

CONFLICT MANAGEMENT IN ISLAMIC LAW BY DR. Y. Y. BAMBALE

INTRODUCTION

Conflicts are very common and almost inevitable, some are beneficial while others are not. The line that distinguishes the two is a thin one and not constant. But it usually depends on the culture, tolerance and ability to take stress. This prompted Mu'awiyyah, the founder of the Umayyad Caliphate to say thus:-

*"if there were one string of hair linking him to the people, it would not be cut. If the people relaxed it, he would pull it, and if they pull it he would relax it"*¹

Therefore, Muslims shall neither reject conflicts altogether, nor allow them to deepen and degenerate to the level of being out of control. Thus, Muslims have to follow the middle and wise course of being justly balanced as it is stated by the following Quranic verse thus:- "Thus, We have made of you an Ummah justly balanced, that you might be witnesses over the nations, and the Messenger be a witness over yourselves."²

This shows that conflict is then necessary if it takes the form of enjoining what is good and forbidding what is bad or evil; with full sincerity without personalizing it. A duty is placed on every Muslim (male or female) to voice his or her opinion on matters of common interest, and to oppose what he or she perceives to be wrong. The process of correcting a decision or action should be free of any personal attacks, gossip or stereotypes etc. It is this process of correction that is regarded as conflict management in Islamic Law, which is the subject matter of this discourse.

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¹ Jabnoun, N., Islam and Management, International Islamic Publishing House, Riyadh, Saudi Arabia, (2005), Pp. 253-254.

² Holy Qur'an, Chapter 2 v. 143.

Methods of Managing Conflicts

There are various methods of managing or solving conflicts. The selection of the appropriate method depends on the situation. The methods are as follows:

(a) Confrontation or Dialogue

This is a face to face meeting between the conflicting parties. The parties are supposed to identify the source of the problem and then solve it. This method has proven to be very effective when the conflict stems from misunderstanding. When the conflict is a complex one, then this method seems ineffective.³

Thus, there should be no break in communication between conflicting parties, lest it deepens the conflict. Therefore, communication in Islamic law is very important, because it lessens the degree of conflicts and provides opportunities for settling them. It helps to bridge the gap especially between the parties in conflict. A Muslim is not required to abstain or refrain from talking to a fellow Muslim beyond a period of three days.⁴

During the course of their face to face meeting, the conflicting parties are to put the fear of Allah in their minds, check their behavior, responsibilities etc against the general aims and objectives of the Shari'ah. They are also expected to remember that they will be accountable to Allah both in this world and in the Hereafter. It is because of the importance attached to it, that never was there a Prophet of Allah who refused to speak to his foes, let alone his friends, whether he was at war with them or at peace.⁵

(b) Expert Opinion.

There should be the provision of an expert to give his opinion on a conflicting matter that will eventually lead to its resolution. The expert should be able to win the trust and confidence of the conflicting parties, and should possess the necessary professional credibility. The expert shall make a professional judgment and shall be able to convince the parties of it.⁶

³ Jabnoun, N (2005), Ibid, Pp. 271-272.

⁴ Chaudhry, Muh'ammad Sharif (1988), A Code of the Teachings of Al-Qur'an., _Fazal Haque & Sons Printers Dar bar press, Lahore, P. 369.

⁵ Tamawi, M. S (1976), Umar and the Fundamentals of Modern Politics and Administration. 2^d ed., Cairo (Egypt), P. 138.

⁶ Sa'id, Jawadat, Work is a skill and a will, Damascus (1983), P. 45.

Convincing the parties about the experts' judgment is fundamental and instrumental in the settlement of the conflict.

The importance of an expert opinion in conflict situation cannot be over-emphasized bearing in mind the fact that the conflicting parties do not possess or have enough skill and expertise to judge with authority, which view is right, best or wrong. So, the best person to judge is the expert, who is knowledgeable.

"The judge of a conflict is only knowledge"⁷

To support the above view, the following Quranic verse is quoted thus:-

*"Say: Have you any (certain) knowledge? If so, produce it for us. You follow nothing but conjecture: You do nothing but lie."*⁸

(c) Negotiation

Negotiation is bargaining between the two parties that have recognised their conflict.⁹ The negotiation can be handled by the representatives of the conflicting parties. It is effective only when there is a tendency for reconciliation or agreement. But, it will be ineffective if the reconciliation will require judging in favour of one side.

For example, regarding Marriage Conflicts, it is stated by Allah, (SWT) in the Holy Qur'an thus:-

*"If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from hers; if they both wish for peace, Allah will cause their reconciliation. Indeed, Allah is ever All-knower, well Acquainted with all things."*¹⁰

⁷ Ibid.

⁸ Chapter 6 v. 148

⁹ Al-Shaybani, M. H. (2005), Kitab al-Siyar al-Sighir (The Shorter Book on Muslim International Law), Tr. By Mahmood Ahmad Gazi, Adam Publishers & Distributors, New Delhi-2 (India), Pp. 61-64).

¹⁰ Chapter 4 v. 35.

Negotiators could view negotiation as a win-lose situation where gains by one party mean losses by the other. It could also be viewed as a win-win situation where the interest of both parties can be maintained. This situation appears to be unrealistic, however, there is usually an innovative potential solution that offers greater joint benefits than compromise. These solutions are termed as integrative agreements.¹¹

(d) Arbitration.

Arbitration is another means of settling conflicts. It can take various forms, individual, governmental, organizational, etc. An accepted neutral person, or friend to conflicting parties, committee or an official authority can handle the arbitration in all cases. The arbitrator must be knowledgeable and current on the issue which is the source of conflict as well as being impartial and just. This is corroborated by the Quranic verse thus:-

*"Allah does Command you to render back your trusts to those to whom they are due; and when you judge between people, that you judge with justice: verily how excellent is the teaching which He gives you! For Allah is He who hears and sees all things."*¹²

Also, in another verse, it is stated thus:-

*"if you judge, judge in equity between them, for Allah loves those who judge in equity."*¹³

From the above verses, it can be stressed that the judgment rendered by the arbitrator should be with equity and justice.

In arbitration, the use of authoritative command or language is required and effective. However, if it is to have a lasting effect, it must be done in a just manner with an explanation behind the authoritative decision. Authoritative Command is needed when conflicts persist and injurious, or when one party is determined to show that he is in the right, while the other is at fault. In fact, where a party transgressed upon another, Muslims are ordained to

¹¹ Al-Shaybani (2005), *Ibid*, Pp. 61-64.

¹² Chapter 4 v. 58

¹³ Chapter 5 v. 52

firmly stop the aggression. Once the aggression is stopped, the conflicting parties are to be reconciled through arbitration.

The Holy Qur'an, states thus:-

*If two parties among the believers fall into quarrel, make you peace between them. But if one transgresses beyond bounds against the other then fight you against the one that transgresses until it complies with the command of Allah, but if it complies, then make peace between them with justice, and be fair, for Allah loves those who are fair.*¹⁴

The above Quranic verse is being corroborated by the following tradition of the Holy Prophet Muhammad (p.b.u.h). Some members of the tribe of Banul-Anbar were captured as prisoners of war. A delegation of the Anbarites came to Madina and spoke about their kinsmen who were made prisoners of war. The matter was left in the hands of one of the members of the delegation, and that the Holy Prophet (p.b.u.h) would abide by whatever decision he would give. The arbitrator decided that half of the prisoners should be freed gratuitously and the rest should be liberated on payment of ransom customarily, for prisoners of war. This was accepted and executed by the Holy Prophet Muhammad (p.b.u.h).¹⁵

Even in settling international disputes or conflicts, peaceful means are to be resorted to, namely, mediation, conciliation and arbitration. Force or War is supposed to be the last resort when the peaceful means fail to redress conflict or aggression.¹⁶

(e) Developing or Re-defining goals that transcend conflicts.

There should be developed or redefined set objectives and goals that would transcend conflicts. The goals should be appealing and feasible.

¹⁴ Chapter 49 v. 9

¹⁵ Karim, A.M.F; Mishkat-ul-Masabih, Law Publishing Co. Lahore (Pakistan), Vol. II, (n.d) Pp 438-452.

¹⁶ Al-Fawzan, S; A Summary of Islamic Jurisprudence, Al-Maiman Publishing House, Riyadh, Vol. 2 (2005), Pp. 105-111.

The emphasis on the goals can help settle conflicts in the short term, but as soon as the goals are achieved, the conflicts are likely to reemerge. One way of dealing with such problem is to keep identifying new challenging goals and solving them.¹⁷

(f) Changing the Human Variables

The behaviour of people during conflicts depends on their values and attitudes. The approach of changing the human variable does not consider conflicts to be the real problem. Instead, it considers that the real problem lies with the attitudes of the people.

Therefore, this attitude needs to be changed. The Holy Qur'an has this to say in this direction thus:-

*"Lo! Allah changes not the condition of a folk until they change that which is in their hearts."*¹⁸

This means that if the cause of the conflict is behavioural, such behaviour is to be changed otherwise the conflict will persist. The change normally takes a very long time; though, it is the real cure to the conflict.

Observations

From the foregoing, it is to be observed that the conflict management in Islamic law entails the following:-

- 1) That conflict is very common and almost inevitable. Therefore, there should be no cause for alarm.
- 2) That the reasons for the conflicts abound, but the desired conflicts are those that enjoin what is good and forbids what is bad or evil, and it is not personalized
- 3) That a Muslim is free to express an opinion on matters of interest to Muslims, and to oppose what he or she perceives to be wrong.
- 4) That the process of correcting a decision should be free of any sentiment, personal attacks, gossip or stereotypes etc. This process is what is known and termed as conflict management.

¹⁷ Jahnoun, N (2005) *Ibid*, Pp. 276 — 278.

¹⁸ Chapter 13 v. 11

- 5) That even though conflict is unavoidable, it should not be allowed to degenerate out of control because of negative consequences it might produce at both individual and societal levels.
- 6) That there are so many methods of managing conflicts, ranging from dialogue by the conflicting parties to negotiation, arbitration, engaging experts for their opinions and skills, setting a definite goal that will transcend conflicts, changing the human variables etc.
- 7) That the various methods of solving conflicts are to be selected appropriately and applied to the most appropriate situations.

Conclusion

By way of conclusion, conflict is a common phenomenon and almost inevitable. But the interesting thing is that Islamic law has in place mechanisms to settle the conflicts. It has so many methods of settling the conflicts, by choosing the most appropriate method in any given situation. Cut throat competition for self aggrandizement, ego satisfaction, envy, hatred, lack of loving for fellow Muslims what one loves for oneself are probable sources for conflicts. Therefore, the methods of conflict resolution in Islamic law are to emphasise the brotherhood of all Muslims and the common interest they share. Allah, Almighty, Has ordained the reconciliation of the conflicting parties, the by coupling it with belief and awareness of Allah. That is why the Holy Qur'an says thus:-

*"The believers are but a single brother-hood: so reconcile between your contending brothers, and fear Allah, that you may receive mercy."*¹⁹

¹⁹ Chapter 49 v.10