

Sir George Anderson

Professor Dr. Woolner

I well remember sitting in my office in New Delhi one afternoon in January 1936, when the telephone bell rang : "The *Statesman* office speaking ; we regret to inform you that Dr. Woolner died in Lahore this morning." I knew that Woolner had been very ill, but recent letters had given hopes that he had survived the crises of his long illness. The news came to me as a terrible shock. I realized at once that the University of the Punjab had lost its eminent Vice-Chancellor, that the world of letters had lost a learned scholar, that innumerable people, including myself, had lost a trusted friend.

After receiving his education at Ipswich and Trinity College, Oxford, Woolner came out to India as far back as 1903 as Principal of the Oriental College, Lahore, and as Registrar of the University. He served a long apprenticeship in the later capacity, and it was not until 1920 that he was appointed to the new post of Dean of University Instruction, when it became his difficult task to develop a scheme of university teaching within the cramping limits of an unreformed affiliating (Woolner always pronounced the word affiliating) University. His qualities and devotion to the University were somewhat tardily recognized, but he was appointed Vice-Chancellor in 1928 and continued as such until the day of his death in 1936.

A service extending over thirty-three years to a single institution is a long period in any country, but especially so in India, where changes in personnel are unusually abrupt and frequent. The actual length of his service was brought home to myself and to others on the occasion of the opening of the temporary quarters of the University Student's Union in a wing of the Council Hall when, to his evident delight and with due solemnity, Woolner unlocked the door of what had been his old home twenty-five years before and declared the building open.

During those long years Woolner served the University with

principles, rules and concepts which are needed to a perfect Shariah. Moreover, it has the quality of perpetuity. It is for all times to come. It is permanent and suitable to all times and ages. "The Quranic Law provides a complete scheme of life and an all-embracing social order—nothing superfluous, nothing lacking."¹

The principles propounded in the Holy Quran serve as model for the perspective legislation. The Quran is not a set of rituals but a complete code of life. It is a 'guidance' to the people. Its chief aim is to lay down a way of life which regulates the relationship of man with man and his relationship with God.

1. The Islamic Law, ed. Khurshid Ahmad, p. 19.

The Holy Quran does not give importance to the customs of the pre-Islamic period. There are verses in the Quran forbidding the people from the customs of their forefathers :

و اذا قيل لهم تعالروا الى ما انزل الله و الى الرسول قالوا حسينا ما وجدنا عليه
ابا لنا اولو كان ابا و هم لا يعلمون شيا ولا يهتدون

(104 : 5)

(And when it is said unto them : come unto that which Allah hath revealed and unto the messenger, they say : Enough for us is that wherein we found our fathers. What ! Even though fathers had no knowledge whatsoever, and no guidance ?)

The Quran repealed that customary law which is inconsistent with the Quran and Sunnah. Some of the customs were retained due to the tacit approval of the Prophet (سنت تقريره). The reason of this retention is that God is the Author of all laws. He is the Law-giver from the dawn of this universe. He sent His commandments to the people from time to time through His Messengers. Actually, some of these customs are revealed. Once they were the part and parcel of the Divine Laws. The concepts of sale (بيع) and usury (ربوا) for instance, were in vogue before the advent of Islamic period. The Arabs were familiar with these terms. That is why the Quran says :

احل الله البيع و حرم الربوا

(275 : 2)

(Allah permitteth trading and forbiddeth usury).

The Holy Prophet adopted these customs only which were prevalent among the Arabs. Some of them attained the force of law through his toleration or silence.

The Holy Quran is the basic source of Islamic legislation. "The science of Islamic jurisprudence", says Mr. Anwar A. Qadri, "is considered as an evergreen system, vigorous and vital in nature and future. It has a methodology out of which solutions for new problems of law in the light of changes in people's habits and modes of living can be drawn".¹ The Quranic legislation encompasses all the

1. Islamic Jurisprudence in the Modern World, p. 214.

Prof. Sheldon Amos, an orientalist, has asserted in his book 'Roman Civil Law' that there are only ten commandments in the Quran and no legal system can be based on them. In fact, there are more or less five hundred verses of commandments. Although most of them are about devotional duties yet the particular verses containing legal injunctions are not less than one hundred. These verses, embodying the legal element, have been collected and Muslim Scholars have written several commentaries on them such as 'Ahkam ul Quran' (احكام القرآن) by Allama Jassas (علامہ جصاص) and 'Tafsir-i-Ahmadi' (تفسیر احمدی) by Mulla Jivan (ملا جیون). It is very strange that the learned Professor could find only two commandments about marriage and divorce, i.e., number of talaq and number of nikah, but in reality various other injunctions such as talaq before and after the valid retirement, marriage with polytheists, injunctions of both 'Khula' (خلع) and 'Ila' (ایلا), etc., are dealt with in the Holy Quran. So far as 'Inheritance' is concerned, the learned Professor knows only the share of husband or male who gets double the share of a female. There is a full chapter of inheritance in the Holy Quran. Moreover, the shares of parents and Kalalah (کلالہ) i.e. a deceased leaving no parent or child to inherit, are explicitly provided. The law of retaliation (قصاص) and blood money (دیت), intentional murder (قتل عمد) and un-intentional murder (قتل خطا) is also provided in the Quran. The verse :

اطيعوا الله و اطيعوا الرسول و اولی الامر منکم

(59 : 4)

Obey Allah, and obey the messenger and those of you who are in authority.) is the basis of the Islamic Constitutional Law.

The non-legal verses of the Quran embodying the said reforms and morality have also provided the legal rules, for example, the verses regarding riba, sale, gambling and wine, etc. Mr. Ahmad Hasan says : "The Quranic quasi-legislation is not couched in purely legal terms. There is an amalgam of law and ethics. The Quran, in fact, addresses itself to the conscience of man. That is why the legal verses were revealed in the form of moral exhortation sometimes exhorting people to the obedience of God and occasionally instilling a keen sense of fear of God in the minds of Muslims.¹

1. The Early Development of Islamic Jurisprudence, p. 44.

The Quran contains various orders, injunctions and communications which embody the fundamental principles regarding devotional matters and transactions. It is the Book which is a Guide to religious and temporal affairs. The verses containing legal elements are chiefly in Sura Baqra, Aal-i-Imran, An Nisa, Al-Maida, At Talaq and Bani Israel. The Quranic legislation is based on human nature, reason and Divine guidance. It has complete uniformity in its past, present and future. It is a perfect and final code.

The Quran says :

اليوم اكملت لكم دينكم واتممت عليكم نعمتي ورضيت لكم الاسلام ديننا

(3 : 5)

This day have I perfected your religion for you and completed My favour unto you, and have chosen for you as religion Al-Islam.)

Dr. Saeed Ramadan enumerates Family Laws in seventy injunctions, Civil Law in seventy, Penal Law in thirty : Jurisdiction and Procedure in thirteen ; Constitutional Law in ten ; International Relations in twenty-five and Economic and Financial Order in ten.¹

The Holy Quran is a Code of Conduct laying down the fundamental principles and not the detailed provisions. The Quran explains the position thus :

كان الناس امة واحدة فبعث الله النبيين مبشرين ومنذرين و انزل معهم الكتاب بالحق ليحكم بين الناس فيما اختلفوا فيه

(213 : 2)

(Mankind were one community and God sent (unto them) Prophets as bearers of good tidings and warners and revealed therewith the scripture with the truth that it might judge between mankind concerning that wherein they differed.)

The code of Islamic Law is mainly divided into three sections. The first section deals with religious duties. The second section includes quasi-religious and quasi-social laws relating to marriage, divorce and inheritance, etc. The third section deals with sales and purchases, leases and mortgages, evidence, torts and contracts. This section is termed as transactions. There is another section which is called Crimes and punishments (عقوبات).

1. Islamic Law, its Scope and Equity, p. 33.

In the early days of Islam whenever there arose a dispute over any matter, God revealed the verses to the Holy Prophet embodying rules of law in order to decide the cases in accordance with law. Such a law is most suited to settle the questions because God in His Wisdom better knows the remedy of their ills. Mr. Ahmad Hasan says, "History tells us that the revelation came down when some social necessity arose, or some companion consulted the Prophet in connection with certain significant problems. Thus, the specific rules the legal norms, and the judicial values furnished by the Quran constitute its legislative side."¹ There are some verses in the Quran which were revealed in order to repeal some bad customs that existed before Islam, for example, infanticide, gambling and unlimited polygamy, etc. It also contains verses about social reforms like the questions of succession and inheritance, etc. These questions have been settled equitably. The Quran also includes the penal laws for the purpose of maintaining peace and tranquillity in the society. For instance, the Quran says :

السارق والسارقة فاقطعوا ايديهما

(38 : 5)

(As for the thief, both male and female, cut off their hands.)

These laws ensure the security of life and property in a society. Laws cannot be separated from justice in Islam. The goal of Islamic justice is to create such a healthy atmosphere wherein all the fundamental rights, security of life and property can be guaranteed. The Quran says :

اعدلوا هو اقرب للمعوى

(7 : 5)

(Deal justly, that is nearer to duty.)

It further says :

و اذا حكمتم بين الناس ان تحكموا بالعدل

(58 : 4)

(When ye judge between men and men, then ye judge with justice.)

"The Quran", says Mr. Abdur Rahim, "contains general injunctions which have formed the basis of important juristic inferences."²

1. The Early Development of Islamic Jurisprudence, p. 44.

2. The Principles of Mohammanadan Jurisprudence, p. 71.