

## *Chapter 2*

### ◀ Freedom from the Viewpoint of Islam ▶

#### **The Need for the Restraining Law**

From the viewpoint of Islam, man is a locomotive being; in other words, a traveler who is moving from his point of origin to a certain destination, which is his ultimate perfection and bliss. The span and extent of life is like a route, which must be treaded in order to reach the destination. Let me cite an example so that the readers could understand better the subject. Let us assume that a driver wants to move from a city, let's say Tehran, toward Mashhad. If the hands and feet of this driver are paralyzed, naturally he cannot drive. He can only drive if his body limbs are sound, having the free power to choose and select. Otherwise, he cannot tread such a path leading toward perfection. Therefore, God, the Exalted, has endowed man with freewill and the power to choose so as to tread this path with the feet of his own "choice and volition" and arrive at the destination. Otherwise, he will not arrive at the destination.

As such, if one would think that in a state of compulsion he could tread this path of perfection and arrive at the destination,

he is wrong. Man must be free and have the power to choose so as to tread this path.

The more man is free in his choice, his deed becomes more valuable. For the driver to merely have a sound physique is not a guarantee that he would arrive at his destination. It is because possibly, out of recalcitrance, whim and caprice, he would choose a wrong way, and without being under compulsion he would turn the steering-wheel by his hands, push the accelerator pedal by his feet, and fall on a canyon. So, to have choice and volition alone is not enough for man to attain bliss. Instead, it is a necessary requisite to have the comprehensive cause. In other words, the sufficient requisite for the attainment of bliss is that man should pay attention to the road signs and properly observe the driving rules and regulations in order to arrive at the destination. One who would say that he is a powerful being having volition, and he wants to move in violation of driving rules and regulations, and that no one also should put a stop to his move, should be aware that his path will end in falling to the abyss of canyon.

So, apart from the fact that man should have a sound physical constitution, he should also know the route and observe the rules. Driving rules can be divided into two: the first group is the set of rules, which if not observed, will cause harm to the driver himself. For example, if he deviates from the highway, he would possibly fall into a canyon or fall from the bridge—harms for the driver himself and his vehicle. In order to evade those dangers, warning signs will be posted such as “Dangerous curve,” “Move from right,” “Drive slowly,” etc. so that the driver would not drive in violation of the driving rules and be cautious to remain safe. Yet, in the second set, violation of the traffic and driving rules will not only endanger the life of the driver but also endanger the lives of others and give rise to accidents, which sometimes endanger the lives of hundreds of people.

It can sometimes be seen in some expressways and highways, especially in some countries where high speed is allowed, that violations of rules are responsible for the hundreds of cars to hit one another, and as a result, putting in danger many lives of people. It is sometimes written in the newspapers that, for example, in an accident in Germany 150 cars bumped one another. Naturally, in such happenings it will not suffice to give warning and advice to observe precaution; in fact, they would also post traffic lights and more powerful warning signs; they would assign surveillance cams, automatic cameras, and occasionally, policemen in order to pursue, fine and punish the offending drivers. Violation in the first case would lead to the deviation of the vehicle from the highway, its turning upside down and breaking of the driver's hands and feet. In this way, they will no longer fine the driver because he has harmed himself. But in the second case, the violations would endanger the lives of others, and it is on this account that the police will pursue the violator and penalize him.

***The Difference between Moral and Legal Laws***

In the course of the life of man, there are two kinds of dangers. The first kind refers to the dangers related only to ourselves. If we do not abide by the laws and regulations, we have brought harm to ourselves. In reality, the harm and loss of non-abidance with the regulations are individual and personal. In these events, decrees are enacted and following which is emphasized, which are technically moral laws and they are called as such. If a person would not pray or, God forbid, would commit other sin in privacy in such a manner that no one would be aware of it, this person has harmed and wreaked himself. Nobody will pursue him and ask why he has committed such a sin in privacy. Nobody is even permitted to investigate it because spying on actions done in privacy by individuals is unlawful. For, this issue is a personal one. Although there are moral

admonitions, decreeing that even in privacy man shall not commit sin and think of committing one, these admonitions are like the warning signs posted along the roads. It is similar to the admonition to drive slowly, which in case of its non-observance and deviation from right to left, or to have high speed, man has brought harm to himself, and the police will no more look after him. Nevertheless, the second kind of danger is not related only to the person himself. In case of non-observance of the rules and regulations, which are technically called legal laws, both the person in question and the society will be harmed. As such, these laws have the assurance to be executed, and violation of which shall be dealt with accordingly.

These are similar to the driving offenses that will bring about accidents for others and endanger their lives. It is on this account that the police will pursue and penalize the offender. It is here that legal laws, including penal and criminal laws, are brought up vis-à-vis moral laws. That is, this domain is concerned with the field of law and laws enacted by the legislative organs and enactment of which is guaranteed by the government.

Thus, the basic difference of the moral rules with the legal rules is that in the moral rules, nobody is the guarantor of their execution such that anyone who violates them will be penalized. If someone is being pursued, it is not a violation from the moral perspective, but from its legal perspective it is, which is related to the laws and the government, the guarantor of its execution. And if “privacy” would be advanced, it is legal in its general sense, otherwise it is penal and criminal.

In any case, just as a driver must be careful of his life as well as that of the passengers and to keep them from danger, man is like a traveler who moves from a starting point and will face many dangers along the way leading to the destination. These dangers are sometimes related to himself and have individual rules for which there are moral admonitions. Yet, wherever there are possible dangers to be posed on others, or somehow morally

corrupt others, or encroach on their lives, properties and chastity, it falls under the legal (in contrast to *moral*) laws, which the government has to execute.

If with regard to the driving rules we mentioned, a boastful driver would say, "I am free and I want to act in violation of the rules," and its consequences will harm him only, they will merely advise him to be careful and cautious otherwise his life will be endangered, but if the lives of others are also threatened, they will prevent him. The police will chase him. Through the use of different devices such as radar, electronic cams, automatic cameras, and others, they will pursue and punish him. Here, nobody will say that the police's pursuit is against the freedom of man. All people and all rational individual in the world acknowledge that if a certain act of individual poses a threat to others, there must be a law to curtail the freedom of violator because that freedom is not legitimate and legal. The intellect does not accept this freedom as it poses a threat to other people. All rational people accept this subject and we do not know of any 'rational' person who, out of knowledge and awareness, would say that man should be free in life such that he could do whatever he likes no matter what harm it entails for himself as well as for the lives, properties and chastity of others; nobody confirms and approves this statement. Thus, wherever there must be a law, and the society must accept that law and be acknowledged by the individuals, there is no dispute.

***The Divine and Atheistic Cultures and the Difference of Their Perspectives on Law***

It became clear that there is no dispute on the indispensability of having law. The disputes commences on this question: To what extent that this law that limits and regulates freedoms, and say, "Keep right," or "Drive slowly," has the right to limit the freedom of man?

Everyone accepts that if the life and property of others are violated and if the action of man poses a danger to the lives of others, the law must restrain his action, and not allow anyone, for example, to point a gun to somebody else and kill him! Now, after acknowledging the fact that the law has the right to limit freedoms that are harmful for others, this question is raised: Does the legislator limit the freedom of man only if it poses harmful to the material interests of others and brings material losses to him, or in lawmaking the religious, spiritual and otherworldly interests of human beings have to be taken into account as well? The bone of contention lies on this discussion. We can classify cultures into two: One is the divine cultures, a lucid example of which is the Islamic culture, which is the focus of our attention.

We believe that the divine culture is not peculiar to the religion of Islam. It has rather included the other heavenly religions as well, though there have been distortions and deviations therein.

Contrast to this culture is another culture under the name, “atheistic or non-divine culture,” the symbol of which today is the Western world. It must be kept in mind that what we mean is not the geographical west; rather, what we mean is what we called as the Western culture, which is prevalent in Europe and America. The states in that part of the world are promoting this culture and are at the threshold of spreading this culture to other countries. So, for clarity sake, let us present two classifications of culture. One is the divine culture while the other is the Western (atheistic) culture. These two cultures have some fundamental differences with each other, with which we will deal.

### ***The Three Pillars of the Western Culture***

It can be said that the Western culture has been consisted of three pillars. Of course, there are other parts and elements, but its

most fundamental parts are three. Its first pillar is “humanism”. That is to say, for man to have a life full of comfort, happiness and ease is valid and nothing else for him has validity. The word “humanism” is brought up in contrast to inclination to God and religion. Of course, they have also propounded other meanings for it but they are not our concern. Its famous meaning is “anthropocentrism”. That is, man has to think of himself, his pleasure, enjoyment and comfort, but that there is a god or an angel is not our concern. This trend is the opposite of the one prevalent before, during the Middle Ages in Europe and before that in the Eastern countries in which the main attention has been focused on God and spiritualities. The proponents of this view say that we have to abandon this subject (extreme attention to the celestial affairs at the expense of the mundane affairs). We are already tired of the medieval subject matters. Instead of the discussions of the Medieval Church, we want to return to the core of humanity, and no more discuss anything beyond man and nature, especially God. Of course, it is not necessary for us to deny them, but we have no business with them. The criterion is man.

Inclination toward humanism in Europe and in the latter part of the Middle Ages through the renowned writers and literary men of the time, such as Dante<sup>1</sup> of Italy, was brought up. In reality, it was a return to the pre-Christian era.

As we know, Christianity was born in the East, in Palestine in particular. Prior to the coming of Christianity in Europe, the European societies were idol-worshippers. The most important empire at the time was the Roman Empire consisting of the Byzantium (present-day Turkey) and the Western Roman Empire (Italy).

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<sup>1</sup> It refers to Dante Alighieri (1265-1321), the Italian poet and writer well known for his epic poem *La divina commedia* (The Divine Comedy). [Trans.]

With the exception of the Jews, these people were all idol-worshippers. After the coming of Christianity in Rome, elements of idol-worship were adopted and the European society accepted such a form of Christianity. An example of distortions in Christianity is the Doctrine of Trinity and then erecting of statues of Ḥaḍrat Maryam (Saint Mary) and that of the angels in the churches. As a result, these churches are very similar to those idol-temples of the past.

Thus, Christianity in the Western world is a distorted form of Christianity which replaced polytheism; and in reality the government there was a worldly government devoid of spiritual values, established there in Europe in the name of Christianity, under the name of the divine rule, and for the sake of the heavenly and celestial mission. Under the guise of Christianity and with ‘celestial’ and ‘heavenly’ slogans, they committed so many heinous crimes, until such time gradually the people were suffocated by these injustices and crimes, and eventually returned to the life prior to Christianity.

The humanist thought, in truth, emanates from the return to man in place of God, the return to the earth in lieu of the heaven, and the return to worldly life in replacement of the otherworldly life.

This is the kernel of the humanist thought, which states that we have to replace God with man. With the spread of the prevalent literatures of the time and through the efforts of the pioneering humanist writers such as Dante, the famous Italian poet and author, this trend gradually gained currency in all Western countries, propounded as a pivot with a wide array of dimensions and angles. Therefore, humanism is the mother of all other trends, which collectively constitute the Western culture.

This principle is contrary to the divine culture, which states that the pivot is Allah and that all our thoughts must revolve around the axis of the concept of God. All our attentions must be directed toward Him. We must seek our prosperity and

perfection through proximity and union with Him, for He is the fountainhead of all beauties, felicities, nobilities, and perfections. Hence, Allah is the axis. If we are really particular of putting *ism* with it, we say that this trend is “Allah-ism”. That is, attention to Allah in opposition to attention to man.

This is the first basic point of departure and clash between the divine culture and the Western atheistic culture. (Of course, there is also an exception in the West as there are also more or less divine and spiritual trends there. Thus, my point is the dominant trend, which today is called the Western culture.)

The second pillar of the Western culture is “secularism”. After the Westerners made man as the axis, if there were any person who wanted a religious inclination, he was like someone who wanted to be a poet or painter, and as such, he would not be confronted. Just as some accept a particular school of painting and sculpture, some also want to be Muslims or Christians, and there is no hindrance along their way, for what man wants must be respected. They say that those who, at the margin of their life, want to choose a religion are like those who choose a kind of literature, poem and art, and their choice must be respected. But these individuals must be aware that religion has no relation whatsoever to the basic issues of life and must not become the basic core of life. Just as poems and literature have their own particular status, religion also has its own.

Let us assume that some individuals have their own arts, open a gallery and display their painting works. We will also respect them, but this show of respect does not mean that painting is the nexus of politics, economics and international issues. So, painting is a marginal issue. Their opinion is that religion has also the same status. If there are those who want to worship God, go to the house of worship, and like a poet who recites a poem, supplicates to his God, it is none of our business. But we are concerned with which law is supposed to rule over the society; what kind of a system is the economic and political

one. Religion is not allowed to interfere in this domain. The locus of religion is the mosque, church and idol-temple. The serious issues of life are related to science, and religion must not interfere in the issues of life.

This trend and mindset in general is called secularism. That is, the segregation of religion and the issues of life, or worldliness and so to speak, “thinking of this world” instead of “thinking of the heaven,” which is inculcated in religion. They say that we have to dismiss these statements that celestial angels are descending on the Prophet (ﷺ) or that in the hereafter man will be admitted to the kingdom of heaven and the like, and to think as earthlings. Accordingly, you have to talk about food, clothing, art, dance, music, and similar things that are beneficial to life and have no relation with the domain of religion. The fact is that the fundamental affairs of the life of man, particularly politics, economy and law, are related to science, and religion is not supposed to interfere in them. This is the second pillar of the Western culture.

The third pillar is “liberalism”. That is, nobility lies on man. Man must be totally free, and there must be no restrictions and limitations on the life of man, unless they are necessary.

One must try to minimize as much as possible the limitations, and reduce the values. It is true that each person and each society has his or its own set of values, but they must not be treated as absolute.

Everyone is free to be faithful to a set of individual and collective ceremonies and customs, but he must not allow a certain manner to be regarded as a social value and let it interfere in politics, economy and law. Man is free to conduct any transaction he wants and to produce anything he wants. He can use any kind of labor in any manner, and as much as possible he must be free in economy. There must be no restriction in choosing profitable transaction whether it involves usury or not. As much as possible, the worker must be given work and the

length of time of his work must not be fixed so that the capitalist could earn more profit and income.

Concerning the labor wage, they say that the lower its level is, the better. Accordingly, fairness, compassion and justice are essentially discordant with liberalism.

The liberal man must think of advancing his economic interests. Of course, expediencies demand that sometimes law must be observed so as to avoid chaos and disorder. But the crux of the matter is that man must behave the way he likes. He is also free in choosing his mode of dressing, and should he wish he could even be nude, and there is no problem for that. No one should restrain him.

Of course, sometimes the particular social conditions impose restraint on the individuals such that if they want to be totally nude, the people will revile and vilify, and cannot tolerate them. This is a different story, otherwise no law is supposed to impose limit on man on how he would dress himself, whether his attire is short or long, limited or not, and whether the man or woman is stripped or not.

Based on liberalism, man must be free, and the relationship between man and woman must be free as much as possible. Only in case that in the society extreme conditions emerged that would end up in tumult that freedom must be checked to some extent. This is the bound and ultimate point of freedom. Yet, unless it reached the limit, the man and woman are free to have relationship in whatever manner they like, whenever and however they please. It is the same case on the political issues, so on and so forth.

The principle is that no condition or circumstance must limit man, unless it is necessary. This is the basis of liberalism, and as we have said the three pillars of humanism, secularism and liberalism constitute the triple edifices of the Western culture, which play a vital role in the lawmaking.

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***The Fundamental Clash between the Western Culture and Islamic Culture***

In comparing the Western culture with the Islamic culture, the first issue is humanism whose opposite is the supremacy of God. Those who believe in this view, just as the Muslims believe in God, do not consider the legislation. They are only thinking of their economic interests, welfare, comfort, and pleasures. Of course, among the Western schools there are also more or less disputes such as, for example, whether pleasures and interests are individualist or collective. However, all these schools have one thing in common and that is, as much as possible conditions and limitations must be reduced. In opposition to this atheistic thinking is the mindset of the divine school and Islamic culture, which state: Nobility does not lie on man; rather, God is the supreme. It is He Who is the genesis of all values, beauties, felicities, and perfections. He is the Absolute Truth. He has the highest right on human beings, and we have to behave in such a way that we establish link with Him.

God cannot be overlooked in life, or else man will forfeit his humanness. The essence of humanness lies on worship of God. Man is innately inclined toward Allah. Once we overlooked this inclination, we have remove man from his humanness. In any case, the main axis in the ideas, thoughts and values is only God, whose opposite is anthropomorphism.

The second issue is secularism whose opposite is the supremacy of religion. The most expedient and important affair for a faithful person is the choice of religion. Prior to thinking about his daily bread, he has to investigate first whether the religion he is professing is the truth or not, whether his religion is authentic or not. Is belief in One God correct or not? Is it better to remember God or to deny Him? Which is correct, to believe in One God, or in Trinitarian God and many deities? Thus, on the very day that man reaches the age of responsibility, he has to determine whether or not he believes in God, the

revelation and the Day of Resurrection. Is the Qur'an the true word of God or not? Prior to choosing occupation, spouse and field of study, he has to choose his religion first because religion is related to all aspects of life. Thus, the second pillar of the divine culture is religion-centeredness, which is the opposite of secularism that regards religion as a marginal affair in life, stating that religion is not supposed to interfere in the main issues and not to be propounded as the most essential issue encompassing all facets of life.

Islam states that no subject is outside the ambit of religious values, and the lawful and unlawful of religion. Religion determines the lawfulness or unlawfulness of every thing. This trend is the opposite of secularism.

The third issue is liberalism; that is, the supremacy of freedom, lack of restrictions, and capriciousness. Liberalism means the preeminence of desire; since for the aforementioned meanings of freedom they have commonality on some levels, if we want to translate them into Persian we have to say, *iṣālat-e delkhāh* [the primacy of desire].

On the opposite side of liberalism is the supremacy of rightfulness and justice. Liberalism states that you have to act as you like, while the divine trend and divine culture states that you have to act within the periphery of rightfulness and justice. One must not make a step beyond the sphere of right and act against justice; of course, the two (rightfulness and justice) are interrelated, for if we take right in its general sense, justice will also be included:

الْعَدَالَةُ إِعْطَاءُ كُلِّ ذِي حَقٍّ حَقَّهُ

“Justice is to give all rights to their rightful owner  
(claimant).”

Hence, the concept of right is blended in the concept of justice, yet in a bid to avoid misunderstanding, we mention the two concepts together.

So, liberalism upholds the primacy of desire and its opposite is religion that advocates the supremacy of truth and justice. In other words, religion says that there are really truth and falsehood and it is not that we have to look for anything that we like. Instead, we have to identify which is truth and which is falsehood; which is justice and which is injustice. Even though I wanted to commit injustice against others, I am not supposed to do so to anyone.

The expediency of liberalism is that we respect truth and justice so long as going against them would lead to crisis; otherwise, everyone can think about his own interest.

They say that compassion and fairness are concepts humanity has brought out while in a state of weakness. If you have the ability, you can do whatever you want to do unless you feel that this freedom (of action) will cause social crisis and since its dire consequences will also affect you, it (freedom) must be restrained. Thus, the third principle in the Islamic culture is the supremacy of truth and justice whose opposite is the primacy of desire. These three pillars, i.e. humanism, secularism and liberalism are the three fundamental pillars in the Western cultures, which exert influence on the lawmaking process.

#### ***The Difference between the Islamic and Western Perspectives on the Scope of Freedom***

We have stated that all rational people of the world reject absolute freedom. We do not know of anyone who says that anyone can do whatever he wants at any time. So, on negating the absoluteness and limitlessness of freedom, the question is: What is the extent of freedom? To what extent can the law promote or restrain freedom? Basing on the divine and Western

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cultures, there are two distinct answers to these questions. Based on the Western culture, freedom will be limited whenever it threatens the material interests of human beings.

If freedom threatens the life, health and properties of human beings, the law will put a restraint on it. Therefore, if the law would say that maintaining health is necessary and that potable water must not be poisoned as it would endanger the lives of people, this imposition of limits on freedom is acceptable because these freedoms are ought to be restrained in order to maintain the safety of individuals.

Undoubtedly, this law is acceptable for all. Nevertheless, in case an act threatens the chastity, eternal bliss and spiritual values of people, and pollutes the human soul, should the law hinder it or not? It is here that the dispute between the divine and Western cultures arises. From the divine perspective, man is moving toward divine and eternal perfection and the law is supposed to pave the way for this wayfaring, removing all the obstacles along the way. (At this juncture, the law we are referring to is the legal and administrative law whose guarantor for its execution is the government, as well as the one related to the individual. That is to say that the ethical issues are not what we mean.)

In answer to the question as to whether or not the law should prevent anything that jeopardizes the eternal life of human beings, the divine culture states that it should prevent, but the answer of the Western atheistic culture is negative. If we were truly Muslims, and do acknowledge God, the Qur'an, Islam, Ḥaḍrat<sup>1</sup> Muḥammad (ṣ), Ḥaḍrat 'Alī ('a), and the Imām of the Time (may Allah, the Exalted, expedite his glorious advent), we should hold in high esteem the spiritual, eternal and otherworldly values.

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<sup>1</sup> Ḥaḍrat: The Arabic word *Ḥaḍrat* is used as a respectful form of address. [Trans.]

The lawmakers have to observe the spiritual and divine interests while the Islamic government has to prevent that which is harmful to the spiritualities of human beings, otherwise we will follow the Western culture. The law should not only facilitate the bodily health, subsistence and other material welfare of human beings, prevent anything that creates disorder and crisis in the society, and put on check any action that threatens the economic interests and security of the people. Instead, the law should take into account the spiritualities as well.

We have two options before us: We have to accept either the Islamic law or the Western law. Of course, in these two options there are intermixtures and intersections. They are the manifestations of the statement of the Commander of the Faithful ('a) who says:

يُؤْخَذُ مِنْ هَذَا ضِعْفٌ وَمِنْ هَذَا ضِعْفٌ فَيَمْرُجَانِ

“Something is taken from here and something from there and the two are mixed!”<sup>1</sup>

They take something from the Islamic culture and yet another from the Western culture and this constitutes the asymmetrical combination. Certainly, Islam does not accept such an approach, and in reproaching it the Qur'an states:

﴿ إِنَّ الَّذِينَ يَكْفُرُونَ بِاللَّهِ وَرُسُلِهِ وَيُرِيدُونَ أَنْ يُفَرِّقُوا بَيْنَ اللَّهِ وَرُسُلِهِ وَيَقُولُونَ نُؤْمِنُ بِبَعْضٍ وَنَكْفُرُ بِبَعْضٍ وَيُرِيدُونَ أَنْ يَتَّخِذُوا بَيْنَ ذَلِكَ سَبِيلًا \* أُولَٰئِكَ هُمُ الْكَافِرُونَ حَقًّا... ﴾

<sup>1</sup> Nahj al-Balāghah, Sermon 51, <http://www.al-islam.org/nahjul>.

*“Lo! those who disbelieve in Allah and His messengers, and seek to make distinction between Allah and His messengers, and say: We believe in some and disbelieve in others, and seek to choose a way in between; such are disbelievers in truth.”<sup>1</sup>*

Today, there are also those who want to mix some elements of Islam with some elements of the Western culture, and present it to the society as the “modern Islam”. These individuals do not believe in Islam. If he only believed in Islam, he would know that Islam is a totality whose demands he should definitely accept. I cannot claim that I do accept Islam, but I do not accept some of its demands. Therefore, our affair in legislation and in setting limit on freedom is situated between the two, one of which we have to choose. We have to regard either the material and worldly threats, or both the material and spiritual threats as the criterion in setting limit to freedom. If we accepted the first we thus accepted the atheistic Western culture, but if we accepted the second, it follows that we accept the divine and Islamic culture. The farther we are from that polar (the first) the nearer we become to Islam. In any case, these two have no total concordance because as far as material interests are concerned, both Islam and the atheistic Western culture state that they must be pursued. For example, both the two cultures state that the hygienic orders must be observed. Yet, as far as spiritual affairs are concerned, difference arises.

When only the material interests are considered, a small circle of the limitations is set before the freedom of man; however, when we added the spiritual values, another circle will be added to the first circle, and two aliquot circles emerge. As a result, the circle of limitations is wider than the circle of

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<sup>1</sup> *Sūrah an-Nisā'* 4:150-151.

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freedoms. When we say that the freedom accepted in religion is not like the freedom in the West bespeaks of it. That is to say that it is on this account that spiritual interests must be observed. We cannot be like the Westerners who are unrestrained and unfettered. We have to observe the set of other values related to the spirit, true humanity and eternal life of man. But the Western culture says that these values are not related to the social laws. Government and state laws revolve only around the axis of material affairs of society and their opposite are related to ethics, which have nothing to do with the state. Once it is said that the sanctities of religion are in danger the government official will say,

It does not concern me; my duty is to protect the material interests of the people's lives. Religion is related to the seminaries and the *ākhūnds*;<sup>1</sup> they themselves have to go to protect them (religious sanctities). The government has nothing to do with these issues.

But if the government is an Islamic one, it says: "Religion first, then the world".

***The Preeminence of the Spiritual and Religious Interests over the Material Interests***

If we were put in a situation wherein we have to choose between two options: that with economic progress our religion will receive a blow, or that we would advance in religion while our economy would be arbitrarily affected to some extent—which option will we choose? We believe that the advancement of Islam also guarantees economic progress, but in a long-term

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<sup>1</sup> *Ākhūnd*: a word of uncertain etymology that originally denoted a scholar of unusual attainment, but was later applied to lesser-ranking scholars, and then acquired a pejorative connotation, particularly in secularist usage.

program provided that it is implemented perfectly. Nonetheless, sometimes it is possible that in a short-term it would negatively affect the economic interests and put individuals in a difficult situation. Now, if the situation would be such, which one has preeminence over the other—religious interests or worldly interests? It is clear that the religious interests are preminent, as it has been stated, thus:

قَانَ عَرْضَ بِلَاءٍ فَقَدَّمَ مَالَكَ دُونَ نَفْسِكَ،  
قَانَ تَجَاوَزَ الْبِلَاءَ فَقَدَّمَ مَالَكَ وَ نَفْسَكَ دُونَ دِينِكَ

If your life is in danger, sacrifice your property for your life. If the situation were such that you have to choose between life and property, you have to sacrifice your property for your life. If the situation were such that you have to choose between life and religion, between remaining alive in unbelief and being slain while having faith, you have to sacrifice your life and property for the religion.<sup>1</sup>

At this point, if man is killed, there is nothing wrong.

﴿ قُلْ هَلْ تَرَبَّصُونَ بِنَا إِلاَّ إِحْدَى الْحُسَيْنَيْنِ... ﴾

“Say: Can ye await for us aught save one of two good things (death or victory in Allah's way)?”<sup>2</sup>

What is wrong with a person who will be slain in the path of his religion? He will directly go to heaven. But if supposedly he would live having without religion for another hundred years,

<sup>1</sup> *Sharḥ Nahj al-Balāghah Ibn Abī'l-Ḥadīd*, vol. 8, p. 25.

<sup>2</sup> *Sūrah at-Tawbah* 9:52.

what is the benefit except that day by day his suffering will increase? Thus, from the viewpoint of Islam, religious and spiritual interests are better than material interests. Therefore, apart from observing the spiritual interests, the law has to give priority to them.

### **The Natural Law School**

From the foregoing discussions, the viewpoint of Islam regarding freedom and difference with the Western culture was clear, but owing to the reputation of the 1948 UN Universal Declaration of Human Rights, it is only proper for us to examine closer the substance of this declaration on freedom and to know its relation to Islam.

Anyone who is acquainted with the philosophy of law knows that one of the schools on the philosophy of law is the natural law school. Since time immemorial, from the time philosophy was conceived, some have engaged in this discussion.

Some philosophers of the ancient Greece believed that human beings have a right, which has been endowed by nature to them and no one can deny that right because human nature has warranted it for individuals. On this account, they have arrived at some conclusions, which are themselves not harmonious with one another. It is at this juncture that one of the famous fallacies on the philosophy of law has emerged, which is known as the 'naturalist' fallacy. Some have said that man has multiple natures. For example, white man accordingly has a certain nature while black man has presumably a different one. The blacks are assumed to be physically stronger while mentally weaker than the whites. Similar to this view has been quoted from Aristotle. (One should not make a mistake about it. I personally do not accept these views; I am just quoting them.) He says that since the blacks are physically stronger, the only work they are supposed to do is physical labor. Since the whites are mentally stronger, administrative jobs of the society must be entrusted to

them. In sum, some human beings have been created to render services to other human beings. As such, slavery is a natural law. As of the moment we prefer not to engage in the discussion of whether or not the nature of the blacks has such a standing. It is itself a lengthy discussion for which we will need more time.

In any case, the most rational, sensible and wholesome subject on the natural law ever been discussed throughout history is that if there were something called natural need of all human beings in general, then it must be met. Man must not be deprived of the general need of his nature. Up to this point, this subject is acceptable. We also believe man must not be deprived of those natural needs of him, and naturally, of all human beings. Yet, the question is this: What is meant by this need? It is the nature of man to be in need of foodstuff; all human beings are in need of food. Therefore, no man must be deprived of eating food. He must not be deprived of speaking; that is, his tongue must not be cut off, or to let him take a medicine that would deprive him of speaking, or similar other acts. Nonetheless, it must be noted that they have particular aims in bringing out this kind of topics.

#### ***The Limit of Human Rights in the West***

You know that in the recent period an issue called the (Universal) Declaration of Human Rights was brought up.

At the outset, this declaration was signed by the representatives of 46 states. Then, later on, other countries joined them by signing the same, and as a result, the declaration became a “universal” declaration. In this declaration, rights for man have been enumerated such as the freedom of expression,<sup>1</sup> freedom on the choice of residence,<sup>2</sup> freedom on the choice of occupation,<sup>3</sup>

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<sup>1</sup> Article 19 (Freedom of opinion and information). [Trans.]

<sup>2</sup> Article 13 (Right to freedom of movement and residence in one’s own country and to leave and return at will). [Trans.]

<sup>3</sup> Article 23 (Right to work and fair pay for work). [Trans.]

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freedom on the choice of religion,<sup>1</sup> freedom on the choice of spouse,<sup>2</sup> and others.

Concerning this declaration, there were discussions raised by legal experts who were familiar with the philosophy of law (Muslim legal experts in particular). Among these discussions are the following: What is the philosophical foundation of the subjects you are discussing as the rights of human beings, regarding them as absolute and believing that no one should limit them? What arguments are there in their favor? Is there a specific bound and limit, or not? Are these rights absolutely above the law, and that no law is authorized to set limit on these rights? Is there not any law permitted to determine the limit of the freedom of expression? Is there not any law permitted to impose limit on the freedom to choose one's spouse? Is there any law allowed to state that you have no right to choose your residence beyond the established limit? Is there any law permitted to determine the specific bound of these rights?

When we say that such and such a subject is a natural right and natural need of man, does it mean that this right has no limit and bound? If there is a limit, who is the one determining its limit and bound. The truth of the matter is that as far as I know, most of the authors of the declaration themselves and those who have interpreted it have avoided giving succinct answers to these questions.

Finally, what is meant by saying that freedom is above the law? Are there freedoms, which no law has ever been authorized to impose limitation? Are we not supposed to ask, "What is the end point of this freedom"? Does freedom of expression mean that anybody can say whatever he wants to say?! We can observe that no country has ever granted such permission. In fact, every country is of the opinion that freedom of expression has limit

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<sup>1</sup> Article 18 (Freedom of belief and religion). [Trans.]

<sup>2</sup> Article 16 (Right to marriage and protection of family). [Trans.]

and boundary. For example, insulting the personality of individuals is unacceptable in all parts of the globe.

***The Emergence of Contradictions on the Limit of Freedom***

The question on the limit and boundary of freedom and on who determines it has a general answer, and that is, once it is said that freedom is above the law and should not be limited, it is referring to the legitimate freedoms. Some have also said, “Legitimate and rational freedoms,” while others have also added other descriptions. In some paragraphs of the Human Rights Declaration the expression “moral” exists, which focus on the observance of rights along with the moral standards. These paragraphs more or less contain ambiguous concepts. It is obvious that what they meant by “legitimate” is not that a religious law such as that of Islam has prescribed it as such. It is true that linguistically speaking, the words *mashrū’* [legitimate] and *sharī’ah* [religious law] have the same root. However, *mashrū’* [legitimate] in the legal and political context means *qānūnī* [legal] and that which is regarded by the government as authoritative and valid [*mu’tabar*], and not that it is definitely religiously permissible. This subject should not confuse some of the believers, and mistakenly supposed that when we say legitimate rights or legitimate freedoms, what we mean are those determined as such by the Islamic law. Instead, what are meant by “legitimate” are the legal [*qānūnī*], and authoritative and valid [*mu’tabar*] laws [*ḥuqūq*], while “illegitimate” [*ghayr-e mashrū’*] are affairs that are infringement on the rights of others.

But this question arises: Which are the legitimate and rational rights and which are the illegitimate and irrational ones? Who are supposed to determine them? There is no option but to give this reply: The law determines the details and limits related to freedom, and it is exactly here that the initial contradictions and inconsistencies can be detected. On one hand, they are saying that these rights and freedoms are above the law and that

no law is supposed to limit them. But when we inquire as to whether freedom is absolute or limited, they say that it is not absolute. Since they cannot offer a correct answer, they say that what they are referring to are the legitimate freedoms. We are asking, "What is meant by 'legitimate'?"

They reply that "legitimate" is anything that the law has approved. It is this law that determines the limit of freedom. You are saying that these freedoms are above the law. In reply they would possibly say that all human beings and rational individuals know what is meant by legitimate and rational freedoms. We will say to them that if all people and rational individuals know a certain subject, dispute concerning it is therefore inconsequential because we and all Muslims of the world who constitute a population of over a billion people of the world, are among the rational ones. And they can say that in Islam some forms of freedom have been recognized, and they acknowledge and accept some forms of freedoms and do not recognize some others. In the end, keeping in view of the knowledge and research that we have, this question has remained unanswered. The philosophers of law have no categorical answer as to what thing sets limits on freedoms.

***The Realm of Freedom in the Human Rights Declaration***

What the commentators of the Human Rights Declaration and philosophers of law have written in books on the philosophy of law about the limitation of freedom are some items. The first thing that has been brought up as the one setting limit on the individual freedoms is the freedom of others. That is to say, an individual is free as long as he does not disturb the freedom of others and does not infringe on the rights of others. This is the most important argument that the philosophers of law have ever advanced and they have insisted it. In fact, in the Human Rights Declaration, which is like the gospel of the Western law philosophers, it has been emphasized that any person is free so

long as his freedom does not interfere with that of others. However, if the freedom of a person would create disturbance for others, then he is deprived of such a freedom. And it is at this point that freedom is limited.

At this juncture, many questions can be posed, among which are the following: Firstly, in which areas and categories do you conceive of disturbance on the freedom of others? Are spiritual affairs also included? Is opposition to the religious sanctities of people equivalent to opposition to their freedom, or not?

The Western liberal thought states: The limitation of freedoms does not include spiritual affairs, and opposition to the spiritual affairs does not impose limit on freedom. Thus, when it is said that Islam regards the one who insults God, the Prophet (ﷺ) and the sanctities of Islam as an apostate [*murtad*], and for instance, declared permission the killing of Salman Rushdie for acts of blasphemy against the sanctities of Islam, it does not accept and states that it is free to express one's opinion. He is an author and he can write whatever he wants to write; you can also write whatever you like. Our question is this: Are the subjects of this book (*The Satanic Verses*) not an insult on the sanctities of others, or not? Certainly, you cannot say that they are not an insult.

Is freedom of expression so broad that a person on that part of the world could afford insulting the sanctities of over a billion Muslims who love their Prophet (ﷺ) more than they love themselves and are ready to sacrifice hundreds of their loved ones for his sake? Do they consider this act as freedom of expression?! If what is meant by freedom of expression in the Human Rights Declaration is such a thing, then we straightforwardly and unhesitatingly do declare that we do not acknowledge this declaration.

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***The Problems of Categorizing Freedom in the West***

Our fundamental question to those who consider as valid this declaration and regard it as equal to the venerable gospel is this: From where has this declaration gained validity? Has it rational basis? In this manner, you have to argue with reason. It cannot easily be said that freedom is above the law and it cannot thus be limited. If you say that it earned validity as the representatives of countries have signed it, then it becomes clear that its validity depends upon our signature. Now, what about those who have not signed this declaration, or have signed it on conditional basis? Are they also obliged to unconditionally abide by it?

Every society has a particular culture, things considered sacred, and laws, and in one of the provisions of this Human Rights Declaration it is stipulated that every person is free to choose his own religion. Well, once the person chose his own religion, he is supposed to observe its decrees. Choosing one's religion does not only mean that he has to merely utter so but rather in action he has to be free as well, and to freely observe the precepts of his chosen religion.

Now, we freely chose Islam; Islam states that anyone who insults the holy personages of Islam is sentenced to death. The Western culture states that these decrees of Islam are against human rights, against the natural rights of human beings. It is because every human being, on account of his natural need, has the right to say whatever he likes. Therefore, these two items (freedom of expression and religious freedom) stipulated in the Human Rights Declaration are contradicting each other.

