

Muballeghi's speech at a session on Shiite jurisprudence's stance on weapons of mass killing

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Naturally there is no especial Islamic tradition concerning matters that are new and fresh. An especial Islamic tradition is a tradition that specifically deals with the matter under question. Thus we can treat a newly emerging issue in one of the following manners, deducing its juristic rule:

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Naturally there is no especial Islamic tradition concerning matters that are new and fresh. An especial Islamic tradition is a tradition that specifically deals with the matter under question. Thus we can treat a newly emerging issue in one of the following manners, deducing its juristic rule:

1. Manatat (criteria): There are certain manatat or criteria behind the existing traditions that relate the specifics of an old subject matter. One can identify these criteria and generalize the ahkam or rules of these criteria to any place where those criteria are found. This is a methodological discussion.

2. Reference to juristic rules: since juristic rules are general and inclusive they include new subject matters. It should be however clear that the juristic rules include the new cases. By doing such thing one can deduce the juristic ruling of a new subject matter.

3. Reference to Juristic theories: The third way for deducing a juristic rule is to refer to juristic theories. This methodology has however to be subjected to scholarly discussions so that it becomes clear as to whether or not it is a suitable way for deducing the juristic ruling of a new subject matter.

While presenting a discussion, we do not have any alternative except touching all relevant juristic theories though these juristic theories are sometimes themselves deduced. One can better analyze and understand an Islamic tradition in the light of a juristic theory if there is any such tradition. However here there is no nass or explicit tradition and one has to deduce an Islamic ruling on the bases of these juristic traditions. Referring to juristic theories is a new way of deducing a juristic rule.

Of course, if there is a tradition, common sense requires you to stick to the tradition and encounter it correctly. A correct approach towards a tradition requires you to

understand the tradition and not to obey it blindly. The way one encounters a tradition is an important discussion in contemporary jurisprudence. Many well known jurists have expressed their points of view in this connection. All these personalities ranging from Shahid Mutahhari to Shahid Sadr and even Wahid Behbahani have a say in this regard. According to them, a jurist must get mental and psychological preparation before encountering a religious text.

He who encounters a religious text empty handedly inflicts a blow upon a religious text just as a person who puts it aside. Thus reference has to be made to a religious text out of awareness and intelligence.

Part of this awareness goes to your knowledge of the traditions. If you know about Islamic traditions you can know the tune of a tradition when you encounter it. Unfortunately little importance is attached to reading tradition texts in Islamic seminaries. Due to lack of reading, we some times face some traditions for the first time in our lifetime. Sometimes we get through a tradition in our classrooms in an altered and distorted form. Such readings are not adequate at all. We must practice reading traditions to the extent we get familiar with tune of a tradition we read. This deep knowledge of traditions may some times lead you to the exact meaning of a tradition. That meaning may be theological or any thing else other than theological. When a theologian refers to Quranic texts no doubt he understands them better than any one else who does not have any expertise in this regard. Sometimes it is familiarity with Islamic cultural, social and political theories that creates a particular mental climate that facilitates a specific type of understanding of a religious text. Such things are among juristic rules. We must help our minds through increasing their awareness to better grasp a religious text. What is important is understanding a religious text and not imposing one's own idea upon a tradition

Some argue that increasing awareness is not good for it may lead to imposing one's own ideas upon a tradition. But this is not the case; the case is quite vice versa. If you refer to a religious text without essential information you impose your rough ideas on it. Before referring to a religious text, one must try to have a clear and intelligent mind. Thus there are three ways for deducing an Islamic ruling:

reference to criteria, reference to juristic rules and reference to juristic theories.

Due to lack of time I cannot deal with the subject matter of criteria here. I will deal with this issue elsewhere if such a session is held there again. We can make use of the capacities of the issue of criteria concerning the use of atomic weapons.

I usually refer to juristic rules to find out the juristic rulings of producing, keeping and using atomic weapons. Are such things legal or illegal? Many study the implications of such discussions carefully.

Since this discussion is to some extent linked with current issues and is therefore very sensitive, Shiite jurisprudence likes to deal with it as a very difficult issue, using its utmost capacity. Presently our discussion is quite primary and

a primary discussion paves the way for further discussions. To further elaborate on primary discussions is useful, as it is good to show the flaws in the beginning of a discussion.

I believe

that producing, keeping and using atomic weapons are forbidden from the point of view of Shiite jurisprudence. As to why such things are forbidden has to be discussed. From the viewpoint of Shiite jurisprudence to use atomic technology in a war is illegal. There are some juristic rules that I will present here. Some of these rules are acceptable while others are refutable.

A- Ruh rule:

Perhaps ruh or soul rule is unknown, but the way to finding new rules is always open in our jurisprudence. To respect a soul is heeded by Shiite jurisprudence. According to the rule of respecting the soul, soul must be respected. In our jurisprudence the domain of soul is so wide that it includes even animals. It is available somewhere in jurisprudence that if someone deprives an animal he possesses of drinking water and fodder keeping it thirsty and hungry or subjects it to annihilation he is a sinner. The reason why he is deemed as sinner is ruh rule.

Nowadays that

we seek to raise environmental issues we must go in search of rules and ruh rule is a suitable rule in this regard. According to this rule, soul has to be respected. No attempt should be made to eliminate a soul. This rule has however definitely its own exceptions. The exceptions include those killed during wartime and those sentenced to death.

To use this

rule in regard with atomic weapons one can say that using atomic weapons causes destruction and casualties not only for human beings but also for animals and natural environment. Is using warfare an exception to the rule of respecting soul? The answer is in negative. What is excluded is normal war in which only the rival party and the humane shield they have built up are killed.

Is it

possible for us to exclude using a weapon that if used may kill millions of human beings at once?

Surely one

cannot regard using such weapons as an exception to the rule.

B) Wizr rule:

According to the holy Quran no one is punished because of an infringement made by others. If you use atomic weapons (just as the US has used and other big powers have prepared themselves to use them) it runs counter to the spirit of this rule that stresses on respecting the soul whatsoever. To use atomic weapons is tantamount to punishing a person for an infringement made by another. If atomic weapons are used not only millions of existing human beings but also the coming generations will be put to destruction. Thus according to this rule we are not allowed to use atomic weapons.

Destruction

leads to destruction. It is interesting to note that the holy Quran talks of destruction of earth not of a specific locality. It shows that Qur'anic approach is a global one. It does not talk of killing a particular person or destroying a particular agricultural field; it talks of in a general way taking into account

even future generations. To say again using nuclear weapons destroys the environment and threatens the lives of future generations. Thus producing and keeping nuclear weapons is an attempt for spreading destruction and corruption on earth. One cannot say that keeping an atomic weapon is other than its using, for it can be said that keeping an atomic weapon is also in line with using it- not something different from it.

The usage of an atomic weapon in some parts of the world leads automatically to using it somewhere else. It is not as such that if a country uses an atomic weapon somewhere things will end. This is because others will also use it. Thus if a person uses atomic weapons somewhere every one will be tempted to use it.

For example India tested its nuclear arsenals and Pakistan immediately followed the suit. Nuclear weapons are so sensitive and so is testing them. If a country tests its nuclear weapons and another country does not it may imply that the one that has not carried out the test has remained far behind.

It may be asked that using a nuclear weapon is no doubt wrong, but what about its production and proliferation? It seems to be wise to encourage the proliferation of atomic weapons as it leads to equilibrium in power. It will deal with such issues later on.

C) Rule of greater harms: According to this rule, if the harms of something exceed its benefits then that thing is not legally permissible. It is in accordance with this rule that drinking wine and gambling are forbidden, because their harms exceed their benefits. It is not acceptable to say that Islam has moved in accordance with rule in some cases but it has violated this rule in other cases. Thus Islam has always respected this rule. As a result one can say that using atomic weapon is forbidden as its harms are far more than its benefits and advantages. It seems that atomic weapons are inherently bad. The more the atomic weapons the closer to destruction the earth. Atomic weapons are very special weapons following an especial sort of regulations. The possibility that a produced atomic weapon will be used is very high. Presently big powers have massed up so many nuclear weapons that they can destroy our earth planet many a times.

In addition, going towards atomic weapons is equal to taking part in a dangerous competition that does not have any end. In regard with drinking wine and gambling, God has talked Himself for others did not see this. As to the weapons of mass destruction, every rational person agrees that the harms of its usage are much more than its advantages.

4. Justice rule: Justice rule cannot be applied everywhere. It is applicable in certain cases. This rule requires us to take the world towards moderation and rationality. Since using atomic weapons disturbs the normal state of affair of everything therefore it is opposed to the rule of justice and moderation. However I prefer to call it a theory rather than a rule.

Program director: Can we use atomic weapons to defend ourselves if our enemies proceed to use them?

Hujjatulislam

Muballeghi: There are certain juristic rules that can allow producing and keeping such weaponries, though I am of the view that such juristic rules cannot permit producing and keeping atomic weapons. Any how all arguments (for and against) must be discussed in a healthy atmosphere. This is because such discussions are technical and no opinion expressed in this regard is final.

There is a

juristic rule called naif e sabil rule according to which you must acquire the most advanced weapons for if you have such weaponries you close the door to Islam's enemies forever. There is another juristic rule called Itida rule according to which one can do whatever the enemies do. Based on this Quranic rule, we must do the same actions the enemies are doing. Thus if the enemies use atomic weapons Muslims must also use them in a tit for tat manner. Finally there is idad rule on the bases of which preparation has to be taken against the enemies. This rule is very general. It orders Muslims to acquire 'power' to frighten the enemies and power is a general term that includes even atomic weapons. This is because if you have got atomic weapons you can easily frighten the enemies.

Having atomic weapons is preemptive.

So far I have touched three rules and I will further elaborate on them beginning with the third.

The Quranic

verse that requires Muslims to acquire weapons, does not include atomic war heads, though the concept 'power' is not exclusively used for swords and the like. It surely includes tanks and the like but the question is whether or not it includes atomic weapons. In my point of view, the concept power used by the holy Quran does not include atomic weapons. This is because according to the verse you must acquire weapons in order to frighten the enemies, but atomic weapons frighten the whole humanity. As I mentioned before, atomic weapons are a threat against humanity. That is why today many oppose having weapons of mass destruction, though the motive behind their move is not but putting atomic weapons under their own monopoly. In addition, using atomic weapons destroys the earth- a thing that is opposed to the prescription of the holy Quran. This is because the destruction caused by using atomic weapons is the best examples of corruption forbidden by Almighty Allah.

If we take

part in arms race it will imply that we have approved of the culture of using atomic weapons. Super powers have already begun arms race and we must not follow in their footsteps. This race is very bad and Allah has forbidden us to follow in the footsteps of those who are corrupt. Thus the verse does not include atomic weapons for acquiring and using such weaponries endanger not only the enemies but also your own lives. Concession is where the application of such rule causes dangers to the enemies alone.

Itida rule is

also of no relevance here, for if such a rule can be put into practice here, one must be allowed to perpetrate crime in case his rival perpetrates crime. This while no one encourages crime and everyone supports moderation.

Justice

requires us to avoid using destructive weapons that destroys the earth and is against the vicegerency of man and human security. In case, atomic weapons are used on a large scale, there will be no earth to be a place for man to exercise his vicegerency. Thus we cannot allow producing and using atomic weapons on the bases of the above-mentioned rule or the like. However distinction has to be made between having atomic weapons and having nuclear technology.

Those who

chant slogans against us think that we have also, like them, taken part in arms race. On the basis of such false assumptions, they want to deprive us of having any power.