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Session 33: Islam and Different Forms of Government

Skepticism on Islam's alleged lack of government planning and program

During the last session we dealt with a question related to the form of government—Has Islam specified a form of government or delegated it to the people? If it has specified the form, is it confined to a specific period or can be applied at all times to all places? Or, does it constantly change with the change in social circumstances? Some say: "It is true that during the time of the Holy Prophet (*s*) there was a specific form of Islamic government, but it was related to that period only.

The sacred religion specified that form of government only for the time of the Prophet, and thereafter new forms had to be chosen. It is even possible that at a given period, social conditions will demand the establishment of an Islamic government within the framework of a liberal democratic government, since these two forms do not contradict each other. Just as we have applied some Western modes of implementation—for example, the parliamentary system, constitutionalism[1] and now republicanism and believe both are not against Islam—it is possible that a time will come when we will accept the liberal democratic model and come to believe that it is not repugnant to Islam!?"

In reply to the above, it is necessary to point out the ambiguity and erroneous thinking surrounding it. As we all know, the Islamic Republic was established in our country by the great architect of the Islamic Revolution, His Eminence Imam Khomeini (*q*) and at its very inception, the Constitution was drafted and ratified by the people and approved by the Imam. Similarly, with his approval the foundation of the government was laid down and in the course of time some changes were also made in some of its parts. It is clear that neither the structure of our system is rooted in the time of the Holy Prophet (*s*) nor a system with the Islamic characteristics established during the period of the Commander of the Faithful (*'a*).

The separation of powers existed neither during the time of the Prophet (*s*) nor that of the Commander of the Faithful (*'a*) but the principle of the separation of powers has been accepted in our constitution, and the governments has three branches—executive, legislative and judiciary. Under this system the person who occupies the highest government post and formulates the general policies is the Supreme Leader. Next to him is the President. The chief justice heads the judiciary and the Speaker of the Islamic Consultative Assembly heads the legislature.

They are recognized as the highest officials after the Supreme Leader and the President. Twenty years after the Revolution, the Constitution has undergone some amendments related to the structure of some branches of government. In the beginning, the prime minister used to be the chief executive and form the cabinet subject for approval by the President and Islamic Consultative Assembly. After an amendment of the Constitution, premiership was omitted and the President became the chief executive. This structure has no precedence in Islam and Islam has no specific decree or program in this regard. So, one cannot claim that Islam explicitly ordered people to vote and elect their president and also play their role in choosing the heads of other powers.

Some people think that the reason behind what we have said is that Islam has not specified any form of government. So, we should acknowledge that Islam has delegated this affair to the people who have the right to choose the form of their government as well as their legal code. Similarly, other affairs of the government are relegated to the people. Therefore, the contention that the government must be determined by God is in conflict with people's political self-determination, and there is contradiction between what is being practiced and the claim that the government must be determined by God.

Even the notion of "Islamic republic" is self-contradictory, because "republicanism" means that people take control of government and determine its form. On the other hand, once we add the modifier "Islamic" to the "republic" and say that the *wali al-faqih* must head the government especially if we believe that *wilayah al-faqih* acquires legitimacy from God and the Imam of the Time (may Allah expedite his glorious advent), we regard the system as divine and not popular.

That is, the legitimacy of this system is acquired from above. Initially, God gives legitimacy to the government and then the Prophet (*s*) and the infallible Imams (*'a*) are designated and granted legitimacy by God and then the *wali al-faqih* by the living infallible Imam (*'a*) and the political organs under his authority are granted legitimacy. If the government is a republic, these issues should no longer be raised, and whatever the people have chosen should be granted official status.

Refuting the abovementioned skepticism and stating the Islamic viewpoint on the form of government

Unfortunately, this skepticism is reflected in our own newspapers and magazines and presents the Islamic government in Iran as self-contradictory and religious despotism. As such, we need to tackle

these issues lucidly and examine their bases from the Islamic viewpoint.

Once we say that our system is an “Islamic republic”, does ‘Islamic’ mean that the form and structure of government have been determined by God and introduced in the Qur’an, traditions, and at least, in the conduct of the Holy Prophet (*s*) and the pure Imams (*‘a*)? If the Islamic nature of the system does not imply that its structure has been introduced by God—just as pieces of evidence show—then what is the criterion for the Islamic nature of the system?

No one claims that Islam has mentioned the specified form and structure of government. It is not claimed in the Qur’an and traditions, the conduct of the Infallibles, the words of the late Imam (q), the Supreme Leader and other leaders of the system that the Islamic government is a government whose structure and hierarchy of power have been determined by God and the leaders of religion, and that Islam, for example, has ordered that the wali al-faqih must be the highest authority and then the president, and that the three powers must be separated from one another. So, if its organizational structure and the separation of powers are not Islamic, the Islamic nature must be sought somewhere else.

The impossibility of presenting a fixed government structure

At this point the skeptics say: Is the non-specification of the structure and form of government not an indication of Islam’s shortcoming? Is Islam not a complete religion and has it not indicated all the individual and social needs of man? Then, why has it not specified the form of government?

In reply, we have to say that Islam, which administered a small society within a short period during the time of the Prophet of Islam (*s*) also wants to administer the most complex and extensive human societies and even a global government, so, it cannot present a specific and fixed structure of government. The government founded by the Prophet (*s*) controlled a population of about ten thousand people whose way of life and culture were simple and most of whom were nomads and villagers along the suburbs of Medina.

Naturally, the government had a simple and restricted structure consistent with the social fabric and demographic density of that time. Gradually, the domain of Muslim countries and territories expanded and during the periods of the caliphs including the time of the Commander of the Faithful (*‘a*) only half a century after the advent of Islam, the Islamic government encompassed countries like Iran, Egypt, Iraq, Syria, Hijaz, and Yemen. In view of the expansion of the territories under the control of Islam, it was not feasible to adopt the same form of government of the Holy Prophet (*s*) in Medina.

If the structure and form of government suitable for vast Islamic territories and large populations had been introduced by the Messenger of Allah (*s*), it would have been treated by the people during his time as unnecessary and overambitious. Besides, since there was no practical ground for its realization, it would have been considered an exercise in futility.

If the Prophet (*s*) tried to determine in advance a specific form of government for every period, it would have required the writing of an encyclopedia of hypothetical forms of government in various periods and an explanation of their organizational structure. However, at that time since literate people were very few, let alone scholars who could discern these points and distinguish one from another, there was neither opportunity to deal with the subject nor the capability to preserve, publish and propagate it.

Government structures constantly change and evolve according to the circumstance of time and place as well as socio-cultural developments. One cannot determine a single form of government applicable for all times, places and conditions. The structure of government is part of the alterable and secondary laws of Islam that change according to the circumstances of time and place.[2] To identify and present them has been part of the duties of the Master of Affairs of Muslims [wali al-amr al-muslimin]. During the presence of an infallible Imam, he is the wali al-amr al-muslimin. During this period of occultation [ghaybah], his deputies shall be regarded as the wali al-amr al-muslimin.

Therefore, it was unfeasible for Islam to have specified beforehand the form of government suitable for every period and place. It is not an indication of Islam's shortcoming. Yes, if Islam had not introduced a general framework for determining the forms of government under different conditions, we might have admitted that Islam is defective in this respect. Fortunately, Islam has set a way to determine the structure of government, in particular, and the alterable laws, in general.

As stated in the "legislation" part of the discussions, to determine and present alterable laws suitable to changing circumstances of time and place is part of the duties of the wali al-amr al-muslimin who presents those laws including the structure of government by basing them on the general principles and values of Islam, considering changing interests in every period and consulting experts and authorities. Thereafter, people are bound to act upon them. Given this solution offered by Islam, the people are saved from destruction and confusion, and differences and discord removed.

Skepticism on alleged temporal and worldly nature of government and obsoleteness of Islamic laws

Nowadays, those who are under the influence of Western culture, liberalism in particular, believe that administrative issues are temporal and worldly and have nothing to do with Islam, staunchly supporting and advocating it in their articles, speeches and discussions. They argue that Islam talks neither about a republican government, nor about a monarchical government, nor about other forms of government. So, it is clear that administrative issues are not among the issues that we expect religion to have dealt with and that God and the Prophet (*s*) might have talked about. Rather, these issues are related to the world and people themselves have to decide about them.

They also say: "People must determine not only the form and structure of government but even enact laws, except those laws that are against Islamic standards!" We ask them: "If administrative issues are

part of the temporal and worldly affairs and relegated to people, why have many laws and decrees about administrative issues like those related to judiciary, taxation and penal laws been mentioned in the Qur'an and *mutawatir*[3] traditions?" This poses an impasse for them.

In a bid to bypass and evade this impasse, they assert that the administrative ordinances, judicial and penal laws mentioned in the traditions and Qur'anic verses have been related to the early period of Islam to meet the needs of the time. Islam had to get involved in administrative issues and introduce relevant laws only during the early period of Islam and the time of the Holy Prophet (*s*) because the people at that time did not have sufficient knowledge and capability to codify the laws they needed, and Islam had to address their needs.

Hence, laws and ordinances about the government, politics and judgment applicable only to that period have been mentioned in the Qur'an and traditions. Today, mankind has sufficient knowledge and capability to administer society and codify the laws they need, so those laws and ordinances are of no use anymore and must be discarded!

This is a contention of many of those feigning Islam. Sometimes, they categorically say: "The laws of Islam—including its social laws—have been confined to the early period of Islam. They are not applicable to our period and have not been revealed for this period at all." At times, they make the abovementioned claim implicitly. Since they cannot dare to explicitly question all the social laws of Islam, they raise objection to some penal laws of Islam such as the amputation of the hand of a thief.

They say: "The law of amputation of the hand of a thief is meant to prevent theft which is a violation of the property of others and to maintain the financial security of society. If we have a better law and method of maintaining security in society, we have to apply them and not amputate the hand of a thief in every period or age. The purpose or goal of every law promulgated in Islam is the maintenance of order in society, and during that time there was no way of maintaining order in society but to amputate the hand of a thief. But nowadays we have better ways and methods of achieving this goal that are devoid of violence and do not trample upon human dignity.

Apart from being violent and harsh, amputating the hand of a thief is repugnant to human dignity and must be discarded. We live at a time when the phenomenon called "modernity" has emerged and social conditions have changed. Since modern life and society have new conditions totally different from the social conditions at the time of the Prophet (*s*) and the Imams (*'a*), there is no more room for the implementation of Islamic laws.

Initially, they argued that Islam had not specified the form of government but delegated it to people.

Then, assuming that the determination of the form of government has been delegated to people, they concluded that in cases where Islam does not have a specific law, codification of law has been delegated to people. Thereafter, they went even further and said, "Even in cases where Islam has a pertinent law, it can be abrogated and changed!" Undoubtedly, in this case one must bid farewell to

Islam.

Refutation of the above and the connection between Islam's immutable and alterable laws

We have stated concisely that apart from immutable laws, Islam also has alterable laws because the laws of Islam are generally consistent with real good and evil and the life of man in the world depends on changing circumstances. The government also has secondary and alterable laws. To determine their form and framework in every period, to codify administrative laws and identify their suitability to the exigencies of time has been delegated to the *wali al-faqih,* who acts upon his duty within the framework and general principles of Islam.

It must be noted that to know the immutable and alterable laws of Islam and distinguish them from one another can only be done by a religious scholar who is technically called *faqih* or *mujtahid*. Since he is familiar with the spirit and sources of Islam, viz. the Book, *Sunnah* and conduct of the Prophet (*s*) and the infallible Imams (*'a*), he can distinguish the immutable laws from the alterable laws and identify the characteristic features of each.

The mere fact that there are alterable laws in Islam does not necessarily mean that one can claim that all laws of Islam are alterable. If all the laws, ordinances and decrees of Islam were alterable, nothing specified in Islam would have remained. If all laws and decrees of Islam were mutable and Islam did not have any inalterable law at all, why did we stage a revolution, demand the implementation of Islamic laws and offer hundreds of thousands of martyrs along this way?

During the time of the Shah, by launching a reform and some changes the demands of the people could have been addressed and the ground for people's enactment of laws be opened. If that is Islam and its changing laws are enacted according to the views and opinions of people, then we had no point in staging a revolution. We should have followed the nationalists and secured the interests of society according to their views. In that case, we would not have incurred all these losses! By following the nationalists liberal democracy, we could have conducted peaceful and fair elections. Through general suffrage, we could have sent our deputies to the *taghuti* Majlis and they could have changed unpopular laws according to the demand of people and their constituents! This is the gist of contentions inspired by alien ideas expressed today in some of those periodicals which are funded by our public treasury!

Some use allegory to influence the youth who do not have sufficient knowledge. For example, they say: "The Islamic government is a mere claim and has no objective reality because Islam deals with neither republicanism nor the separation of powers. Since Islam does not say anything about them, it is clear that Islam has no political program at all and everything is delegated to the people."

Here we are dealing with those who believe in Islam, God, revelation, and the Qur'an, and not to those who play with the Islamic government, regarding it as an illusion. Addressing those who believe that

there is God who has sent the Prophet (*s*) and revealed the Qur'an for our guidance, we would like to say that the Qur'an has explicitly mentioned laws, ordinances and decrees that are fixed, inalterable and immutable. Moreover, Islam and the Qur'an have repeatedly emphasized that they must not be changed and modified. Among them are the judicial laws of Islam.

Some issues are necessary and obligatory but they are mentioned in the Qur'an and traditions in plain and simple manner. Other issues, however, including judgment according to the laws and decrees of Islam, are emphasized and mentioned in such a manner that would make a person tremble should he intend to disobey or violate them. Somewhere in the Qur'an, God commands the Prophet (*s*) to judge according to the divine decree:

﴿...إِنَّا أَنزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللّهُ﴾

"Indeed We have sent down to you the Book with the truth, so that you may judge between the people by what Allah has shown you..." 4

Elsewhere, He mentions the duty of Muslims vis-à-vis the decree and verdict of the Messenger of Allah (*s*) and the need to obey him, saying:

﴿فَلاَ وَرَبِّكَ لاَ يُؤْمِنُونَ حَتَّىَ يُحَكِّمُوكَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لاَ يَجِدُوا فِي أَنفُسِهِمْ حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا﴾

"But no, by your Lord! They will not believe until they make you a judge in their disputes, then do not find within their hearts any dissent to your verdict and submit in full submission."5

As you can observe, God the Exalted, by using the phrase "but no, by your Lord" [fala wa rabbuka] which is an oath, considers as faithful [mu'min] only those who consult no one but the Prophet (s) in their disputes, differences and conflicts. But if they do not refer to the Prophet (s) to resolve their disputes and conflicts nor ask him to judge over them, or, if the Prophet (s) issues a fair judgment concerning their conflict, they regret asking him and are not pleased with his verdict, they are not faithful.

So, the faithful have to choose the Prophet (s) to judge and adjudicate and if he issues a decree against their interests they should not have an iota of displeasure in their hearts. They are supposed to totally submit to the Messenger of Allah (s). Those who acknowledge Muhammad (s) as a messenger of Allah but do not accept his decree and judgment, according to the statement of God, have no faith in the laws of God and the apostleship of the Prophet (s). They are indeed liars and hypocrites. How can a person believe in the apostleship of the Prophet (s) without accepting his decree and judgment?

Elsewhere in the Qur'an, in consecutive verses God introduces a person who judges contrary to the divine decree as transgressor, unbeliever and wrongdoer:

﴿وَ مَنْ لَمْ يَحْكُمْ بِما أَنْزَلَ اللّهُ فَأُولئِكَ هُمُ الْكافِرُونَ...﴾

"Those who do not judge by what Allah has sent down—it is they who are the faithless."[6]

﴿وَ مَنْ لَمْ يَحْكُمْ بِما أَنْزَلَ اللّهُ فَأُولئِكَ هُمُ الظّالِمُونَ...﴾

"Those who do not judge by what Allah has sent down—it is they who are the wrongdoers."[7]

﴿وَ مَنْ لَمْ يَحْكُمْ بِما أَنْزَلَ اللّهُ فَأُولئِكَ هُمُ الْفاسِقُونَ...﴾

"Those who do not judge by what Allah has sent down—it is they who are the transgressors."[8]

Will anyone who reads these verses of the Qur'an with such a tone ever think that the judicial laws of Islam are only related to the time of the Prophet (*s*) and a maximum of twenty years thereafter, and after the expansion of Muslim territories and the annexation of Iran, Egypt and other countries, those laws were no longer applicable and were entrusted to the people? Will anyone who reads these and other verses of the Qur'an arrive at this conclusion? Or, will he conclude that those verses mean that under no circumstances of time and place should the divine decree be trampled upon?

By noticing the tone of the verses any rational and fair-minded person who has faith in God and believes in those verses as truly God's words will definitely realize that it must be acted upon till the Day of Resurrection and that the laws of God must be the focus of attention and action and not be violated:

﴿وَمَن يَتَعَدَّ حُدُودَ اللّهِ فَأُوْلَـئِكَ هُمُ الظَّالِمُونَ...﴾

"...And whoever transgresses the bounds of Allah—it is they who are the wrongdoers."[9]

Moreover, if some verses are ambiguous, it is the task of the religious scholar to determine whether their purport is confined to a particular time or meant for all times; whether it is limited to a particular community like the Arabs of the Arab Peninsula or encompasses all communities.

With the purpose of avoiding submission to the laws and decrees of Islam, satisfy their carnal desires and satanic demands and misguide the young generation, the transgressors allege that the sociopolitical laws of Islam are related to the early period of Islam and thereafter they are no longer applicable. It is true that we have chosen the label "*Islamic* Republic" but the *Islam* in it is only ceremonial. It is the people who choose and abide by what law they like, unless it is absolutely against divine decree! Unfortunately, some people have also unexpectedly expressed the same notion in their articles and speeches.

Divine laws' jurisdiction encompasses all spheres of human activities

Thus, it is clear that the non-specification of the exact form of government in Islam does not mean that government, laws and ordinances are generally related to the judicial, legislative and executive powers and that other powers, to be possibly discussed in political philosophy theories in future, are all delegated to the people and God has no view about them. Rather, in all spheres of personal and social actions, including the realm of politics and governance, God has laws and ordinances.

We cannot find a case about which Islam does not have a general decree. To elucidate, some of the laws we know of are obligatory or mandatory, that must be acted upon. On the contrary, there are laws, prohibiting certain actions and items we know of, that must be abandoned. The rest are permissible, and laws pertaining to them are not mandatory. These non-mandatory laws are recommendatory [*mustahabb*], abominable [*makruh*] and permissible [*mubah*]. So, explicit actions and items are considered obligatory [*wajib*], prohibited [*haram*], *mustahabb*, *makruh*, or *mubah*. In any case, all of them are parts of the decree of God.

Therefore, if an action is neither mandatory nor forbidden, neither recommended nor abominable, the action of man is free. In the parlance of traditions it is absolute and free. In the jargon of the *fuqaha*, it is *mubah*, and *mubah* is also part of religious laws and divine decree. So, in the individual and social issues one cannot find a case which is excluded from the decree of God for every action or thing belongs to one of the five laws (*wajib*, *haram*, *mustahabb*, *makruh*, and *mubah*). Of course, in the legal and political usage, *mustahabb* and *makruh* have moral dimension and are not tackled as legal issues which are either *wajib* that must be observed, or *haram* that must be avoided, or *mubah*.

A concluding question: If we accept that Islam has a view about the essence of government, for example, stating the specific qualifications of the person heading the Islamic government, has Islam delegated to the people those affairs and issues about which it has no opinion, and that the decision about them is not related to the sacred religion, and the general understanding and perception of the people concerning them must be upheld?

At this juncture, even those who are acquainted with the juristic subjects of Islam to some extent sometimes use dubious expressions that can be exploited by others. For example, they say: "We learn from religion some of the issues in our lives and concerning them we refer to the Book, traditions and even the conduct of the Holy Prophet (*s*) and pure Imams (*'a*). But regarding other issues we use our reason. In reality, we have two reference sources in knowing the proper way of living, viz. revelation and reason." This nonchalant interpretation is sometimes adopted by those who are authorities and really religious people. Since it is not devoid of problems and causes others to err, I deem it fitting to assess it.

It is necessary to note that we have two terms for religious or divine decree:

1.The first term, religious decree—or devotional and divine decree—refers to the decree inferred from the Book and the Sunnah and is mentioned in the Qur'an and traditions as binding. According to this term, any decree deduced through another way, say, by means of reason, is not referred to as "religious decree" but it is called "dictate of reason" [hukm-e 'aql]. If reason directly discerns a decree or ruling [hukm] and is convinced of it, and at the same time, religion says something about it, this religious view is an instructive [irshadi] statement and does not entail a religious or devotional decree. To elaborate, without external help our reason directly discerns certain things. For example, every person can understand and perceive that justice is good and injustice is bad. No one doubts this dictate of reason. Then, once justice is enjoined in a Qur'anic verse, according to the fuqaha this verse is considered "instructive" in nature. That is, it only guides and directs us to a decree which our reason can understand and discern.

The fuqaha's use of this term for religious decree misguides others and makes them think that we are not in need of a religious decree for all the aspects and issues of our lives. In some issues the discernment and dictate of reason is sufficient. They think that if God does not say anything about a thing, He has not exercised His authority over it and delegated it to reason [to discern]. So, the domain of our lives is divided into two: The first section is where God exercises His authority and the second section is where our reason is the authority. This implies that God does not exercise authority in all places, and in everyplace we should not be concerned with what God has decreed. In fact, wherever God does not say anything, it is up to us to know His decree by using our reason.

As can be observed, some have exploited and misinterpreted the first term for religious decree and the nonchalant expression of the fuqaha on the basis of which religious decree is regarded as any devotional decree mentioned in the Book and Sunnah in contradistinction to the definite dictate of reason about which religion does not say anything, and in determining its ruling our reason is not dependent on religion which only offers an instructive decree. They have assumed that some aspects of our lives are beyond the authority of God and the reference authority in codifying pertinent laws is human reason.

2. The second term 'instructive' concerns the legislative will of God; that is, whatever God wants from us is in the obligatory or permissible form. So, whatever God definitely wants us to do is a decree of God. Sometimes, it is expressed in the Book, the Sunnah and other religious sources. At times, it is realized through reason. Accordingly, reason itself is one of the means of knowing and discovering the decree of God.

As such, we submit and follow the dictate of reason. By means of reason's discovery of the divine legislative will, we realize that this decree is the very thing that God wants from us. If it is mentioned in fiqh that apart from the Book and Sunnah, we have another means of knowing religious decrees, i.e. reason, it is absolutely true that reason is also a means of discerning the decree of God.

In view of this interpretation and term for religious decree, all the actions and activities of man in individual, social, legal, judicial, internal and external, and international domains are included in the

decree of God. Sometimes, the decree of God is established by the Book and Sunnah, and at times, through reason. Of course, the proof of reason must be so clear and definite that we can be certain that whatever is established by reason is the decree and legislative will of God.

1. It refers to the Constitutional Movement, Constitutional Revolution or simply Constitutionalism (1905-11) in Iran during the twilight of the Qajar dynasty. [Trans.]
2. Contrary to the alterable laws of Islam are the inalterable laws that are fixed for all times and applicable everywhere.
3. A mutawatir hadith is one which has been reported by so many different chains of transmission and such a number of narrators in every generation normally could not agree to fabricate a tradition without the fact of its fabrication becoming known. [Trans.]
4. Surah an-Nisa' 4:105.
5. Surah an-Nisa' 4:65.
6. Surah al-Ma'idah 5:44.
7. Surah al-Ma'idah 5:45.
8. Surah al-Ma'idah 5:47.
9. Surah al-Baqarah 2:229.

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