Shari’ah – Part 1

Synopsis of the Friday Sermon delivered by Ameer Mustapha Elturk on May 20, 2011

Shari’ah has become one of the hottest topics of discussion and debate in the contemporary political discourse, especially in the West. It is often misperceived and misinterpreted as an outdated Islamic Law that is brutal and uncivilized, having no regards to democracy; human rights; women’s freedom etc. As a matter of fact, the very objective of Shari’ah (Maqasid al-Shari’ah) is to protect the inalienable rights of people, such as those pertaining to their faith, life, family, property, and intellect.

Shari’ah has come to occupy a center stage today. Some Christian fundamentalists and right wing politicians among others, with the aid of their propaganda machine (the media) have succeeded in creating a sense of tension, uneasiness, and fear in the hearts and minds of the masses. Allegations are hurled that Muslims want to impose their belief on others; to convert them to Islam; to force women to wear hijab (veil), and to deprive people of their freedoms. Such accusations are not only unfounded, but also bogus. This state of affairs has engendered suspicion and hostility between Muslims and their non-Muslim neighbors in neighborhoods, offices, schools, colleges, shopping malls, factories, hospitals, parks, and other public places. Unless we Muslims understand and gain some knowledge about Shari’ah, we will not be able to effectively communicate with others and live with them in peace and harmony.

Today’s sermon is an introduction to a series of sermons to be delivered on the subject of the objectives of Shari’ah, with the hope that the knowledge shared will help us to understand the basics of Shari’ah; to increase our level of iman (faith), and to enable us to engage in healthy discussions with our non-Muslim friends and neighbors. We are under attack, and we must deal with the situation with cool mindedness and without panic.

We first need to understand what Shari’ah is and what it means. The word Shari’ah 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’ah metaphorically may be understood as the path or the way to the source of life. “Then We have established you on the correct path; so follow it and do not follow the desires of those who do not know” (al-Jathiyah, 45:18). The very root (sha-ra’a) appears in Surat al-Shura, where it means to ordain. “God has ordained for you the same religion which He enjoined on Noah, and which We have revealed to you, and which We enjoined upon Abraham and Moses and Jesus, so that you should remain steadfast in religion and not become divided in it” (42:13). In the same Surah, the word also appears in its plural form. “Or do they have partners who ordain for them a system which has not been authorized by God” (al-Shura, 42:21).

Finally, the word sha-ra’a is used to identify the Jewish, Christian, and Islamic Shari’ah, meaning the law or legal injunction according to the divine guidance that leads one to a good and happy life in this world and the next. Shari’ah has been there with the Jews and Christians. Moses (pbuh) received the Torah
What are the sources of Shari’ah? They are basically two—the Qur’an and the Sunnah, which includes the authentic sayings, commands and practices of Muhammad (SAW). There is also what is called fiqh or Islamic jurisprudence. There is a fundamental difference between Shari’ah and fiqh. While Shari’ah is of divine origin, fiqh is the product of intellectual effort to deduce the rulings of Shari’ah through the jurist’s own intellectual exertion (ijtihad) suitable for his specific time and place. Fiqh interprets and extends the application of Shari’ah 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 benefiting from the cumulative knowledge of the fiqh rulings of the four schools of legal thought (madhahib), the new fiqh may replace many of the earlier rulings which were adjudicated by the four great Imams, but which are no longer relevant now. However, any fiqh in any time-space context can never be repugnant to the injunctions and the teachings and Qur’an and the Sunnah.

A Muslim who adheres to his or her faith strongly is labeled an Islamic fundamentalist; an expression, which, thanks to the media, has become synonymous to one who is a radical, an extremist, or a terrorist. However, the fact of the matter is that any Muslim who holds on to, and lives by the basic and fundamental teachings of his or her faith is a true believer, and one who does not do so is not a true believer. In this sense, every true Muslim in essence is a fundamentalist. What to speak of terrorism, he or she is far away from committing any excesses, because toleration and moderation are among the fundamental teachings of Islam. “And as such, We have made you a balanced nation so that you may be witness over the people” (al-Baqarah, 2:143).

Another point that needs to be understood is that there is no separation of church and state in Islam. Government, law, and religion are one. This concept is alien to the modern western civilization, where there is a clear demarcation between the church and the state. The West rejects all notions of a mixture of religion and government. It has removed God from the central position He held as the giver of law.

The essence of Islam is tawhid which implies that God is involved in every aspect of a human’s life and that He intervenes in history. Man is the most honored creature among His creation and has been entrusted with khilafah (stewardship/vicegerency) of the earth. He has been endowed with a free will and blessed with the faculties of hearing, sight, and intellect in order to test him. In their primordial stage when people were just spirits, all humans pledged to Allah (SWT) and acknowledged Him as their Lord and Master. They were then placed on planet earth, each human being living for a specified time, destined for him or her. The very purpose of our life is to obey Allah (SWT) in all spheres of our lives. “And I did not create the Jinns and the humans except to worship Me” (al-Dhariyat,51:56). Their sojourn on earth will be followed by their deaths, moving on to their graves, or the state of barzakh, followed by their resurrection and final judgment leading to their ultimate destination of eternal bliss or eternal doom. Thus the concept of “to God
we belong and to Him is our return” (al-Baqarah, 2:156). Therefore, God is the Master. Allah (SWT) is the owner of everything. He is the sovereign, and He is the ultimate law giver. “Authority belongs to God alone, and He orders you to worship none but Him: this is the true faith, though most people do not realize it” (Yusuf, 12:40).

These metaphysical truths about our position on earth with respect to our Creator and His creation are not quite comprehended by the right wing fundamentalists and perhaps by some Muslims as well. We have a complete guidance from Allah (SWT). He guided man from the dawn of history; that is from the times of Adam (pbuh) to Muhammad (SAW). “…when guidance comes to you from Me, anyone who follows My guidance will have no fear, nor will they grieve” (al-Baqarah, 2:38). As for those do not follow the guidance, misery and grief will be their lot. "And whoever turns away from My remembrance, then he will have a miserable life, and We will raise him blind on the Day of Resurrection” (Ta Ha, 20:124).

Unlike Civil and Common laws, which focus only on some areas of public behavior, the Shari’ah law is all embracing. It regulates all public and private affairs of human beings. It has regulations for personal hygiene, diet, marriage, divorce, inheritance, ethics, morality, human rights, human relationships, sexual conduct, commercial transactions, international dealings, settlement of disputes, conduct in war and peace, dealing with felonies and misdemeanors, ordering good and forbidding evil, justice, and all matters of ritual worship. Shari’ah aims at facilitating life and removing hardships. It is capable of addressing many contemporary problems and providing solutions to them. It is interesting to note that even the Vatican has suggested that Shari’ah has something to offer to humanity when it comes to the economic system of the world. Indeed Shari’ah is nothing but mercy to humankind. “Allah desires ease for you; He does not desire difficulty for you” (al-Baqarah, 2:185). And Allah (SWT) has sent a compassionate messenger to guide us all. “And We have not sent you except as a mercy to the worlds” (al-Anbiya, 2:107). May Allah (SWT) give us the tawfiq to understand Shari’ah and live by it.

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