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Taliban law is not Koranic law

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Compared to the legal discourse of early pioneers of Islamic law, this reclaimed Shari`a is very distant from the obvious meaning of the foundational sources of Islam. Muhammad of the Sura never raised his voice to any of his wives. The Qur'an bears witness to this. He was a loving husband and compassionate father to his daughters. Marriage is presented in the Qur'an in terms of tranquillity and mutual love; the husband is his wife's own dress and she is his. They contain each other. Shari`a, after all, is a historical human understanding of the Qur'an according to medieval norms, which the Qur'an itself opposes.

This backward decision taken by the Afghan government under pressure from radical groups, whoever they are, is a return to the Middle Ages. The Shari`a espoused by those radical groups, and even by other groups who like to present themselves as moderates, is nothing but the legal articulation of similar groups in medieval Islam, based on their own understanding and interpretation of the Qur'an and the Prophetic tradition. Compared with the legal discourse of the early pioneers of Islamic law, this reclaimed Shari`a is very distant from the obvious meaning of the foundational sources of Islam.

Before I present the Qur'an's position concerning the issues related to Women, allow me to analyse the prophetic legacy. I refer to the Prophet Mohammed's behaviour with his wives, daughters and female relatives. Here, I analyse the person of Muhammad rather than the sayings which were later collected, attributed to him, and canonized, because these sayings are full of statements which contradict the manner and behaviour of the person as presented in his biography (Sura). Muhammad of the Sura never raised his voice at any of his wives. The Qur'an bears witness to this. His wives caused him problems due to their conflicts with each other, to the extent that Muhammad intervened threatening them with divorce if they continued bothering and annoying him. He was a loving husband and a compassionate father to his daughters. All the wives he married after his first wife, Khadija, including his most beloved one `Aisha, did not cause him to forget her. `Aisha was once very angry because Muhammad always remembered Khadija, and she could not help expressing her jealousy of the dead women. Muhammad became very angry with `Aisha. He said of Khadija, "she believed me when all my tribe did not; she gave to me when I was in need." It is well known that he never had another wife during Khadija's lifetime.

When his cousin and son-in-law, Ali, wanted to take a second wife in addition to Muhammad's

daughter, Fatima, which is allowed by the Qur'an, Muhammad disapproved. He said, no, not Fatima; she is part of me and I am part of her. The radicals must tell: was Muhammad acting against the Qur'an in not allowing his son-in-law to exercise his rights? Or should they understand that polygamy is only permitted and not a legal right. The great difference has to be emphasized between what is allowed and legal rights. `Aisha, the mother of believers, and the most beloved one who narrated a great deal about the life of Muhammad, was involved in the civil war which resulted between `Ali, the fourth caliph, and those of the Prophet's companions who were not satisfied with the way he handled the matter of the third caliph's murder. Would the radicals consider `Aisha as disobedient to the Qur'an which orders the prophet's wives to confine themselves within the boundaries of their homes? In this case, they must either condemn `Aisha's behaviour or doubt their understanding of everything; the Qur'an, the Sunnah and history too. `Aisha understood exactly the context of this specific Qur'anic passage, and accordingly she became active in socio-political affairs.

Now, the Qur'an discourse about women can be categorized in two ways, each of which is related to specific areas. The absolute equality in rights and duties is explicitly emphasized in the domain of religious observance and as reward and punishment in the after-life are concerned. The same absolute equality is expressed in the domain of cosmological and natural reproduction; life results from this male-female contact. Both men and women are equal partners in this creative process of reproduction. It is in the domain of social life that the Qur'an recognizes the differences and tries to modify the existing male authoritative society. The Qur'an changed the long practised Arabian tradition of making the eldest son the only heir of the deceased father's wealth and distributes it among all the sons, the daughters and the wife. Ironically, in the context of inheritance, the Qur'an speaks only about one wife, no mention is made of wives of the deceased. Women were thus included to take their share. Marriage is presented in the Qur'an in terms of tranquillity and mutual love; the husband is his wife's own dress and she is his. They contain each other. Compared with the definition of marriage in Shari`a where the marriage contract consists of buying and selling, the woman is the merchandise, while the Qur'an provides marriage with a high status.

All the differences described by the Qur'an in the social domain are only recognized, but not totally acknowledged. They were totally acknowledged and further developed in the opposite direction of the Qur'an, by the jurists who produced what is now known as Shari`a. Shari`a, after all, is a historical human understanding of the Qur'an according to the medieval norms which the Qur'an itself opposes. The question and the challenge now for Muslims now is the obligation to acknowledge, respect and implement, in our modern social domain, where equality, freedom and human rights are the norm, the absolute equality expressed in the Qur'an at a higher level. Shall we upgrade the social values of the Qur'an to the level of the cosmological, spiritual and ethical domain, or continue the medieval downgrading of these Qur'anic value under the reclamation of Shari`a?

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