BOOK REVIEW


The book is in fact an extended translation of Khalid M. Ishaq’s treatise on the Limitations of Power in an Islamic constitution. The book has been welcomed widely because it is the first book on the subject appearing in Urdu. In its present version the book does not at all cater to serious readers.

I have two general comments about the book. Firstly, the framework of the discussion is American history and Capitalist culture. The first seven chapters define the analytical framework, and later a definition of Islamic concept of fundamental right is undertaken within this framework. Thus, while this approach unnecessarily imposes alien concepts on Islam, it also fails to throw into relief or justify Islamic concepts. The author’s conclusions that even Western or Communist constitutions have failed to protect fundamental rights in fact stems from his belief that the concept of Fundamental rights given by Western authors is the ideal to be achieved. Only if he had time to think it over the concepts such as the sovereignty of Allah, concept of Trust, the institution of Ummah, which the author propounds in the book, it could have helped him to revise his adoration of Western concepts.

The idea of Fundamental Rights or Human rights is essentially the product of the industrial age. It is a logical development of the ideals of liberalism and individualism so direly needed by the Capitalist societies against the state. Islam does not believe in the freedom of individual per se. There is much more emphasis on purpose-oriented collectivism. The individual’s freedom, if it does not contribute to collective interest or if it goes against that interest, must be restricted.

It is significant to notice that legal theories produced in other legal systems tend to treat business corporations, industrial concerns or similar institutions as juristic persons and thus seek protection under this legal fiction. Islamic law can not allow such a concept. because such a fiction has been exploited to deprive the society of its collective interest. The state in individualistic systems is always conceived of as a monster against whom various sorts of protection are sought. This leads us to our second comment.

The book was written during a period when the state imposed limits on author’s freedom of expression. It is however puzzling to note that the author who is himself an Editor of a daily newspaper, and was jailed for his views on the freedom of press, does not speak at all on the question of the freedom of press in the book. Is it because this
category does not exist in the Western list of freedoms? Even his treatment of topics such as freedom of expression, and freedom of conscience, covering about 14 pages, do not at all hint at the Freedom of press. Is it an error of omission?

I would therefore very much like the author to rewrite the whole book in the light of his further experiences. I would also wish the analytical framework to be Islamised.

Presently the book is essentially addressed to readers in Europe and U.S.A., or those Pakistanis whose conceptual orientation is Western.

(Dr. M.K. Masud)