

The Real Meaning of the Rule of Qura'an

By
Gamal Al-Banna

The rule of Qur'an is **commonly** known and raised by the **new** Islamic generations especially in **the universities**. **In fact**, this issue **clearly appears** nowadays in the Islamic countries. What is the real meaning of the slogan **of the rule of Qura'an?** What is right or wrong in **this** issue? **This paper is trying to answer these questions.**

First of all, let us **ask**: what are the **types of rule** that humanity has formulated in order to govern **itself?** **Of course**, they are many **in number**, **but they can be classified** into two categories: **the first one goes by the name of** Dictatorship (including all sorts of total Italianism) **and the second one is called** Democracy.

It is worth mentioning that Dictatorship **was** an undesirable necessity in extraordinary circumstances. The Romans, **who coined the term**, used it **for the regime** only, But the Roman history itself demonstrates that once the people dispense with their rights and freedom, they provide the dictator with tremendous powers - though even for a fixed time - and hence it becomes difficult to deprive him of his exceptional status. In most cases he tends to **rule** as a dictator till his faults lead to his overturn and defeat. He might be killed, escape or commit **a suicide**, but in the final resort, his nation remains the real **loser, since they have** to pay the price of the dictator's capricious deeds. This is the story of dictators from Roman emperor Julie's **Caesar into the** ex-Egyptian president Jamal Abdul-Nasser. Every dictator is a gambler, he grasps all but in the end

loses all. The shortcomings of dictatorship are not only reflected in military defeats but also in the suppression of liberties, prevalence of immoralities and corruption.

Democracy is **the opposite side of** Dictatorship. However, history proves that democracy too has its own defects. Analyzing the actual practices of democracy, they show that it is not really what they call "The rule of the people for the people and by the **people**". It can't be one of those three, even when this criterion **is applied** to **the** Athenian democracy. In Athens only the free male **people could** rule. But slaves and women, who actually constituted **the** majority, were excluded. **They had no right to** share in **the** Athenian democracy. After all, Athens was a city-state. On the national level, people cannot govern themselves but they have to delegate their power to a number of delegates who would represent them through elections. Elections became an industry, and like all industries they need money and skills that are only available to the rich **people**, and not the poor people. In addition, the complexity of procedures and the growing influence and interference of the government enable those who direct the election **process** to determine the result. The stupidity of democracy made it condemn its faithful friend "Socrates" to death. This reveals that the real merit of democracy, namely freedom, could be easily used against it. The freedom of democracy was the nest of dictatorship in which it grew and **at** last gave it a **deathblow**. Fact proves that in most democracies, the active minorities **and not the stagnant majority**, such as Jews and Communists avail themselves from democratic freedom. **They** misuse it in order to serve their own **interests**. Democracy has no teeth, nor garrisons to stop its enemies. It resembles the dog that barks but not bites. And this is the tragedy of Democracy.

Is it true then that humanity has been ruled between the devil and the deep blue sea between the wicked dictatorship and the weak democracies? No, there is a way out to save itself. This is the 'RULE OF LAW. The rule of law was, and still is the ideal system of all philosophies and thinkers. In Athens it was called ISONOMIA. It was used by Plato in a quite deliberate contrast to democracy rather than in vindication of it.

"In the light of this development the famous passage in Aristotle's politics in which he discusses the different kinds of democracy appears in Affect as a defense of the ideal of Isonomia. It is well known how he stresses that "it is more proper that the law should govern than any of the citizens, that the persons holding supreme power should be appointed only as guardians and servants of the law", and particularly how he condemns the kind of government under which "the people govern and not the law" and where "every thing is determined by a majority vote and not by law" Such a government, according to him cannot be regarded as that of a free state, for law ought to be supreme over all". He even contended that any such establishment which centered all powers in votes of people could not be called a democracy for their decrees cannot be general in their extent" Together with the equally famous passage in Rhetoric in which he argues that "it is of great moment that well drawn laws should themselves define all points they can, and leave as few may be for the decision of the judges⁽¹⁾.

In the rule of law we find the key for the most important dilemma i.e., the way which people can be ruled.

(1) *The Political of the rule of law.*, by F. A. Hayek., P. 7-8., Published by The National Bank of Egypt., Fiftieth Anniversary (1955)., Commemoration Lectures, Cairo.

The European Conception of Law:

One may **ask:** if this is the solution, why **then** Europe **did not** resort to the rule of Law and thus rescue itself from the tragic destinies of democracy and dictatorship? In fact, Europe does not apply the rule of law, because the European conception of law has not been perfect. It was not **as** the same as what Plato and Aristotle had in mind when they wrote the above mentioned quotations. If one **asks:** but why, then we may **answer:** because Europe was and still a pagan continent. It was pagan in the Greek and Roman period, in the renaissance, and in the capitalist-communist era. **Man, with all his weakness, was its God.** The notion of absolute, abstract, perfect **and living God was unknown** to it. When Europe **converted** to Christianity, it personified God. In such a milieu, the **notion** of divine laws was totally strange, and the only one that could be attained was within the conceptions of a human law, elaborated by **man**. History proves that such a law, even if it **was passed** by the People themselves or philosophers **could** not escape many shortcomings. The first and foremost feature in such law will be the defense **for** the interests of those who passed it. It may be a good lawyer but a bad judge because it will lack the objectivity required in a judge.

This could be easily proved through a brief survey of the most celebrated laws namely, the Roman, **Napoleon**, and Soviet laws. The Roman law admitted torture of slaves as **a means** for extracting evidences. It condemned to death all the slaves in the house of their lord or patron if one of them succeeded in conspiring and killing the master. **To illustrate this,** there were 400 slaves in the house of the deceased lord; all of them were condemned to death. Tacitus told us "a decree passed **by** the senate to protect, by additional terrors of law, the life of the patron from the

malice of his slaves. With thus view, it was enacted that in the case of a master slain by his servants, execution should be done not only on such who in a slate of actual servitude, but likewise on all, who, by the will of the deceased obtained their freedom but continued to live under his roof at the time the murder was committed⁽¹⁾.

This legitimate terror reveals that the Roman law was a mere weapon to defend the patrons **since it** deprived the conquered people of its protection, considering their status as an ipso-facto one. When they are married, this is not a sacred marriage but as **the** Roman thought, **it is merely** animal's sexual **intercourses** or "**Promiscuous Connubial**."

The prejudice of the Roman law was not only confined to slaves **and** conquered people, but it also included the Roman woman who was in a status between the slave and the daughter even to her son. There was a kind of marriage that did not differ **of** buying a commodity, **namely** what they call "per emancipation". It is concluded in the presence of five Roman witnesses, a scale, a scale-man, then the man buys the woman, thus she becomes under his custody⁽¹⁾.

These brief anecdotes show that the Roman law aimed **for** defending **solely** the status and interests of the ruling Roman class that its iron grip did not spare even the Roman woman.

(1) Tacit., historical works vol. 1, P. 386.
(1) Gaius L., 1, 111, 113.

About Napoleon laws and other laws inspired by it, it is enough to read Laski's book **entitled** *The rise of European Liberalism* to realize that the law was made specifically to protect the interests of the rising bourgeois and the propertied-class to the degree that made Jeremy Bentham say "property and law are born and must die together" The **disfranchised** population have to struggle hard to obtain their rights **to vote and also** to be elected. Workers have to struggle through their Trade Unions to maintain their lawful rights.

The Soviet law resembles the Roman law. It does not hesitate to resort to brute force or horrible means to achieve its **goals**. **These goals** exclusively **guard** the ruling class, or in one word the **communist party**.

An article of the penal **code** issued in July, 1934 condemned the family of a deserted soldier to be poisoned for five to ten years and confiscate their properties if they assisted him or knew about **the matter** and did not inform the authorities. Other members of the family who happened to live with the "traitor" when he committed the crime would be disfranchised and expelled to far regions in Siberia for five years. Of course banishment **to** Siberia means death.

Moreover, taking hostages **and** expropriation are **both** parts of the so called "Revolutionary legitimacy".

So we see the law as a bulldog guarding the patrons of Rome and the Soviet party-elite. In Bourg Oise it is a mere donkey. Though **The Daily Mirror** thought that such an analogy would be an insult to the donkey

(24.9.82). Such law cannot be impartial nor an objective judge that would rule nations.

Apart from this gross defeat there is a gap in European laws between ethics and law. Law cannot punish many **outrageous** practices that should be condemned ethically. The checks and measure which should protect innocents permit the guiltiest to escape punishment. This shakes the reputation and perfection of Justice.

The most brilliant leaders of Europe were unable to put an adjective perfect and just law. Julius Caesar, Augustus, Napoleon Lenin and Trotsky did not escape subjective tendencies and thus the objectivity of law was eliminated as well as the idea of the rule of law was not an empty shell but also a weapon in the hands of the ruling classes.

Now, in the **Qura'an**, we will find it full of objectivity. The **Qura'an** does **not** grant privileges to anyone by virtue of sex, birth, race or wealth. All **people** are equal before the "Shareea" (Islamic Law) even the head of the state has no privileges whatsoever, he is treated like others.

No one **can be punished** for a crime committed by another, even if he was a close relative, **or** a son, or **a brother**, a wife... etc. Everyone is responsible only for **their** deeds. This principle is repeated in many Qur'anic verses such as "... and what work any human being commits rests upon him alone and no bearer of burdens shall be made to bear another's burden". By this verse, which is repeated in 17:5, 35:18, 39:7

and 53:38 the **Qura'an** rejects the Christian doctrine of "original sin" as well as all the laws that extend punishment or make it collective?

Professor Dicey noticed that the "French Droid Administrative" opposes the principle of the rule of law because it gives immunities, prerogatives and special **interests** for the state officials as against private citizens, whereas the British Common law makes no distinction at all among state officials and private citizens⁽¹⁾. In fact, **Qura'an** applies the principal of the rule of law more than any other law, because even the head of **a state**, the legislative chamber itself has no prerogatives at all. In front of God and His law all are equal.

The British allegation of the rule of law can not be considered as an absolute one, established on real objectivity because at **the** last resort it is the parliament that has the final **decision** about law. What a record of biased lavas, unjust discriminating acts have been issued by such a parliament. It is **sufficed** mentioning the three times injection of the Charter of the people during 1838-1948 and defying the women the right of franchise till the twentieth century in spite of the heroic struggle of the suffragettes. In England as in Rome the poor and the women were victims of the law.

Some recent Bribers think that Norm berg trials "put the principal that obeying the orders of the state does not justify the crime of Genocide" Actually the **Qura'an** **puts** this principle fourteen centuries ago in a broader scope. The Islamic principle states that "no obedience for

(1) A.V. Dicey, *The law of the Constitution*, Pp. 324-401.

a creature in defiance of **his** creator" which covers all acts and persons, the least and the highest.

Moreover, the **Qura'an** is the source of ethics, when it prohibits anything it does not resort to **coercion**. Faith is the greatest guardian of the **Islam**. In many cases there may be no need for a trial, interrogation let alone torture to extract evidence, as it occurred in the Prophet's time that the guilty **person** came on **his \ her** own **desire** to confess and **be ready to receive** punishment which would purify **him \ her** from the filth of his guilt or **he \ she** would repent and try to achieve good deeds as much as **he \ she** could because the **Qura'an** states "for **those good things** remove those that are evil" 11:114.

Whereas all laws punish but not reward, the **Qura'an** **have rewards for every good act**. "He that doeth good shall have ten times as much to his credit. He that doeth evil shall only recompense according to his evil". (6:166).

It is true that this is done only **after** death, but every Muslim has faith in immortality and life after death.