Question:

The Concept of Freedom in the Nahjul Balaghah (part: III)

Author(s): Prof. Waheed Akhtar
Answer:

(A) Non-Muslims’ Rights:

As the Qur’an has taken special care of non-Muslims in the matter of their legal rights, it accords them full freedom in the matters of faith, economic activity, property, social security, and the preservation of their culture and traditions.

1. Muslims are commanded to observe the conditions of their pacts and treaties made with non-Muslims and never to violate them (al-Ma'idah 5: 1; al-Nahl 16: 91; al-'Ahzab 33: 15; al-Tawbah 9: 4 and 7; Banu Isra'il 17: 34; al-Baqarah 2: 177; al-Ra'd 13: 20; al-Muminun 23: 8 and 9; al-Ma`arif 70: 32).

A general principle is laid down that keeping of promises and fulfilling pacts is a sign of a Muslim. This rule includes pacts with non-Muslims also. Ali (a.s) included non-Muslims also among the common citizens paying taxes or tribute (jizyah).

Regarding pacts with an enemy, he advises Malik al-'Ashtar:

"If your enemy invites you for a treaty that will be acceptable to the Lord, then never refuse to accept such an offer. Be very careful, never break your promises with your enemy, never forsake the protection or support that you have offered to him, never go back on your words and never violate the terms of treaty. You must risk even your life to fulfill the promises given and the terms settled. Because of all the obligations laid by the Mighty Lord upon man there is none as important as the keeping of one's promises... Even the heathens take care to keep promises made among themselves... Deception and fraud against your enemy is deception against God. Let there be no ambiguity in them (pacts); do not try to take advantage of any ambiguous word or phrase in an agreement... Beware of the sin of shedding blood without religious justification and sanction, because there is nothing quicker to bring the wrath of the Lord..." (40)

In the same letter, he writes: "Remember Malik that among your subjects there are two kinds of people: they are either your brethren in the faith or likes of you in nature and creation. They may have failings and faults and commit slips. They may act wrongfully either willfully or by neglect. So extend to them your forgiveness in the same way as you would like God to extend His forgiveness to you..." (41)

The rights of non-Muslims living in a Muslim State are covered by the above instructions; their lives are to be protected and their bloodshed is prohibited. Verse 58 of al-'Anfal and verses 90-94 of al-Nisa' encourage Muslims to accept any offer of peace by non-Muslims with the Divine promise that if they intend to deceive, God will protect Muslims.

2. Muslims have to take care of the dhimmis, i.e. non-Muslims under the protection of a
Muslim State according to a dhimmah pact. A dhimmi is free to abide by the dhimmah pact or to leave the Muslim State. There is no compulsion. Al-'Allamah al-Hilli holds that this pact is not binding on a non-Muslim forever. (42)

This is a bilateral pact. The Jews, Christians and Zoroastrians are covered by this pact, but the Sunnis include all other non-Muslims also under the pact of dhimmah. The pact made with the Christians of San'a' by the Prophet (s.a.w) and written by Ali (a.s), declared that all the Christians living in the east and the west, whether Arab or non-Arab, are covered by it; anybody who attacks them will be regarded as attacking Muslims, and if a Muslim violates it, whether he is an official or a commoner, he will be unfaithful to Islam.

According to it, Muslims were held responsible for securing the security of the Christians and were hound to defend them with their own lives. Dhimmis would not be liable to pay any other tax except the tribute they had willingly agreed to pay; their priests and churches would be safe; the priests would be exempted from paying jizyah; the rich among them and the traders would not be asked to pay any additional tax; none among them would be forced to fight in battle; they would be treated in the best manner; and anything that would cause them harm would be prevented. (43) Similar treaties with the people of Ila ('Aqabah) and Najran were also concluded. (44)

3. The dhimmis have to pay jizyah only, and are bound to abide by the Islamic laws pertaining to judicial matters and penal issues, which are applicable to all citizens equally. (45)

It means that the non-Muslims enjoy equality in legal affairs with Muslims. It was because of this right to equality that a Christian could rebut the Caliph in the court of justice, that too on false grounds, as described above.

Jizyah is a financial commitment on the part of the dhimmis in accordance with the Qur'anic injunction (al-Tawbah: 29). According to al-Shaykh al-Tusi, the amount of jizyah is not fixed; it may be fixed by Muslim rulers taking into consideration the yield of the lands of the dhimmis, or determined with regard to each individual's capacity. Amir al-Mu'minin (a.s) levied a tax of 48 dirhams on rich ones, 24 on middle class people, and 12 on the poor. (46)

Tribute is a term used for both jizyah and kharaj, which have been confused with each other. Jizyah is per head capitation tax, while kharaj is a collective land tax. If the one is levied, the other one is not collected. It was the second Caliph only who levied both the taxes simultaneously, which misled some Muslim fuqaha' and Orientalists into believing that both were collected from non-Muslims. (47)

In case a dhimmi embraced Islam, he was exempted from jizyah. Amir al-Mu'minin (a.s), in
his letter to Malik al-'Ashtar, directs him to be considerate in respect of the circumstances of the farmers in collecting land revenue, always keeping in view the welfare of the tax-payers. In his view more importance should be attached to the fertility of land than the collection of taxes, because the actual taxable capacity of people rests upon the condition of the land. He warns that a ruler who does not pay attention to the prosperity of his subjects and the fertility of land but concentrates only on the extraction of revenue lays waste the land, ruins the State, and brings destruction to the creatures of God, and his rule cannot last long. In case of natural calamities and vagaries of rain, drought and destruction of crops, the tax is to be reduced or, if conditions necessitate, totally exempted for the season. He also recommends providing all facilities to the farmers, for the best investment for a ruler is to help his subjects in times of difficulty.

It may be noted that it was mainly non-Muslims who were engaged in cultivation of land in those days, for Muslims were mostly employed in the army and the defense of the State. The lenience in collecting taxes is a means of winning the dhimmis' confidence and love, which in case of a crisis would prove to be an asset and source of strength for the ruler. Ali (a.s) wanted Muslim rulers to behave differently from the kind of rulers described by the Qur'an as those who bring devastation to the land and misery to the people (al-Naml 27: 34). The poverty of the people, in his view, is the actual cause of a country's devastation and ruin. Extraordinary conditions apart, in normal conditions too, certain categories of non-Muslim subjects were exempted from jizyah or kharaj, such as minors, the poor, old, disabled and insane persons. (48) Women are never required to pay jizyah. The married among them are entitled to all the rights of citizenship on the basis of their husbands' payment of the tax, while maidens are exempted due to their parents' and guardians' citizenship rights. Every treaty that levies jizyah on women is null and void from the Islamic viewpoint. (49) Besides natural or other calamities, in some other circumstances also non-Muslims are exempted from the payment of jizyah. These are: whenever Muslims feel they are unable to fulfill their obligations towards the dhimmis; whenever Muslims consider the exemption to be instrumental in creating and fostering better relations between the Muslim and non-Muslim communities; whenever Muslims are in need of seeking their active participation in war; and whenever any of them embraces Islam. (50) In most of the countries under Muslim rule jizyah was not collected at all; for instance, in India the majority of rulers, with a few exceptions, did not levy jizyah on non-Muslims. Aurangzeb Alamgir, the Moghal emperor, levied it in his reign, but it proved to be against the interests of the Muslim empire and counter-productive.
The dhimmis and other non-Muslims loyal to the Muslim State enjoy freedom of faith and worship. Their places of worship are protected. (51) They have usually received liberal grants from Muslim rulers. Though they have equal legal rights, they are free to refer their disputes to their own religious authorities. (52)

They are accorded all the rights granted to Muslim citizens, that is, the right to education and dissemination of knowledge, freedom of thought, the right to property, the right to engage in business, agriculture, industry, and any honorable activity. They are treated equally in social matters and are respected. (53)

Al-Sharif al-Radi composed elegies paying tribute to his friend and teacher, al-Sabi', an eminent Christian poet and scholar. Non-Muslims have been serving Muslim courts as ministers, administrators, accountants, secretaries, and ambassadors. They also excelled during Muslim regimes as scientists, physicians, teachers, men of letters, artists, businessmen, industrialists, bankers and so on. Even the secular democracies of today are unable to ensure all these rights and freedoms to their minorities.

Since the Muslim States could ensure these rights to their non-Muslim subjects, we seldom find in their history incidents of communal clashes and riots. The Constitution of the Islamic Republic of Iran states in article 23 of Chapter III: "The investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task for holding a certain belief". (54)

(B) The Rights of Slaves:

All medieval societies allowed slavery to continue in the interest of the ruling classes, but Islam discouraged it. As the historical conditions did not permit its outright abolishment at that time, Islam granted slaves human rights, which had been denied to them from time immemorial.

The Qur'an encouraged Muslims to emancipate slaves in such verses as: al-Baqarah 2: 177; al-Ma'idah 5: 89; al-Nisa' 4: 93; al-Mujadilah 58: 3.

The Prophet (s.a.w) also entreated all the Muslims to let slaves free, and himself did it. He appointed slaves to important positions and treated them equally. Though the institution of slavery continued in the Muslim world, but due to enjoying benefits of good education and respectable status many slaves rose to high posts and sometimes ruled over their past masters. The Turk slaves of the Banu Abbas could dictate their terms to the caliphs also. The founders of Ghaznawi and Ghawri empires were slaves.

Similarly the Khawarazmi rulers were descendants of slaves. In India, the first Muslim empire was built up by a slave of Shihab al-Din Ghawri, Qutb al-Din Aybak, who in his turn was succeeded by his slave, Iltutmush, and subsequently his slave Balhan was made the emperor
when Iltutmish's family came to an end. In South India (Deccan), the first independent
dynasty was founded by a slave of Muhammad Tughlaq, Ala' al-Din Hasan Gangu Bahmani.
Slaves were often married their master's daughters.
No other religion or law has treated slaves so respectfully. Practically, slavery was almost
abolished in the Muslim world when the newly civilized West was making the Africans slaves
and deporting them to America, where the Black Americans are still fighting for equal rights
and human treatment. South Africa is another example of the treatment of the Blacks, who
despite being the legitimate masters of the country and forming the majority are being
treated and persecuted in a manner worse than slaves.
The authors of the Universal Declaration of Human Rights commit all such atrocities against
free human beings. Islam bestowed freedom on slaves of the world fourteen centuries ago.
Slaves were the greatest beneficiaries of the Islamic declaration of human rights. It is
because of Islamic equality that peoples who were discriminated against on racial or other
grounds came to the fold of Islam.
(C) Women's Rights:
If one compares the status of women in the pre-Islamic societies of Greece, Rome, Persia,
Syria, India, and Arabia, one will acknowledge that Islam raised their position to a level that
they could claim equal rights with men in all spheres of life. Christianity regarded woman as
the source and cause of Adam's sin and his Consequent fall, and Arab paganism buried
daughters alive considering them to be the cause of shame.

Islam not only advocated equality of the sexes, but also the Prophet (s.a.w) set an example
of how to respect women by paying great respect to Khadijah (a.s) and Fatimah (a.s) in
particular and women folk in general. Polygamy and the Hijab are the butts of the West's and
the so-called enlightened East's criticism of Islam's treatment of women. The former, on the
one hand, was necessitated by social conditions, and, on the other, by the physiological
make-up of the two sexes. Promiscuity and free love in modern Societies point to this natural
need.
The Islamic Hijab does not imprison woman, but rather emancipates her in many ways. Islam
never approved confining woman to the four walls of the house and keeping her deprived of
the fruits of education. Jawahirial Nehru, in The Discovery of India, rightly points out that this
type of female confinement was the result of women being deprived of their freedom under
non-Islamic influences.
The West, which poses as the champion of women's equal rights, has granted them the
rights to property, separation and vote only recently. Syed Amir Ali, an eminent Indian jurist, wrote in *The Spirit of Islam* in the first decades of this century:

"Until very recently, even in England, a married woman possessed no rights independently of her husband. But the Teacher, who in an age when no country, no system, no community gave any right to woman, maiden or married, mother or wife, who, in a country where the birth of a daughter was considered a calamity, secured to the female sex rights which are only unwillingly and under pressure being conceded to them by the civilized nations of the twentieth century, deserves the gratitude of humanity". (55)

If the Muslim woman seeks to imitate the social role of her European sister, it will be nothing but a misconceived emancipation which shall land her in the evil mire of the capitalist system, which has reduced woman to a commodity and a sex-object for exhibition in the windows of supermarkets and reception rooms of high offices. On the contrary, Islam gave her the rights and freedoms which no system could grant her.

In Islam all the rights granted to men, with few exceptions, are also given to women. One exception is with respect to jihad, but women are expected to help men behind the war front by taking care of the wounded and doing similar important jobs. In the matter of marriage, women have the right to express their consent to marry a person and they are free to dissent. In divorce the right is given to man, but under certain provisions woman can initiate the legal proceeding to secure divorce. Woman's rights in Islam can be summarized as follows: Women are treated at an equal footing with men in all affairs: religious, educational, legal, moral and economic.

(a) In religious matters, obligations and rewards of women are the same as those of men (al-Nisa' 4: 1; al-'A'raf 7: 189; al-Ahzab 33: 35).

(b) In ethical matters, also, equality of the two sexes is maintained (al-Nisa' 4: 124; al-Nahl 16: 97).

(c) Regarding education, the Qur'an implicitly gives the same rights to women as are granted to men.

Similarly, the Hadith of the Prophet (s.a.w) making acquisition of knowledge obligatory upon all Muslims does not mention any sex; in fact, the Prophet commanded that even the slave girls be educated. As women are responsible for taking care of infants, they are supposed to have some knowledge of medicine and also of the art of helping in childbirth.

The Prophet (s.a.w) asked a lady to instruct his wife Hafsa hint Umar. Women also used to attend the Prophet's lectures. Because of this practice, a number of ladies from the Household of the Prophet (s.a.w) excelled in hadith and fiqh.
In the history of Islam, we find the names of a number of women who equaled most educated men in the religious sciences, arts, and literature.

(d) The legal and economic rights of women are also at a par with those of men. Islam ensured economic independence of women by giving them a share in parent's property (al-Nisa' 4: 7 and 11), and warning against depriving them of their inheritance (al-Nisa' 4: 19). A woman is entitled to hold and manage her property.

She enjoys the right to spend what she possesses and her husband cannot deprive her of her dower (mahr) (al-Baqarah 2: 229, al-Nisa' 4: 19-21 and 25), unless she voluntarily forgoes it as a gift (al-Nisa' 4: 24). If wronged, she is entitled to compensation just like a man, and if she commits a civil offence, the Qur'an says, her penalty is no less or no more than that of a man in a similar case (al-Ma'idah 5: 41; al-Nur 24: 2).

(e) In the marital contract, except in the case of divorce, she is given the same rights that are granted to her husband. The Qur'an explicitly commands men not to give women in marriage without seeking their consent (al-Nisa' 4: 19).

Even the right of an infidel woman is respected by the Qur'an, which commands Muslims not to violate the modesty and honor of the women of mushrikun (al-Mumtahanah 60: 10-11). In our highly advanced age, the troops of most civilized nations of the West deem it to be their legitimate right to violate the honor of women of the enemy, for chastity and dignity of woman have no value according to modern standards of culture and morality.

A Muslim woman also enjoys the right to choose her spouse of her free will. She is entitled to dower (mahr) in accordance with the marriage contract.

Though polygamy is permissible in Islam, the conditions of being fair and just to all the wives are so strict that practically it is discouraged. The third verse of al-Nisa' says that if you fear that you will not be able to do justice to more than one wife, he content with one wife only. . The conditions of justice to wives are laid down in verse 33 of al-Nisa'.

There are many verses in the Qur'an, which emphasize the sanctity of the home and the family and state the mutual duties and rights of husband and wife for the sake of safeguarding the family's welfare. Both of them are held responsible for the harmony of the family. In case of differences, the husband and wife are advised to settle them with the help of two arbitrators, one from each of the parties (al-Nisa' 4: 35). If it is not possible to live together, the provision to separation is open, but according to a tradition of the Prophet (s.a.w) divorce is the worst of permissible things in the eyes of God.

A woman is entitled to receive her expenses from her husband during the period of iddah, and a child born in this period belongs to the husband who is responsible for its expenses.
Even the much fussed about institution of temporary marriage, (mut’ah) is now being appreciated by some modern sociologists who consider it the best safeguard against promiscuity.

(f) Islam has also given political rights to women, as stated in the twelfth verse of al-Mumtahanah in the Qur’an. The women of Quraysh were given a right to take the oath of allegiance after satisfying them fully of the conditions of submitting to it. (56) By implication this verse gives women the right to vote, a right for which women had to struggle and wait till the twentieth century in the West.

Conclusion:
As elaborated in the beginning of the article, all human rights originate in man's freedom and are secured by the fulfillment of obligations in society as well as in a political set-up. A society, which gives more rights to its members, is to be considered freer than those, which either grant limited rights only or do not ensure that they are safeguarded.

In modern States, the ones, which claim to be open and free curtail constitutional rights one way or the other, and the ones that are based upon the sovereignty of the working class, deprive other classes of human rights. Furthermore, the latter, through indoctrination and regimentation of thought, transform human beings into machines.

The technocracy and bureaucracy of modern societies, both capitalist and socialist, are concerned with the material aspect of man and, consequently, dehumanize all social and human relations. Islam, on the other hand, ensures the fulfillment of both the material and spiritual aspirations of man by giving all sections of society equal rights and ensuring their execution and implementation by the State.

Thus Islam accepts the inherent freedom of man and its full utilization and development, and organizes its socio-political superstructure accordingly. The Islamic conception of human rights and its faithful implementation ensures greater freedom to all sections of humanity than granted in any other system.

If we study the views of the spiritual leaders of Islam, we will see how they disapproved of all acts of injustice and rejected all formulations that sought to deprive man of his freedom.

Reference:
41. Ibid, p.248.
43. Ibid., pp. 77-78.
44. Ibid., pp. 78-80.
45. Ibid., pp. 84-85.
46. Ibid., p. 108.
47. Ibid., p. 116.
48. Ibid., pp. 119-25.
49. Ibid., pp. 119-20.
51. Ibid., pp. 164-65.
52. Ibid., pp. 186-87.
53. Ibid., pp. 180-81 (right to freedom of residence), 178-81 (legal rights), 193 (right to trade), 196 (right to agriculture), 197 (right to economic freedom), and 202-3 (professional freedom).
56. Dr. Khaza'ili, op. cit., p. 60.

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