

THE SUBSTANTIATION REGARDING THE REMISSION OF THE PLACES AND TIMES IN THE LIGHT OF THE PROPHETIC TEACHINGS: A CRITICAL STUDY

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ABSTRACT

Islamic law is not static and an abstract thing which may remain functional till a certain time, and its function may become doubtful with the change of time as well as place. It is a fact that Islam has given instructions for leading life. Though these instructions had been issued in a certain era and in specific conditions, and these had been promulgated in special types of society, yet from the words as well as the techniques used by the Holy Prophet (PBUH) for practicing the same we get some important universal principles. These principles are, in all conditions, useful and practicable for the equal treatment of the society. Now, it is up to the Jurists of Islam to derive verdicts from these principles, according to the incidents that usually happen in the practical life, and implement the same in the dealings of the life. Going through the different verdicts made by the first caliph, Hadrat Abu Bakar (R.A), in depth, it appears that "Analogy and exercise of judgment" were the most important duty of his Caliphate. The Article under reference emphasizes to critically study the stronger bridges of understanding between Islam, Science and Environment.

Keywords: Remission, Islamic Provisions, Condition, Time

SOME OF THE DECISIONS OF THE HOLY QURAN IN PERSPECTIVE OF STATE'S POLITICAL AFFAIRS:

Following are the Decisions of the Holy Quran in this Regard:

1. The Muslims have been forbidden from calling bad names to the Idols because of the dominance of devastation on advisability as Allah says "And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge. Thus We have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do."⁽¹⁾
2. The forbiddance of women from walking with creating loud voice from their steps. The advisability in this case is to avoid attracting peoples to the sound of women's ornaments. As Allah narrates: "And tell the believing women to lower their gaze and be modest, and to display of their adornment only that which is apparent, and to draw their veils over their bosoms, and not to

reveal their adornment save to their own husbands or fathers or husbands' fathers, or their sons or their husbands' sons, or their brothers or their brothers' sons or sisters' sons, or their women, or their slaves, or male attendants who lack vigor, or children who know naught of women's nakedness. And let them not stamp their feet so as to reveal what they hide of their adornment. And turn unto Allah together, O believers, in order that ye may succeed"⁽²⁾

It is pertinent to note that they have been forbidden from a lawful act because of the happening of any immorality.

3. Similarly, seeking permission for servants and under age boys for entering a house in those times which are specified for isolation and rest, has been made compulsory. As Allah says: "O People who Believe! The slaves you possess and those among you who have not attained adulthood, must seek your permission on three occasions; before the dawn prayer, and when you remove your garments in the

afternoon, and after the night prayer; these three times are of privacy for you; other than these three times, it is no sin for you or for them; moving about around you and among each other; and this is how Allah explains the verses for you; and Allah is All Knowing, Wise.”⁽³⁾

4. The companions of the Prophet (PBUH) were forbidden to say word *Ra`aina*” although, they have no bad intention in this regard as Allah says, “O ye of Faith! Say not (to the Prophet) words of ambiguous import, but words of respect; and hearkens (to him); to those without faith is a grievous punishment”.⁽⁴⁾

5. At the time of sending the Muses and his brother Haroon (A.H) to Paroh for preaching they were ordered to speak to him gently, so that the harsh talking may not create hatred in him as Allah describes, “And speak to him with gentle speech that perhaps he may be reminded or fear (Allah)”⁽⁵⁾

Some Examples taken from ‘*Sunnah*’ regarding remissions on the basis of conditions, time and geography:

Once mentioning the event of Prophet “David” (A.S) the messenger of Allah said, “once two women had their children in their laps. When they went out of their homes, a wolf snatched one baby from them. Both the women’s have started quarrelling for the one baby which was left alive. Each one of them claimed that it was her baby. When this dispute was taken up with the Prophet “David” (A.S) He gave decision in the favor of the elder woman. Thereafter, the case was further reported to the Prophet “Sulaiman” (A.S) who after investigating the case issued orders that a knife should be presented to him. When the knife was presented, the Prophet Sulaiman said that he wanted to cut the baby into two pieces so that I may give one piece each to both of the women. On hearing this

younger woman asked him, if he was really doing so. To this the Prophet Sulaiman replied that no doubt he was going to cut the baby into two pieces. Hearing this the younger one requested him not to do so and she added that she was willing to give her share to the elder one .On this the Prophet Sulaiman asserted that the baby was her not of the elder woman”⁽⁶⁾

From the incident mentioned above the following different scopes for a ruler and a judge are established:

- a. To make one confess a certain reality the ruler has the concession of saying the words that he will do a thing which in real since he does not willing to do that. It means that it is legitimate to say a sentence for making one to disclose the hidden reality.
- b. Whenever, the right thing comes to the light, then the earlier decision can also be refuted.
- c. The judge is justified to issue the verdict in the light of the available evidences.
- d. If a person is murdered in a village and the killer is not known, in this case the Prophet (PBUH) has made all the villagers or the members of the tribe responsible , that is why the Prophet (PBUH) issued orders that,” Blood money or ransom may be received from them.

Some more verdicts of the Prophet (PBUH):

1. The intentions of the Prophet (PBUH) to put on fire the houses of those Young men who don’t offer their prayers in congregation.
2. Regarding those who were refusing to pay “*Zaka`at*” the Prophet (PBUH) did say,” Indeed we will receive from him *Zaka`at* as well as half of his wealth”.
3. The Prophet (PBUH) ordered that all utensils used for drinking and all those pots and saucepans in which the illegitimate meat was cooked, should be broken.

4. The drunkard who drank for the 3rd or 4th time was ordered to be killed.
5. At the time of the event of “*Tabook War*” the Prophet (PBUH) ordered that due to their some serious misbehavior the houses of the cheaters were ordered to be burnt.
6. Only on the basis of some doubt some of the criminals were punished and some of them were imprisoned. ⁽⁷⁾
7. In some cases of theft in which cutting of hands were not proved the Prophet (PBUH) ordered to receive of them double of the amount and beat them with whips.
8. A person was alleged for molesting an “*Ummi Walada*” who was ordered by the Prophet, but when it was revealed that he was not able of proximity, he was pardoned. ⁽⁸⁾
9. In spite of the existence of so many objectionable sections in the Treaty of *Hudaibiya*, the Prophet (PBUH) observed it. This shows that how much the *shari* verdicts are always free from all emotions and bear the qualities of truthfulness and farsightedness.
10. The Prophet (PBUH) helped the inhabitants of *Makka* when they faced drought in the days of war with them.

EXAMPLES OF “*AHKAM*”(ORDERS) CHANGED BY THE PROPHET (PBUH) DUE TO REMISSION IN VIEW OF THE CONDITION AND TIME

The Prophet (PBUH) used to issue orders under certain circumstances, but the same would be changed by him (PBUH) after when the conditions became conducive.

Some of the examples are as given below:

1. The people were forbidden to hoard the meat of sacrifice for more than three days. The purpose behind this was not to deprive the residents of villages from meat. But when people complained to him of the

situation (PBUH) and different kinds of needs were explained to him, the Prophet (SAW) granted permission by saying, “I had imposed the afore-mentioned ban for the sake of the needs of the outskirts, now you may eat the meat, give it as charity and hoard it.” ⁽⁹⁾

2. Provisions of the Journey:

Once during a travelling the provisions for journey exhausted and the people became indigent, hence they sought permission from the Prophet (PBUH) to slaughter the camels. Keeping in view the urgency, the Prophet (PBUH) granted the permission. In the mean while the companion of the Prophet (PBUH) “Umar” (RA) said, “How the people would get rescue without camels.” On this the Prophet (PBUH) cancelled the said decision and said, “Announcement may be made among the people to refund the extra provisions.” Consequently, the piece of the cloth for taking meal was spread on the earth and the people placed their provisions on it.

3. Killing of the Hypocrites:

In spite of the fact that the Hypocrites (*Munafiqee'n*) were spreading several types of devastations and disturbance, but the Prophet (PBUH) forbade the Muslims to kill them. The wisdom in this disposition was to make people avoid fostering any hatred from Islam and may not be in a position to blame the Prophet (PBUH) for killing his own companions. The Prophet (PBUH) said, “The advisability of consolation (of the non Muslims or Hypocrites) is greater than that of murder.” ⁽¹⁰⁾

But when again this hazard also diminished and due to dominance of Islam the nature of consolation was not as it was earlier, hence this decision was also cancelled.

4. “How great and important is

forbiddance from evil doing” (*Nah’I An-al Munker*) of the Prophet (PBUH) asserted in this regard:

Who so ever may find one doing evils, he should forbid him with his hands, if he could not do so, he should do it with his tongue, and if still could not, them with his heart which is the weakest of faiths. ⁽¹¹⁾

The real origin and base of mischief is the involvement of the Government as well as its officials in evil doing. But still when the companions of the Prophet (PBUH) sought his permission to avoid following the orders of such rules he (PBUH) (Did allow them) and said, “(No) until they maintain the system of Prayer intact.” The Prophet (PBUH) added,” who so ever sees his ruler committing an evil, he should exhibit restraint”⁽¹²⁾ (is very important. It gives us the impression that if any kind of debauchery (Sinfulness) is seen among the rulers, no revolt is permissible against them. Because such like practice is the main basis of all mischiefs, and it will open a gate way of evil doing till the Day of Judgment.

5. Forbiddance of the execution of the penal ordinances during the period of Wars:

Great emphasis on establishing penal ordinances is made in the Islamic annals of History. But Prophet (PBUH), himself banned its execution at the time of war or on the soil of the enemies. Allama Ibn-E-Qayyim has specifically narrated that incident, which goes like that a man came to the Prophet (PBUH) and said,” please execute the panel ordinance in respect of me, as I have been entitled for that”. On this the Messenger of Allah (PBUH) said, “Did not you offer prayer with us just now?”The man replied in affirmative. Subsequent upon that, the Prophet (PBUH) said, Go away! Allah has forgiven your sin”. Allama has included this incident in the analogies of his (PBUH) wisdom in

execution of certain “*Ahkaam*”. Similarly, the undesirable action taken by “Khalid” (RA) against the “*Banu Jareema*” Tribe was duly disliked by the Prophet (PBUH) and said, “O! Allah! I pray for getting me rid of whatever Khalid has rendered on his own”. The Prophet (PBUH) on account of keeping in view the extra ordinary capabilities, great services and assistance of Islam in view, he did not reprimand him anymore.⁽¹³⁾

6. Different Administrative Actions taken in respect of Land:

The messenger of Allah (PBUH) had made different arrangements for running the affairs of the land confiscated during wars. The first kind of administrator was that it was declared as the property of “Allah”. Then distributed among the Victorious Muslim warriors for their well being or let it remained in the hands of the original residents of the area. These two options were functional in those days. To declare the land as the property of Allah shall open an unlimited chapter regarding its management and distribution. Furthermore, it does not confine the government in respect of the remission of circumstances and time, to one procedure.

7. Deducing argument from the specific procedure of preaching Islam and different answers of the questions:

The Prophet (PBUH) usually had to give different answers to the people in respect of their questions according to the variation of persons and conditions. ⁽¹⁴⁾

The Proof of the remission of circumstances and time from the lives of the companions of the Prophet (PBUH) after the demise of the Prophet (PBUH), his companions had specified the place and time of so many “*Ahkaam*” (Decisions) and they had issued some administrative orders, the scope of which was available in the Holy Quran.⁽¹⁵⁾ Succeeding the Prophet (PBUH) when “Abu Baker (RA)” took

over the greatest responsibility of the caliphate, he made some important and difficult decisions in the light of the requirements of the changing conditions.

Some of them were:

- i. To launch crusade against those who had refused to pay “Zakat”.
- ii. To combat the tribulations of apostatization.
- iii. Not to isolate “Khalid (RA)” in spite of the objection of the companions of the Prophet (PBUH) on his certain acts.
- iv. The proof of showing courage and diligence in suppressing the claimants of Prophet-hood
- v. Extension of the limits of the Islamic State.
- vi. Analogizing the grandfather as father and giving him equal share in inheritance.
- vii. Deciding the issue of the share of “Kalalah” (A childless person whose parents are dead).
- viii. Taking courageous action in connection with the compilation of Quran.
- ix. The case of burning some of the apostates in fire.
- x. Combating some of the apostates until to kill them or to be killed.
- xi. Imprisoning some of them.
- xii. Forgiving some of them.
- xiii. Putting on fire the person who commits the act of sodomy.
- xiv. Fixing forty whips for a drunkard.
- xv. Obliging a woman to feed breast to her previous child even after remarrying to another person. Similarly, the cancellation of the orders of “Qatfia”. All such analogical Acts are done in the light of the teachings of Quran and “Sunnah”. Also, keeping in view the whole set of the “Sunnah”, their positions and interpretations have been fixed. Keeping in view the different verdicts of “Hadrat Abu Bakar” it is evident, that “analogy was the great obligation of his caliphate ” pointing, practically towards the principles and rules

of analogy, “Abu Bakar” (RA) revived Islam forever and saved its *Shari’a* from becoming senseless, by granting the remission of circumstances and time.⁽¹⁶⁾

The analogies fixed and verdicts giving by Umar (RA):

At the time of the assumption of the charge of Caliphate by “Hadrat Umar”, the Atmosphere was very much conducive. All of the tribulations had been finished, the revolts had been suppressed. The decisions taken by Umar (R.A) in different cases & Problems, it is very difficult to reproduce all of them in detail. Maulana Muhammad Taqi Ameen has narrated 100 examples from the life practice, of “Hadrat Umar “(RA).

Some of the important decisions are presented as given below:

- i. “Hadrat Umar” (RA) banned Marrying “Kitabia Women” so that the Muslims may not be influenced by such women bearing bad character.
- ii. Hadrat Umar (RA) forbade the Muslims from occupying land because all people including their family members & children were being paid stipends from agricultural land and other properties.
- iii. Declaring three “Talaq” (divorces) at one and the same time to be depicting the verdict of three. (Divorces)
- iv. Fixed the Punishment of drinking (Wine) to be eighty whips so that the people considering it as very little may not be encouraged to repeat the same sin.
- v. Once Hadrat Umar (RA) issued orders to recover double of the money which a thief had stolen.
- vi. Paying of “Zakat” for consolation was banned by him.
- vii. The sale of slave girl who has given birth to a child of her master declared as non permissible.

- viii. Fixed the Punishment of pelting stones on those who do “*Halala*” or help in this practice. The reason was to discourage this mean and disgraceful Practice.
- ix. All Punitive punishments were allowed to be given only under panel ordinances.
- x. The Non-Muslims were given share and authority in the state affairs, because they had done away with the practice of cruelty and brutality.
- xi. Hadrat Umar (RA) ordered the preparation of the list of the Properties assets of the “officials” of the state. The declaration of asset by the important people nowadays has been derived from this.
- xii. Hadrat Umar ordered to cut the tree under which, “he” (RA) had offered his prayer, so that people may not make it their usual practice to go and offer their prayers under that tree.
- xiii. Hadrat Umar (RA) established the procedure of “obligatory tax” (*Kheraj*), the analogy of which was not found in the previous eras. Allama Mawardi says that mostly the system of Iran (Persia) was benefitted in this regard.
- xiv. In the killing of a man, Hadrat Umar ordered that the whole of the group may be killed as a punitive action.
- xv. Hadrat Umar separated the Judiciary from the administration, after that he specified certain principles for courts.
- xvi. He established a compulsory educational system.
- xvii. *Hijri* calendar was promulgated by him. Prior to this the months and not the years were to be mentioned in the calendar.
- xviii. He allowed “Hadrat Amir Muawea” to maintain the majesty of the Government.
- xix. Established the system of octroi, and promulgated tax on the production of rivers.
- xx. He issued orders not to treat the personnel of the Government distinctively.
- xxi. Presented a balanced (not inclining to one extreme or the other) standard for the ruling class.
- xxii. Made arrangements for the nourishment of a child ever born as illegitimate.
- xxiii. Each one should adopt permanent source of income so that with the change in conditions, the ethics and moral character are not affected.
- xxiv. In standing posture, drinking was usually considered as sin, so he allowed drinking water while standing.
- xxv. The punishment of cutting hands of the thieves in the years of drought was prohibited and he said, the hands are not to be cut in drought.
- There are a few examples of the other companions of the Prophet, who are reported to have made decisions in light of the prevailing conditions and the era. For example, Hadrat Sad Bin Abi Waqas (RA), during the battle of Qadsia, held in abeyance the punishment of “Abu Muhjin Saqafi” for drinking Wine.⁽¹⁷⁾

Example from the Society:

From the procedure of the revelation of Quran, its method of implementation and Production of the proof of granting remission of the circumstances as well as times, indication has been made to them in places where guidance is taken from these examples. In addition to that examples can be utilized in individual and collective life according to the changing circumstances as well as times. Also, where and ever whenever we find a chance, we can, utilize these and certain other examples with great care in compliance with the Quran, Sunnah

as well as the practical acts of the companions of the Prophet (PBUH) in law making.

CONCLUSION

To comprehend the principles of law making great thinking and consideration is required. For this, it is very much essential to use deep insight on the letters and meanings of the Holy Quran besides the wisdom found in the acts as well as sayings of the Holy Prophet (PBUH). The person who is equipped with this type of knowledge (Power of Comprehension), he can make decision according to the situation and can frame new rules regarding those matters which are not directly discussed in the Holy Quran or Hadith, Because, the method which will be used by an individual for arriving at a verdict, shall not be contradictory to the principles of "Shari'a". For example the Holy Quran has mentioned Allah's order regarding imposition of capitation tax (poll tax) only on those who are the bearers of the books i.e. Jews & Christians, but using the Principle of analogy the companions of the Prophet (PBUH) extended this to Mages, the idol worshippers of India and Barbarians of Africa. Similarly, as and when the countries were being captured in the era of caliphate, the companions of the Prophet (PBUH) would face a lot of such problems. No orders about that would have ever been mentioned in the Holy Quran as well as Sunnah, directly. In spite of this the companions of the Prophet (PBUH) themselves framed law for them, which were in real sense according to the spirit of Islamic "Shari'a" and its principles.

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