non-Muslim has second class citizenship.

## **Functional difference between wilayah al-faqih and other systems**

Those who always talk about popular and democratic governments and feel ashamed that their government is based upon *wilayah al-faqih* are heedless of the services rendered by *him* in this country. They are heedless that based on the theory of *wilayah al-faqih* laws and decrees of the Islamic state and statutory laws of the Islamic Consultative Assembly after confirmation by the Council of Guardians are religiously incumbent upon Muslims because they are authorized by the *wali al-faqih*, and his authority, in turn, is based on the authority of God.

This is a great merit that this system has. But if we do not accept the *wilayah al-faqih* system, then obedience to laws and decrees is based on the commitment of people to laws in accordance with their demand. They can withdraw from their commitment, review their demand, and change an article of law as they like. So, in the democratic system there is no religious underpinning of the people's obedience to laws.

In an Islamic government, laws become binding with the authorization and approval of the *wali al-faqih*. Apart from enjoying people's commitment and customary requirement backed by their vote, there is also the religious underpinning going against which is a sin that invites divine wrath. This is the difference between abiding by the laws of the Islamic government and obedience to laws whose legitimacy and credibility are only supported by the majority will. Since majority of the Majlis deputies are elected by the people, they deem it incumbent upon themselves to obey these laws.

Now, rationally speaking, to what extent are deputies who have not voted in favor of the laws, or the minority who have not voted for the deputies who approved those laws, obliged to abide by those laws? When a law is approved by the deputies of the majority of people, should the minority who opposed the law psychologically and emotionally be obliged to obey it? How can they be bound by majority will?

Obedience to Islamic laws which are ratified by the Majlis deputies and approved by the *wali al-faqih* has been made obligatory by God, and even those who have not voted in favor of those laws are religiously bound to abide by them. Of course, the Muslims are aware of this fact and are sincerely committed to obey the laws of the Islamic state that have divine legitimacy. They do not oppose these laws because they are familiar with the structure and rules of the divine Islamic government. This level of obedience and acceptance of laws and rules is among the merits and salient features of the divine system which has materialized in our country under the label of *wilayah al-faqih* system.

Through a survey of the Islamic movement and Revolution, we realized that widespread obedience of people to the Leader– Jurist–Guardian, and sincere submission to His Eminence’s commands and instructions was the key factor in our advancement and victory during the Revolution and after its victory. Also, the same factor was the reason why our nation emerged victorious with honor in the unequal war (imposed by Iraq).

Is there anyone in the world who does not know that one of the important factors of the victory of the Islamic Revolution in Iran was the people’s religious belief in the exigency and indispensability of obeying their religious leader? Then, as an injustice of the highest order, in a country where the Islamic system is established by the sacrifices and selflessness of martyrs who struggled and waged *jihad* by the order of their leader and religious reference authority, some elements write and claim, thus: “The Imam sailed smoothly over the wave of the people’s movement and portrayed it as the Islamic movement and Revolution!”

Is this claim true? If the Muslims of Iran had not been present on the scene of the Revolution and discharged their spiritual and religious obligations and opened their breasts vis-à-vis the bullets, could the Revolution succeed? Had it not been for the order of the Imam, would they have done these things? It is unfair for us to forget and deny these realities.

The truth is that religion and the Imam’s leadership played the leading and crucial role in the occurrence of the Revolution, its continuity, and then victory in the war after enduring all adversities, difficulties and problems. God willing, through the leadership of the competent successor of the eminent Imam (*q*) and his astute policies, these standings will continue as before under the auspices of the unity and solidarity of the self-sacrificing people of Iran, and under the shadow of the *wali al-faqih*’s leadership (may Allah, the Exalted, protect him), the people will reach further stages and degrees of perfection and advancement.

Summing up, categorization of citizenship is something accepted by all political systems of the world and

the difference in classes of citizenship is not something we have originated. This difference in classes of citizenship has nothing to do with their essential humanity. From the perspective of their being human, all people are in the same class.

However, either they naturally possess certain qualities that may be a source of difference in duties and rights, or they have acquired qualifications, qualities, capabilities, and talents which are the reason why they have to discharge certain duties, and likewise, to enjoy certain rights. So, the source of difference in rights and duties is either natural differences or differences arising from individual choice and freewill. For example, professing a certain religion, or acquiring necessary qualities and capability for the assumption of a post or position, including the acceptance of certain principles and foundations, can be contributory in the status of their citizenship or nationality.

- 
1. Surah Ya-Sin 36:60-61.
  2. Surah al-Mu'minun 23:32.
  3. Surah ash-Shawra 42:49.

---

**Source URL:**

<https://www.al-islam.org/islamic-political-theory-ayatullah-misbah-yazdi-vol1/session-23-examination-essence-unity-humanity>