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ON JUSTICE

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Knowledge of Justice and the Difficulty of Defining It

“Knowledge of justice” focuses on addressing justice as a value. It is meant to examine the reality of justice, its sources, types, methods, approaches, and institutions in addition to its definition. The term “knowledge of justice” refers to this huge intellectual product produced and created by man through writings, sayings, symbols, shapes, and movements about justice, which constitute the basis of what has become known as “knowledge of justice.” This knowledge is interdisciplinary with other sciences such as philosophy, ethics, sociology, law, politics, and other human sciences until it has become convenient to say that “knowledge of justice” means “the science of justice.” Despite the large number of solid scientific and non-scientific studies that tackled “knowledge of justice,” the definition of “justice” has remained intractable!

The reason why it remained intractable, is because its value nature makes it difficult to define.

Philosophers, ethicists, and legal scholars have agreed that justice is a human value and due to such fact, the awareness of justice, its essence and core, by man, is achieved through his knowledge and understanding of the law or rules

of the movement of life and through the state of his society in terms of the degree of social, economic, political, cultural, and religious development and progress. Man varies in the proportion, amount, and degree of such awareness from one person to another, which results in a relative understanding of justice and hence relative justice. For example, if ten people of different social statuses, ages, educational qualifications, and cultures were asked to provide a definition of justice, each of them would have a different definition from the others. Accordingly, the content and theme of such definition will vary based on the social, economic, political, and religious circumstances of his saying, which leads to the multiplicity of definitions of justice. Such multiplicity of the definition of justice as well as of its content, is what makes justice more difficult to define.

What makes justice more difficult to define is the ambiguity of the “idea of justice.” The idea of justice (i.e. the mental perception of what is just) is not unified or fixed in the human community. This perception varies according to the elements of time and place. In the ancient civilizations bordering the Mediterranean, such as the Egyptian, Greek, and Roman civilizations, the idea of justice meant “righteousness”...integrity in speech and uprightness in action. Accordingly, legislations were developed. As for the civilization of Mesopotamia and especially for the Babylonians, the idea of justice meant (protecting the higher ranks of society). In the major monotheistic religions (Judaism, Christianity, and Islam) the idea of justice meant (conscience). The conscience is the hidden voice rooted in the human soul, which guides the individual to distinguish right from wrong and what is good and what is horrid. In modern

philosophies, the idea of justice is based on the degree or amount of “pleasure and pain.”

The geographical and natural environment of human groups plays a role in the difficulty of giving a definition of justice.

In desert societies where sources of livelihood and water are limited, the idea of justice is based on the common ownership of such sources. Perhaps this idea is the same as what was mentioned in the Prophet’s (May Peace Be Upon Him) hadith, “People are partners in three: pasture, water, and fire.” In aquatic societies, where rivers and agriculture exist, the idea of justice is based on “sufficient water distributing.” In marine societies, where the sea is the source of livelihood, the idea of justice is based on leaving the sea open. This idea is the basis of the fairness of the principle of “open sea” which is known in international law.

In brief, “justice” is still difficult to define.

The Essence of Justice

Justice is a demand for every human being and a requirement in every word or action made by him. Rather, it is a requirement for the integrity of his life. Still, human thought did not agree to give a clear and specific concept of the essence of justice, in the event that the essence of a thing is different from the type of thing, different from the nature of such thing, different from the effect of the thing and different from the definition of the thing.

The essence of justice is a field that was addressed by philosophers, legal scholars, religious scholars, and sociologists. Everyone sees justice from their jurisprudence, knowledge, and specialization point of view. Thus, any attempt to identify the essence of justice is conditional to the understanding, jurisprudence, and knowledge of those, who seek to define it. Some of those seekers do master the knowledge behind such concept, others are well established in it, while others have so little knowledge of the same.

Due to such discrepancy, any statement that is alleged about the essence of justice is only as much as the knowledge and understanding of the one, who states it.

When a law researcher analyzes “justice”, what can he say about it? Is justice a human need? Or is it a human

requirement? Is justice a material thing or a moral one? Is it one of the human values, or one of the absolute human values that belongs to the metaphysical world?

I find myself among those, who argue that justice, from the human perspective, is a “human value,” in the sense that human life is not upright in a way that preserves his humanity and preserves his dignity, except with the duty to establish justice.

The duty to establish justice is rooted in the human conscience, divine commands, the opinions of philosophers and thinkers, and the reasons for human civility. The human conscience is that hidden call deeply rooted in the human soul, which commands its owner to be fair verbally and non-verbally. According to such understanding, conscience is based on a sound instinct that Allah has placed in man ever since he breathed the soul into his body. The degree to which a person obeys the call of conscience is affected by the surrounding circumstances, the environment in which he lives and the values and ideals upon which he was brought up and believed in.

As for divinity, God is either one God in the heaven, unique in essence and in the perfection of attributes and names...extending his dominion and power over the entire universe, or several gods of different essence, attributes, and places. The commands descending from God require due obedience and compliance. Among the divine commands, the necessity of establishing justice. The value of divine commands lies in the fact that they are a compulsory and obligatory religion for those, who believe in the same. Moreover, they believe that following and acting upon them brings them goodness and God’s approval.

The opinions of philosophers and thinkers come as a third source for the necessity of establishing justice as a human value. “Justice” has occupied the minds of philosophers and thinkers since ancient times, so they dealt with it with contemplation and thinking and elaborated on its explanation and clarification of its meaning. They also enumerated its forms and pictures and indicated its place among human values. They designated its impact on the progress and civilized societies. In Greek philosophies, Plato and his virtuous republic was present and in Islam there were al-Farabi and his virtuous city as well as Ibn-e-Sina and the idea of a just city.

Furthermore, Justice ranked in a prominent place occupied by philosophers of the Enlightenment such as John Locke, Jean-Jacques Rousseau, Montesquieu, Descartes, and others.

Within the core of the views of philosophers and thinkers emerged ideas that now represent basic rules in litigation procedures in all judicial systems in the world. Such as the rule providing “no person shall be punished for one act twice,” the rule “the appellant shall not be harmed by his appeal” and the rule “false does not entail a right” in addition to others.

Among their opinions and ideas calling for the necessity of administering justice, the judicial sayings that have risen to the ranks of the unwritten legal rule, such as “slow justice is injustice,” “justice is the foundation of kingship” and others were woven.

As for the motives for human civilization, the facts of history indicates that the civilizations known to mankind and the progress made by man in the fields of applied sciences,

social sciences, and various human knowledge, would not have occurred in this way, had it not been for the rule of justice. Without justice, it is not possible to give any grouping, human action, or intellectual progress the name of “human civilization,” because justice is what gives human action its civilized and moral dimension. Justice is the environment or the gracious incubator and it – justice – is necessary for any human civilization. Such necessity is what made human experience underline the golden rule that adorns the issuance of most constitutions of Arab and Islamic countries that “justice is the foundation of kingship.”

As long as justice is an element of the integrity of human life, well-being and happiness, then justice becomes a basic need that man must obtain, should he not obtain justice, he will feel pain, as is said of “need” in economics.

Despite the fact that justice is a basic and necessary need, its significance for man is borderline. Meaning that a man needs justice and there is no doubt regarding such, still he does not need it except to the extent that his needs are satisfied. Here, we can give an example of this with table salt. Salt is one of the essential and basic needs of man and food may not be acceptable without it, but in the end, man’s need for salt is limited, because his need for this substance has a certain limit and so is justice. Justice is a critical need. A person does not need it more than his needs. It is not hoarded to trade upon the ascending of its value.

And it can be stored to benefit from it when it is lost and it is not credited in the accounts as capital.

Despite the marginality of justice, the need for it is permanent, recurring, and renewed. It is *permanent*, because justice is not a seasonal commodity that a person needs in

certain months and seasons of the year. Rather, it is a permanent need that a person needs as long as such person is alive. He needs justice from the day he is born and even before he is born until the day he dies.

Justice is a *recurring* need i.e. a person needs it repeatedly throughout his life, he needs it for his criminal security, social security, economic security, and in all areas of his daily life.

Justice is also a *renewed* need, as it is a human value that is renewed according to time and place. Hence, what is seen within a specific historical moment context, or in a particular place (society) as justice, may not entail the same in another historical moment or in another place (society). Justice renews itself!