

Civil Liberties and Islam—Some Reflections on the Freedom of Conscience in Islam

Prof. Hamid Naseem Rafiabadi*

The Webster's Dictionary defines liberty as follows:

Liberty n.1. [Freedom from bondage] —Syn. deliverance, emancipation, enfranchisement; 2. [Freedom from occupation] —Syn. rest, leave, relaxation; 2, leisure, recreation.3. [Freedom to choose] —Syn. permission, alternative, decision; selection.4. [The rights supposedly natural to man] —Syn. freedom, free speech, suffrage, autonomy, sovereignty, franchise, independence, enfranchisement, freedom from arbitrary government, freedom from despotic government, power of choice, right of habeas corpus, affranchisement, opportunity, right, immunity, privilege, exemption, birthright, self-government, education, enlightenment, bail, life, self-development, self-determination, autarchy; At liberty, —Syn. unrestricted, unlimited, not confined; 2. take liberties. —Syn. be too familiar, be too impertinent, act too freely, use carelessly.

Thus liberty means the state of being free in action or thought from the domination of others or from restricting circumstances, freedom, a particular permission, or privilege. Having permission to do some thing. While as lexicographers have defined civil liberty as a right, as freedom of speech or thought, guaranteed to individuals by law.

The word 'liberty' is used throughout as denoting something precious, though what it denotes is not very clear? This, of course, comes from antiquity, and was passed on to the eighteenth and nineteenth centuries. It seems to be recognized that political requires a certain kind of personal virtue in the citizens."¹

Russell says: "The mediaeval theory of life broke down through its failure to satisfy men's demands for justice and liberty. Under the stress of oppression, when rulers exceeded their theoretical powers, the victims were forced to realize that they themselves also had rights, and need not

* Professor, Shah-i-Hamadan Institute of Islamic Studies, University of Kashmir, Srinagar.

live merely to increase the glory of the few.”² “As for liberty, it is, to begin with, essentially negative: it condemns all avoidable interferences with freedom, with out giving a positive principle of construction.”³

According to Bertrand Russell the principle applied by an individual with his dealings with others, is the principle of reverence, that the life of another has same importance, which we feel in our own life. As applied impersonally in politics, it is the principle of liberty; or rather it includes the principle of liberty as a part. Liberty in itself is a negative principle; it tells us not to interfere, but does not give any basis for construction. It shows that many political and social institutions are bad and ought to be swept away, but it does not show what ought to be placed in their place.”⁴

Bentham; “Civil Law should have four aims: subsistence, abundance, security, and equality. It will be observed that he does not mention liberty. In fact, he cares little for liberty. Filmer: “Our first parent, it seems, did not adequately appreciate his privilege as universal monarch, for ‘the desire of liberty was the first cause of the fall of Adam.’ The desire of liberty is a sentiment which Sir Robert Filmer regards as impious.”⁵

Hobbes; Liberty is the absence of external impediments to motion. In this sense, liberty is consistent with necessity; for instance, water necessarily flows down hill when there are no impediments to its motion, and when, therefore, according to the definition, it is free. A man is free to do what he wills, but necessitated to do what God wills? All our volitions have causes, and are in this sense necessary. As for the liberty of subjects, they are free where the laws do not interfere; this is no limitation of sovereignty, since the laws could interfere if the sovereign so decided. Subjects have no rights as against the sovereign, except what the sovereign voluntarily concedes? When David caused Uriah to be killed, he did not injure Uriah because Uriah was his subject; but he did an injury to Uriah because he was God’s subject and was disobeying God’s law.”⁶

Locke: -“The necessity of pursuing true happiness [is] the foundation of all liberty”.

“The government of our passions [is] the right improvement of liberty.”⁷

While explaining this statement of Locke, Russell says that the last of these statements depends: it would seem, upon the doctrine of rewards and punishments in the next world. God has laid down certain moral rules; those who follow them go to heaven, and those who break them risk going to hell. The prudent pleasure seeker will therefore be virtuous.⁸

There will be no need of human laws to restrain them, since divine laws will suffice. The hitherto virtuous man who is tempted to become a highwayman will say to himself: 'I might escape the human magistrate, but I could not escape punishment at the hands of the Divine Magistrate.' He will accordingly renounce his nefarious schemes, and live as virtuously as if he were sure of being caught by the police. Legal liberty, therefore, is only completely possible where both prudence and piety are universal; elsewhere, the restraints imposed by the criminal law are indispensable.⁹

Rousseau: 'Man is born free, and every where he is in chains. One man thinks himself the master of others, but remains more of a slave than they are.'¹⁰

Liberty is the nominal goal of Rousseau's thought, but in fact it is equality that he values, and that he seeks to secure even at the expense of liberty.¹¹

The Will To Believe, published in 1896 seems to be designed to afford a specious but sophisticated defence of certain religious dogmas.¹²

The Will to Believe argues that we are often compelled, in practice, to take decisions where no adequate theoretical grounds for a decision exist, for even to do nothing is still a decision. Religious matters, William James says, come under this head; we have, he maintains, a right to adopt a believing attitude although 'our merely logical intellect may not have been coerced.'¹³

According to Islam human life is a sacred and inviolable and every effort shall be made to protect it. Man is born free. As 'Umar Ibn al-Khatib (r.a.) writing the governor of Egypt 'Amr bin al-'Aas (r.a.) remarked:

"When have you started making people to be your servants, when the matter of fact is that their mothers have given them birth as free people?"

The story runs thus:-

A son of 'Amr bin al-'Aas (r.a.), the governor of Egypt, once struck a man of the Lower class. The man swore that he would lodge a complaint to the Caliph 'Umar bin al-Khattab. 'Amr bin al-'Aas's son told the man to do so, boasting that the Caliph would never punish him, since he was the son of the noble ruler of Egypt. Later, during the pilgrimage season when the Caliph 'Umar (r.a.), his retinue, 'Amr bin al-'Aas (r.a.) and his son were assembled together, the man whom 'Amr bin al-'Aas's (r.a.) son had struck went to the Caliph, and pointed to the son of 'Amr bin al-'Aas (r.a.) and said: "This man struck me unjustly and when I threatened to complain to you, he told me that he was the son of a nobleman and that you would never punish him".¹⁴

The Caliph 'Umar bin al-Khattab (r.a.) looked at 'Amr bin al-'Aas (r.a.) and uttered his famous words "What right have you to enslave people, whose mothers gave birth to them as free people?" He then gave the man who had lodged his complaint a whip and told him to strike the son of the nobleman — namely the son of 'Amr bin al-'Aas (r.a.) — as he had struck him.

Thus no inroads shall be made on man's right to liberty except under the authority and in due process of the law. Every person is ensured the security, dignity and liberty in terms set out by methods approved and within the limits set by the law. Moreover, every person has the right to freedom of conscience and worship in accordance with his religious beliefs. No one shall hold in contempt or ridicule the religious beliefs of others or incite public hostility against them. Respect for the religious feelings of others is also obligatory on all Muslims. In a Muslim country, religious minorities shall have the choice to be governed in respect of their civil and personal matters by Islamic Law or by their own laws. Furthermore, every person has the right to express his thoughts and beliefs so long as he remains within the limits prescribed by law.¹⁵

Moreover, the disorder that may arise out of religious fanaticism and dogmatism has also been denounced in a very effective way. The Qur'ân maintains in categorical terms that there shall be no compulsion in the matter of religion. The Qur'ân says: "There shall be no coercion in matters of faith."(2:256). On the strength of the above categorical

prohibition of coercion (*ikrah*) in anything that pertains to faith or religion, all Islamic jurists, without any exception, hold that forcible conversion is under all circumstances null and void, and that any attempt at coercing a non-believer to accept the faith of Islam is grievous sin: a verdict which disposes of the widespread fallacy that Islam places before the unbelievers the alternative of "conversion or the sword even."¹⁶

A British writer Karen Armstrong writes in her famous book about the same fact that "In the West, Mohammed has often been presented as a warlord, who imposed Islam on a reluctant world, by force of arms. The reality was quite different. Muhammad was fighting for his life, was evolving a theology of the just war in the Koran, with which most Christians would agree, and never forced any body to convert to his religion. Indeed the Koran is clear that there is to be "no compulsion in religion." In the Koran war is held to be abhorrent; the only just war is a war of self-defence. Some times it is necessary to fight in order to preserve decent values, as Christians believed it necessary to fight against Hitler."¹⁷

Here this point needs to be explained that Karen has attributed the Qur'ân to the genius of Muhammad صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ not only in this book but in her other famous book, Muhammad—The Biography of the Prophet, while as the Muslims believe that the Qur'ân was the book sent to Muhammad صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ by Allah (swt) during the course of 23 years). She says further that in the new Empire of Islam, nobody was forced to embrace Islam; "indeed, for a century after Muhammad's death, conversion was not encouraged and, in about 700, was actually forbidden by law. As "the people of the book" (*Ahl al-Kitab*), Jews and Christians were granted religious liberty as *dhimmis*, protected minority groups."¹⁸

Islam even upholds the religious freedom of all people and calls it "the foremost cause for which arms may—and indeed must be taken up" otherwise it warns that the corruption would surely overwhelm the earth. The Qur'ân says: "For if God has not enabled people to defend themselves against one another [all] monasteries and Churches and Synagogues and Mosques—in [all of] which God's name is abundantly extolled—would surely have been destroyed..." (22:39). Islam wants that if times demand arms may be raised for protecting religious freedom. The Qur'ân says:

“Until God can be worshipped with out the fear of persecution and none is compelled to bow in awe before another human being.”¹⁹

Islam, however, allows that the message may be conveyed to the people in the best way, adopting the most beautiful style. The Qur’ân says: “Call there [all mankind] unto thy Sustainer’s path with wisdom and good- bye exhortation, and argue with them in the most kindly manner, for behold thy Sustainer knows best as to who strays from His path, and best knows He as to who are the right- guided“(16:125). This stresses kindness and tact, and hence, on the use of reason alone in all religious discussions with adherents of other creeds is fully in tune with the basic, categorical injunction, “there shall be no coercion in matters of faith” (2:256). The speech and the style of invitation towards the way of Lord should be best of speech, politeness and humility, and the words should math deeds as well. The Qur’ân says : “And who could be better of speech than he who calls [fellow-men] unto God , and does what is just and right, and says: “Verely, I am of those who have surrendered themselves to God”(41:33).

Even in the process of invitation, the Qur’ân lays much emphasis on the commonalities between one religion and other rather than differences thereof. Especially, when followers of earlier revelations are to be addressed by the Muslims, they should start with the common “propositions” or “tenets”, rather than difference. In other words, the similarities need to be highlighted rather than dissimilarities. The Qur’ân says, for example: “Say: O followers of earlier revelation! Come unto that tenet which we and you hold in common: that we shall worship none but God, and that we shall not ascribe divinity to ought beside Him, and that we shall not take human beings for our Lords beside God “(3:64).

But if despite the beautiful speech and wise admonitions, an invitee does not accept the call of Islam, he will nor be compelled to accept faith under coercion. Rather they will be allowed to follow their own religion, and be obedient to a law that they deem suitable for them. The Qur’ân indicates the attitude of a believer and a Muslim in such situation in the following ways: “Say unbelievers, I do not worship what you worshop, nor do you worship that I worship. I shall never worship

what you worship, nor will you ever worship what I worship. You have your own religion, and I have mine.”(109:1-6).

Not only this, despite the fact that “true guidance is now made distinct from error.” If the invitees don’t shun still their worship of idols and will continue with their polytheistic practices, Islam says that their gods and goddesses will not be vilified. Because the Qur’ân says that no mortal has it in his power to cause another person to believe unless God graces that person with His guidance. Islam holds this principle very important that: “But do not revile those (beings) whom they invoke instead of God, lest they revile God out of spite, and in ignorance: for goodly indeed, We made their own doings appear into every community. In time, [however], unto their sustainer they must return: and then He will make them [truly] understand all that they were doing.”(Qur’ân: 6:108). This prohibition of reviling anything that other people hold sacred—even in contravention of the principle of God’s oneness is addressed to all believers. Thus, while Muslims are expected to argue against the false beliefs of others, they are not allowed to abuse the objects of those beliefs and hurt thereby the feelings of their fellowmen. The reason which the Qur’ân ascribes to this phenomenon is that it is in the nature of man to regard the beliefs which have been implanted in him from childhood, and which he shares with his social environment, as the only true and possible ones with the result that a polemic against those beliefs invokes psychological reaction.

Moreover, add it to it the pluralistic approach of Islam, in the situations where many people adhering to diverse faiths and creeds, are living together. The Qur’ân says: “Those who believe Jews, Christians, and Sabians — whoever, believes in God and the Last Day and does good works, they shall be rewarded and shall have nothing to fear.”(2:62). And also the Qur’ân says: “If God had willed it, He would have made you one community” (5:48).

Apart from guaranteeing religious freedom, Islam declares that all men are born equal and nothing race, colour, language, nationality, but God fearing can place one above the other: “O mankind, We created you from as single pair of a man and woman and made you into nations and tribes so that you know each other. Indeed the most honoured of you in the

sight of God is one who is most conscious of Him" (49:13) Expounding his principle of the unity and brotherhood of mankind the Prophet *صلى الله عليه وسلم* remarked: "An Arab has no superiority over a non-Arab nor has the non-Arab any superiority over the Arab. Similarly a black man is not superior to the red-one, nor is the red-complexioned person superior to the black men." (Baihaqi). He also said: "All of you came from Adam and Adam came from clay" (*Baihaqi, Tirmidhi*). Respect for human life that is the bedrock of social harmony is one of the cardinal tenets of the Islamic way. The Qur'an says: "Whoever slew a person.... Unless it be for murder or mischief on the earth.... It is as if he slew the whole mankind and whoever saved a person it is as if he saved the whole mankind." (5:32). Mercy and fellow feeling is the important ingredient of Islamic religion. The Prophet *صلى الله عليه وسلم* also said: "Be kind to those on earth, God above shall be kind to you". (*Bukhari*)

Because, according to Islam "the whole creation is just like the family of God and He loves that person most who is most good to His family."

Islam applies the principle of equality in its treatment of Muslims and non-Muslims. Islam ordains that non-Muslims living in a Muslim state or in a state under Muslim rule have the same rights and obligations as their fellow Muslims. They are subject to the Muslim laws of justice except in matters concerning their religion. Accordingly their faith and beliefs are respected by the state and the community in which they live. There is a great difference between these sublime principles of Islam and the laws of the United States of America which claims to be the most democratic country in the world. Until very recently, the laws of the United States of America discriminated between the white and black citizens. This discrimination was manifested in all situations, dealings and even in matters of justice, such as the harshness of the verdict and the manner of its execution. These laws even gave a white man the right to tie a black man to a tree and burn him alive or to cut him to pieces, without him having been tried in court, if the black man had had any kind of relationship with a white woman even if she had consented to this relationship. A similar fate awaited any black person who overstepped the limits of these unjust laws.

We have all read in the press about two cases which prove, beyond a shadow of doubt, the extent of the injustice of this racial discrimination in certain states of the United States of America. The first case concerns Uthrene Lucy, a black American girl, living in the State of Alabama, who had applied to be registered as a student in the University of Alabama. The University refused her application on account of the colour of her skin, but she filed a suit against the University in the Federal Court in Birmingham, the capital of the State of Alabama. The court ruled that she be admitted to the University and accordingly notified the University officially on the first of July 1955. However, as soon as the students heard about the court's verdict, they organized a violent demonstration of approximately seven thousand students representing the various faculties and colleges. They demanded that this black girl be killed by being hanged from a tree, in the same way that black men who had had any relationship with white women were hanged. The students made an effigy of Uthrene Lucy and burnt it in the city squares. They did not limit their violence to these demonstrations but some students actually attacked the girl, threw rotten eggs at her and even tried to lynch her. They also swore that they would never allow her to sit side by side with them in the lecture hall. These demonstrations were applauded by the authorities of the University and on February the sixth 1956, they issued a decree suspending her from continuing her studies at the University, in spite of the verdict previously issued by the Federal Court which had granted her that right.

Uthrene Lucy was consequently forced to remain in her home to escape from the violence of hostile crowds. Nevertheless, she filed another suit against the University in the Federal Court in Birmingham where she and her sisters lived, and demanded the annulment of the University's decree of suspension. Uthrene Lucy received threatening calls on her telephone which continued to ring every two minutes for seven whole hours one night. The poor girl was accordingly forced to leave her home in Birmingham and live in another town where she would not be recognized, in order to escape from the persecution to which she had been subjected.

Although the Federal Court of Birmingham had issued a verdict that Uthrene Lucy resume her studies at the University, on the twenty ninth of February 1956, the Board of Directors of the University

assembled a few hours after the verdict had been pronounced, and unanimously voted that Uthrene Lucy be expelled from the University. They had, by their decision, defied the verdict of the Federal Court of Birmingham in addition to false alleging that the girl had declared that the demonstrations directed against her had been instigated by the University authorities. John Cadeel, a member of the Board of Directors of the University, declared in his testimony in Court that he feared that the students would kill Uthrene Lucy and that the verdict of the Federal Court had placed the girl's life in danger. The Governor of Alabama suggested that a committee consisting of both white and black citizens should be formed in order to solve racial problems in the state in a peaceful manner. Nevertheless, he himself admitted that "Every sane person knows that white and black children will never go to school together in Alabama".³

The second example of racial discrimination also occurred in the city of Birmingham in the state of Alabama. It concerned a black woman who sat in a seat reserved for white passengers on a bus. In the state of Alabama white people were not allowed to sit in the seats reserved for white people. This woman refused to leave her seat and sit in the seats allotted to black passengers and was consequently arrested by the police and taken to the police station. The woman appeared in court and was sentenced to a fine, upon which all the black people in the state of Alabama boycotted the buses as a sign of their protestation. The jury in the court declared that the procedure of boycotting the buses was an illegal procedure and arrested more than a hundred Negroes who had led the boycotting and tried them before a court of justice in March 1956. There can accordingly be no comparison between the aforementioned treatment of negroes in the United States of America and the just principles and tolerant rulings ordained by Islam, in its treatment of non-Muslims. Non-Muslims were accorded equality with Muslims in all matters in addition to being guaranteed respect for their faith, religious beliefs, rites and ceremonies.

End Notes

- ¹ Bertrand Russell, *History of Western Philosophy*, Routledge, London, 2000, p. 742.
- ² Bertrand Russell, *Principles of Social Reconstruction*, Unwin Paperbacks, London, 1980, p. 21.
- ³ Ibid., p. 101.
- ⁴ Bertrand Russell, *History of Western Philosophy*, p. 157.
- ⁵ Ibid.
- ⁶ Ibid., p. 537.
- ⁷ Ibid., p. 592.
- ⁸ Ibid., p. 592.
- ⁹ Ibid., p. 594.
- ¹⁰ Ibid., p. 669.
- ¹¹ Ibid., p. 669.
- ¹² Ibid., p. 768-9.
- ¹³ Ibid., p. 769.
- ¹⁴ *Mata Abdanimum Nasa Wala Qad Waladat Hum Umuhum Ahrara.*
- ¹⁵ Based on the recommendations of International Islamic Conference held in Paris on September 15, 1981, in which representatives of genuine Islamic scholars participated.
- ¹⁶ Mohammed Asad, *The Message of the Quran*, op.cit. p. 58.
- ¹⁷ *A History of Gods*, Alfred A. Knopf, New York, 1994, pp. 155-56.
- ¹⁸ Ibid., p. 156.
- ¹⁹ Mohammed Asad op. cit., p. 41.