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مفهوم القانون الإسلامي

I - The Islamic Concept Of Law.

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The religion of Islam has the character of a jural order which regulates the life and thoughts of the believer according to an ideal set of revelations communicated to Muhammed, the last of Prophets. Thus, Islam established its own order of right and wrong embodying its own justice, as the correct and valid one.

In Islamic legal theory, only God, as the source of ultimate authority has knowledge of the perfect law. This law, the 'divine law, originally embodied in the Qura'an, exists in a heavenly book.

How does the Islamic religion regulate the life of the believer?

قانون ← = identity
 ← = accordance

قانون ← = Stratification
 ← = Correspondence
 ← = matching

In the same way as 'natural law' was regarded in the West as the ideal legal system consisting of the general maxims of right and justice, so Islamic law is in the eyes of a Muslim the ideal legal system. As a 'divine law' it is regarded as the perfect, eternal and just law, designed for all time and characterized by universal application to all men. The ideal life is the life of a strict conformity with this law.

In Muslim legal theory, the divine law preceded both society and State. The State existed for the purpose of enforcing the law. But if the State fails to enforce the law, in which case the State obviously forfeits its *raison d'être*, the believer still remains under the obligation to observe the law even in the absence of anyone to enforce it. The sanction of the law, which is distinct from the validity of the law, need not exist. For, the object of the law is to provide for the believer the right path (Sharia), or the standard life, regardless of the existence of the proper authority charged with its enforcement.

Law in Islam exists independently of man's own existence. The norms of the law have been revealed to Allah's Apostle (God's Prophet). The divine law rationalizes a world in which Prophet Muhammad found chaos and conflict. The law provides guidance not only in establishing an ordered society, but also in distinguishing between 'husn' (beauty), hence to be followed, and 'qubh' (ugliness), which should be avoided — or, in Western terminology, distinguishing between the 'good' and 'evil'.

The Muslim jurists-theologians assert that the basic principle is liberty; but this principle is qualified by another, that human nature is essentially weak and can easily be led astray unless guided by divine wisdom. So, the divine law is a set of all-embracing commands, it is both 'authoritarian' and 'totalitarian' in nature. For it includes dogma as well as social and political principles; these are combined to constitute an indivisible unity. Law, thus, has the character of a religious obligation; at the same time, it provides a political sanction of religion.