

ISLAM, INTERNATIONAL LAW AND THE WORLD TODAY

PREFACE

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FOREWORD

Contemporary international framework witnessed expansion and augmentation during previous century. Trauma and violence suffered by humanity during two World Wars urged the nations to unite and find ways to combine their energies and resources for the betterment and welfare of mankind. Laws regulating international conduct in every sphere of life ranging from rights of child to nuclear proliferation evolved with unprecedented frequency and widespread international support.

Though the conflicts and violations had not subsided, yet the world was largely seen to be heading towards a peaceful harmonious future. Today we stand faced with a very challenging situation where mankind is, on the one hand, rich with a millennium's heritage and on the other, major powers of the world seem bent upon destroying it. Mankind had major improvements during twentieth century in the fields of politics, security, economics, finance and above all human rights. UN Charter, UN Declaration of Human Rights, Geneva Conventions and host of other treaties, conventions and institutions had helped the nations and individuals to think with common stakes in global peace and progress. We had been moving towards a world where war was not an essential instrument of foreign policy. Instead, foreign policy could be rescued from the tentacles of war – through dialogue, understanding and respect for law. Incidents of 9/11 and repulsive response of the sole super power of the world to it have shaken the very foundations of global security system. Basic concept of law, human rights and international relations are being re-written; and re-written arbitrarily. All the emphasis on dialogue and peaceful settlement of issues evaporated into thin air in front of military might. World seems to have returned to the era of unilateralism and brinkmanship where the greater power with more military and economic strength can call the shots. United Nations Organization that was being celebrated as one of the greatest achievements of mankind stands today where League of Nations stood during 1940s.

It is unfortunate that retaliation in response to 9/11 incidents was not directed against perpetrators of the attack, rather it was directed against second largest religion of the world and each and every one of its followers. While the world was trying to find legitimacy for attack on Iraq in the name of "weapons of mass destruction" a major offensive was launched against Afghanistan in denial of all principles of law and morality. These prolonged and dubious expeditions stimulated anger and hatred among the youth in Muslim world. Issues that had almost settled in modern international framework like concept of nation-state were again challenged and questioned. International order, laws and institutions were seen as tools of oppression in the hands of mightier nations of the world. The violence found its counterparts in all parts of the world. The hatred and hysteria created through war media by governments of Western nations in order to grab public support infused hatred among individual members of societies and the caste, creed and culture again became prominent lines of distinction between sons and daughters of Adam and Eve.

It is this historical juncture of the history when the lectures delivered by Dr. Mahmood Ahmad Ghazi in the Institute of Policy Studies (IPS) are being presented in book shape. This lecture series was designed to answer the questions that had arisen in the wake of 9/11 about international role of Islam and Muslims and to offer food for thought to those who are concerned about future of humanity. The book therefore has double appeal; it tries to guide Muslim masses and the leaders deep into their past and urges them to chalk out their strategies and behaviors in line with everlasting principles of Islam but with contemporary context in mind. It also helps others to realize the role of Islam in nurturing a global civilization and its potential to provide an alternative to the mankind at a time when all known formulae for lasting peace seem to fail. It deals with philosophical as well as practical aspects of the subject.

Islamic state to me represents an idea as to how values should influence individual and collective behavior. In an ideal setting, all human beings are supposed to rise above the level of animal existence and gauge their actions on the yardstick of values and principles that are, in most cases, common in all human beings. In every given cultural or religious context, significance and role of values would be different and when individuals who share a value framework form a government they make every possible effort that their ideology of life and their way of life flourishes, expands and progresses. It is a recent and in essence a fascist idea that the state is an objective in itself.

In almost all political systems, including democracy, state is considered an instrument to achieve certain collective objectives. It is therefore very natural that Muslims, who believe in certain values and share a common vision, wish and strive for practicing that vision and bring those values into force, not merely in their individual lives but also in the public sphere of life through persuasion, motivation, and where they have authority, through enforcement. While Islam's relationship with authority — like any other system of life — is integral, the purpose of Islamic state is to serve certain objectives, to actualize certain values and justice and welfare of the people under the umbrella of the divine guidance. But along with its divine dimension, the legitimacy for the whole exercise comes from concurrence, acceptance, participation and approval of the people. Thus an Islamic state has dual responsibility and the holders of office in an Islamic state have to remain mindful of the fact that while they have to incorporate public opinion in its decisions through meaningful consultation (shūra), and it shall also stand accountable for its deeds before all-knowing, all-wise Allah on the day of judgment. Sense of this dual responsibility brings about the change that makes the authority and power tools for welfare in spite of instrument of oppression.

It should also be highlighted that all those means and principles of international law which are thought to be achievements of past three centuries are in fact fundamentals of international law of Islam. They have remained in force for more than twelve centuries and have ruled vast lands with diversity of cultures, languages, religions and traits. History is witnessed that Muslim dynasties in various parts of the world had, by and large, exhibited the best examples of good governance through assimilation of all faiths and cultures within their respective jurisdictions. They

received the message of pluralism from Divine guidance as the Lord of Universe, Allah, has urged protection of dignity of man and has given him the liberty even to differ with his Creator and Law Giver. The other principle along with 'dignity of man' that defines Islam's interpretation of pluralism is the acknowledgment that a person may have a variety of identities in different capacities and these different identities may co-exist in a person as well as in a society. This acknowledgment enables the individuals to unite under one nationality even with their peculiarities and distinctions in various capacities.

It is a fact that recent developments in international law and politics, particularly during last three centuries, have made the statehood and nationality coextensive and have thus given a new meaning and dimension to minority problems. But it is interesting to note that during recent debates on the issue of minorities, focus has not been upon this aspect of the debate rather religion has been criticized for discrimination and exploitation. Contemporary debates tend to disregard the vast area of commonalities among various cultures and civilizations that need to be explored and exploited for the common good of the society. These commonalities are the real achievements of mankind and product of a struggle spread over centuries. All three faiths of Abrahamic tradition — Islam, Christianity and Judaism — have played a very important part in building those common grounds among civilizations. It cannot be denied that every culture has its own distinctive features but the commonalities are naturally overwhelming because the origin and the source of all three major religions is Allah: the Creator.

Use of force has always been the most dominating topic among debates on international law. Since we are discussing the subject with a different focus in this book, we have to be mindful of the threats that have emerged as a result of erosion of common human values and departure from internationally recognized norms. War or use of force may be and has been an inevitable part of the human experience in certain situation. But, what is more important is civility, security, justice, well-being and protection of life and all that makes life liveable. If force is used to protect these positive ideas from threats, then only it is justified but, this too has to be subject to rule and moral norms. Islam has seen this aspect of war not merely on humanitarian grounds but has bound its followers to minimize effects of war by avoiding all such means and measures which might hurt or injure the persons and things which have no direct bearing on the result of the battle. Addition of divine aspect in the whole scenario does not allow the power to cross the boundaries of civility and humanity. Keeping with the pace of development and advancement of international law during previous century, it is time to further refine modern warfare instead of allowing some states to demolish the whole set of international laws that is a result of common human experience in the name of war against terror. If this negative development is not stopped, it shall be the greatest tragedy of our times.

It is a great regret that we could not present these scholarly lectures of Dr. Ghazi in book shape during his life time. His demise (September 26, 2010) was a great shock to all those who knew him.

He was such a great scholar and so dear friend that words can never express the pain we all feel. He had personally viewed most portions of this manuscript and had updated and improved them. He had been keen about this book but his time to return to his Lord approached far before anyone had ever anticipated. I have no reservation in saying that he was one of the greatest scholars of Islam in contemporary times and his disciples throughout the world and his publications shall remain as a beacon of light for rest of humanity. May his soul rest in peace.

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