



The Limitations of Man as a Legislator

Islam is a way of life revealed from Allah (swt). Muslims, as humans, perform human actions. The solving of our problems are based on a divine text. The extraction of solutions from this text is not biased, nor prejudiced in any way. The one who performs this extraction, the *mujtahid*, does not pre-assign a problem as being solely ethical, economical or educational. Rather, he views the problem as being a human problem. A problem that is intertwined with all the complexities of human societal existence. In contrast to this is the Western way of life. Problems are not solved from a divine source. Human problems are solved for humans by humans. The human is limited in his knowledge, myopic in outlook and prone to self-preservation in judgements. It therefore follows that the system that he derives is riddled with disparity and contradiction.

Capital- the dominant influence in secular decision-making

When Europeans began to refer to man as the source of legislation, they discarded the shackles of Christianity. Thus secularism was born. Constitutions were framed, laws were passed and systems of ruling emerged. These novel systems placed wealth at their centre. Political edifices were always constructed within the amphitheatre of capital. Appropriately, these systems became known as Capitalist. This constant reference to ownership and wealth drew on a very basic instinct that all humans possess. That is, the desire to secure one's own interests. When left unbridled, this instinct leads to greed, power-lust and exploitation. Rasul-Allah (saw) said, **“If the son of Adam was given a valley full of gold he will always want a second. If he has two valleys full of gold he will always want a third.”** (Bukhari)

The reality was that these systems were merely knee-jerk responses to the whims and desires of a greedy few. In the words of US President Jimmy Carter,

“The reason for the Constitution was to empower people of property over common people. Indeed, our definition of self government and freedom have become linked, if not equated, to the interests of the corporation.”

The theory of Capitalism is totally impracticable. William Beveridge's ideas on welfare and social security were an attempt to compensate for abundant deficiencies within the Capitalist system. Indeed, welfare was an after-thought, an add-on, in the historical development of the British system. Purists would consider Beveridge to be a heretic. Today, issues are always discussed with an economical slant. This is regardless of whether the essence or implications of these issues are moral, social or ethical. The overcrowding of prisons, the availability of beds in hospitals and the poor state of education are always debated in relation to finance and funding. In Britain, performance related pay was a culture introduced into many realms during the 18 years of Tory government. The green-grocer mentality prompted the government to

superimpose the economics of buying and selling to many spheres. Performance related pay scales were introduced into the health and police services. The architects of this policy assumed that the performance of a nurse or a policeman can be quantified in the same way as a green-grocer. Can the number of patients that die under a nurse's care, or criminals that evade a police-man, ever be correlated with the number of melons sold in a week?

This economic skew has caused many Western analysts to lose track of all reality. This is seen with the West's obsession with overpopulation. This obsession was born out of the erroneous conclusions of Thomas Malthus at the turn of the 19th century. He viewed population growth purely as an economist. His conclusions that population should be curbed by famines and natural disasters, were revamped in the 1970's with the publication of Ehrlich's, "The Population Bomb". This book prompted three major conferences and the adoption of population control policies in many poor nations. There exists a common myth that incidents like the Ethiopian famine were somehow related to overpopulation. Ethiopia is eight times the size of England and at the time had a population three quarters of that of England. Indeed Africa as a whole, the continent most closely associated with famine, is actually highly underpopulated.

Disparity and contradictions stemming from competing interests

The system in practice leads to disparity and contradictions. Experts are assigned to solve problems. Some of these are normal human problems. Others are problems that the system itself has generated. The result is that loop holes and get-out clauses abound. This is seen clearly in Western legal systems. The process of judiciary is far removed from the actuality of life. Law is derived, discussed and debated in ivory towers but enforced on the common people. Laws are seen as academic legal issues, common people are not required to understand them. They are required merely to live by them. Therefore, legal issues when exposed can often go against public opinion.

This was seen with the case of Private Lee Clegg. He was the British soldier convicted of shooting an Irish teenager in the back of the head. On appeal, the Law Lords further found him guilty. In fact, in total he was declared guilty by three courts. When the law was followed by the book, the evidence was stacked against him. Procedure and protocol dictated that he should have remained behind bars. However, the tabloid press managed to whip up enough emotion to get him released. He was not found innocent by the legal system, rather by the 'Daily Mail'. A similar contradiction can be seen with Jack Straw's commitment to keep Myra Hindley locked up for the rest of her life. The original sentencing judge stated that life meant "...a very long time". In 1985, this was set at thirty years by the then Home Secretary Leon Britten. Now thirty-one years after the original sentencing, 'life' suddenly means 'for life'. The right to appeal for parole for 'lifers' is enshrined within the British legal system. The sentence of 'life' meaning 'for life' contradicts British and European laws and conventions. The 'Moors murders' have remained an emotive issue solely due to the tabloid manipulation of the masses. Hindley's deeds were repugnant, but it is the press that have sustained her infamy in the minds of the British people. Even three decades later, the press still titillate their readers with the gory details of the trial in a manner that has no relationship to the academia of the legal process.

Disparity and contradictions stemming from limited knowledge

Many issues have been painstakingly discussed by experts and lay people, voted on and ratified. Upon studying isolated technical situations it is easy to find examples of how the limitations of the human mind has caused problems. An example can be seen with thalidomide. Whole armies of experts from a wide variety of scientific, medical and legal fields had granted a marketing licence for this drug. Despite extensive research, it was only post-marketing that these experts concluded it caused horrendous congenital abnormalities. These same experts concluded that some of their methods and observations were flawed. This admirable acknowledgement of fallibility is common in isolated cases. Man has readily admitted his shortcomings in judging correctly in relatively 'simple' models. Yet, the Western ideology insists man can be competent in judging societal problems, that are vastly more complex.

In the realm of government the problems that humans have created for themselves are numerous. The US has a relatively young system. It was framed far away from the bitter racial and religious prejudices of Europe at that time. The 'New World' consisted of many peoples that had purposely fled from religious intolerance. The Americans had the opportunity to take a long hard look at the European democracies. They attempted to take the best from Europe and to think deeply about forging a utopia. The American constitution has been a paradigm and an inspiration for many nations that gained independence from colonialism. The American system, it may be said, was carefully planned and thought out by rational, intelligent, well intentioned lateral thinkers. Yet, we see the reality of America is that it is a complete mess.

Some of the main issues that were mulled and mused over to the greatest depth were enshrined in 'The Bill of Rights'. The most famous of which was the First Amendment; freedom of religion, speech, press, protest and petition. For two centuries this has been quoted, used and abused in defence of many issues that even the average American considers damaging, for example, pornography and white supremacist material. When this is linked with the Second and Fourth Amendments, we see the chaos that these principles gave birth too. These being the right to bear arms and "the right to secure in their persons, houses, papers, and effects against unreasonable searches and seizures". The interpretation of these amendments led to the emergence of the "Branch-Davidian" sect in Waco, Texas. The whole 'Waco Incident' was the direct result of the very things that the founding fathers held to be so sacred. The US has always been the home of weirdo cults, crack-pot militias and right-wing lunatics.

Conclusions

Satisfactory solutions to human problems, such as crime, have been allusive to the West for all the above reasons. They have reached a point of complete desperation. Criminologists, psychologists, sociologists etc. rack their brains to come up with satisfactory solutions. For example, to combat crime in Britain, they have just extended a trial of electronic-tagging of criminals. However the success statistics have not yet been published. We should not be surprised if this gives a greater than 80% re-offending rate as was seen with safari holidays, softly-softly, short-sharp-shock and confronting the victims of crime and so on. None of the methods cooked up by humans can ever produce satisfactory solutions. This is because the root remains the same - that man is the legislator.

Islam is the only system that is immune from prejudice and bias stemming from man. Nor as a source is it at the mercy of man's limited knowledge. This is the system that is from Allah (swt), our Creator. Allah (swt) is the One who created us with so many needs and desires, but He (swt) is the One without needs. Allah (swt) knows best our very nature. Nothing of creation escapes his knowledge. Allah designed us and therefore is the best designer of a system for us to live by. Surely His (swt) system is the only system for man to live by.