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Lecture Four: The Question of Abrogation

A- Abrogation

Our discussions have been about Islamic jihad. Tonight, there are three issues that I wish to speak about, one of which is based on Qur'an, the other based on reason, and the third, based on both Qur'an and history.

The issue with the Qur'anic basis is in connection with the verses about jihad. Before, we had said that some of the verses about jihad are unconditional while others are conditional. Unconditional verses are those where the command to fight the polytheists or the People of the Book has been issued without any conditions and conditional verses are those which have given the command accompanied by special conditions.

For example, it has been stated that we must fight them if they are fighting us, or if they are in a state of war with us, or if we have reason to fear an imminent attack from them. To the question as to which verses should be observed, the conditional or the unconditional, we say that in the view of the ulama', there exists no difference of opinion to leave us in doubt, for, if we are aware of the rule and we study both types of verses, we will realize that the conditional verses are explanations of the unconditional ones. So, according to this, we must get the meaning of jihad from what is explained by the conditional verses, which means that the Qur'anic verses do not recognize any verse about jihad as being obligatory.

Yet, some commentators have brought up this issue of abrogation. They agree that many verses of the Qur'an set conditions for fighting against the non-Muslims, but they say that other verses have been revealed that abrogate all those instructions and conditions. Thus, we come to the issue of abrogations, about that which abrogates and that which is abrogated.

Some think that the first verse of Surah at-Tawba - which issues the complete command of jihad and immunity to the polytheists, fixing a period for them to stay in Mecca after which they had to leave and the Muslims were to besiege them in their fortifications and hiding places and kill them, and which,

furthermore, was revealed in the ninth year of the Hejira – has in one blow abrogated all the instructions about jihad that were previously revealed. Is this the correct view?

No, this view is incorrect. Why? For two reasons. One is that we can only consider a verse to have abrogated another when it is incompatible with it. Imagine a verse being revealed commanding not to fight the polytheists at all followed by another allowing for fight. Good. This would mean that God has canceled the previous instruction.

This is the meaning of abrogation, that the first instruction is annulled and replaced by another. So the second instruction must be such that it is fully incompatible with the first. However, if collectively, the contents of the first verse and the second one are compatible, so that one clarifies the other, then there is no further question of one being an abrogator and the other being abrogated.

The verses of Surah at–Tawba are not such that they can be said to have been revealed so as to nullify the previously revealed ones, which attached conditions to jihad. Why not? Because, when we consider all the verses of Surah at–Tawba collectively, we see that they tell us to fight the polytheists because they do not observe one of the essential principles of humanity – keeping one's promises – which one and all know, must be kept, even if the law of one's particular nation does not stress this duty or heed it at all.

Thus the verses tell us to fight, because if we conclude an agreement with them, whenever they see the opportunity to violate it, they would do so and strive to destroy and annihilate us. Here, what does reason tell us? If we know for sure that a nation intends to destroy us on the first opportunity, does reason tell us to wait for them to do so before we do anything about it? If we wait, they will destroy us. In today's world, we may see a nation attacking another because of clear evidence that the other nation has made the decision to attack them, and when that nation attacks, the whole world will say that it is permissible, that they did the right thing.

No one would say that although they knew and had clear evidence that, for example, the enemy had the intention of attacking on a certain day, that they had no right to attack the enemy today, that they should have waited with folded arms for the enemy to attack and only then, should they have gone into action themselves.

The Qur'an in those same verses of Surah Bara'at (Tawbah), the most strict verses of the Qur'an, tells us:

*« **How** (**can there be such a league**), **seeing that if they get an advantage over you, they respect not in you the ties either of kinship or of covenant? With** (**fair words from**) **their mouths they entice you, but their hearts are averse from you; and most of them are rebellious and wicked.**»* (***9:8***)

It tells us that, if they find the opportunity, they observe no promise or treaty, and whatever they say

comes only from their tongues, while their hearts are in opposition. So, these verses are not as unconditional as had been previously thought.

What they actually say is that, on sensing danger from the enemy, for us to fold our arms and delay would be a mistake. Thus we must not think that these verses are completely out of accord with the other verses and they should not be considered as abrogators. This is the first reason why these verses are not abrogative.

B- No Generality without an Exception

The second reason was given by the ulama' of usul ul-fiqh - and if I can explain it to you, then the meaning concerning this verse will become clear.

The ulama' say: "Maa min 'amman illa waqad khussa" "There is no generality that is without an exception."

And this is absolutely right. We are told to fast, but we are excused if we are travelling, or too sick (according to what is appropriate in the rulings). There are similarly generalities that have no exceptions. There are some generalities that really have no exceptions and admit none. So, even this very rule has exceptions.

The point of this is that some issues refuse to be abrogated, refuse all exceptions. The tone of these generalities is that they can admit no exceptions. For example, in the Qur'an we are told:

*«... **if ye are grateful, He is pleased with you.**»* (***39:7***)

This verse does not admit any exceptions. It is not possible that there will come a time when a person will be sincerely grateful to God, and God will not be pleased. No. This is not something that in certain circumstances will be any different, unless that person becomes ungrateful.

Similarly, concerning abrogation, some verses are such that fundamentally abrogation is not applicable to them, because the meaning of abrogation is that the abrogated order was a temporary order. This means that certain things do not admit being temporary. If they be, they must always be. Why? Now, I will give you an example.

For example, let's take the verse of the Qur'an which tells us:

*« ...**do not transgress limits; for Allah loveth not transgressors.**»* (***2:190***)

This has a generality in regard to individuals and continuity in regard to time. Is it possible for us to maintain exceptions to this generality? Can we say that God does not like oppressors with the exception of a few? The holiness of divinity on the one hand and the filth of zulm, of injustice and oppression on the other are not two things that go together for us to be able to say that God does not love

transgressors with the exception of so and so.

This is a generality that admits no exception. This is not like fasting where we say that we must fast unless we are in such and such a condition. In the case of fasting, it is possible that in a certain state a person must not fast, but zulm is not a thing whereby we can say that in one instance we must be unjust and in another we must not. Wherever there is injustice and oppression, it is wrong and a crime, irrespective of who has committed it.

Even if it were the prophets of God who committed it, it would still be blameworthy, and regarded as sin and disobedience. God does not love anyone who is disobedient. We cannot say "except the injustice of His prophets." Even this is unacceptable. Even if the prophets, (may God spare me for the thought) committed sins, they would not be loved by God. The difference between a prophet and others is not that he committed sins and God loves him nevertheless; but that he never commits any sin while others do. This, then, is a generality which admits no exceptions.

Concerning the time factor also, the same thing applies. Can it be said that a certain fact pertains to a certain time? That God loves transgressors for a while, but then changes His mind, cancels His original position, and says that thereafter, He loves transgressors? No, this is a thing that admits no abrogation.

We can see how in one of the verses about jihad the Qur'an says:

«Fight in the cause of Allah those who fight you, but do not transgress limits; for Allah loveth not transgressors.» (***2: 190***)

We are to fight with those who fight against us, with those who have commenced some type of aggression against us. But we are not ourselves to be aggressors. Fighting against aggression is not aggression. But fighting against other than aggression is aggression and not lawful.

We are to fight against aggression so as to eliminate aggression; but if we fight against other than aggression then we ourselves become aggressors. This is not something that admits abrogation.

It is possible, for example, that permission for jihad and self-defense could be withheld for a while in our own best interests, for us to endure and persevere for a while and then, later, the call for jihad is given. Thus, the command for patience would be canceled because it was meant for a specified time period only; this cancellation of the initial command is so because it was meant to be only temporary from the beginning.

C- Defense of Human Values

According to this, the Qur'an limits jihad strictly to a type of defense and only permits it in the face of aggression. But in our last lecture, we said that jihad for the expansion of human values, even if they are not threatened, cannot be condemned. We also said that the meaning of aggression is a general one,

meaning that it is not necessary for aggression to be against life, against property, against chastity, against land – it is not even necessary for it to be against independence, against freedom – if a group transgresses against values that are counted as human values, then this is aggression.

I wish to cite a simple example. In our age, huge efforts are being directed at uprooting various diseases. So far the primary causes of some diseases like cancer have not been discovered, and their cure is likewise still not known. But at present, there exist medicines which can temporarily delay the effect of these diseases.

Supposing that some institution discovers the cure to one of these diseases, and that those other institutions which profit from the very presence of that disease, those factories which manufacture the medicines that can be used to postpone the effects of that disease, in order to prevent their market from collapsing – in which case millions, billions of dollars would be lost – destroy that newly discovered cure which for humanity is so beneficial; destroy those who are connected with it; destroy the newly discovered formula so that no one would know about it.

Now, is such a human value to be defended or not? Can we say that no one has attacked our lives or our property; no one has interfered with our chastity, our independence or our territory? Can we see that in one of the corners of the world, somebody has made a discovery and someone else is trying to destroy it, and ask, what has it got to do with us? No. This is not the place for such a question. Here a human value is being threatened. In such a case, if we take the stance of resistance and war, are we to be called aggressors? No, we have risen to oppose aggression, and to fight the aggressors.

So, when we say that the basis of jihad is defense, we do not mean defense in the limited sense of having to defend oneself when one is attacked with the sword, gun or artillery shell. No; we mean that if one's being, one's material or spiritual values are aggressed or in fact, if something that mankind on the whole values and respects and which is necessary for mankind's prosperity and happiness, is aggressed, then we are to defend it.

Here, we come again to our previous discussion about whether tawhid is a personal issue or whether it is one of the values of humanity. If it is the latter that must be defended, so that if amongst a set of laws there is one which dictates that tawhid must be defended on the principle of it being a basic human value (as in Islam, for example), this does not mean that aggression is considered lawful. It means that tawhid is a spiritual value and the meaning of defense is so wide that it includes the defense of spiritual values.

Nevertheless, I will again repeat that Islam does not say we must fight to impose tawhid, for tawhid is something that cannot be imposed because it is faith. Faith is built on discernment and choice, and discernment is not influenced by force. The same applies to choice. “La ikraha fid–din” means we must not compel anyone for faith is not something that can be forced upon someone. However, “La ikraha fid–din,” does not imply that we are not to defend the rights of tawhid. It does not mean that, if we see “La

ilaha illallah," "No god but Allah," being threatened from some direction, we are not to defend it. No, not at all.

D- Freedom of Belief, or of Thought?

That religion must not be imposed on the individual and that people must be free in their choice of religion is one matter. That belief, in the current phraseology, must be free, is quite another matter. In other words, whereas freedom of thought and choice is one thing, freedom of belief is quite another. Many beliefs have "thought" for a foundation, meaning that many beliefs have been discerned and found to be true and have been freely chosen.

The alignment and commitment of an individual's heart to his beliefs in many cases is built on discernment and selection, but are all human beliefs built on thought, discernment and selection? Or are the majority of mankind's beliefs no more than alignments and commitments of the human soul that have not the slightest relationship to thought at all, and have merely a sentimental basis? An example the Qur'an cites on the subject of imitation by one generation of the previous generation is:

«Just in the same way, whenever We sent a Warner before thee to any people, the wealthy ones among them said: "We found our fathers following a certain religion, and we will certainly follow in their footsteps» (***43:23***)

The Qur'an puts great stress on this point, and the same applies to a belief that is formed by the imitation of the patricians of society. In such places, the phrase "freedom of belief" is completely without meaning. Freedom means the absence of obstacles to the activities of an active and advancing force, whereas this type of belief is a kind of constriction and stagnation.

Freedom in constriction is equal to the freedom of a prisoner condemned to eternal imprisonment, or of a man chained in heavy chains, and the only difference is that he who is physically enchained senses his condition, while he whose spirit is in chains is unaware of it. This is what we mean when we say that freedom of belief based on imitation and environmental influences, rather than on freedom of thought, is totally meaningless.

E- "Jiziyah"

The final issue to be discussed is jiziyah, i.e. tribute. In one of the Qur'anic verses, it has been revealed that we are to fight the People of the Book, or those who do not have real faith, unconditionally, or until they pay jiziyah. What is jiziyah? Is the meaning of jiziyah some kind of "protection money" or "dangled?" Were the Muslims who took jiziyah in the past taking protection money?

Protection money, seen from any angle, is injustice and oppression and the Qur'an itself negates injustice in all its forms. Jezyah finds its root in the word jaza. Jaza in the Arabic language is used both

for reward and for punishment. If jiziyah in this context means recompense or punishment, then it can be claimed that its meaning is “protection money” or “danegeld,” but if it means a reward, which it does, then the matter changes.

Previously we said that some have claimed that jiziyah is fundamentally a non-Arabic word. They say that it is originally Persian, that it is the Arabicized form of the Persian word “gaziyeh,” the name of a head-tax which was first introduced by the Persian king, Anoushiravan, and that when this word reached the Arabs, the “gaf” (“G”) was changed into a “jim” (“J”) in accordance with the normal rule. So, the Arabs, instead of saying “gaziyeh”, called it “jiziyah.”

Thus, jiziyah means a tax, and paying taxes is not the same as extorting protection money. The Muslims too must pay taxes and the only difference is between the actual types of taxes that the Muslims have to pay and those the People of the Book have to pay. There is no proof however, for this view, that the origin of the word is not Arabic.

Furthermore, we have no immediate interest in this word. Whatever the root of the word may be, what we must do is find out the nature of jiziyah from the laws that Islam has introduced for it, and by which it is defined practically.

To put it in a different way, we must look to see whether Islam considers jiziyah to be a reward or a punishment. If in return for the jiziyah, Islam makes certain undertakings, gives us certain services, then the payment of the jiziyah is its reward. If, however, it takes the jiziyah without giving anything in return, then it is a kind of protection money.

If there is a time when Islam tells us to take jiziyah from the People of the Book without giving anything in return, tells us just to take money from them or otherwise fight them, then it ought to be considered protection money. Taking protection money means taking the right to use force. It means that the strong tell those who are weaker to give a sum of money if they want to be left alone and if they do not want interference or their security be destroyed.

If, on the other hand, Islam says that it places an undertaking before the People of the Book and in return for that undertaking they are to pay jiziyah to Islam, then in this case, the meaning of jiziyah is as a reward, whether it is an Arabic word or a Persian word. What we must pay attention to is the nature of the law, not the nature of the word.

When we perceive the essence of this law, we notice that jiziyah is for that group of the People of the Book who live under the protection of the Islamic state, who are subject to the Islamic state. The Islamic state has certain duties towards its nation and likewise, the latter has its respective duties towards the Islamic state, and the first of these is to pay taxes to maintain the state budget.

These taxes include that which is taken as zakat and that which is taken as other than zakat in the form of various taxes that the Islamic government introduces in accordance to the best Islamic interests. All

these must be paid by the people. In case they do not, then the Islamic government would automatically not be able to function. There is no governmental budget which is not fully or partly financed by the people. All governmental budgets are sustained directly or indirectly by taxes.

The second duty of the citizens is to provide soldiers and undertake sacrifices for the sake of the state. There may be future dangers when the citizens of the state must help in its defense. If the People of the Book are living under the protection of the Islamic state they are not bound to pay those Islamic taxes and are not bound to take part in jihad, even though any advantages resulting from the jihad will also benefit them.

Accordingly, when the Islamic government secures the safety of a people, whether they are their own people or not, and places them under its protection, it requires something in return. This may be financial or other than financial. Instead of zakat and the other taxes, and even instead of soldiers, the Islamc government requires jiziyah from the People of the Book.

In early Islam, it was such that whenever the People of the Book volunteered to come and fight in the ranks of the Muslims in the interests of the Islamic state and the Muslims, the latter didn't collect the jiziyah. Since they were not bound to provide soldiers, but had come forward and volunteered to fight, the money they were due to pay, the jiziyah, was theirs, and the Islamic state could not rightfully take it.

In the commentary on the Qur'an called "Tafsir al-Menar," there are many accounts from various history books of how the early Muslims took jiziyah instead of soldiers, and how the People of the Book used to be told that since they were living under the protection of the Islamic state and of the Muslims, but sent no soldiers (the Muslims would themselves not accept them), then instead of sending soldiers, they had to pay the jiziyah. And if once in a while the Muslims in certain instances found confidence in them and accepted their soldiers, they no longer took jiziyah from them.

According to this, whether or not jiziyah is Arabic or Persian, whether it is from jaza or from gaziyah, this much is clear: from its legal meaning it is a reward to the Islamic government from its non-Muslim citizens from the People of the Book, in return for the services that it performs for them and in return for them not having to provide the state with soldiers and not having to pay taxes.

Now the first problem of how and why Islam stops its jihad for the sake of jiziyah becomes clear. The answer is provided by the question, "Why does Islam want jihad?" It does not want jihad for the sake of the imposition of belief. It wants jihad for the removal of barriers. When the other side tells us that it has no wish to fight us, and that it will not create a barrier to the call of tawhid, and keeps to its word, it is to be ruled in accordance with this verse:

«But if the enemy incline towards peace, do thou (also) incline towards peace» **(*8:61*)**

If they have been humbled, and manifest a mind and heart of peace and compromise, then we are not to be severe anymore.

We are not to say, “Oh no. We do not want peace, we are going to fight.” Now that they have come forward to live in peace and concord, we too must announce the same thing. Of course, now that they want to live with us under our protection, but do not have to pay any of the Islamic taxes, nor provide any soldiers, and neither do we have any confidence in their soldiers, then, in return for our services and protection, we take a simple tax from them called jiziyah.

Some Christian historians like Gustav Le Bon and George Zaydun have discussed this issue in detail. Will Durant in Vol. II of his series “The History of Civilization” has also discussed the Islamic jiziyah and tells us that the Islamic jiziyah was so trivial an amount that it was even less than the taxes the Muslims themselves paid and thus there was never any question of exaction.

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