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ON CONCEPT OF JUSTICE

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In Vienna there was a seminar on multi-culturalism and religious pluralism in last week of February 2012 and among other things there was discussion on justice. What is justice and everyone gave ones opinion. Among others there were professors of philosophy, sociology, political science, theologians and activists. It was an interesting discussion but there was no consensus as usual as to what is justice. I too intervened and said the Greek philosopher Plato has recorded for us the discussion Socrates had with his young disciples on justice and when no one could give satisfactory definition, he (Socrates) concluded that justice is what the powerful thinks justice is and we have the famous saying 'might is right'.

There has been no change till today in this definition of justice by Socrates. Even in 21st century it is mighty who decides what justice is. America is the most powerful nation in the world today and if America decides justice lies in invading Iraq or Afghanistan, whole world endorses it as a just action. Even UN Security Council endorses it almost unanimously. Some whippers of protest are naturally ignored. Our most modern and civilized world has not gone a centimeter ahead of this definition and yet justice seems to be a most important value in the world today. Do we then have to live with this definition even today when we claim we have progressed so much? Weaker section can only dream of getting justice or will they ever get justice?

In Islam also justice is most fundamental value; it is one of Allah's names also. Allah's name is *Aadil* (Just) Qur'an repeatedly emphasizes justice and even goes to the extent of saying justice is closest to piety (*taqwa*) and so 'do justice', Quran commands, as it is closest (*'aqrab*) to piety. But many of our theologians think piety lies in offering prayers and fasting whether it results in just conduct or not. They say all Islamic laws are most just but then differ, like others, on definition of justice. Take for example, the question of justice and multiple wives. Qur'an permits polygamy but the verse 4:3 emphatically says 'if you fear you cannot do justice, then (marry) only one'

It is different thing that for our jurists number (four wives) is more important than justice which Qur'an emphasizes. Generally when a man takes more than one wife the only enquiry made is whether he has less than four wives and not whether he will be able to do justice or not. Also, if at all inquiry on this line is made the question arises what is just treatment with these wives? Generally it is thought giving equal maintenance and allotting equal time to all wives constitutes 'justice'. But there is no unanimity on this concept of justice. Mu'tazila theologians (who are considered rationalists of Islam) maintain that equal maintenance and equal time by itself cannot constitute justice and going by the verse 4:129 equal love is also necessary which is not humanly possible.

In doing justice context also plays important role. And context could be social, political and economic and will also depend on the kind of social structure one has. For example, in a tribal society equal retaliation is considered meeting the end of justice. Qur'an calls it *qisas* (retaliation in equal measure) and since Arab society was tribal in structure it declared *al-hayat fi' al-qisas* i.e. life consists in retaliation (in equal measure). Many theologians ignore the context and declare it is eternal principle of justice. If we ignore the context what is thought to be justice becomes injustice. Today when human rights and human dignity is of

great importance, such retaliation would be considered injustice. Today people say an eye for eye will make the world blind.

We should not be under wrong impression that Qur'an pronounces retaliation as an eternal principle of justice. Not at all. It was in the context of that society, and an accepted (*ma'ruf*) principle that Qur'an approved of it but otherwise it considered pardoning as higher principle and instructed believers not to insist of *qisas* and most of the Islamic countries have abolished the law of retaliation and adopted other forms of punishment more in keeping with the principle of human dignity. Thus it will be seen that context plays very important role in matter of justice.

It is for this reason that while principles and values remain unchanged law must constantly evolve so as to as close to these principles and values as possible. Tribal societies have changed into modern democratic societies and so laws framed for tribal societies cannot remain static and if one insists, as our theologians often do, they will result in injustice violating the very fundamental principle of Qur'an. And this is what is resulting in gender injustice in the Muslim world. Principles and values are much more fundamental than laws framed in the past when the concept of justice was very different from what it is today. In the past weaker sections of society were treated very differently to meet the end of justice but today it would be considered undignified and against the principle of human rights and human dignity. Today if we want to do gender justice many old laws will have to be re-examined as they have become unjust by today's standards of justice.

Thus the concept of justice evolves with the time though most powerful may think even today what they think is justice is justice.