

In the Name of God, the Most Merciful, the Most Kind



February 02, 2015

The Inappropriate Approaches of Media towards Violence Victims

Local and international media regularly choose to publish reports disclosing personal details of victims, including their name, their home district or even village and their face. The example is the widely broadcast scene in which two of the victims in the Paghman case, in a crowded corridor of a government building, are pointing out their perpetrators from a line of suspects. Staged probably to display the justice sector's willingness to respond to the public outcry, the scene, however, puts the raped women on a stage that they will have a hard time escaping from ever again. Not only have they been publicly portrayed as victims, which can psychologically revictimize women. Such practices also make them known to their communities and beyond as women without chastity. In Afghan society, it often does not matter that the woman has been forced. This has been proven repeatedly by cases in which rape victims were killed by their own relatives, who argued that they had harmed the family's honor. The women's names often remain tainted.

Ruqia Sarwary, a legal advisor from the Ministry of Women's Affairs (MoWA), for example worried about Khatera, the rape victim from Kabul, after watching her interview on a local TV in which the girl was "clearly recognizable." Another prominent example is the media coverage on Lal Bibi's case. This 18-year-old girl from Kunduz had been abducted by an ALP commander on 17 May 2012 and subsequently raped and tortured. The photos of Lal Bibi show the girl clearly distressed and anxious, wide eyed and close to tears. Lal Bibi and her mother had apparently been wearing burqas, but were asked by journalists to remove their veils. Also, in the recent case of Breshna, the 11-year-old girl raped by her mullah in Kunduz, the nation knows exactly what the victim looks like and where she lives. AAN spoke to Breshna's uncle who accompanied the girl to Kabul for the continuation of the court case. He told AAN that "Breshna cannot go to school anymore and also not to the madrasah. She is isolated and feels ashamed to speak to other children. It was a bad thing to publish her pictures and show her face on TV." Media organizations such as NAI or the South Asian Free Media Association (SAFMA) now call for more decency when dealing with victims. NAI's most recent statement reminded journalists that "Article 45.7 of the Mass Media Law does not allow media to show pictures of victims of criminal offenses if they damaged the victim's dignity." In some of the cases mentioned above, victims contacted media themselves or offered to tell the story, but also in these cases - maybe particularly here - the media should recognize its specific responsibility to them. Victims are often illiterate and probably always distressed and emotional at the time they are giving interviews. They probably do not understand the consequences the media exposure might have for their lives.

Another obvious detail in the list of recent cases is the number of incestuous rapes and the confusion within the legal system about how to deal with them. Incest - sexual intercourse between close relatives - is not a new type of crime in Afghanistan, but the Afghan penal code does not include specific regulations to address it. Article 429, established in 1976, does cover the crime of rape. It states that "A person who, through violence, threat, or deceit, rapes another one (whether male or female), or initiates the act, shall be sentenced to long imprisonment, not exceeding seven years." It does not address rape within the family or even rape of children within the family - incidents that are usually regarded as even harsher offenses. For these offenses, lawyers or judges used to refer to an additional article, 427, that provided guidance regarding eight special circumstances that might increase the severity of the punishment, with prison sentences of up to ten years. Article 427 did indeed mention "the case where the person against whom the crime has been committed is a relative, up to the third degree of the offender." However, in 1977 article 427 was amended, removing the list of additional items. Now it only addresses adultery, prescribing punishment for anyone involved. With this, the Afghan state has removed additional safeguards for victims, particularly victims raped within the family or even children raped within the family - an odd decision as the Afghan society traditionally values the family as the safest place of all, especially for women and children.

The new president of Afghanistan has made women's rights a focus for his government. But it remains to be seen if this is lip service or if progress will be real. On 25 November, the Ministry of Women's Affairs announced an initiative "to curb violence against women." The initiative includes cooperating with mullahs who are supposed to talk about women's rights in mosques, media initiatives and conferences. But this is a 16-day campaign only.

While certainly not the only issue on the new government's agenda, continued work on violence against women and girls will be important. This will involve continuing to familiarize police, prosecutors and judges with these issues and the existing laws and regulations. It also includes a push for the approval of the Family Law - a law that would back up women's basic rights and freedom within the family and that would help to prevent traditional practices such as Baad marriage or under-age marriages. This law has not yet been passed, although it had been promised for 2014.

Law, which is not being implemented



Well Governed is Well Served!

By Asmatyari

Subsequent to assuming office of presidency, Mr. Ashraf Ghani and chief executive Abdullah Abdullah were destined to opt for convenient individuals in bid to carry forth government formation. Previously, Wolesi Jirga (Lower House of Parliament) picked of only nine out of 19 cabinet nominees, after long stand-off. The 243 present members of parliament exercised their vote either in the favor or against the nominees. Each cabinet nominee must have attained 122 votes in favor to become a member of the National Unity Government's cabinet. The nineteen slots presumably were divided on the basis of broad based consensus developed between both the leaders. Given out of eight nominees recommended by president Ashraf Ghani three including Finance minister Eklil Hakimi, minister for Hajj and Religious Affairs Faiz Mohammad Osmani and Minister for Mines Daud Shah Saba could earn vote of confidence and rest five were rejected by member of Wolesi Jirga. Conversely, out of ten nominees presented by chief executive Abdullah five earned the vote of confidence including Minister for Foreign Affairs Salahuddin Rabbani, Interior minister, Noor-ul-Haq Ulumi, Minister for Refugees and Repatriation Sayed Hussain Aleml Balkhi, Minister for Rural Rehabilitation and Development Nasir Durrani, Minister for Public Health Ferozuddin Feroz, and the rests were turned down. The formation of the government is yet awaited, provided ten ministers are still to be picked. There are countless issues and problems awaiting their fate, were to be solved long ago. The absence of legitimate authority procrastinate the public consignments, have equally impacted the affairs of governance. Aside from filling the slots with competent and committed individuals, the entire affairs of government, termed as governance stand primary. Governance is the dynamic interaction between people, structures, processes and traditions that support the exercise of legitimate authority in provision of sound leadership, direction, oversight, and control of an entity in order to ensure that its purpose is achieved, and that there is proper accounting for the conduct of its affairs, the use of its resources, and the results of its activities. Subsequent to successful completion of picking ministers for different slots, the preliminary subject of prime importance to incumbent government will be the mainstreaming of governance. Responding at the query how to get that done is illustrated below. Good governance is needed to make both the public and private sectors effective. A well governed country has also both these sectors well administered and in harmony with each other. When a country is not politically sound its institutions will also be in poor condition. Cohesion between these sectors is impossible in the absence of good governance. In our country we can see that due to the bad governance our public and private sectors are in a great mess. Every institution of public sector is suffering from mal-administration and worst corruption. Even for public utilities task, people have to offer bribe. Without any favor or bribe it's very difficult to get any work done from the public offices. Moreover, due to the malpractices of the public officials and misappropriation of public funds the infrastructure of public institutions has become cracked and a situation like chaos is prevailing all over the country.

First-class governance requires fair legal frameworks that are enforced by an impartial regulatory body, for the full protection of stakeholders.

Transparency means that information should be provided in easily understandable forms and media that it should be freely available and directly accessible to those who will be affected by governance policies and practices, as well as the outcomes resulting from them and that any decisions taken and their enforcement are in compliance with established rules and regulations. One of the requirements is that governments and their processes are designed to serve the best interests of stakeholders within a reasonable timeframe. It requires consultation to understand the different interests of stakeholders in order to reach a broad consensus of what is in the best interest of the entire stakeholder group and how this can be achieved in a sustainable and prudent manner. The government that provides the opportunity for its stakeholders to maintain, enhance, or generally improve their well-being provides the most compelling message regarding its reason for existence and value to society. Other requisites is the means that the processes implemented by the government to produce favorable results meet the needs of its stakeholders, while making the best use of resources, human, technological, financial, natural and environmental at its disposal.

Accountability is a key tenet of praiseworthy governance. Who is accountable for what should be documented in policy statements. In general, a government is accountable to those who will be affected by its decisions or actions as well as the applicable rules of law. Participation needs to be informed and organized, including freedom of expression and assiduous concern for the best interests of the government and society in general. The crucial importance of good governance can be witnessed by the experience of East Asian countries. Between 1965 and 1990, the region registered the highest growth rate in the world and combined it with high living standards. The single most important factor in this economic miracle was the fact that these countries were able to put in place sound and sustainable framework.

Independence of judiciary must be maintained which can exercise an effective system of check and balance and can prevent politicians from abuse of power. Economic and political stability are deeply interlinked. Without one the other cannot be obtained, so government must evolve straight and requires a major re-structuring. Then continuity of policy is required without which, no result would be obtained.

People must be educated without which they cannot protect their rights. Press can play a vital role in creating awareness among people regarding their problems and their solutions. In this way people would be able to demand their rights and will perform their duties in a more organized way. Thus, we can say without proper civic sense good and effective governance cannot be obtained. It is asserted that high quality governance is needed for the smooth running of public institutions, it is also essential for maintaining the sovereignty of the country. If a country is poorly governed and there is a political instability, its enemies find opportunities in this situation and try to undermine it. While a badly governed country has many other problems to solve, it cannot ensure its security. A good governed country is economically strong and all the departments of the country function smoothly. It enables the rulers to strengthen the country's security.

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The Open Structure of Islam

By Hujjatullah Zia

Religious interpretation is one of the controversial discourses in modern age among the religious intellectuals. Since traditional understanding of religion is unable to resolve the highly sophisticated issues of contemporary society, an "update theology" and neo-interpretation are the crying needs of our age. However, the traditional frames of mind on one hand and secular approaches to religion on the other hand, have led to sensitive issues. Seemingly, the muftis and mullahs' approaches towards religion, which are based on merely cryptic and sacred sources, is too conservative and traditional to unravel the philosophical, political and economic issues of today's world. However, the secularists strive felicitously to interpret religion in a way to satiate the thirst of younger generation and to meet the needs of modern life. Unlike Catholic religion, the natural structure of Islam is open. Mohammad Mojtahed Shabestari, an Iranian Islamic intellectual, believes that in the open structure of Islam, religious message directly addresses the men without appointing any official representatives for explaining and interpreting the divine message. To put further light on this topic, he makes a comparison between Catholic Christianity and Islam. He states that in the structure of Catholic religion, there are three angles namely divine message, mankind and church. Hence, it makes a closed triangle. In this close system, church is introduced in the nature of Christianity as official interpreter of divine message which obligates the admirers to follow. He argues that, based on Christian beliefs, when God incarnated in history and carried a message, this message bears an official protector that is church to keep the message safe. Mr. Shabestari stresses that the natural structure of Christianity necessitates that there is always a number of specific people in church to interpret the real essence of Christianity officially and their interpretations eventuate to the existence of dogmas which preclude the followers from disobedience. Therefore, the men being addressed by the divine message in Catholic are not qualified for interpreting the message. So, the natural structure of Christianity is a close system.

However, a third angle is not predicated in Islam and people are addressed directly being allowed to interpret the message. The communication between God and mankind and understanding the divine message by mankind is an open system. Islam, as it permeated the history, according to Mr. Shabestari, is like a globe shining brightly in the frames of theology, philosophy, jurisprudence, Holy Qur'an, Hadiths, etc. Thus, all of them are open in emergence and development and muftis are not obliged to think in a certain way or declare a certain fatwa. He, then, explains the difference between Christian dogma and Islamic fatwa. Dogma includes religious beliefs and Christian's practical matters; however Islamic fatwa includes only practical

issues and religious beliefs are beyond the realm of fatwa or emulation. Fatwa is a deductive view based on a series of human knowledge but dogma is the outcome of the Holy Spirit's presence in church which is beyond deduction. Fatwa can be numerous and contradicting on a single issue, for instance, ten muftis can declare several fatwa but dogma cannot be different in the same era. Muftis can backtrack on their fatwa, however the Catholic Pope can't recant his dogma; and, therefore, the Catholic followers construe the historical evolution of dogma as a linguistic change or stating that the church discovers a new truth in every new age which was not stated before.

Hence, the aforementioned differences between dogma and fatwa point out how the rational system in Islam is open and no intrinsically religious element fetters the muftis' fatwa. Since no official interpreters are defined in the nature of Islam and the people being addressed are also considered interpreters, without any meddlers. Moreover, the content of religious message will never manifest in an authoritative source to fetter the Muslims' thought rather Muslims are entitled with the rights to understand and embrace the content of religious message. The diverse understandings and interpretations take place among the people and by the people. As it was mentioned earlier, there is the divine message on the one side and the men on the other side - which make an open structure.

Some may argue that religious law will contain a number of certain facts and values regarding social and political issues. This is an incontrovertible fact, however, since no specific source or institution is introduced formally in the nature of Islam, people are entitled to analyze and understand those facts in many ways. They are neither compelled nor stereotyped to understand the fact in one way. Ill-fatedly, in spite of open structure or open system of thought, Muslims felt obliged, under dictatorial regimes and fundamental frame of minds, to understand a religious message as the regimes explained for them. In another item, the despotic rulers interpreted religious Sharia in their own political interests and declaimed being bestowed divine legitimacy to rule. Moreover, people focused more on their responsibilities rather than their rights. Since they naively believed the rulers as being caliph and cruel kings were considered the wrath of God and kind ones were deemed His mercy, they publicly deemed themselves as total slaves in the hand of the kings. Why the cruel rulers should be obeyed? They believed that whenever the people's sin increase, God sends them a cruel ruler to retaliate them and they have to be subjugated to them at any case. Hence, such mentalities continued for long and kept them in dark without a sense of protest. In our age, such ideas are obsolete and, with few exceptions, people will know, with a thorough study, the open structure of Islamic law.

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