Shari’ah – Part 3 (Protection of Life)

Synopsis of the Friday Sermon delivered by Ameer Mustapha Elturk on June 17, 2011

This is the third khutbah in a series of khutbas dedicated to discuss shari’ah (Islamic law) and the objectives of shari’ah (maqasid al-shari’ah). Earlier in Part-1, there was a general introduction to shari’ah. In Part-2, there was a discussion on the first objective of shari’ah, which is the protection of faith. This sermon will shed light on the second objective of shari’ah, protection of life.

Shari’ah recognizes the sanctity and sacredness of human life. It is forbidden to kill any person without a just cause. This is clearly ordained by Allah (SWT) when He says, “…and do not take the life which God has forbidden, except in the pursuit of justice…” (al-An’am, 6:151). In Surat al-Isra’, Allah (SWT) says, “Do not take life, which God has made sacred, except with the right to do so. If someone is wrongly killed We have given authority to his next of kin. But he should not be excessive in taking life. He will be helped” (17:33). This means that in demanding a just retribution, one should not exceed the bounds of equity in retributive killing. For example, one cannot demand that any other person or persons be slain with the murderer. According to the tafsir (exegesis) of Ibn Kathir, it also means that the heir should not go to the extremes when killing the killer, such as mutilating his body. The heir of the murdered will be helped through the due process of justice according to the Islamic law, which entitles him to take recourse to one of the following: (1) demand qisas (law of equality in punishment), (2) accept diya (blood money), or (3) forgive the murderer.

According to Islamic law, murder is a personal crime, and it is the family of the murdered who have a say in deciding the fate of the murderer by exercising one of the three legal options. Western law stipulates murder to be a crime against the state, and the family of the murdered has no say in the outcome of the case. It is up to the judge or jury to decide the fate of the murderer.

Islam places great emphasis on the sanctity of life starting from the womb to the grave. Every life has its sanctity. There is no difference between the life of a fetus, a young person, an aged person or a terminally ill person. There are a number of verses in the Qur’an which testify to this. "... if any one slew a person unless it be for murder or for spreading mischief in the land—it would be as if he slew all mankind. And if any one saved a life, it would be as if he saved the life of all mankind…”(al-Ma’idah, 5:32). The rulings of the shari’ah aim at preserving the life of human beings. Even during war, the essential limits should not be transgressed. Abu Dawud narrated that the Prophet (SAW) said, “Don’t kill an elder or a child or a woman…” Abu Bakr, the first Caliph, in his address to Yazid Ibn Abu Sufiyan, the commander of the army that went north to Sham [i.e. Greater Syria] said, “…And I instruct you [to fulfill the following] ten [orders]: Do not kill a woman, nor a child, nor an old man; do not cut down fruitful trees; do not destroy [land or housing] in use; do not kill a goat or a camel unless for food; do not flood palm trees [with water] nor burn them down …” This quote has been narrated by Malik ibn Anas from the report of Yahya Ibn Sa’id in the chapter on Jihad # 918 in al-Muwatta’.

In a hadith narrated in the two sahihs of Imam al-Bukhari and Imam Muslim, the Prophet (SAW) is reported to have said that the blood of a Muslim who bears the testimony of faith (“There is no god but God; Muhammad is the messenger of God”) is not permissible to be shed except in three cases: (1) a soul for a soul, (2) an adulterer who is married, and (3) a murtad (person who leaves his religion) and deserts the jama’ah. In times of
The killing of a mu’min (believer) by a mu’min is a very grave sin. In a hadith found in the sunan of Ibn Majah and al-Nasai, among others, it is stated that if the world were to be destroyed, it would be of less importance to Allah (SWT), than the killing of a believer without a just cause. Muslims are forbidden to fight with each other and to kill one another. The Qur’an addresses the situation when such killing has taken place by mistake. “A mu’min should never kill another mu’min unless it is by mistake. Anyone who kills a mu’min by mistake should free a mu’min slave and pay blood-money to his family unless they forgo it as a sadaqah. If he is from a people who are your enemies and is a mu’min, you should free a mu’min slave. If he is from a people you have a treaty with, blood money should be paid to his family and you should free a mu’min slave. Anyone who cannot find the means should fast two consecutive months. This is a concession from Allah. Allah is All-Knowing, All-Wise” (al-Nisa’, 4:92). The next ayah of the Qur’an tells us about the fate of those who kill a believer intentionally. “Whoever kills a believer intentionally, his recompense (in the Hereafter) is Hell, therein to abide; and God has utterly condemned him, excluded him from His mercy, and prepared for him a tremendous punishment” (al-Nisa’, 4:93). It may be mentioned here that according to the United States Census Bureau, there were 15,241 cases of murders in the United States in 2009.

According to a hadith in the two sahihs of Imam al-Bukhari and Imam Muslim, when two Muslims fight each other with their swords, both the murderer and the murdered will go to hell. The sahaba were anxious to know as to why the murdered (the victim) would go to hell. The Prophet (SAW) explained that the reason was that he too had the intention to kill his companion.

Suicide is forbidden in Islam, even if one is undergoing pain or agony or even if it involves hiring someone to take one’s life. The Prophet (SAW) said that those who committed suicide would go to hell. Euthanasia, which is the act of killing someone painlessly, especially to relieve suffering from an incurable illness is a contemporary medical issue that is debatable, but Islamicly, there is no difference between killing a healthy person and a terminally ill patient. Suicide has assumed alarming proportions. Statistics show that approximately one million suicides take place each year. There has been an increase by 60 percent in worldwide suicide rates in the last 45 years, the reasons for suicides can be attributed to alcohol, gambling, and life punctuated with frustration and stress.

There are three categories of people who enjoy protection of life by virtue of a pledge of security. These are: (1) al-Musta’man or a person who belongs to a country at war with Muslims and who is admitted to a Muslim country for some purpose through a pledge of security, (2) al-Mu’ahid or a person who belongs to a country that has a temporary or permanent peace agreement with Muslims, and (3) al-Dhimmi or a permanent non-Muslim resident in a Muslim country. The Prophet (SAW) said, “If anybody provided a man with security and then killed him, I disavow the killer even if the killed person is a disbeliever.”

We find in the sirah that the Prophet (SAW) was quick to recognize the importance of peaceful co-existence with his non-Muslim neighbors who belonged to different tribes and subscribed to different beliefs. One of the three main projects the Prophet (SAW) executed in al-Medina was to make peace treaties with the three Jewish tribes of Banu Nazir, Banu Qainuqa’, and Banu Quraizah. The other two were the construction of the masjid-learning center and the establishment of mu’akhat (brotherhood) between the muhajirun (emigrants) of Makkah and the ansar (helpers) of Madinah. Subsequently, the Prophet (SAW) also signed a ten-year truce pact with Quraish, which has come to be known as the Sulh al-Hudaibiyah, and which was proclaimed by Allah (SWT) as a manifest victory. “Truly We have granted you a clear victory” (al-Fath, 48:1). All treaties were honored by the Prophet (SAW) without any exception. This demonstrates how Islam accentuates the worth and dignity of all human beings regardless of their origin, race, religion, color or ethnic background. The Prophet (SAW) used to tell his companions not to wish to meet their enemies, but in case that became indispensable, he asked them not to turn their backs, and to be strong and patient. It is absolutely forbidden in Islam for Muslims residing in Muslim or non-Muslim countries to kill or wage war against innocent people in non-Muslim countries even if such countries were hostile to Islam and Muslims. Such acts are considered treachery and in violation of treaties of peace and security, and are detested both by Allah (SWT) and his Messenger (SAW).

It is unfortunate that Muslims themselves often misrepresent Islam and the shari’ah by passing fatwas (legal opinions) that at times may not be based on the Qur’an and the Sunnah, but on fanaticism and tribal or cultural traditions. An example of that is honor killing that involves the killing of a member of a family or social group by...
other members, due to the belief of the perpetrators that the victim has brought dishonor upon the family or community. This is in absolute violation of shari’ah.

Shari’ah demands total respect of all creation including the fetus. Abortion or termination of the fetus would only be legitimate if the mother has a health condition that makes the continuation of pregnancy a danger to her life.

Female infanticide used to be a practice of the days of ignorance (jahiliyyah). In modern times, with the advancement of technology, and the ability to know the gender of the child before birth, parents not wanting daughters and considering them as a burden often take recourse to abortion. Such practices are common in China, India, and other countries as well. Such heinous acts result in an imbalance of the male-female ratio, ending in the males far exceeding the females. Fear of poverty is not a reason to kill or abort a fetus. “Do not kill your children for fear of poverty; it is We who provide for them as well as for you. Killing them is surely a grave sin” (al-Isra’, 17:31).

It is shocking to learn that 46 million babies die from abortion worldwide. In the United States alone, 48 million babies have been aborted since 1973. It has been found that approximately 24 percent of all pregnancies in the United States end in abortion, and 80 percent of these abortions are performed on unmarried women. This gives way to many social problems. The evils of adultery, fornication, intoxication, and gambling often lead to taking someone’s life. All such acts have been strictly forbidden by the shari’ah, which not only holds life sacred, but also protects it.

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