The Right to Error (2)

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Dr. Taha Hussein dictated this valuable article while in Paris, and the trial of Shaykh Bakhit had not yet concluded … Al-Jumhuriya publishes this article today out of its concern to satisfy readers, and admirers of Taha Hussein in particular. The article follows:

If a Muslim wrongs himself and commits one of the sins that God detests, that He warns His believing servants against, and that He threatens with severe punishment and painful torment should they fall into them, then this Muslim's case falls into one of two possibilities: either he has committed a transgression that harms other people and causes some of their rights to be lost, or he has committed a transgression that harms no one but himself, touching nothing but the pure religious bond between himself and God, who knows what he conceals and what he reveals, who watches over his conscience as he thinks or feels, and over his person as he does right or wrong.

If it is the first case, then it is the ruler alone who is charged with trying this Muslim, with punishing him for the harm he has done to people and the rights of theirs he has caused to be lost, in whole or in part, and with exacting retribution on behalf of those he has harmed or caused to suffer something they dislike.

And the ruler is the one who carries out judgment among people; he is charged with upholding the prescribed penalties, with giving justice to the wronged against the wrongdoer, with treating the weak as though they were strong before him, until they obtain their right in full, and with treating the strong as though they were weak before him, until they discharge in full what is due from them.

And the ruler undertakes this burden himself if he is able, or through judges whom he delegates to undertake it on his behalf when he is not able; and discharging this duty does not exempt the sinner from another reckoning, far harsher, far graver, and far more severe than the reckoning of the ruler or the judge — namely, God's reckoning of him on the Day of Judgment, and His punishment of him for whatever evil deeds he has sent before him. Yet God, alongside all this, opens wide doors of hope to this wrongdoer in His pardon, His forgiveness, and His mercy, should he repent, make amends, and cease committing evil deeds.

For the punishment of the thief, the murderer, the usurper, and the one who transgresses against people's rights in general — their punishment in this world does not exempt them from God's reckoning of them in the next; and God, Mighty and Exalted, punishes them after this reckoning if He wills, pardons them if He wills, and transforms their evil deeds into good deeds if He wills. God, Mighty and Exalted, informs us of all this in His Glorious Book, in noble verses which I think it unnecessary to cite at length in this discussion, since they are recited by Muslims morning and evening; and error in committing these sins that touch people's rights does not exempt the one who errs from worldly liability, even though the weight of that liability is greatly lightened for him.

Thus, whoever kills by mistake, the ruler must hold him to his mistake, and oblige him to compensate the next of kin of the deceased for what his act has cost them, by paying the blood-money due to them; but the ruler may not exact retribution upon him and put him to death for one he killed by mistake. As for what is between him and God, God pardons error, by His word, Mighty and Exalted: "There is no blame upon you for that in which you have erred, but only for what your hearts intended. And God is Forgiving and Merciful." And God has informed us that He may pardon even the one who errs deliberately, should he repent, believe, and do righteous deeds; for God may transform his evil deeds into good deeds.

And God says in Surat al-Furqan: "And [the servants of the Most Merciful are] those who do not invoke besides God another deity, nor take a life which God has made unlawful except by right, nor commit unlawful sexual intercourse. And whoever does that will meet a penalty. The punishment will be doubled for him on the Day of Resurrection, and he will abide therein humiliated — except for those who repent, believe, and do righteous work, for them God will replace their evil deeds with good. And God is ever Forgiving and Merciful."

If it is the second case, and the one who errs and falls into sin and grave transgression has wronged no one but himself alone, has caused to be lost only a right owed to God that touches no right of any person, near or far, then his affair rests with God alone, and his reckoning is upon God alone, and no person whatsoever, whoever he may be, has any standing to call him to account or punish him; rather, it is incumbent upon Muslims, and upon their rulers and scholars especially, to enjoin him to good, forbid him from wrong, call him to virtue, and warn him against evil. And the ruler may reprimand him with blame, or with some mild

punishment that neither destroys his life nor causes him to lose his right.

As for what is between him and God, we know nothing of his case except what God has told us in the Qur'an: that He has prepared a painful punishment for those who commit grave sins, and that He is forgiving and merciful, pardoning, if He wills, the one who commits a grave sin, should he repent and make amends. And God, Mighty and Exalted, says to His Prophet, peace be upon him: "And when those come to you who believe in Our verses, say, 'Peace be upon you. Your Lord has decreed upon Himself mercy: that whoever among you does wrong out of ignorance and then repents after that and amends, then indeed, He is Forgiving and Merciful.'"

And He says: "Repentance is only accepted by God from those who do wrong in ignorance and then repent soon after. It is those to whom God will turn in forgiveness, and God is ever Knowing and Wise."

And the ignorance spoken of in these two verses ought to be understood in its old Arabic sense, the sense in which it occurs more than once in the Qur'an: that of acting rashly, without reflection, without thought, without deliberation — here it is the opposite of forbearance, not the opposite of knowledge, as al-Farazdaq said:

Our forbearance weighs as heavy as mountains in gravity
yet you would think us demons, when provoked to rashness.

And as Amr ibn Kulthum said:

Let no one act rashly against us, lest we act more rashly still
more rashly than the rashest of the rash.

So one who abandons prayer, abandons fasting, or abandons the pilgrimage when he has found a way to perform it, is among those who err, for whom God has prepared a painful punishment, and for whom He has likewise prepared mercy, forgiveness, and pardon, should they repent soon after and make amends.

All of this is among the elementary matters necessarily understood from religion, as the Azharis themselves say, and understood from religion by the very text of the Qur'an, which admits neither interpretation away from it nor alteration.

What, then, might be the position of that Azhari professor who made his statement on the fast, angering the Shaykhs and stirring up this

affair, which it seems has not yet concluded? He did not deny that fasting is one of the pillars of Islam, nor did he permit people to break their fast, should they wish, without restriction or condition; he merely understood one of the texts of the Noble Qur'an in a way the Shaykhs do not sanction, and announced his opinion to the people. He read the word of God, Mighty and Exalted: "And upon those who find it difficult is a ransom: the feeding of a poor person," and understood from this verse what some of the ancient commentators understood — al-Zamakhshari among them, for instance — namely, that those who find hardship in fasting may break it and ransom themselves for this by feeding a poor person. And he read other verses of the Qur'an and understood them differently from how the Shaykhs read them: he read the word of God, Mighty and Exalted, "God wishes to lighten your burden, for man was created weak," and His word, "God intends for you ease and does not intend for you hardship," and His word, "And He has not placed upon you in religion any difficulty." And he saw the Prophet, peace be upon him, say, as reported by al-Bukhari: "You have been sent to make things easy, not difficult." And he said, as also reported by al-Bukhari: "Indeed, this religion is sturdy, so proceed into it gently; for one who exhausts his mount neither covers the distance nor keeps the mount fit to ride."

He read all of this, and he read many other texts besides, and came to believe that Islam does not take hold of man through hardship or severity, but through gentleness and kindness, because man was created weak. And God has taught the Muslims to ask Him not to lay upon them a burden such as He laid upon those before them, and not to task them with what is beyond their strength. And he saw many Muslims display their fasting when they met other people, or met some people, and then break it when they withdrew into solitude, among their own kind, those of whom God says: "They conceal themselves from people, but they cannot conceal themselves from God, and He is with them." So he counseled these people that they might break their fast if they found hardship in it, and ransom this breaking of the fast by feeding a poor person, and he believed, within himself and between himself and God, that in giving this counsel he was advising Islam and the Muslims, forbidding people from hypocrisy, and urging them to charity.

God has no need of the fasting of those who fast, while the poor among the people have the direst need that those capable of feeding them should feed them, whether as an act of charity freely given, or as a ransom in place of fasting.

Such was this professor's view. I do not say that he was right, nor do I say that he did well in what he did; but I do say that he did not deliberately depart from religion, nor deliberately disobey God's command, nor deliberately deviate from the texts of the Qur'an and the sound hadith. The utmost and the harshest that can be said of his case is that he exercised his judgment and erred. And there is no blame upon one who exercises his judgment and errs. How many have exercised judgment and erred, without anyone declaring them unbelievers, or accusing them of departing from religion, or attempting to try or punish them, or asking the courts to separate them from their spouses — and no one has the right to accuse them of any such thing, or bring them before the courts for any such thing, or attempt to separate them from their spouses for any such thing. All of this is an assault upon the Muslim's right to exercise independent judgment in his opinion, and to counsel God and the people to the best of his ability.

Nor should it be said that this professor did not attain the rank of independent legal reasoning (ijtihad); for this rank is itself something vague, undefined, unclear in its criteria, and none of our Shaykhs at al-Azhar has ever been able to define for us this rank of ijtihad, nor to show us when people attain it and when they fall short of it. But a Muslim who reads the Book of God and understands it as people are able to understand it, who reads the hadith of the Prophet, peace be upon him, and understands it as people are able to understand it as well, and who then takes part in what people have agreed to call the religious sciences, will have taken his share of jurisprudence and its principles, and of theology and the various schools of thought within it; and all of this is attested for him by the noble Azhar itself, which grants him a written certificate, accredited by the state, attesting that he is one of the scholars of religion.

There is no harm upon this Muslim if he attempts ijtihad sincerely in his effort, counseling Islam and the Muslims through it. And that professor has indeed obtained that same certificate, just as His Eminence the Grand Shaykh himself and his colleagues among the members of the Council of Senior Scholars have obtained it, as have all their colleagues among the scholars of the noble Azhar. And if our venerable Shaykhs decline, for themselves, to exercise ijtihad, and content themselves with following one of the four schools of law, out of fear of slipping, apprehension of error, and preference for safety — that is their right, which no one disputes with them; but it does not permit them to compel

other people to be followers like themselves. They are free to follow, and others are free to exercise ijtihad, and God is predominant over the affairs of all of them. He will question the followers about their following, and He will question those who exercise ijtihad about their ijtihad, and He will reward each of them for his deeds with a reckoning whose justice none but the obstinate would doubt.

What, then, is all this commotion for? And what is all this argument for? A man exercised his judgment, which it was his right to do; if he was right, his reward is with God, and if he erred, his reckoning is upon God, and no one among the people — neither the men of government nor the men of al-Azhar — has any standing to call him to account for it or to punish him, because he has not transgressed against any right belonging to the people: he has shed no unlawful blood, has taken no unlawful money, and has not harmed anyone in any matter for which the laws impose punishment for harming people.

All that can be said is that he erred in one ruling among the rulings of religion; and it is the scholars' right to point out his error to him, to direct him to what is right, and to call him to return to it. But that they should try him, punish him, discipline him, or bring him before the courts to separate him from his family — this is something Islam does not permit them to do, and if they do it, they grant themselves a right God has not granted them; they overstep their bounds, they wrong this professor, and they arrogate to themselves what they do not possess.

I do not know how this affair now stands, nor do I know, as I dictate this discussion, whether this professor has been acquitted or condemned; but the one thing I am certain of is that trying him over his opinion on fasting is an excess, and a deviation from the principles of Islam and its lenient way, and that the scholars of Islam at al-Azhar must return to the right path, after authority led them astray from it, and a faction among them came to favor this injustice at one time or another; for the scholars of Islam have no right to try a Muslim or punish him because he exercised his own judgment and erred or was right — for Islam knows no clergy, and knows no such supreme religious authority monopolized by a faction of the men of religion, by which they would pronounce this man a believer and that man an unbeliever.

The Muslims lived for centuries before the noble Azhar even existed, and knew of no body that tried people for exercising independent judgment in opinion. They disliked the Caliph al-Mahdi's pursuit of

heretics, his excess in that pursuit, his seizing of some people on mere suspicion, and his killing them on mere conjecture; and they likewise disliked al-Ma'mun's excess when he sought to compel people to believe in the createdness of the Qur'an, and when he tested a group of the finest of Muslims over this.

Al-Azhar itself lived for centuries during which it possessed no power to try or punish for opinion; it possessed only the power to enjoin good and forbid wrong, and to call to virtue, as God commanded in His Glorious Book. This right was not granted to al-Azhar except in the latest of times, in this very century in which we live, when the Council of Senior Scholars was established and granted whatever rights it was granted; and granting it the right to try people and punish them for opinion was an innovation Islam had never known before.

It would have been proper for al-Azhar to remember, and to remind the government that granted the Council of Senior Scholars those rights, that this was an innovation, that the worst of affairs are those newly invented, that every innovation is misguidance, and that every misguidance leads to the Fire — as Ibn Mas'ud, may God have mercy on him, used to tell his students in Kufa. The imams of the Muslims differed over many matters: they differed in jurisprudence, they differed in theology, they differed in politics, and some of them disparaged others, and some went to excess against others in that disparagement; but none of them was ever brought to trial, and no severe or light punishment was ever imposed upon any of them for it.

And we read countless curious anecdotes of some scholars disparaging others; we read in the books of Ibn Hazm, for instance, that al-Ashari's blood was declared forfeit by some, over this or that opinion he held in theology, and that the followers of Abu Hanifa discarded texts of the Qur'an and attributed to the Prophet hadiths he never said, over this or that opinion they held in jurisprudence; but all of this never amounted to more than words that were spoken. That a jurist or a theologian should be put on trial for an opinion he held in jurisprudence or theology, and that those who try him should themselves be jurists or theologians — this is something the Muslims knew nothing of, until the Council of Senior Scholars was established in Egypt.

And the strangest thing in this whole affair is that the author of that article on fasting invented nothing and said nothing new; scholars among the Muslims had preceded him to just such an opinion, and I have already

noted, at the start of this discussion, that he did not invent the interpretation of the verse on fasting on which he relied for his opinion, but that ancient commentators had preceded him to it, among whom I mentioned al-Zamakhshari.

And he was likewise preceded in his opinion by a group of the ancient jurists whom the Azharis do not declare unbelievers, among whom I mention Ibn Hazm; and I know of no trial of al-Zamakhshari over his interpretation of this noble verse, nor of any trial of Ibn Hazm over his permitting the breaking of the fast and the ransom for those who find hardship in fasting. But the affliction of the contemporary Azharis is that they read certain particular books that the circumstances of al-Azhar in certain ages imposed upon them, and scarcely read any other books written by the scholars of Islam in the earliest ages and in the various Islamic lands. And for this reason they confine knowledge and religion within very narrow bounds — the bounds of the books they read — while knowledge is far wider than these books, and religion is far wider, and far more lenient, than what the Azharis see it to be.

Were it not that I love al-Azhar with a love deeply rooted in my soul, and am as gentle with the Azharis as I am with a dear friend, I would say more than this; but in any case, I sincerely wish for the Azharis, and for their scholars especially, that they read the Qur'an itself, and read the hadith in its own text, more than they read the books of jurisprudence and the books of later commentators.

And I know of nothing that teaches a Muslim breadth of opinion, breadth of character, the taking of matters with gentleness and kindness, and the judging of things without artificiality or complication, as does the thorough reading of the Noble Qur'an and the Noble Hadith, together with economy in resorting to commentators and glossators, such that one resorts to them only in the utmost necessity.

Now then: I believe I have accomplished, with this discussion, what I set out to establish — that it is this Shaykh's right, who made that statement of his on fasting, to exercise his judgment and to err, and that no one among the people, even were they the Shaykhs of al-Azhar, with His Eminence the Grand Shaykh at their head, has any standing to try him or punish him for any part of it; and that it is their right to debate with him in the best manner, to enjoin him to good, forbid him from wrong, and call him to virtue — going no further than this, because they do not possess the power to go any further.

As for what the Azharis who attempted to respond to the article Al-Jumhuriya published for me before I traveled from Egypt have written, I have no response to it except the word of God, Mighty and Exalted: "Take forgiveness, enjoin what is good, and turn away from the ignorant," and His word: "And the servants of the Most Merciful are those who walk upon the earth with ease, and when the ignorant address them, they say, 'Peace.'"