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ISLAMIC JURISPRUDENCE: RIGHT OR DUTY?

JURISPRUDENCIA ISLÁMICA: ¿DERECHO O DEBER?

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ABSTRACT

The main purpose of the revelation of Divine Books and Prophets is to improve human life in this world and hereafter. However, mankind's spiritual elevation takes place through certain duties that are learned from these books. But, in fact, these duties produce the real rights for human in this world and hereafter. The Islamic Jurisprudential laws are derived from the Qur'an and Sunnah of the Prophet and his household which are full of rules and principles. These rules and principles pave way for academic development and remind us of our responsibility that we ought to do. Consequently, the situation enables us to understand our high position and protect us from collapsing at low level. In this article, we will introduce some Islamic laws (verdicts) and try to prove that these duties came to us through certain channels that remind us of our right and Right of Allah and His creatures. We have also intended to deal with some of the most important conditions of worshipping which is physical and Spiritual purification. Islam is the religion of purification and has many rules for cleanliness and purification of our body, Soul, dresses and other things. Islam reminds us of laws of impurity and uncleanness such as of urinating, defecating, Jenabat, menstruation, nifas etc. The Prophet has said, 'be clean and remain clean as Allah, the Creator has established Islam on cleanliness'.

Keywords:

Individual and social rights, Individual and social duties, Rights, Duty, Progress of human, human collapse, Conflict of the rights, hypothesis.

RESUMEN

El propósito principal de la revelación de Divine Books and Prophets es mejorar la vida humana en este mundo y en el más allá. Sin embargo, la elevación espiritual de la humanidad se lleva a cabo a través de ciertos deberes que se aprenden de estos libros. Pero, de hecho, estos deberes producen los derechos reales para los humanos en este mundo y en el más allá. Las leyes jurisprudenciales islámicas se derivan del Corán y la Sunnah del Profeta y su familia, que están llenas de reglas y principios. Estas reglas y principios allanan el camino para el desarrollo académico y nos recuerdan nuestra responsabilidad que debemos tener. En consecuencia, la situación nos permite comprender nuestra posición alta y protegernos del colapso a bajo nivel. En este artículo, presentaremos algunas leyes islámicas (verdictos) e intentaremos demostrar que estos deberes nos llegaron a través de ciertos canales que nos recuerdan nuestro derecho y derecho de Alá y sus criaturas. También hemos tenido la intención de tratar con algunas de las condiciones más importantes de adoración, que es la purificación física y espiritual. El Islam es la religión de la purificación y tiene muchas reglas para la limpieza y la purificación de nuestro cuerpo, alma, vestidos y otras cosas. El Islam nos recuerda las leyes de impureza, como orinar, defecar, Jenabat, menstruación, nifas, etc. El Profeta ha dicho: "sé limpio y mantente limpio como Allah, el Creador ha establecido el Islam sobre la limpieza".

Palabras clave:

Derechos individuales y sociales, deberes individuales y sociales, derechos, deberes, progreso del ser humano, colapso humano, conflicto de derechos, hipótesis.

INTRODUCTION

It is proved in theology that Allah, the Almighty, is self-existent and needless from the creatures. Allah has no deficiency in his creation and in particular in the creation of human being. Man always needs to move ahead and wants to attain a perfect level, and thus his movement and evolution is not vain. 'Why did you think that we have created you in vain and that you shall not be returned to us? If this meaning is clear to us, then we may say that all the Divine command is to let mankind attain perfection in this world and the hereafter. Practicing those commands is for walking towards salvation and keeping from misdirection. Allah says; 'if you did well you did it for yourself, and if you commit evil then you did it against yourself. And he says, 'and if as is sure, there comes to you, guidance from me, whosoever follows my guidance, on then shall be no fear nor shall they grieve.

It is according to this truth that we believe that divine duties are all for attaining their rights such as individual rights, social rights, right of the world beyond this world, and a deep thought shows us that wherever a duty exists, right does also exist there. In other words, wherever, you can see some rights you can see other rights against the owner of the first rights. This rule has an exception and that is about Allah as Imam 'Ali, the commander of faithful says; It does not accrue to any person unless it accrues against him and right does not accrue against a person unless it also accrues in his favor. If there is any right which is only in favor of a person with no right against him, it is solely for Allah and not for his creatures by virtue of his might over his creatures.

If the parents have rights upon their children, then the children too have rights on their parents. If the teacher has rights upon his pupils, then the pupils or students too have rights on him. These rights have two sides: at one side it is called 'right' while at the other side it is called 'duty'. This dependence of rights and duties could be seen between Imam and the people, between friends, employer and employees, neighbor and so on.

We will have an explanation of right and duty and then will refer to some of the worshipping rules in Islam and through these rules we will show that the duties and the rights go together or we can state that the duties are the rights and the rights are the duties in other words.

Right is opposite of vain or void or invalid. Right means something that is stable, something that could not be denied and also Allah the Almighty is called right because he could not be denied.

Generally, right is the rule that, according to the religion, is correct (Amoli, 2007).

And finally oxford dictionary says: a moral or legal aim to have or get store to behave in a particular way (Oxford Advanced Dictionary, 2010).

These meanings are those of dictionaries but this term is the opposite of order in the idiom of jurists. It means that right is something for the owner of the right but order or duty is something upon (against) him.

The difference between right and rule (duty, order) is that human can use his (her) right but he (she) must perform his (her) duty (Amoli, 2007).

In the Qur'an, right has a general meaning, and we can understand this by its opposite. For example; Allah Says, 'and say truth succeeded and falsehood perished. Surely falsehood is ever bound to vanish. The Divine Book further state. 'so such is Allah your true creator and after the truth what else can there be save error?

Taklif in Arabic means duty or order that is to oblige somebody to do difficult work or to obligate or encourage to do works.

Zamakhshari (1960), describes duty as difficult and reports that: Hew ho does not have patience on the duties and difficulties cannot reach good positions'.

So right is for the owner of it and has benefit for him or her, and duty is for others. But the orders of Allah although are the duties for creatures. However, simultaneously they are rights because the way for the creatures to reach their rights is complying with the Will of Allah.

'A religion is a package of rules. Allah Almighty brought the religion for human because 'He who created human beings has designated such a program and rules or duties that may lead mankind to accomplish their right'.

Through this point, there is no difference between the duties (order of Allah upon human) and rights because Allah the creator who is the designer of the religion is un-needy. He created and ordered for the human's benefit not his benefit as the Persian poet says; "*I did not create for my benefit but to reach my creatures to their benefits*".

If you see the theological books, all the scholars of this field declared that 'the purpose of orders and duties is pushing the human to his/her benefits and rights here in this world and the hereafter'.

In this point of view, the time of *Taklifis* a happy time and Say yedibn Tawus has doing a celebration for himself and his son in this time.

The prophet came to guide mankind for the eternal world, but mankind remained limited to the pleasure of this world. For this Imam Ali says;

'Thou created a house (the Paradise) and provided in it for feasting, drinks, foods, spouses, servants, places, streams, plantations and fruits. Then Thou sent a messenger to invite towards it, but the people did not respond to the caller, and did not feel persuaded to what Thou persuaded them or showed eagerness towards what Thou desired them to feel eager. They jumped on the carcass (of the world), earned shame by eating it and became united on loving it.

Now we may conclude what we have said so far:

1. The spirit of *Taklif* (order) is inviting for benefit and not for difficulties.
2. Another face of every order is a right and benefit like ordering a child to study or encouraging the ill person to drug.
3. The nature of human and his intellect invite him to comply with the commands of Allah but the Satan and ignorance of human invite him to leave them. (Amoli, 2005, p. 166)

DEVELOPMENT

Imam Sadiq (Pbuh) the grandson of Holy Prophet reported from his grandfather (PBUH) that Allah said; o the son of Adam 'obey me on what I ordered you, and do not teach me about what is beneficial for you.

We know Allah and His religion and the purpose of His creation, so we must obey Him without knowing the benefit of every order, but Allah the Almighty, in spite of this fact, informed us some causes of rules or benefits of duties.

As some examples, the Qur'an says; establish prayer regularly, indeed prayer prevents man from shameful and indecent deeds.

Preventing from shameful and indecent deeds is one of the benefits of obeying Allah in this order, and this benefit is a right of the person who pray as it is right of the members of the society. This benefit is for all in this world and the hereafter.

As Allah the Almighty for the holy war against the aggressors says; 'and fight them until the evil of disbelief and polytheism is rooted up'.

Achieving security and peace for the society is one of the benefits of the holy war against aggressors. Those who can do this duty may protect the society from negative and evil affects.

'Whoever abandons it Allah covers him with the dress of disgrace and the clothes of distress. He is kicked with contempt and scorn.

Lady Fatima, the eminent daughter of the Holy Prophet, stated that ordering for good things is useful for the people.

And finally the following short tradition of the holy prophet about fasting is very famous: fast to be healthy.

So you see that every duty and order of Allah and His prophets and Caliphs necessitates many rights for the person who obeys. One right for him/her in this world and another hereafter, as there are many benefits for others in this world.

By a glance on some of the jurisprudential rules we observe that duties and rights assist anyone else.

1. One of the elementary duties of Muslim is to know the basic rules of purities and impurities. The way of purification and making ablution, bathing and etc. these duties bring for the doer the purity of his (her) body, his (her) soul and making him (her) to be ready for the worshipping of Allah as these rules provide for the society and for other people their rights because they like purity and cleanness and they hate impurity and stench.
2. It is prohibited for *Mujnib (impure)* and *Haez* (a lady going her period of Mensuration) to go to Mosque. Firstly, the purification and holiness of the mosques are a big right that is bigger than the right of human for entering the mosques.

Secondly, in these situations the man or woman is in a state of weakness and cannot do his/her worshipping completely so Allah almighty ordered him/her to purify and strengthen himself/herself by bathing and then be ready for this holy action–worshipping of Allah.
3. It is an obligatory duty for the Muslims to put to rest somebody who is dying towards Qibla (Facing Ka'ba). Here, we can see the observing and regarding the right of a Muslim upon other Muslims. It is also clear that from this right we derive other duties about a deceased person like bathing, *takfin (Shrouding)*, and last prayer on him/her and burying him/her in the cemetery.
4. The prayer that has been repeated 90 times in the verses of the Qur'an and it is introduced as the pillar of Islam (Dashti, & Mohammadi, 1985). This glory worshipping has two categories of obligatory and recommended prayers (Musavi, 1983). This is a duty ordered by the Almighty Allah upon his creatures. Through this worshipping the creature thanks his/her Creator and tries to fulfill and perform some of His duties to his/her Creator and on the other side, Allah has promised to

give blessings to His servants that is beyond our imagination or description.

Allah, the Glorious has stated in the Qur'an. 'And none of the believers knows and cannot guess what we have hidden for the believers as a delightful reward of their deeds.' On the other side, those who pray they pray for themselves and their parents, children, sisters, brothers, teachers, and friends and others.

'O our Creator, grant us good in this world and in the hereafter and save us from the torment of the fire'. When we say 'We worship you alone and seek help from you alone' it means that we take others with us as our partnership. We want to enter paradise together. I don't want to enter paradise myself.

One of the important conditions for the one who wants to pray is his cloth, place and other relevant things that help him in completing his ritual, Sharia stresses that all these things must be pure, and if hired or taken from someone then there must be an agreement or approval of the concerned person i.e. it should not be illegal. These verdicts show that we must observe the rights of others (Althani, 2019).

5. It is not permitted to break the obligatory prayer intentionally. However, there is no problem in breaking it to avoid some danger whether it is related to the person, property and family. If it occurs at the time of prayer and there is no solution other than voiding the prayer. Thus, through this it is clear that the Allah permits to void his for protecting some rights (properties) of his servants.
6. The obligation of the duty for paying zakat or khums is because of being some needy people in the society or necessary works and actions that are useful to the society. Allah has introduced eight categories of deserving people for zakat and in traditions of infallible Imams, zakat has been introduced as the means for achieving the daily sustenance for attaining proximity to Allah, to protect the properties and soon.
7. Fasting is a kind of worshipping of Allah and obeying his order, so it is Allah's order upon his creatures, but on the other side, it is right of mankind who through this fasting may get proximity to Allah and on the other hand this also helps him to maintain his health.

'Oh you, who believe! Fasting is prescribed for you as it was prescribed for those who were before you so that you may have God-wariness' God-wariness is the key for reaching the rights of humanity.

8. If somebody breaks his/her fasting intentionally he/she must pay *Kaffarah* besides the ghada. The kaffarah of fasting is one of three things; freeing a slave or two months fasting or feeding sixty indigents fully.

As you see two cases of kaffarah come back to the rights of human and helping them in this world so this duty is tied with the rights of human.

9. A pregnant woman who is close to deliver and there is a possibility that fasting may cause some problem for her or her baby, then fasting is not obligatory for her. The same case applies for those women who feed whether they are feed-nurses or nursing mothers. So, through this we may understand that if there is involvement between the duty (order of Allah) and the rights of human, Allah Himself prepared the rights of human and removed His order.

10. Hajj is another obligatory duty in Islam. Allah says,

'It is incumbent upon people who may afford to go for Hajj. But whoever denies it should know that verily Allah is absolute, independent and needless from all the people of the world.'

From one perspective, Hajj is a duty for human beings, but from another, there is fulfilling of the rights and reaching the benefits to the performer of Hajj and other people from around the world. Allah says;

'And proclaim the pilgrimage among the people as a divine duty then people will come to you on foot or on camels from every remote land. They may witness profits provided for them in every aspect [spiritual, social, and economical], and they should mention the name of Allah on the appointed days over what He has given them of the cattle for sacrifice then eat its meat and feed the miserably needy.'

The Prophet in his short hadith said, *'the one who performs Hajj becomes un-needy'* (Rayshahri, 1983).

There is another hadith from Imam Sajjad. He says:

"Fulfilling the duty of Hajj or Umrah makes your body healthy increases your wealth so that you may meet the need of your family." (Majlesi, 1983)

11. Jihad is fighting against enemy in the way of Allah. According to the jurists and scholars Jihad has been classified into four categories (Montazeri, 1988). The purpose of starting Jihad is to help the people who are surrounded by some aggressors and are not ready to listen to Islamic teachings or are ready to submit in the way of Islam.

As the other kinds of Jihad I mean defending Jihad, individual Jihad, and jihad with the aggressors all are for the purpose of giving or achieving the rights of some people. This is because in all kinds there are some rights that some people have captured and do not permit the owner to use them.

12. Ordering good deeds and preventing bad deeds are among of the duties and basic obligations of Islam. To maximize our understanding of this concept, we need to listen to the description of believers in the Qur'an:

'And the believers, men and women, are supporters and helpers of one another. They enjoin good and forbid evil'

This duty, in fact, is trying to give the rights to their owners. These rights are the rights of Allah or His creatures, as the rights may belong to this world or hereafter.

CONCLUSIONS

The main message in this discourse is that Allah does not need His creatures' themselves or their worshiping or actions. So all of His orders upon His creatures, (though they are duties for them), are rights for themselves, for other people and for the Creator the Almighty Allah.

Anyone who does not observe his duties is committing sin and Allah will punish him/ her. In addition to that he/ she have forbidden some rights for him /herself and others because the effect of performing the orders of Allah is not only for himself but also for others. For this reason, almighty Allah when speaking of the mission of the Holy Prophet, consider it as a great blessing upon the creatures. He has not spoken this way for other material blessings. As Allah stated: ***"Allah did confer a great favor on the believers when he sent among them a messenger from among themselves, rehearsing unto them the signs of Allah, sanctifying them, and instructing them in scripture and wisdom, while, before that, they had been in manifest error"***

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