What’s so wrong about Shari’a?

In his Friday sermon on September 24, 2010 at the IONA Center, Ameer Mustapha Elturk explained in his usual scholarly style the meaning, significance, and essence of the often misunderstood and highly charged term “Shari’a” that had recently come under attack in the US and other Western countries.

Ameer Mustapha regretted that politicians, think-tanks, media outlets, and even law-enforcement agencies present Shari’a as an antiquated Islamic Law that is barbaric and has no regards for democracy, human rights, women’s freedom etc. There is an emerging Islamophobic and anti-Shari’a movement in America to create doubt in the minds of the believers, and at the same time create fear in the hearts of non-Muslims, lest they become sympathetic to Muslims and get influenced by them and perhaps their faith.

Didactically, Ameer Mustapha explained what Shari’a is all about. The word Shari’a comes from the Arabic trilateral root (sha-ra-’a) which literally means a way or path, and by extension, the path to be followed. The usage of the term originally meant “the path that leads to water” since water is the source of all life. Hence, Shari’a is the path or the way to the source of life. Therefore, Shari’a in Islam means the Law according to the divine guidance leading to a good and happy life.

Ameer Mustapha elaborated that the concept of Shari’a is not unique to Islam. Shari’a has been there with the Jews and Christians also. Moses (peace be upon him) received the Taurat (Torah) incorporating the Mosaic Law—the Ten Commandments. Jesus (peace be upon him) was given the Injeel (Bible), which confirmed the Torah, and some six centuries later, the Qur’an was revealed upon Muhammad (peace be upon him) incorporating the final Shari’a to guide the entire humankind. “For each of you We have appointed a Law and a way of life. And had Allah so willed, He would surely have made you one single community; instead, (He gave each of you a Law and a way of life) in order to test you by what He gave you…” (al-Ma’ai’ad, 5:48).

Ameer Mustapha elucidated that there are basically two sources of Shari’a—the Qur’an and the Sunnah (the divinely guided lifestyle of the Prophet Muhammad-SAW). There is also what is called fiqh or Islamic jurisprudence. There is a fundamental difference between Shari’a and fiqh. While Shari’a is of divine origin, fiqh is the product of intellectual effort to deduce the rulings of Shari’a through the jurist’s own ijtihad (intellectual exertion) suitable for his specific time and place. Fiqh interprets and extends the application of Shari’a to situations not directly addressed in the primary sources by taking recourse to the secondary sources, which usually include the consensus of the religious scholars called ijma’ and analogy from the Qur’an and the Sunnah called qiyas. While the Qur’an and the Sunnah are permanent and unchangeable, fiqh is variable and may change with time and place, but within the spirit and parameters of these two main sources.

To clarify his point, Ameer Mustapha explained analogically that while the constitution of the USA is inviolable, it can nevertheless be amended. So far, however, no amendment has been made that contradicts or is repugnant to the spirit of the constitution. Similarly, no law can be legislated in Islam that contradicts the sources of Shari’a, which are the Qur’an and the Sunnah.

It is a gross mistake, said Ameer Mustapha, to associate and restrict Shari’a only with the punitive laws of Islam. The fact is that Shari’a is all-embracing and encompasses all the personal as well as the collective spheres of one’s life. Prayers, charity, fasting, pilgrimage, morality, economic endeavors, political conduct, and social behavior including caring for one’s parents and neighbors and maintaining kinship are all part and parcel of the Shari’a.

The Qur’an is explicit, affirmed Ameer Mustapha, on certain punishments, for example the death penalty for murder. But there are provisions of death penalty for murder even in the common law. In fact, here in the United States, there are federal and state laws that provide the death penalty not only for homicide-related crimes, but also for espionage, treason, drug-trafficking, aggravated kidnaping, aggravated rape as well as other crimes. Moreover, you have just to pick up and read the Old Testament to find out that punishment by death is prescribed in it on several religious, sexual, and other grounds.
Ameer Mustapha informed that the Qur’an is more lenient than common law toward certain crimes. For example, in Islam, murder is a personal offence and not an offence against the state. If the accused is found guilty, it is up to the family of the murdered to forgive the murderer or accept the blood money by way of compensation (qisas) or demand life for life. This flexibility is not found under common law.

Interestingly, the Ten Commandments constitute the normative and ethical core of the Islamic Shari’a. How is it then, asked Ameer Mustapha that the conservatives in the West advocate the Ten Commandments and campaign against the Shari’a at the same time?

It was important said Ameer Mustapha to understand the objectives and implications of the Shari’a. He deplored that Muslims themselves misrepresent Islam and Shari’a by passing fatwas (juridical rulings) that may at times be based not on the Qur’an and the Sunnah but on fanaticism and tribal traditions. An example of that is honor killing. There is no such thing or concept in the Shari’a.

Speaking of the objectives of Shari’a, Ameer Mustapha asserted that the very objective of sending messengers with Shari’a is for people to establish a social order based on justice and good governance. And if we were to look at the implications of Shari’a, these are:

1. It sets people free—free from the bondage of tyrants and their coteries who have special interests in this world for themselves.
2. It guarantees and protects the rights of people and the freedom that is sanctioned by God for them; not the freedom that is sanctioned by man; and finally
3. If Shari’a is followed, it ensures the happiness one so badly desires in this world. “Whenever there shall come to you Guidance from Me, so whoever will follow it shall have neither fear nor sorrow” (al-Baqarah, 2:38). In other words, people shall be happy, prosperous, and tranquil and that is the objective of Shari’a.

In the end, Ameer Mustapha invoked Allah’s blessings to help Muslims understand the Shari’a and live by it.

End
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