

Summary of 9.8 "Al-Shura and Decision Making Process"

We mentioned that mutual consultation or Shura is a very important principle in Islamic government and the necessity of Shura is amply proven in the Quran and Prophetic sayings and behavior as well as the actions of the rightly guided Caliphs. We also indicated that the scope of Shura should include all issues of public interest but necessarily every minor administrative decision. However we said that if the administrative decision is of importance and magnitude that it requires Shura or consultation. We also indicated that the results of Shura becomes binding on the ruler or else it would become a mockery on the ruler to consult and not to take the opinion especially regarding significant issues. The mechanisms used for the implementation of Shura could vary depending on the issue and depending on the circumstances. It could be a form of public referendum just like what used to take place in the Mosque of the Prophet during the early days of the guided Caliphs. This could also take place in a representative assembly. In some cases consultation may be held with the experts who have experience with technical matters which would still be subject to approval from the representative council.

We also discussed the cases where there are differences of opinion between the head of the State and the council and different possible ways for resolving that conflict. Finally, we discussed the possibility of removal of the head of State if people are not satisfied with his performance especially if he is committing a grave act against the Quran and Sunna.

One thing I did not mention last week is that in Islam the ruler is a little different from rulers in democracies. In democracies the ruler is essentially accountable before the representative council, in Islam he is above all held responsible before Allah in terms of his own conscious and seeking the pleasure of Allah while not disobeying Him. Second, he is responsible before a representative council who could possibly remove him from office. Third he is responsible before any members of the public in his community. They can stop him in the street as with the guided Caliphs and his responsibility and accountability is not only with administrative decisions but also his own moral behavior as an individual. There is nothing that is private because he should be a good model and example for the Muslims. In that sense it is an even wider and graver responsibility.

### 9.9 ♦ ♦ Guiding Principles in Government

**Host:** How is justice in government viewed in the political system of Islam?

Jamal Badawi:

As a principle it applies to the political system as well as other areas at an individual level. In the Quran in (57:25) which showed that the whole objective of sending Messenger or Prophets and sending revelation with them is not just a spiritual matter but also so that people stand up for justice. The Quran emphasizes the same principle in numerous places. In (16:90) Allah commands justice, the doing of good. In (4:58) And when ye judge between man and man, that ye judge with justice. In (6:152) it says Whenever ye speak, speak justly, even if a near relative is concerned. In realization that some people are bias towards people who are not totally like them the Quran warns in (5:9) Let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear Allah. Oppression and injustice is condemned in the

Quran as much as justice is commended. ♦ In the Quran in (26:227) emphasizes that one of the reasons of the destruction of nations in the past was that they were oppressive. ♦ The Prophetic sayings follow the same line. ♦ In one famous saying of the Prophet which is narrated in Bukhari and Muslim he indicated that among the seven categories of good people who would be under the shadow of Allah's protection on a day where there is no protection but His: is a just ruler. ♦ The Prophet also warned as narrated in Muslim that oppression is like darkness. ♦ In both Bukhari and Muslim he says that God near the unjust or oppressor but when He takes him He would give him severe punishment. ♦ As a principle it is greatly emphasizes that justice in general and clearly justice in government is an important part of the implementation.

**Host:** ♦ Can you elaborate on the levels of implementation?

Jamal Badawi:

On the family level there is implementation of justice during an engagement, marital relationship, marital contract, rights and duties between husband and wife, the protection of duties and justice in the case of divorce or desolation of marriage, rights of children and relatives which was all covered in the social system of Islam as part of the family structure. ♦ It could be justice in individual relationships not only with family but with the people around a person and justice in neighborhoods. ♦ In the Economic System of Islam we saw how people are responsible in any particular neighborhood if one of them spends the night while hungry. ♦ At the level of the State we saw that it entails ruling with justice and fairness and to provide the basic needs of people regardless of whether they are Muslims or non Muslims. ♦ It is also justice on the world by fighting oppression and tyranny wherever they are practiced and try to liberate people (not conquest) so that they have their basic freedoms. ♦ In this particular sense there is no exception for anyone, rulers and the people ruled. ♦ In Islam the ruler doesn't have any special immunity and is subject to the same laws as everybody else. ♦ There are no exceptions for a person just because they come from a rich or noble family. ♦ Actually one of the warnings that Prophet Muhammad made in a saying was that ♦ One of the reasons of the decline of nations before you is that when a person who is rich and noble commits a theft and they let him go and when a poor steals they apply the penalty.

**Host:** ♦ Could you explain the quality of justice in a truly Islamic State?

Jamal Badawi:

In the beginning of the Social System of Islam there are more details on that. ♦ Islam emphasizes the origin of human equality. ♦ As the Quran explains in (4:49) that all human beings come from the same origin, same parents, all share the same basic human nature and all human beings are going to die, all of them are going to stand before Allah on the day of judgement to give account. ♦ In that sense the view of Islam is more universal in terms of fundamentals of human equality. ♦ In (49:13) ♦ O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things). ♦ ♦ The Prophet (PBUH) also emphasized the same meaning and he said that God has relieved you from the fanaticism of Jahilia or the days of ignorance prior to Islam and of its pride in ancestry. ♦ A person could be a pious believer or a wicked person, they are all the children of Adam and Adam was created from dust. ♦ This saying was

narrated in Al Tirmithi and Abu Dawood. ♦ One can add here that with this broader expression of equality, not only are people equal because they belong to one religion or faith but it is equality which involves Muslims or non-Muslims who are under the protection of an Islamic State. ♦ It involves equality before the laws and the courts of the law.

**Host:** ♦ Is there freedom of religion in an Islamic State?

Jamal Badawi:

Yes it is. ♦ This is part of the amalgam of freedom that Islamic Law guaranties, which is the situation when any government truly and sincerely implements Islamic Law. ♦ I would like to put the freedom of religion in a broader category called freedom of conscious because this involves freedom of religion and freedom of expression. ♦ As far as freedom of religion this is something that the Quran confirms over and over again. ♦ In the Quran in (2:256) ♦ Let there be no compulsion in religion. ♦♦ Islam by definition is a voluntary and conscious submission to the will of God. ♦ It is illogical to say that one has to believe. ♦ As much as freedom of religion is emphasized there is the same emphasis on the respect of religion. ♦ This is why turning away from truth and belief in the supremacy of God after the person had accepted religion, especially if it is done publicly and in a way that causes descent and as legal manipulation to take advantage of personal law, which varies between Muslims and non-Muslims, by causing commotion in a society or by disturbing public order. ♦ Within the reasonable boundaries of respect of religion freedom of religion is greatly emphasized. ♦ This doesn't only include the freedom to believe but also the freedom to practice. ♦ As the Quran puts it in (10:99) ♦ If it had been thy Lord's will, they would all have believed, - all who are on earth! wilt thou then compel mankind, against their will, to believe! ♦♦ This means that we can not force people to be believers. ♦ Another verse in the Quran says that the Prophet was only sent as a reminder and not as a guardian over them. ♦ Fundamental religious freedom is clearly inshrined in the Quran and Prophetic sayings.

**Host:** ♦ Can you explain freedom of expression?

Jamal Badawi:

Freedom of expression is not only regarded as a right but as a duty and obligation. ♦ In fact the Quran speaks of the collective duty of Muslims to ordain the good and forbid the evil. ♦♦ In the early part of the Social System of Islam under the topic of social responsibility there were much more detailed discussions of that issue. ♦ The Prophet as narrated in Muslim said that ♦ If anyone of you sees something indecent, unjust and improper let him try to change it by hand, if he can not change it by hand he should try to change it with his tongue (can be written or spoken word) and if he is not able to change it let him at least feel bad about it and change this act in his own heart. and this is the least of faith ♦♦ Details were discussed as to how exactly to do it and under what circumstances would any of these meanings be used.

More specifically the Prophet indicated that Aldeen Al Naseeha which means that true religion is sincerity and advise. ♦ When they asked him sincerity to whom he said sincerity to Allah, sincerity to the Prophet and sincerity, advise to all Muslims in public and private and people in power. ♦ This is why we find that Omar, the second Caliph after the Prophet, addressed the people and said ♦ If you see anything improper in me as a ruler please correct me. ♦♦ A person who was listening said ♦ Omar if we find wrong actions on your part we will correct it even with our swords. ♦♦ Omar replied ♦ There is no good

in you people unless you feel free to criticize and there is no goodness in us if we don't listen to your suggestions and criticisms. ♦♦ This is what true and true and committed Muslims have always practiced. </span></p> <p><span style="font-family: verdana, geneva;">During the time of Ali, a great Muslim, there was a group who deviated and were called Khawarij and they had a very hard assessment of Ali. ♦ Some of them considered him to not be a good believer and slandered and attacked him. ♦ Despite all of that, despite of their call for rebellion against the government and all of the verbal assault Ali never arrested them. ♦ He simply told them that he was not going to initiate any fight with them unless they start first and unless they make corruption on earth. ♦ Otherwise they were cursing him and he left them alone, until they they did something that was punishable by law. ♦ This took place during the 7th century of the Christian era not in the 20th century. ♦ Of course the question of freedom, like in any other place should not be used to slander others and accuse or attack them unfairly. ♦ Freedom of expression doesn't mean the freedom to spread corruption and it has to be within general decency while respecting the rights of others, public order and security of the state.</span></p> <p><span style="font-family: verdana, geneva;"> </span></p> <p><strong><span style="font-family: verdana, geneva;">Host: ♦ How is personal freedom guaranteed in Islam?</span><span style="font-family: verdana, geneva;"> </span></strong></p> <p><span style="font-family: verdana, geneva;">Jamal Badawi:</span></p> <p><span style="font-family: verdana, geneva;">Many people think that the best document in recent times, about personal freedoms goes back to 1919 in the Magnakarta which emphasizes the right of people to have their freedom and that they would not be arrested arbitrarily without charge or a court order. ♦ In fact this principle goes back farther than 1919, it goes to the 7th century in the Christian era. ♦ There was a case when a person was arrested or detained in the time of the Prophet (PBUH) and somebody came to complain and ask by what guilt that person was taken and the Prophet kept quiet, the person asked a second time why the person was detained and again the Prophet kept quiet, the third time the question was asked the Prophet kept quiet for a while and then ordered his release. ♦ This means that whomever made the arrest was given three chances to come forward to come forward and give a reason for the arrest (because this played out in the Mosque). ♦ Since there was no particular charge he ordered his release. ♦ If we changed this situation to a court room it would be exactly like what happens today where someone can only be detained for so many hours and without a specific charge a person must be released. ♦ This is referred to in legal terms as hiatus corpus. </span></p> <p><span style="font-family: verdana, geneva;">As the Quran mentions in numerous places in (17:15) ♦No bearer of burdens can bear the burden of another. ♦♦ As we know in previous points in history a person could be punished for the guilt of his father and the reverse but in Islam no one pays for the crime or mistake committed by anyone else. ♦ This freedom also involves the freedom of movement. ♦ Some jurists refer to the verse in Quran (67:15) where God speaks that he created the earth for us to walk in the expanse of the earth and seek His provision and as such nobody has the right to impose any restriction on one's freedom of movement. ♦ Except in exceptional cases of warfare when people are told not to go through the land of the enemy. ♦ Other than this people should be free to move and live where ever they want. ♦ It is unfortunate that in our age in the 20th century there are places with totalitarian regimes in the Eastern block where people may not have the freedom to move. ♦ Freedom also involves the right to privacy. </span></p> <p><span style="font-family: verdana, geneva;">The Quran says ♦No bearer of burdens can bear the burden of another. ♦ (24:27) ♦It was said that Omar once knew that some people were drinking, which was a violation, so he climbed over the fence and caught them. ♦

One of them said ♦ Yes we are doing wrong and drinking but we did one thing wrong and you did three things wrong. ♦♦ He asked what he did wrong and the man answered that the man answered ♦ that the Quran says that you should take permission and you didn♦t take permission, the Quran says you should come from the proper doors and you didn♦t and third the Quran says don♦t spy and you spied on us. ♦♦ Omar had no choice but to say alright there is no punishment for this. ♦ All of these show the nature of personal freedom. </span></p>  
<p><span style="font-family: verdana, geneva;"> </span></p> <p><span style="font-family: verdana, geneva;"><strong>Host: ♦ Is there anything else you want to add to the aspect of freedom?</strong></span></p> <p><span style="font-family: verdana, geneva;">Jamal Badawi:</span></p> <p><span style="font-family: verdana, geneva;">Yes, in our discussion in the Economic System of Islam it was emphasized that the freedom of work in any profession so long as it is not forbidden to all because of its immorality like pornography or prostitution, any person can choose a job or profession that he or she prefers. ♦ It was also indicated that learning is not only a right it is a responsibility and duty on people. ♦ The general liberties which relate to human dignity are all based on a verse in (17:70) where God says ♦ We have honored the sons of Adam. ♦♦ When it says the children of Adam it means everybody.</span></p>