**Shariah Law, the West and the TTP**

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In Arabic, Shariah derives from a word meaning “the clear, well-trodden path to the water.” Sharia law is understood, interpreted and applied selectively in Muslim nations across the world. Sharia law is not a codified system in the modern world and where some aspect of it is applied, it is according to divergent traditions, cultural contexts and the role of Islam in government. The best example of this is Afghanistan under the present Taliban regime, where Pashtoonwali dictates the treatment of women, even though Sharia law is said to be the law of the land.

In today’s world, Sharia law has become infamous due to it being associated with ISIS and the Taliban. Less-known groups such as Boko Haram in Nigeria, Al Shabab in Somalia, JINM in Mali, the Islamic State of Uzbekistan and the TTP in Pakistan all clamour for the application of Sharia law.

However, none of the leaders of these movements have codified Sharia Law. JNIM in Mali, Al-Shabab in Somalia and Boko Haram in Nigeria were able to establish short-lived Sharia states and Afghanistan is a Sharia law state. However, none of these countries had devised a comprehensive Sharia Law framework. The primary reason for this is the lack of intellectual rigour in modern-day Muslims who claim to adhere to Islam.

Sharia Law is hence cloaked in mystery. Hollywood and social media video clips of the Taliban have led to gory iconography being associated with Sharia Law.

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Conservative politicians and commentators in the United States fear the day when legally enforceable Sharia law takes hold in the country. This is why when Sharia Law is cited in public discourse it evokes fear and resentment. Eleven US states have taken proactive steps, enacting laws that would prevent sharia from playing a role in U.S. courts. The American apprehensions are irrational, to say the least. I have twice mentioned in my previous columns that Sharia Law is the basis of the English Common Law, which in turn is the basis of the Constitution of the United States. The King of England Henry II in the 1260s transformed the English legal system by inculcating the provisions of Sharia Law in it.

The traditional theory of Islamic jurisprudence recognizes four sources of sharia: the Quran, sunnah (authentic hadith), qiyas (analogical reasoning), and ijma (juridical consensus). Herein lies the problem. The Quran and authentic hadith (Sihah Sittah) are uncontested and universally accepted sources of guidance and law-making. However, there are serious issues with Qiyas and Ijma. The Islamic clergy’s model of religious education is divorced from the modern secular system of education today, popularized as STEM (Science, Technology, Engineering and Mathematics). They are hence also unfamiliar with the disciplines of sociology, anthropology, psychology and social psychology.

Professor Akbar Ahmed conducted field research for his book Journey into Islam: The Crisis of Globalization. He interviewed sources at Deoband in India, Al Azhar in Egypt and all other prominent Islamic institutions of learning across the globe. Ahmed states how seminary students In Al Azhar read and memorize text from the thirteenth century before the fall of Baghdad in 1258. Deoband is no different. We can hence see why Islamic legal rulings or fatwas based on qiyas and ijma are archaic, inappropriate and often highly objectionable.

Sharia Law has application in personal, business, criminal, administrative and religious law.

Almost all Islamic states – with the exception of Turkiye – were former European colonies which achieved independence in the twentieth century and inherited the European system of government. For political purposes, most Islamic states have instituted Sharia law provisions in their legal system mostly in personal law which relates to marriage, inheritance and other individual matters. Some have amended criminal law to introduce provisions of Sharia Law. Pakistan is the best example of this. General Zia-ul-Haq in the 1980’s implemented the Hudood ordinance in the Pakistan penal code. This particularly unjust law is in contravention of the verses of the Quran. This is the best example of why Sharia Law is feared even by the educated Muslim citizens of Islamic states.

The TTP is fighting the state for the establishment of a Sharia Law state. The real goal of TTP’s leader Mufti Noor Wali Mehsud is to rule a primitive and lawless state, where only those who submit to his code and authority are accepted. This is why Uzbeks and even Koreans are living under the shade of the TTP – while the rest of Pakistan deserves death.

Verse 190 to 194 of Surah Baqarah permits to wage of war or defensive Jihad under certain conditions.

Unsurprisingly, these Quranic commandments are mirrored in the Western Just War Theory. This is so because the single greatest contributor to this theory is Saint Thomas Aquinas, one of the most influential figures in Western theological philosophy. He lived during the European dark ages and hailed from an aristocratic family of the erstwhile Islamic state of Sicily in Southern Italy. His writings are derived from the works of Ibn Rushd, Ibn Sina, Al Farabi, Al Ghazali and Ar Razi – the intellectual giants of Islam.

According to Just War Theory, there are two categories of justification for the use of force. Firstly, jus ad bellum is the right to go to war based on several criteria that must be met before the use of force can be considered justified. The criteria include A just cause; legitimate authority; right intention; war as the last resort; the use of proportionate force; and probability of success.

Then there is Jus in Bello, which refers to the right conduct of war, and it includes several principles which include: Distinction between combatants and civilian objects; proportional use of force with no harm to civilians or civilian objects; a necessary military objective; and fair treatment of prisoners of war.

Geneva and Hague’s conventions have been derived from the works of Western philosophers, intellectuals and lawyers mainly based on Thomas Aquinas’s theoretical framework. Geneva and Hague’s conventions are perhaps the best example of how qiyas and ijma should be derived. This methodology is how Sharia Law ought to be codified. After 9/11, the Just war theory has become a popular topic in International Relations, Political Science, Philosophy, Ethics, Military History and Military Ethics courses. This theory was the reason why a fig leaf was a moral imperative for all US invasions. In Iraq they were going after WMDs, in Afghanistan, they were going after OBL, in Syria, they were going after President Bashar al Asad, who was gassing children, and in Libya and Somalia they were going for humanitarian reasons and to establish democracy. In my April 7, 2023 column War is a Racket, I discussed how the American wars are only driven by realpolitik. However, the truth is certainly unbeknownst to the general public and to the soldiers – who are given a different narrative and code of conduct which conforms to the Just War Theory. The state puts strict restrictions on the media so that the truth does not get out. The truth only comes out when the likes of Julian Assange spill the beans.

Just like the US -a country it opposes -, TTP is also driven by realpolitik. Demands for Sharia Law implementation is a fig leaf. The TTP opposes Western constitutionalism. However, it is the American soldiers who conform to the Just War Theory, when they abide by a code of conduct during war. The TTP’s sociopathic foot soldiers have no such code to live by, hence they set female teachers on fire, kill school children and massacre policemen.

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