

A RETURN TO FUNDAMENTALS OR FUNDAMENTALISM ?

"There's glory for you" said Humpty Dumpty.

"I don't know what you mean by 'glory'" Alice said.

Humpty Dumpty smiled contemptuously "Of course you don't - till I tell you.

I meant 'There's a nice knock down argument for you!' "

"But 'glory' doesn't mean 'A nice knock down argument' " Alice objected.

"When I use a word" Humpty Dumpty said, in a rather scornful tone "it means just what I choose it to mean - neither more or less"

"The question is" said Alice whether you can make words mean so many different things"

"The question is" said Humpty Dumpty "which is to be the master - that's all" Alice was much too puzzled to say anything

Lewis Carroll

It is no news to observe that there has been a resurgence of the phenomenon or religious fundamentalism throughout the world, and indeed throughout the world religions. American religious lobbyists demand that biology, geology and kindred sciences be taught in accordance with the Bible rather than with reference to new-fangled supposedly "scientific" discoveries. President Reagan advocates the amendment of the constitution to provide for Christian prayers in schools in a nation founded on Tom Paine's Rights of Man upholding a person's right to religion or irreligion as he so wishes. Orthodox Jews bewail the secular nature of the Jewish state as a betrayal of Yahweh and Torah. It is otiose before this audience to describe the path this phenomenon has taken in Pakistan. Its implications are daily discussed in the Assembly and debated in the newspapers.

It is not my purpose to discuss the merits of this resurgence or to suggest its explanation. Nor do I profess to have more than a passing understanding of the form this resurgence is taking in Pakistan. A Christian's view of Islam is as likely to be misguided as a Muslim's understanding of Christianity. As has been remarked:

"The cow the Hindu reveres is not the cow we see but the cow he sees which might equally be applied to a Christian's view of the Qu'ran or the Muslim's view of Jesus. I shall, therefore, limit this discussion to a consideration of the implications of the resurgence of fundamentalism on the legal system of any given socio-political unit though I shall endeavour to relate some of the general observations to the situation in Pakistan.

In an Islamic society there is little need to elaborate on what is meant by the effect of the revival of fundamentalism on a legal system of a society. It refers to the question of how the laws of the state should be enforced, enacted and construed with relation to the precepts of God as revealed to his community. In the instance of Islam this is by Allah in the Qu'ran. It deserves mention that while this question is much debated in Islam and Judaism it is one of comparative novelty to the Western Christian world. This no doubt explains our apparent stupidity in attempting to understand the problem. This novelty is to be explained by the virtual absence, in Christianity, of specific rules of a prohibitory or penal nature together with a differing understanding of what is meant by revelation in Christian theology. Therefore the following comments are of more application to Islam and Judaism.

The debate usually entails a claim by the fundamentalists (who may or may not accept this label) that the divine precepts must be incorporated into the politicolegal system in the form that they were originally revealed, and the counter claim by the modernist, who is often a philosopher, that this may not achieve the desired aim of implementing that which reflects the will of God. Of course, this may just be a smokescreen by the modernist who simply doesn't like Divine rules and would prefer a new set reflecting his own values. This position is undefendable once it is admitted that the precepts are from God for he is all-knowing and we could not bring verifiable evidence to show he was wrong. However, the Modernist may be as anxious as the Fundamentalist to follow the will of God but his

reason leads him to believe that incorporating the rules as originally given will not achieve this. He believes we may have to use our reason in looking at the principles which lay behind the rules and this may lead us to adopting different rules in certain circumstances.

By stating the question thus I do, of course, sidestep the more fundamental question of whether or not the precepts in question are truly revelations of the deity or whether, due to defect of the communicator, the channel of communication or the recipients of the communication they fail to reflect the divine wishes. For the purposes of this paper I will accept that the community has in its possession a completely accurate record of what God has revealed. I shall refer to this hereafter as the Fundamental Statement.

There are some who hold that once this Fundamental Statement is accepted the question is resolved. The revealed precepts are to be adopted as the law of the state in the form they were originally given. In Islam this means the adoption of the Qu'ran and, by refinement of the above statement, the Hadith and Sunnah of the Prophet, presumably on the basis that these traditions were also divinely revealed. Without commenting on the desirability or not of this process I wish in the remainder of this paper to examine whether the acceptance of the Fundamental Statement does indeed logically and necessarily require that the divine precepts be adopted in the form they were originally revealed and if so, what problems of interpretation remain.

The argument that once the Fundamental Statement is accepted then the divine precepts must be adopted in the form originally revealed involves a number of assumptions which require examination.

The first assumption is that God intended his precepts to be of universal and eternal application unaffected by changes in society or of geography. For example if God had said: "You shall not attempt to swim across River Ravi" at a time when Ravi was a great river possessing dangerous currents and I could not swim. Must I assume that it was intended the prohibition should still apply in a subsequent time when a) Ravi is regrettably a much reduced placid waterway or b) I have learnt to swim proficiently? Is one entitled or indeed required to ask whether the prohibition of riba-the charging of interest in the Qu'ran or in the Jewish Deuteronic Law was intended to apply not only in the context of an agricultural society but also in a more developed economic system?

Society changes not only externally but also internally i.e. in its attitudes. Are we not obliged to consider whether the divine precepts are conditioned by the attitudes of the society at the time the revelations were given? A yes answer to this question appears to be given in my own religion by Jesus's appeal to the question of the divine precepts given by Yahweh to Moses. In Matthew's gospel, Chapter 19, it is recorded that Jesus was asked to rule on when a man could validly divorce his wife. Jesus propounds a different rule than that given by God to Moses. When this is pointed out to him he explains that Moses gave his rule "because of your hardness of hearts" i.e. because of the prevailing attitudes of the Israelites in the wilderness and states that it was not like this "in the beginning" i.e. "in a perfect world" and for Jesus's new community a different rule was appropriate. To make an Islamic comparison, some Muslims hold that the permission in Qu'ran 4.2 to marry up to four wives is a concession in the context of considerable promiscuity and that Allah's ideal is monogamy.

It needs to be stated that once society has changed then the meaning of the divine precepts also changes notwithstanding that the original words remain unchanged. Words such as "contract" "debt" "marriage" are symbols we use to delineate a set of circumstances: "A" the occurrence of which will lead to a set of rights and obligations "B" which are attributed to it by the legal process.

Over the course of time and in different jurisdictions the circumstances which are delineated by the symbols and the rights and obligations which we attribute to those circumstances change. For example the word "debt" in the 7th Century A.D. did not mean the situation of running account credit which my Visa or credit card entitles me to or the practice of a trader paying for his supplies 30 days after receipt. So if we apply the 7th. Century rule on debt to the 20th Century situation we will apply it to a situation to which the word debt in the rule did not refer.

Opponents of these arguments adopt at least two contentions. Firstly it is argued that if society has changed so that precepts no longer apply as they originally did then the answer is not to amend the precepts but to change the society so that it reverts to that which originally existed. There would be force to this argument if it could be shown that the society which existed when the divine precepts were given was a perfect or model society or at least better than the

present society. Since the divine precepts were given for the purpose of changing the existing practices to those that are revealed we can discount this. Even if this were not so it has to be observed that it is not possible to reverse the process of time and history. You cannot recreate an earlier society, by virtue of the experiences of society since then, which serve to determine its present shape.

The second argument, which so far as I am aware is peculiar to Islam is that since the revelation is eternal it must be applied in all ages. I am not competent to discourse on the eternal existence of the Qu'ran save to note that it appears to require a deterministic view of history up to the time it was revealed. However, it should be noted that there is a difference between stating that a set of precepts are eternal and stating that they should be eternally followed. For example when Yahweh ordered the Israelites to cross the Red Sea he was doing so in the particular circumstances of being chased by the Egyptians. It may be that Yahweh desired this from the beginning of time and that his desire on this point will never subsequently change. But we cannot deduce from this that Yahweh intended that thereafter the Israelites should continually be occupied for the rest of time crossing and recrossing the Red Sea.

So far I have advanced for consideration arguments which support the contention that acceptance of the fact that there exists a body of divine precepts, what I have termed acceptance of the Fundamental Statement does not logically require a present society to adopt these precepts in the form that they were originally revealed but provided that such amendments are made in accordance with the principles which lie behind the statements of the revealed precepts. I now wish to consider what problems are to be encountered when the divine precepts, which for Pakistan I suggested comprised Qu'ran and Sunnah of the Prophet, are adopted in the form they were originally given. Problems arise in the following areas:-

Firstly the rules require definition. We need to know what circumstances God was delineating when he used such symbols as "contract, marriage interest" and so on. We also need to know what rights and obligations he intended to attach to them. If we can ascertain the former but not the latter then we are presented with a problem. For example most divine revelations are of the required/encouraged/permitted/prohibited variety. Lawyers can usually only concern themselves with the precepts of the required and prohibited categories. They need to know not only that "all

contracts need to be in writing" but also what happens when they are not? Is the contract void or voidable? Does property and or risk in the goods pass?

It needs to be recognised that often the criteria we use for delineating the circumstances to which a symbol applies, for example the word "contract", are inextricably connected with the rights and obligations we wish to attribute in those circumstances. To define what God meant by the word "contract" we need to know both the circumstances "A" and the rights and obligations "B" which arise in "A".

Secondly, rules appear to be in conflict either because two rules contradict one another or because we cannot be certain what effect a general principle which has been revealed has on any given rule. For example, all three of the major monolithic religions contain statements that God is forgiving and that we should be forgiving also. How should we construe this injunction in a case where a specific penalty for an offence merciful has been prescribed? can we assume that although God is merciful we are never to be? But how often and in what circumstances? Thirdly, the rules do not cover a situation because it is of a novel type.

All these questions, definition, conflict and novelty are problems of interpretation. The fundamentalist may begin to feel uneasy at this. If we admit the need for interpretation we appear to be taking the question out of the hands of God and placing it in the hands of men, thus opening the door to the modernist. In Islam the problem of interpretation is usually resolved by resort to the application of Quias, analogical reasoning and Ijma, consensus. This has come to mean the Quias and Ijma of the 'Four Schools' of jurists. Firstly it should be noted that there is no necessary connection between adopting the Qu'ran and Sunnah and adopting the reasoning of the Four Schools. Analogical reasoning is useful in helping us to identify similarities or likeness between things but it has of itself no mechanism for distinguishing relevant or preferred likeness. Allama Iqbal himself points out that as Quias lacks any internal principle of movement it is barely to be distinguished from IJTIHAD (to exert oneself with a view to forming an independent legal rule). Given this there would seem no logic in the process becoming ossified at a particular point in history. As Hobbes has said: "to have a succession of identical thoughts and feeling is to have

no thoughts and feelings at all." But these are arguments of practice not principle which I am not qualified to pursue.

I will close by observing that the resurgence of fundamentalism and its confrontation with reason is not to be confused with a resurgence of spirituality and the opposition of secularism. It is often in the absence of spirituality that such a confrontation arises. I can do no more than join with IQBAL in quoting the poet Zia:

"Who were the first spiritual leaders of mankind? Without doubt the prophets and holy men. In every period religion has led philosophy, from it alone morality and art receive light. But then religion grows weak and then loses her original ardour Holy Men disappear and spiritual leadership becomes in name the heritage of the doctors of the law. The leading star of the doctors of the law is tradition. They drag religion with force on this track but philosophy says:

"My leading star is reason, you go right I go left.