

Principles of the Islamic Political System

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This short booklet outlines some of the principles of the Islamic Political System. For comments and feedback email at: hussain.tanveer@gmail.com

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The Islamic Belief System

It is a belief that there is One and Only Originator of this universe¹ Who not only brought all the matter and energy into existence out of nothing but Who therefrom created innumerable types and forms of inanimate and animate objects². He is All-Powerful³ Who not only brings things into existence but also nourishes them, sustains them, maintains them, regularizes them and directs them from their earliest state to that of ultimate completion and perfection⁴. He has framed all the laws of nature under which things would assume various shapes and forms, and has determined the ratios and proportions in which various elements must combine with one another to result in various compounds and objects⁵. He has regularized different stages through which all things, including human beings must pass on the way to their completion and perfection⁶, and also has made sure the creation of necessary provisions⁷ for all the beings in the journey to their

¹ Al-Quran Surah 2: Verse 117; Surah 6: Verse 101; *Al-BadeeAAu* means 'the Originator' [Ref. Lane's Arabic English Lexicon]

² Al-Quran Surah 6: Verse 102; Surah 13: Verse 16; Surah 39: Verse 62; Surah 40: Verse 62

³ Al-Quran Surah 17: Verse 99 (Qadir) Surah 18: Verse 45 (Muqtadir); Surah 67: Verse 1 (Qadeer)

⁴ Al-Quran Surah 1: Verse 2. Allah's attribute '*Rabb*' encompasses all the given characteristics [Ref. Lane's Arabic English Lexicon; Abdul Mannan Omer's Dictionary of the Holy Quran]

⁵ Al-Quran Surah 54: Verse 49; Surah 13: Verse 8; Surah 65: Verse 3; Surah 25: Verse 2

⁶ Al-Quran Surah 23: Verses 12-16; Surah 39: Verse 6; Surah 84: Verse 19

⁷ Al-Quran Surah 29:60; Surah 11: Verse 6

ultimate destination. He is Allah⁸, the One and Only, Single, Unique, Absolutely Independent and Eternal. There is nothing like Him and nothing comparable to Him⁹. To Him belong all the Perfect Attributes¹⁰.

It is a belief that Allah is the One Who created human beings¹¹, giving them freedom of choice in beliefs¹² and actions¹³, and providing them all the necessary guidance for their life through His chosen Messengers, clearly distinguishing for them the right way from the way of error¹⁴. It is a belief that He sent His Messengers {including Noah, Abraham, Moses, Jesus (peace be upon all of them)} with His guidance¹⁵, who modelled an exemplary behaviour for the people to emulate, and Muhammad (peace be upon him) was the Last of His Messengers¹⁶ and the Holy Quran is the latest and the last version of His Guidance (encompassing all the essential and unadulterated elements of the Torah, the Bible or any other Divine Book)¹⁷.

It is a belief that Allah is the One Who created entities called *Malaika*, who put into effect His laws, plans, programs and

⁸ Whose overall sovereignty or lordship should be accepted; whose laws and directions should be obeyed and followed; to Whom one should look for protection in bewilderment; and from Whose grandeur one should be humbled.

⁹ Al-Quran Surah 112: Verses 1-4; Surah 42: Verse 11

¹⁰ Al-Quran Surah 59: Verse 24

¹¹ Al-Quran Surah 55: Verse 3

¹² Al-Quran Surah 18: Verse 29

¹³ Al-Quran Surah 41: Verse 40

¹⁴ Al-Quran Surah 2: Verse 256

¹⁵ Al-Quran Surah 57: Verse 25

¹⁶ Al-Quran Surah 33: Verse 40

¹⁷ Al-Quran Surah 5: Verse 48

schemes in the universe¹⁸, and some of them act as a means of communicating His Guidance to His Chosen Messengers¹⁹.

It is a belief that one day, Allah will call all human beings to account²⁰, be it in this world or in the life after death. He is all-powerful and all-capable to bring the death back to life²¹ as He was capable to originally bring things into existence out of nothing. It is a belief that those who lead life according to His guidance will ultimately have a paradisiacal life and those who live contrary to his guidance will end up in hell²². And it is a belief that mankind can fulfil its physical, mental and spiritual potentials best by following a way of life that is in accordance with His Laws and Guidance²³.

¹⁸ Al-Quran Surah 79: Verse 5

¹⁹ Al-Quran Surah 35: Verse 1

²⁰ Al-Quran Surah 2:284; Surah 21: Verse 47; Surah 23: Verses 102-103

²¹ Al-Quran Surah 22: Verses 5,7; Surah 23: Verse 16; Surah 58: Verse 6

²² Al-Quran Surah 101: Verses 6-9

²³ Al-Quran Surah 22: Verse 77; Surah 87: Verse 14; Surah 91: Verse 9; Surah 7: Verse

Definition of a 'Muslim'

It should suffice to 'legally' declare or consider someone a Muslim if he/she makes the following declaration:

"I bear witness that there is no god but Allah, and Muhammad (s.a.w.)²⁴ is His last and final Messenger. I solemnly vow to submit, surrender and yield to all of Allah's Laws and Commands as given in His last and Final Book, i. e. the Quran²⁵. I realize that in the Hereafter, I shall surely be held accountable in Allah's Court for all of my words and deeds."²⁶

²⁴ s.a.w. = sallallahu alaihi wasallam (peace be upon him)

²⁵ The word '*Muslim*' literally means the 'one who submits, surrenders or yields to an authority'. In proper sense, the term '*Al-Muslim*' refers to 'the one who submits, surrenders or yields to Allah's Will or Command'. The word '*Momin*' means 'a believer'. In proper sense, the term '*Al-Momin*' refers to 'the one who believes in the Islamic Ideology or value system, including belief in One God, His Prophets/Messengers, *Malaika*, Divine Books, and the Hereafter (which is so far hidden from our sight, i.e. *al-ghaib*) [Al-Quran Surah 2: Verse 177]. Another meaning of '*Momin*' is 'the one who gives peace and security'. One of the attributes of Allah is also *Al-Momin* [Al-Quran Surah 59: Verse 23]. The constitution of the Islamic Republic of Pakistan defines Muslim as "a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the prophets, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him)".

²⁶ The first sentence of the declaration is about the major beliefs; the second is about deeds; and the third is about a sense of accountability. All the other things which may be necessary to include in the definition are covered in the "vow to submit, surrender and yield to all of Allah's Laws and Commands as given in His last and Final Book, i. e. the Quran".

The Islamic Ideology

The core Islamic Ideology is that there is no god but Allah²⁷. Only He is the Giver of the Supreme Law (*Lahu-al-Hukm*)²⁸. Only He has the Ultimate Sovereignty (*Lahu-al-Mulk*)²⁹ and only He has the Ultimate Authority to be submissively obeyed, worshiped and adored (*Lahu-ad-Deen*)³⁰ (*FaAbudoohu*)³¹. All manmade laws must be consistent with His Supreme Law and all human authorities must be subordinate to His Divine Authority. Allah has no partners in His Supreme Legislative Authority (*al-hukm*)³², in His Ultimate Sovereignty (*al-mulk*)³³ or in His Ultimate Authority to be submissively obeyed, worshiped and adored (*ibadat*)³⁴.

²⁷ Al-Quran Surah 20: Verse 98; Surah 2: Verse 163; Surah 2: Verse 163, Surah 3: Verse 18, Surah 6: Verses 102, 106; Surah 7: Verse 158; Surah 9: Verse 31; Surah 11: Verse 14; Surah 13: Verse 30 Surah 23: Verse 116; Surah 28: Verse 88; Surah 35: Verse 3; Surah 39: Verse 6; Surah 40: Verse 3; Surah 40: Verse 62; Surah 40: Verse 65; Surah 44: Verse 8; Surah 59: Verses 22-23; Surah 73: Verse 9; Surah 2: Verse 255; Surah 3: Verse 2; Surah 3: Verse 6; Surah 4: Verse 87; Surah 9: Verse 129; Surah 20: Verse 8; Surah 27: Verse 26; Surah 28: Verse 70; Surah 64: Verse 13; Surah 114: Verse 3

²⁸ Al-Quran Surah 28: Verse 70, Surah 28: Verse 88

²⁹ Al-Quran Surah 39: Verse 6

³⁰ Al-Quran Surah 40: Verse 65

³¹ Al-Quran Surah 6: Verse 102

³² Al-Quran Surah 18: Verse 26

³³ Al-Quran Surah 17: Verse 111; Surah 25: Verse 2

³⁴ Al-Quran Surah 18: Verse 110

The Concept of an Islamic Republic

According to Hamilton, “in any Democracy--either a Direct or a Representative type--as a *form* of government, there can be no legal system which protects the individual or the Minority (any or all minorities) against unlimited tyranny by the Majority..... Such a *form* of government is characterized by The Majority Omnipotent and Unlimited. This is true, for example, of the Representative Democracy of Great Britain; because unlimited government power is possessed by the House of Lords, under an Act of Parliament of 1749--indeed, it has power to abolish anything and everything governmental in Great Britain. Under this *form* of government, neither the courts nor any other part of the government can effectively challenge, much less block, any action by The Majority in the legislative body, no matter how arbitrary, tyrannous, or totalitarian they might become in practice. The parliamentary system of Great Britain is a perfect example of Representative Democracy” [Hamilton, 1976³⁵].

In contrast to ‘Democracy’, “a Republic is: a constitutionally limited government of the representative type, created by a written Constitution--adopted by the people and changeable (from its original meaning) by them only by its amendment--with its powers divided between three separate Branches: Executive, Legislative and Judicial. Here the term ‘the people’ means, of course, the electorate. The people form their governments and

³⁵ A. L. Hamilton, (1976), “The American Ideal of 1776 - The Twelve Basic American Principles”

grant to them only 'just (limited) powers', in order primarily to secure (to make and keep secure) their God-given, unalienable rights. The American philosophy and system of government thus bar equally the "snob-rule" of a governing Elite and the "mob-rule" of an Omnipotent Majority. This is designed, above all else, to preclude the existence in America of any governmental power capable of being misused so as to violate the individual's rights--to endanger the people's liberties" [Hamilton, 1976].

Put in simple words, in a Democracy the Majority can make or abolish any law whatsoever without any restrictions. The legislative power of the Majority is not limited by any constitution. The parliamentary system of Great Britain is a perfect example of this form of government. On the other hand in a Republic, the legislative power of the Majority is limited by a constitution. The Majority cannot make any law against the basic principles enshrined in the constitution. This is the form of government that was envisaged by the American forefathers and the United States of America was meant to be a Republic rather than a Democracy.

Now the question remains that what is the basic difference between an ordinary (secular) Republic and an Islamic Republic? A short answer to this question is that in any Republic, the Majority cannot do any legislation against a constitution that is framed by their founding fathers based on the collective human wisdom. In an Islamic Republic, the Majority cannot do any legislation against the Quran revealed by the Almighty God or against a constitution

derived from the Quran. In a Democracy, the Majority can do any legislation whatsoever without any restrictions.

In other words, in a Republic the power of the Majority is limited by a man-made constitution derived from the collective human wisdom; in an Islamic Republic the power of the Majority is limited by the Word of God (the Quran), or limited by a constitution derived from the Quran (the Divine Book); and in a Democracy the power of the Majority is not limited by anything.

The form of government envisaged by the Quran is not a pure democracy or theocracy or constitutional theocracy or constitutional monarchy but a constitutional republic, with the Quran being the basis of the constitution. There is no room for theocracy in an Islamic Republic, considering theocracy as a form of government in which the ruler is considered to obtain guidance directly from God³⁶. After the demise of Muhammad (s.a.w.), the Last Messenger of Allah, any belief about anyone obtaining guidance directly revealed to him by God is not in accordance with the Quran. The word of God is completely perfected³⁷ and well-guarded in the Quran³⁸. All that may be required is the *definitive* interpretation of the word of God, for which the Supreme Judicial Institution of the Islamic Republic would be the final authority. Individual scholars may have their own interpretations of the Supreme Islamic law given in the Quran and may differ in their opinion as legal experts may differ about the

³⁶ Lila Perl, 'Theocracy', Marshall Cavendish, 2007.

³⁷ A-Quran Surah 6: Verse 115

³⁸ Al-Quran Surah 15, Verse 9

interpretation of any secular law but the interpretation of the Supreme Court of the Islamic Republic is to be considered final and definitive. As far as the exercise of legislative authority (within the bounds of the Quran-based constitution) is concerned, it has to be with the participation of the people³⁹ either directly or through their representatives.

The term '*Khilafat*' literally means 'succession', i.e. the following of one (ruler) after the other in time. The term *per se* does not indicate any particular form of government. The first head of the Islamic State after the death of the Prophet (s.a.w.) was known as his *Khalifa* or successor (i.e. *khalifa-tu-Rasool*), the later heads of the state being the subsequent successors.

Although the term *khalifa*⁴⁰, and its plural forms *khulafa*⁴¹ and *khalaiif*⁴² have been used in the Quran, but nowhere it is explicitly mentioned that anyone is *Allah's Khalifa*. These terms have been used in the Quran either to refer to the successor(s) of previous creation or generations or rulers but not specifically the successors or vicegerents of Allah, as is assumed by some scholars. That is why neither the Prophet (s.a.w) ever called himself *Khalifatullah* nor his successor assumed such a title but he was known as a *Khalifa-tu-Rasool*.

³⁹ Al-Quran Surah 42: Verse 38

⁴⁰ Al-Quran Surah 2: Verse 30; Surah 38: Verse 26; Surah 10: Verse 73; Surah 35: Verse 39

⁴¹ Al-Quran Surah 7: Verse 69; Surah 7: Verse 74; Surah 27: Verse 62

⁴² Al-Quran Surah 6: Verse 165; 10:14

Ultimate Goal of the Islamic Republic

Every society or state has some rules or laws to which it desires submission⁴³ of its people for the safety, security and preservation of its individual members as well as the society or the state as a whole. No society or state can run peacefully without any laws and rules. If the laws and rules are those or based upon those given by Allah, then submitting, surrendering or yielding to these laws and rules is called Al-Islam⁴⁴ (or The Submission).

Since Allah is the Creator and the Sustainer of the entire universe including the human beings, none can know better the nature and the needs of the human hardware and software better than Him. The laws and rules given by the All-Wise and the All-Knowing Allah (who is the creator and sustainer of all the human races and tribes) are free from any subjectivity, bias or limitations of time and space. Hence, the submission or conformity to only Allah's laws or guidance (if correctly interpreted and implemented) can guarantee a *perpetual* safety, security, preservation and well-being of *all* human beings living in a society and the world at large. On the other hand, since the laws made by human beings suffer from the eternal drawbacks of subjectivity or bias and temporal or spatial limitations of human knowledge and wisdom,

⁴³ The word Islam comes from the Arabic root seen-laam-meem, which means "to be safe and sound, unharmed, unimpaired, intact, and in peace". The word-form 'Islam' literally means "to submit or surrender or yield to the opinion, judgment, command, control, order or instructions (of someone)". [Ref. Arabic-English Lexicon by E.W.Lane]

⁴⁴ The Arabic prefix Al- is the definite article meaning "the".

they can never guarantee an incessant or *everlasting* safety, security, preservation or wellbeing of *all* humanity.

Now coming to the ultimate goal of Al-Islam or submission to Allah's laws, one can find from the Quran that one of the goals of this submission or Al-Islam is 'peace and security' of human beings. The Quran says that those who submit to Allah⁴⁵ and follow his Guidance⁴⁶ will have no fear and no grief, i.e. they will have not only an inner peace but also security from any dangers or threats from the outside. The Quran further says whether it is (those who call themselves) the believers or the Jews or the Sabians or the Christians, if they believe in Allah and the day of judgement and do good works, they will have no fear and no grief⁴⁷. Hence, according to the Quran, one of the goals of Al-Islam is to provide such a way of life or set of rules and laws or guidance for the mankind adopting which they can have peace and security.

In addition to peace and security, another goal of Al-Islam is human development, welfare and prosperity. The comprehensive Arabic term which encompasses all the aspects of human development, welfare and prosperity is *Falah*⁴⁸. The Quran says

⁴⁵ Al-Quran Surah 2: Verse 112

⁴⁶ Al-Quran Surah 2: Verse 38

⁴⁷ Al-Quran Surah 2: Verse 62; Surah 5: Verse 69

⁴⁸ The Arabic Word '*Falah*' has the following meanings: working out of latent human faculties to the best abilities [i.e. whatever of noble and good is hidden in humans must come out and whatever is in the form of potentiality in human mind must be converted into actuality]; working out human evolution and to bring to realisation of the positive potential that the Creator has placed in humans, just like ploughing of land and cultivation results in the actualisation of the potentialities of a seed; prosperity; success; the attainment of that which one desires or seeks, or that whereby one becomes in a

that Allah created man so that he should render his obedience with humility and submissiveness⁴⁹ (*Ibadat*) only to Allah, and further elaborated that this obedience to Allah (i.e. his laws and guidance) with all humility and submissiveness will ultimately lead to his *Falah*⁵⁰ i.e. his personal development (i.e. fulfilment of his physical, mental and spiritual potential), welfare and prosperity.

In short, the ultimate goal of Al-Islam, according to the Quran, is human development, welfare and prosperity in peace and security. And the ultimate goal of an Islamic Republic is to establish a society wherein everybody is able to fulfil his valuable physical, mental and spiritual potentials in peace and security.

happy or good state; continuous or permanence in a good or prosperous state, and in the enjoyment of ease, comfort or the blessings of life. There is no other word in the Arabic language that is more comprehensive in signification of what is good in the present life and in the after-life than Al-falah(الفلاح). [References: Arabic-English Lexicon by E.W.Lane; Dictionary of the Holy Quran by Abdul Mannan Omer; Lisan-ul-Arab by Ibn-e-Manzoor; Mufradat fi Gharib-ul-Quran by Raghīb; Kamoos-ul-Muheet by Muhammad bin Yaqoob Al-Feroz Abadi]

⁴⁹ Al-Quran Surah 51: Verse 56

⁵⁰ Al-Quran Surah 22: Verse 77

Social Contract and the Divine Covenant

The Social Contract Theory is one of the most dominant and influential political theories in the history of the modern West. Thomas Hobbes, John Locke and Jean-Jacques Rousseau are three best known proponents of this important theory, each with a slightly different approach to it from one another. Put in simple words, according to the social contact theory people give up or surrender some of their personal freedom, and give the government authority to enforce laws upon them whereby everyone lives in peace and happiness without fear of being harmed by others. It is a sort of deal or understanding between two parties, i.e. the rulers and the ruled. As a result of this deal or understanding, the ruled give the rulers the authority to rule while the rulers vow to assure peace and prosperity to the ruled. This unwritten social contract is the basis of most of the modern democracies in the world.

A similar sort of contract (although not exactly identical) is indeed mentioned in the Quran between Allah and the Believers⁵¹. According to this contract or covenant, anyone who becomes a Believer promises to spend his/her life and property according to Allah's Will/Laws in return of a promise by Allah for a paradisiacal life (in this world and the hereafter). Such a contract or covenant is administered by Allah's Messenger on Allah's behalf^{52, 53}, who is

⁵¹ Al-Quran Surah 9 : Verse 111

⁵² Al-Quran Surah 48: Verse 10

⁵³ Al-Quran Surah 60: Verse 12

always the first one to establish an Islamic Republic on earth according to Allah's Laws. Hence, the basis of an Islamic Republic is also a covenant or social contract whereby people give up or surrender some of their personal freedom, and give the Islamic government authority to enforce Islamic laws upon them whereby everyone lives in peace and happiness without fear of being harmed by others. Allah's covenant has been mentioned in several Verses of the Quran⁵⁴.

⁵⁴ Al-Quran Surah 2: Verse 27, Surah 3: Verse 77, Surah 6: Verse 152, Surah 9: Verse 75, Surah 13: Verse 20, Surah 13: Verse 25, Surah 16: Verse 91, Surah 16: Verse 95; Surah 33: Verse 15; Surah 33: Verse 23

Liberty and Freedom

Liberty identifies a condition in which human beings can act according to their own free will and take responsibility of their actions. John Stuart Mill has differentiated two types of liberty, i.e. (a) absence of external coercion and (b) freedom to act. Isaiah Berlin also differentiated two types of liberty, i.e. (a) negative liberty which is about absence of external restraints to one's action, and (b) presence of means and opportunities to act. Berlin described that a statement such as "I am slave to no man" is one of Negative Liberty, i.e. freedom from another individual's direct interference. He contrasted this with a statement such as "I am my own master" as one of Positive Liberty, i.e. freedom to choose one's own pursuits in life. Negative Liberty refers to 'freedom from' while Positive Liberty refers to 'freedom to'. Charles Taylor has distinguished Negative Liberty as 'freedom from external restraints' and Positive Liberty as 'freedom from internal restraints (such as fear, ignorance, weakness, etc.)'.

The Quran says categorically that "There is absolutely no compulsion or coercion in (opting for a particular) Deen (or a way of life or a system of beliefs and actions)"⁵⁵. Freedom of choice is the birth right of every human being. Allah says in the Quran that "Had He willed (not giving humans the freedom of choice), He would have made every human being believe all together; would you then (O Muhammad) compel people until they become

⁵⁵ Al-Quran Surah 2: Verse 256

believers?”⁵⁶. One of the most notable tasks of Allah’s Messenger (s.a.w.) was to relieve people of their burdens and shackles of subjugation⁵⁷.

According to the Quran, everyone has full freedom of choice in believing and disbelieving in a particular system of beliefs. It says, “The Truth is from your Lord, whoever wills let him believe and whoever wills let him disbelieve”⁵⁸. The Quran gives complete freedom of choice in worship by saying that “Worship what you will...”⁵⁹, although it enjoins man worshipping only his Creator⁶⁰. The Quran also gives complete freedom of choice in actions by saying that “Do whatever you will...”⁶¹. It further says that “Indeed, this (Quran) is a reminder, so whoever wills may take to his Lord a way”⁶². “No human being – even though Allah may have given him a Code of Laws or the power to enforce it or even Nubuwwat (prophet status) – has the right to say to the others: ‘You should serve me rather than Allah,’ what he should say is: ‘You should be amongst those who belong to Allah by following His Book which you teach to others and study yourself’⁶³.

⁵⁶ Al-Quran Surah 10: Verse 99

⁵⁷ Al-Quran Surah 7: Verse 157

⁵⁸ Al-Quran Surah 18: Verse 29

⁵⁹ Al-Quran Surah 39: Verse 15

⁶⁰ Al-Quran Surah 2: Verse 21

⁶¹ Al-Quran Surah 41: Verse 40

⁶² Al-Quran Surah 73: Verse 19; Surah 76: Verse 29

⁶³ Al-Quran Surah 3: Verse 79

The Quran makes it clear that liberty goes hand in hand with responsibility of the consequences for one's actions. It says, "There has come to you enlightenment from your Lord; whoever reflects on it, will do so to his own advantage. On the other hand, those who choose to remain blind to it, will do so to their own disadvantage"⁶⁴. "Whoever disbelieves will suffer from his disbelief, and whosoever does good works then such will prepare a good place for themselves"⁶⁵. "The truth from your Lord has certainly come to you. One who comes to be guided by it will be guided to his own advantage. But one who chooses to go astray will only harm himself"⁶⁶. "If you do the right thing it would be to your own advantage and if you go astray you will have to suffer the consequences of your wrong actions"⁶⁷. "Whoever does righteousness, it is for his own soul and whoever does evil does so against himself"⁶⁸. "Whoever commits a wrong, wrongs himself"⁶⁹. "Your insolence or transgression is against your own selves"⁷⁰.

It needs to be emphasized that 'Liberty' does not mean 'License'. The Quran says, for example, that "One must not take away anyone's life unjustly, which Allah has made sacred"⁷¹. Unjust murder is such a heinous crime that it has been laid down in the

⁶⁴ Al-Quran Surah 6: Verse 104

⁶⁵ Al-Quran Surah 30: Verse 44

⁶⁶ Al-Quran Surah 10: Verse 108; Surah 17: Verse 15; Surah 27: Verse 92; Surah 39: Verse 41

⁶⁷ Al-Quran Surah 17:7

⁶⁸ Al-Quran Surah 41: Verse 46; Surah 45: Verse 15

⁶⁹ Al-Quran Surah 4: Verse 111

⁷⁰ Al-Quran Surah 10: Verse 23

⁷¹ Al-Quran Surah 17: Verse 33

Quran that “if one kills another except as a punishment for murder or if he do so for spreading disorder in the land it shall be as if he has killed all mankind. On the other hand, if one saves the life of a single person it shall be as if he has saved the lives of all mankind”⁷². Similarly, one does not have the liberty to acquire anyone’s wealth or property unjustly or unlawfully⁷³.

The Holy Quran ensures the following types of freedom to all mankind: Freedom of life⁷⁴; Freedom of belief⁷⁵; Freedom of worship⁷⁶; Freedom of (lawful) action⁷⁷; Freedom from contempt and disrespect⁷⁸; Freedom from ridicule⁷⁹; Freedom from coercion⁸⁰; Freedom from servitude⁸¹; Freedom from deprivation of the rights⁸²; Freedom from unjust or unlawful acquisition of wealth or property⁸³; Freedom from injustice and unfairness⁸⁴. Freedom of one man ends at that point where the freedom of another begins to get restricted and freedom from coercion does not imply freedom from discipline.

⁷² Al-Quran Surah 5: Verse 32

⁷³ Al-Quran Surah 2: Verse 188; Surah 4: Verse 116]

⁷⁴ Al-Quran Surah 5: Verse 32

⁷⁵ Al-Quran Surah 18: Verse 29

⁷⁶ Al-Quran Surah 39: Verse 15; 22: Verse 40

⁷⁷ Al-Quran Surah 41: Verse 40

⁷⁸ Al-Quran Surah 31: Verse 18

⁷⁹ Al-Quran Surah 49: Verse 11

⁸⁰ Al-Quran Surah 2: Verse 256; Surah 10: Verse 99

⁸¹ Al-Quran Surah 3: Verse 79

⁸² Al-Quran Surah 7: Verse 85; Surah 11: Verse 85; Surah 26: Verse 183

⁸³ Al-Quran Surah 2: Verse 188; Surah 4: Verse 116

⁸⁴ Al-Quran Surah 4: Verse 58

Secularism and Freedom of Religion

Although Ibn Rushd (d. 1198 AD) is arguably considered the father of the secular thought in Western Europe, the term 'secularism' was coined by an Atheist English Writer, George Jacob Holyoake in 1851, as a replacement of the then negatively perceived term 'atheism'⁸⁵. Ibn Rushd put forth the idea that there are at least two paths to reach the Ultimate truth, i.e. Philosophy and Religion, implying that one can find the ultimate truth without necessarily resorting to Religion. On the similar lines, Holyoake sought to promote a social order separate from religion, without actively criticizing or dismissing the religious belief itself.

The phrase "separation of church and state" can be traced back to a letter written by Thomas Jefferson in 1802 to Baptists from Danbury, Connecticut, referencing the First Amendment to the United States Constitution. The letter says: "Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof', thus building a wall of

⁸⁵ Holyoake, G.J. (1896). "Origin and Nature of Secularism", London: Watts & Co., p.50.

separation between Church & State”⁸⁶. According to the first Amendment of the United States Constitution, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”⁸⁷.

As far as the establishment of religion is concerned, the Quran says, “He (Allah) has ordained for you all, the same System of Life that He enjoined upon Noah - And We have revealed to you (O Muhammad) the same Message as We enjoined upon Abraham, Moses, and Jesus: ‘Establish the Divine System of Life (in which the obedience is only to Allah’s Law or Command) and make no sects in it’.”⁸⁸ The Quran also says that those who do not judge or rule according to what Allah has revealed are the Disbelievers⁸⁹. It is clear from the Quran that when the Believers/Muslims gain power in the land, it is incumbent upon them to establish the Divine Code of Life instead of the secular system⁹⁰.

As far as free exercise of religion is concerned, the Quran says categorically that “There is absolutely no compulsion or coercion in (opting for a particular) Deen (or a way of life or a system of

⁸⁶ Jefferson, Thomas (1802-01-01), "Jefferson's Letter to the Danbury Baptists", U.S. Library of Congress. <http://www.loc.gov/loc/lcib/9806/danpre.html> Retrieved 9th Nov. 2012.

⁸⁷ http://www.usconstitution.net/xconst_Am1.html. Retrieved 9th Nov., 2012.

⁸⁸ Al-Quran Surah 42: Verse 13

⁸⁹ Al-Quran Surah 5: Verse 44

⁹⁰ Al-Quran Surah 24: Verse 55; Surah 22: Verse 41

beliefs and actions)”⁹¹. The Quran also warrants full security and protection for the places of worships of all religions⁹².

In short, while on one hand the Quran make it incumbent on the Believers to establish the Divine code of life for them and not a secular system, on the other hand it guarantees full freedom to the followers of all the other religions to follow their religion in their personal lives, and also provides security and protection for their places of worships.

⁹¹ Al-Quran Surah 2: Verse 256

⁹² Al-Quran Surah 22: Verse 40

Freedom of Expression

Freedom of speech or expression is the political right to express one's opinion or ideas. The right to freedom of expression is not absolute anywhere in the world, and is subjected to restrictions as with slander, sedition, libel, obscenity, etc. In an Islamic Republic, no one is allowed to spread immorality or broadcast obscenity⁹³ in the name of freedom of media or press. No one is allowed to calumniate the innocent under the pretext of freedom of speech⁹⁴. Regarding the speech or expression, the Quran gives several guidelines such as: talking straight without any deception⁹⁵; choosing best words to speak and saying those in the best possible manner⁹⁶; speaking politely⁹⁷; shunning false and deceitful statements⁹⁸; not confounding truth with falsehood⁹⁹; using civilized language¹⁰⁰; and being just when voicing an opinion¹⁰¹.

The Quran also gives guidelines for those who are at the receiving end of the information. It says: when you hear something malicious about someone, keep a favorable view about him/her until you attain full knowledge of the matter. It enjoins to consider others innocent until they are proven guilty with solid

⁹³ Al-Quran Surah 24: Verse 19

⁹⁴ Al-Quran Surah 24: Verse 4; Surah 24: Verse 11

⁹⁵ Al-Quran Surah 33: Verse 70

⁹⁶ Al-Quran Surah 17: Verse 53; Surah 2: Verse 83

⁹⁷ Al-Quran Surah 31: Verse 19

⁹⁸ Al-Quran Surah 22: Verse 30

⁹⁹ Al-Quran Surah 2: Verse 42

¹⁰⁰ Al-Quran Surah 4: Verse 5

¹⁰¹ Al-Quran Surah 6: Verse 152

and truthful evidence¹⁰². It urges to ascertain the truth of any news, lest you smite someone in ignorance and afterwards repent of what you did¹⁰³. It forbids following blindly any information of which you have no direct knowledge; using your faculties of perception and conception you must verify it for yourself; in the court of your Lord, you will be held accountable for your hearing, sight and faculty of reasoning¹⁰⁴.

One is absolutely free to express his/her opinion or ideas as long as these are not against the 'just requirements of morality, public order or general welfare'¹⁰⁵. The Quran commands the Muslims not to use abusive, insulting or defamatory language even against the deities worshipped by the non-muslims¹⁰⁶. Freedom of speech should not lead to inciting violence or hatred among people, or divulging classified secrets of the state. The Quran mentions many prophets which were abused or mocked at by their contemporaries¹⁰⁷ as being foolish¹⁰⁸, liars¹⁰⁹, possessed¹¹⁰ or fabricators¹¹¹ but all of Allah's Prophets responded with compassion, mercy and clemency and never took personal revenge. The last Messenger of Allah was compassionate and

¹⁰² Al-Quran Surah 24: Verses 12-13

¹⁰³ Al-Quran Surah 49: Verse 6

¹⁰⁴ Al-Quran Surah 17: Verse 36

¹⁰⁵ UNO's The Universal Declaration of Human Rights: Article 19; 29(2)

¹⁰⁶ Al-Quran Surah 6: Verse 108

¹⁰⁷ Al-Quran Surah 36: Verse 30

¹⁰⁸ Al-Quran Surah 7: Verse 66

¹⁰⁹ Al-Quran Surah 40: Verse 24

¹¹⁰ Al-Quran Surah 15: Verse 6

¹¹¹ Al-Quran Surah 16: Verse 101

merciful not only for the believers but for all the humanity¹¹². It is not right for the authorities of the Islamic Republic to curb fair criticism on their policies and genuine differences of opinion. Anyone who suffers any injustice has full right to publically criticize those in authority but those who have not suffered any injustice cannot be allowed to spread malicious propaganda without any reason¹¹³.

¹¹² Al-Quran Surah 21: Verse 107

¹¹³ Al-Quran Surah 4: Verse 148

Individual Liberty and State Intervention

It has been said earlier that the ultimate goal of an Islamic Republic is to establish a society wherein people are able to fulfill their valuable physical, mental and spiritual potential in peace and security. In order to ensure peace and security in the society, the state must intervene for the protection of life, property, honour and dignity of the people, and also for their protection from exploitation or victimization by one another. The state must provide basic healthcare and education facilities for the physical well-being and mental/intellectual development of the people. The state must take measures for providing equal opportunities for personal development to all the people. The state also needs to establish an economic system which leads to equitable distribution of wealth and freedom from any kind of socio-economic exploitation. Following are some examples of cases where the Islamic State must intervene.

Protection of life: Killing of innocents is strictly forbidden in Islam¹¹⁴. Killing of a single innocent person (of any religion or creed) is tantamount to killing the entire humanity¹¹⁵. The state must intervene to protect the lives of the people and establish a system of fair retribution for unlawful killings (*Qisaas*)¹¹⁶.

¹¹⁴ Al-Quran Surah 17: Verse 33; Surah 25: Verse 68

¹¹⁵ Al-Quran Surah 5: Verse 32

¹¹⁶ Al-Quran Surah 2: Verse 178

Protection of property: The Quran strictly forbids acquiring any wealth or property by illegal means¹¹⁷. The state must enforce punishments upon those who acquire wealth by stealing, robbery or corruption¹¹⁸.

Protection of chastity: The Quran considers chastity as a permanent value and lays a great emphasis on restricting the sexual activities within the bounds of marriage. Based on the study of 80 primitive tribes and 6 civilizations through 5000 years, J. D. Unwin (a British Ethnologist and Anthropologist) concluded that there is a positive correlation between the sexual restraint and the cultural achievements of a people. Unwin stated it this way, "In human records there is no instance of a society retaining its energy after a complete new generation has inherited a tradition which does not insist on prenuptial and postnuptial continence"¹¹⁹. According to Aldous Huxley, "the societies exhibiting the least amount of energy are those where pre-nuptial continence is not imposed and where the opportunities for sexual indulgence after marriage are greatest"¹²⁰. The Islamic State must take measures to impose restrictions on extra-marital sexual indulgence¹²¹.

Protection from persecution: The Quran has declared persecution (*fitna*) a crime worse than killing¹²². It is the duty of the Islamic

¹¹⁷ Al-Quran Surah 2: Verse 188; Surah 4: Verse 29

¹¹⁸ Al-Quran Surah 5: Verse 38

¹¹⁹ J. D. Umwin, "Sex and Culture", Oxford University Press, 1934.

¹²⁰ Aldous Huxley, "Ends and Means", Chtto and Windus, 1946.

¹²¹ Al-Quran Surah 24: Verses 2-3

¹²² Al-Quran Surah 2: Verses 119, 217

State to intervene to protect people from any social, political, religious or economic persecution.

Protection from disorder & terrorism: The Islamic State must take measures against those who challenge its writ and spread disorder, corruption or terrorism in the land (*fasaad fil ardh*)¹²³.

Protection from harassment: The Islamic state must enforce punishments upon those who harass men and women when they come out to participate in public life¹²⁴.

Protection from economic exploitation: Allah has declared the system of usury or interest as unlawful¹²⁵. The Islamic state must take measures to establish an economic system that is free from any injustice to the lender or the debtor¹²⁶.

The Quran has mentioned punishments for only very few crimes (including some of the examples given above), although it has given many more commands and prohibitions. It is obvious that the spirit of the Quran is to put into effect some of the injunctions by enforcing punishments while others only through exhortation. Had Allah intended implementation of every injunction by force, He would have outlined punishments for each and every violation to be meted out by the Islamic State to the people in the present world. On the contrary, Allah has made it clear in the Quran that

¹²³ Al-Quran Surah 5: Verse 33

¹²⁴ Al-Quran Surah 33: Verses 58-61

¹²⁵ Al-Quran Surah 2: Verse 275

¹²⁶ Al-Quran Surah 2: Verse 279

there is certainly a sphere of life of people where Allah's Messenger (s.a.w.) was not to be a dictator but only an advisor and admonisher^{127, 128}, and He was not supposed to compel or coerce them¹²⁹.

The Quran says that as the head of the Islamic State, Allah's Messenger (s.a.w.) was the final judge, arbiter and supreme authority for all public matters, who must be obeyed by the Believers without any resentment¹³⁰. However, in people's personal matters, he was not a dictator but only an advisor and admonisher^{131, 132}. The Quran has particularly mentioned an incident where Allah's Messenger (s.a.w) advised his adopted son, Zaid, not to divorce his wife but Zaid, not following the advice of Allah's Messenger (s.a.w) did divorce his wife because it was his personal matter and the Divine Law allows the divorce in certain circumstances¹³³.

It may be deduced from the above that in public matters, the decision of the Islamic Authority/Court is final and must be obeyed without any resentment. But in people's personal matters (which do not cause any harm to others) the Islamic Authority is not to compel, coerce or dictate people. It has only to

¹²⁷ Al-Quran Surah 88: Verses 21-22

¹²⁸ Al-Quran Surah 51: Verse 55

¹²⁹ Al-Quran Surah 50: Verse 45

¹³⁰ Al-Quran Surah 4: Verse 56

¹³¹ Al-Quran Surah 88: Verses 21-22

¹³² Al-Quran Surah 51: Verse 55

¹³³ Al-Quran Surah 33: Verse 37

appropriately advise and exhort them to follow what is good and right for them according to the Divine Guidance.

Justice and Equality

Justice as 'fairness' is the hallmark of an Islamic political system. The Quran makes it clear that the key task of all the Messengers of Allah and the objective of giving them the Book of Divine laws was to establish justice¹³⁴,¹³⁵. Justice must be meted out in all fairness even if the decision goes against one's own self, one's parents, relatives, the poor or the rich¹³⁶. And the hatred or enmity of someone should never be a cause to deviate us from the path of justice¹³⁷. *Equality before the law* is the cornerstone of Islamic Polity. In an Islamic State, everyone is equal before the law – the rich, the poor, the self, the opponent, the loved ones or the enemies.

The Quran combines the concept of *justice as 'giving what is due'* (*adl*) with the concept of 'care' or *Ihsaan*¹³⁸. '*Ihsan*' involves 'giving more than what is due' or 'taking less than that is owed to you'. For example, you do '*adl*' if you pay agreed-upon wages that are due to a worker whose services you hired. But if you feel that the amount of wages would not be enough for him to make his both ends meet and so you give him more than what is due or agreed-upon, that is '*ihsan*'. One's life remains beautifully balanced as long as one's earnings match his needs. When the needs exceed the earnings, then his balance or beauty of life is

¹³⁴ Al-Quran Surah 57: Verse 25

¹³⁵ Al-Quran Surah 10: Verse 47

¹³⁶ Al-Quran Surah 4: Verse 135

¹³⁷ Al-Quran Surah 5: Verse 8

¹³⁸ Al-Quran Surah 16: Verse 90

disturbed. Similarly, if some people in a society have too much and others have too little, the economic balance of the society is disturbed. To keep up the balance is also an aspect of '*ihsan*'.

The Quran enjoins doing '*ihsan*' to or taking care of: parents; family and relatives (*Zav-il-Qurba*); orphans, widows and those who are left alone in the society (*Al-yatama*); the disabled; those who have lost their jobs; whose business have stalled; whose income fails to meet their needs (*Al-masakeen*); the near neighbours and the farther neighbours; the colleagues or companions at the side; the needy wayfarer; son of the street; the homeless (*Ibn-e-sabeel*); servants, subordinates, workers or wives (*ma malakt aymanukum*)¹³⁹. In an Islamic State, not only everyone gets what is his due right but anyone at the deprived and disadvantaged position is also taken care of, including orphans, widows, disabled, jobless, homeless, and so on.

The concept of *Equality before the law* is different from the concept of *equality in condition, constitution, composition or conduct*. The Quran has pointed out the following contrasts regarding inequality of condition, constitution, composition or conduct: The (metaphorical) blind is not equal to the one who sees¹⁴⁰; The (metaphorical) deaf is not equal to the one who listens¹⁴¹; Darkness of any sort is not equal to the light¹⁴²; Fresh

¹³⁹ Al-Quran Surah 2: Verse 83; Surah 4: Verse 36; Surah 6: Verse 151; Surah 16: Verse 90; Surah 17: Verse 23; Surah 46: Verse 15

¹⁴⁰ Al-Quran Surah 6: Verse 50; Surah 11: Verse 24; Surah 13: Verse 16; Surah 35: Verse 19; Surah 40: Verse 58

¹⁴¹ Al-Quran Surah 11: Verse 24

¹⁴² Al-Quran Surah 13: Verse 16

and sweet water is not equal to salty and bitter water¹⁴³; The living is not equal to the dead¹⁴⁴; A man of knowledge is not equal to the ignorant¹⁴⁵; Goodness is not equal to evil¹⁴⁶; The vile is not equal to the good, even though the abundance of the vile is impressive¹⁴⁷; Those who have conviction and do righteous deeds are not equal to those who are evil doers¹⁴⁸; Those who live a hellish life are not equal to those who live a paradisiacal life¹⁴⁹.

As far as *equality of opportunity* is concerned, in an Islamic State any ancestral, filial, conjugal or other relationships do not have any value in terms of a person's individual rank or grade. Nor any gender or other distinctions matter. In an Islamic State, all have ranks according to their personal deeds¹⁵⁰.

In an Islamic State, everyone has to bear the responsibility of the outcome of their actions. Everyone draws the recompense of his deeds on none but himself¹⁵¹. On the day and time of judgement, no bearer of burden shall bear the burden (of the consequences of actions) of anyone else¹⁵². Even the closest relative will not bear the least of one's burden at the moment of retribution¹⁵³.

¹⁴³ Al-Quran Surah 35: Verse 12

¹⁴⁴ Al-Quran Surah 35: Verse 22

¹⁴⁵ Al-Quran Surah 39: Verse 9

¹⁴⁶ Al-Quran Surah 41: Verse 34

¹⁴⁷ Al-Quran Surah 5: Verse 100

¹⁴⁸ Al-Quran Surah 40: Verse 58

¹⁴⁹ Al-Quran Surah 59: Verse 20

¹⁵⁰ Al-Quran Surah 6: Verse 132; Surah 46: Verse 19

¹⁵¹ Al-Quran Surah 6: Verse 164

¹⁵² Al-Quran Surah 17: Verse 15; Surah 39: Verse 7; Surah 53: Verse 38

¹⁵³ Al-Quran Surah 35: Verse 18

One needs to mind one's own actions instead of bothering or boasting about the deeds and feats of the forefathers. Whatever they did, it is they who will get their recompense and one will get the recompense of only what one does himself. One will not be asked any questions about the actions of his past generations¹⁵⁴. However, if one misguides anyone without knowledge, one shall have to bear not only the consequences of his own actions but also some of the burden of those who acted wrongly due to his misguidance¹⁵⁵.

As far as equality of respectability is concerned, human dignity is an inherent, inalienable and inviolable right of every human being. Allah has honoured all the Children of Adam¹⁵⁶. All human beings are the Children of Adam. So, all human beings must be treated with honour, respect and regard, without distinction of any kind, such as the colour of their skin, their race, descent, social background, national origin, gender, age, language, religion, political or other affiliation, education, occupation, job, wealth, property or any other status. There is no aristocracy, religious elite, priesthood or any privileged class in Islam.

While a certain level of respect and honour is due to all human beings, those who demonstrate the highest level of integrity deserve the highest degree of honour¹⁵⁷. The criteria for greater honour do not include wealth, property, race, ethnic background,

¹⁵⁴ Al-Quran Surah 2: Verse 134; Surah 2: Verse 141; Surah 4: Verse 111

¹⁵⁵ Al-Quran Surah 16: Verse 25

¹⁵⁶ Al-Quran Surah 17: Verse 70

¹⁵⁷ Al-Quran Surah 49: Verse 13

skin colour, gender, nationality, social background, language, occupation or anything else but integrity; It is neither any academic degree nor any level of education or religious affiliation which does not translate into integrity of the character.

Sovereignty and Authority

Sovereignty has been defined as “supreme authority within a territory”¹⁵⁸. This definition has two major components viz. (1) authority (2) territoriality, where authority means “the right to command and correlatively the right to be obeyed”.

In *parliamentary sovereignty*, the legislative body is the ultimate source of power and can make, change or repeal any law, without subject to any judicial review (which may overturn the law deeming it as unconstitutional). Parliamentary sovereignty is associated with pure Democratic form of Government, examples of which exist in countries like UK, Finland, Israel and New Zealand¹⁵⁹.

In *popular sovereignty*, people are the ultimate source of political power. The concept of popular sovereignty is associated with Republic form of government, example of which exists in the United States of America^{160, 161}. The notion of popular sovereignty is noticeable in the preamble of the US constitution which is worded as “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the

¹⁵⁸ <http://plato.stanford.edu/entries/sovereignty/>

¹⁵⁹ http://en.wikipedia.org/wiki/Parliamentary_sovereignty

¹⁶⁰ http://en.wikipedia.org/wiki/Popular_sovereignty

¹⁶¹ http://en.wikipedia.org/wiki/Popular_sovereignty_in_the_United_States

United States of America”¹⁶². Popular sovereignty means that people have the ultimate (legislative) power to make their constitution or propose amendments to the constitution either directly through referendums or indirectly through their elected representatives to whom they delegate their power¹⁶³. In popular sovereignty, any laws made by the legislative body are subject to judicial review and possible invalidation by the judiciary if a law is against the constitution.

The Islamic Republic is based on Divine sovereignty or Will of the Almighty, wherein the Almighty God is the ultimate source of (legislative) power and authority¹⁶⁴. The will of the majority is to be subservient to the will of the Almighty. Any laws made by the legislative body are subject to judicial review and possible invalidation by the judiciary if a law is against the Word of God given in the Quran. In case of popular sovereignty, the touchstone for substantiation and validation of any new laws is the man-made constitution while in case of Divine sovereignty the touchstone is the Word of God, whereas in case of parliamentary sovereignty, there is no such touchstone at all and will of the majority prevails.

After Muhammad (s.a.w.), the Last Messenger of God, no individual or group can assume the executive authority of the Islamic Republic by claiming that he or they are chosen by God.

¹⁶² http://en.wikipedia.org/wiki/Preamble_to_the_United_States_Constitution

¹⁶³ <http://www.basiclaw.net/Principles/Popular%20sovereignty.htm>

¹⁶⁴ Al-Quran Surah 28: Verse 70; Surah 28: Verse 88; Surah 39: Verse 6; Surah 40: Verse 65

Based on the principle of consultation¹⁶⁵, anyone for the executive authority of the Islamic Republic has to be chosen by the Muslim community either through direct elections or indirect elections through their elected representatives. Similarly, the chief executive of the country has to follow the principle of consultation in all his decisions.

¹⁶⁵ Al-Quran Surah 42: Verse 38

Constitutionalism and Rule of (Divine) Law

Tracing the genealogy of constitutionalism, Mads Qvortrup, in his book 'The Political Philosophy of Jean-Jacques Rousseau', writes that "the law given to Moses by the Lord was the birth of constitutionalism....The power of the king, or ruler, was restricted by a higher law....Unlike their contemporary colleagues in Babylon or Egypt, the Jewish kings were restricted in their action by the law as laid down by God....The king's role was to apply the law - he was a judge rather than a law-giver....Political theorists and practitioners, until Marsilius of Padua, held it undisputed that the law was given by God... and that the ruler could not, and should not, change the law but merely apply it...The work of Marsilius of Padua in the fourteenth century was a turning point. [Marsilius was of the view that] The ruler should legislate - not merely adjudicate."

The Quran also makes it clear that the Jews were judged and ruled by the Prophets (a.s.) of their times according to the Divine Book revealed to them by the Almighty¹⁶⁶. Similarly, the Christians were also judged and ruled by the Jesus Christ (a.s.) according to the Gospel revealed to him by God¹⁶⁷. Similarly the last Prophet/Messenger of God, Muhammad (s.a.w.) was also commanded by God to judge or rule people according to the Divine Book revealed to him, comprising the latest and the last

¹⁶⁶ Al-Quran Surah 5: Verse 44

¹⁶⁷ Al-Quran Surah 5: Verse 46-47

edition of the Divine laws¹⁶⁸. The Quran clearly emphasizes on establishing the rule of the (Divine) law and makes it clear that any who do not judge and rule according to the Book revealed by God, are disbelievers (*kaafiroon*), wrong-doers (*zalimoon*) and rebels or deviators from the right path (*fasiqoon*)¹⁶⁹. The rule of Divine law is thus the foundation of the Islamic Political System.

¹⁶⁸ Al-Quran Surah 5: Verse 48

¹⁶⁹ Al-Quran Surah 5: Verses 44, 45, 47

The Principle of Limited Government

If a government has absolute power, there is always a risk of it becoming tyrannical, dictatorial and oppressive, resulting in human rights violations, revolts or violence. In pure democracy, the parliament is supreme and has unlimited power while in a republic like USA the constitution is supreme and the powers of the congress are limited by the constitution. In an Islamic Republic, the Word of God is supreme and the powers of the Islamic government are limited by the Quran or a constitution based on the Quran.

According to the Quran, “No human being – even though God may have given him a Book (containing the Code of Laws) or the power to enforce it or even *Nubuwwat* (prophet status) – has the right to say to the others: ‘You should serve me rather than God,’ what he should say is: ‘You should be amongst those who belong to God by following His Book which you teach to others and study yourself¹⁷⁰”. In an Islamic Republic, all judgments, decisions and commands are according to Allah’s revealed Book and nothing can be against or repugnant to it¹⁷¹.

One check on the Islamic Government is that there can be no legislation or decisions against the Supreme Law enshrined in Allah’s Book¹⁷². Another check is that all the subsidiary laws and

¹⁷⁰ Al-Quran Surah 3: Verse 79

¹⁷¹ Al-Quran Surah 5: Verse 48

¹⁷² Al-Quran Surah 5: Verse 48

decisions should be made by mutual consultation¹⁷³. Even the authority of the Prophet (s.a.w) was limited by these two restrictions.

¹⁷³ Al-Quran Surah 3: Verse 159; Al-Quran Surah 42: Verse 38

Public Participation in the Government

Public participation is an essential attribute of the Islamic political system. There is no place in Islam for such a political order where only a single person or a specific set of persons have authoritarian or totalitarian rule. Even the Prophet (s.a.w.) (i.e. the highest authority in Islam) was commanded by the Almighty God to have consultation with the community of believers and extract their opinion in public matters¹⁷⁴. Similarly, it has been categorically pointed out in the Quran that the believers (in Islamic Values) are to decide their collective affairs through mutual consultation¹⁷⁵. However, the Quran leaves it to the believers to decide themselves whether the system of their participation in the proposal, development and creation of subsidiary laws, in the light of the Supreme Law given by the Almighty in the Quran, should be direct through initiatives or referendum or indirect through their representatives. The principle of consultation is applicable both in legislative and executive matters, whatever suitable mode may be adopted in either case.

¹⁷⁴ Al-Quran Surah 3: Verse 159

¹⁷⁵ Al-Quran Surah 42: Verse 38

Women's participation in the Government

The Quran puts absolutely no restrictions on the participation of women in the Islamic government. Some of the key tasks of the Islamic government mentioned in the Quran include establishment of the socio-economic system of *salat* and *zakat*, commanding/implementing what is lawful (*al-ma'roof*) and proscribing/preventing what is unlawful (*al-munkar*)¹⁷⁶ according to the Islamic Law. The Quran clearly says that men and women are allies and associates (*Auliya*) of one another in this regard and both of them take part in establishing the socio-economic system of *salat* and *zakat*, implementing of what is lawful (*al-ma'roof*) and proscribing what is unlawful (*al-munkar*)¹⁷⁷

¹⁷⁶ Al-Quran Surah 22: Verse 41

¹⁷⁷ Al-Quran Surah 9: Verse 71

Interpretation of the Islamic Law

During the lifetime of the last Messenger (s.a.w.) of Allah, the interpretation and application of the Islamic Laws was not a problem whatsoever as the Messenger (s.a.w.) was vested with the Supreme Judicial Authority and his interpretation and application of the Islamic Laws was final and definitive. It was rightly so because he was the direct recipient of the Divine Code from the Almighty and no one could know and understand better than him the letter and spirit of the Word of God. There was no question of disagreements among his followers in this regard during his lifetime as obedience to his judicial as well as executive authority was fundamental and foundational to their Beliefs as well as their being and staying a Muslim.

The problems of interpretation and application of the Islamic Laws or Sharia sprang up after the Messenger (s.a.w.) departed from the ephemeral world, particularly when Islam began to swiftly spread around the globe and new situations and circumstances began to arise. While the Quranic Text was being recorded and preserved with painstaking vigilance and diligence under the patronage of the Messenger (s.a.w.) himself, there was no formal system of authorized recording and preservation of the judicial proceedings during the life of the Messenger (s.a.w.) which could serve as the judicial precedents for the later generations.

While the patronage for the preservation of the Quranic text continued at the Governmental level throughout the period of the rightly guided caliphs [Abu Bakr (r.632-634 AD); Umar (r.634-646

AD); Uthman (r.646-656 AD); Ali (r.656-661 AD)] and even beyond, such a Governmental level support and patronage was not available to the preservation of any other texts. However, with some 'private' and 'individual' efforts, a record of the sayings and deeds of the Messenger (s.a.w.) was compiled later on.

The Messenger of Allah breathed his last in 632 AD, whereas the records of his saying and deeds, considered the most authentic today, were compiled much later than even the caliphate of the rightly guided caliphs - Mawta by Imam Malik (d. 795); Masnad by Imam Ahmed (d. 855); Sahih Bukhari by Imam Bukhari (d. 870 AD); Sahih Muslim by Imam Muslim (d. 875 AD); Sunan Ibn-e-Maja by Imam Ibn-e-Maja (d. 887 AD); Sunan Abi Dawud by Imam Dawud (d. 889 AD); Jamia At-Tirmizi by Imam Muhammad bin Isa (d. 892 AD); and Sunan Nisai by Imam Nisai (d. 915 AD). Almost all of the record of the sayings and deeds of the Messenger (s.a.w.) that we have today was compiled during the Abbasid period (750-945/1258 AD), i.e. much after the caliphate of the rightly guided caliphs (632-661) and the rule of the Umayyads (661-750 AD).

While the Umayyads introduced several un-Islamic notions of their liking in their rule and the Abbasids inserted a lot of Iranian ideas and practices in their Government and there was a steady secularization of the political system and a distinct partitioning of the public and private matters, the significance of three arguably distinct bodies of people gradually grew in the concerned public eye, viz., *Muhaddiths*, concerned mainly with the collection, sifting and recording of the precedents of the Prophet; *Ulema*, concerned mainly with the rituals and personal morality of the people; and *Fuqha* or jurists, concerned mainly with the legal

matters. These scholarly men had, of course predominantly, a fair intention of inculcating the true Islamic impression upon the state of affairs according to the Quran and the Sunnah (traditions/precedents) of the Messenger of Allah, *as understood and interpreted by them*. Eventually, different schools of thought emerged, with different individuals and regions adhering to a particular school: the Hanafi school based on the understanding of Abu Hanifa (d.767) who was based in Iraq; the Maliki school following Malik bin Anas (d.795) who was based in Medina; the Shafi'i school following al-Shafi'i (d.820); the Hanbali school following Ibn Hanbal (d.855) based in Baghdad; and the Jafari shi'ite school following Jafar al-Sadiq (d.765) which later split into Isma'ili (sevener) and Imami (athna ashri/twelvers) schools. Ever since, these schools of thought have had several offshoots, with many newer schools of thought emerging and perishing from time to time.

As the things stand today, there are many schools of thought based on certain 'personalities' or 'individuals' and represented by certain 'personalities' or 'individuals' among the Muslims around the globe. These personalities or individuals can be likened with the modern-day legal experts, lawyers or advocates who could never agree on a single interpretation of the constitution or a body of law. The modern world has successfully solved the issue of interpretation and application of the law by establishing 'institutions' like the Supreme Courts whose interpretation and application is considered final and definitive. The Muslim world also needs to 'institutionalize' the interpretation of the Islamic law or Sharia rather than resorting to

'individual' scholars or Islamic Law/Sharia experts, who would never agree among themselves till the doomsday.

At the nation-state level, Muslims could have Supreme Courts vested with the ultimate judicial authority for the interpretation of the Islamic Law or Sharia. The scheme of studies and curricula or syllabi of the judges of these courts may of course be revised so that they become well versed in the modern-day jurisprudence as well as the Islamic jurisprudence with adequate expertise in the Quran, the Sunnah and the major Islamic schools of jurisprudence without any prejudice. At the international level, there could be an International Islamic Court of Justice for the final verdict concerning the collective issues of Muslims Ummah as a whole.

Judicial Precedents of the Prophet

Three essential powers for running a state are the legislative power (to make laws), the judicial power (to interpret the laws and decide matters accordingly) and the executive power (to implement the law and the decisions thereby). As far as the judicial power or authority is concerned, the Quran clearly states that the ultimate judicial authority belongs to the Almighty¹⁷⁸. However, the Quran also clearly establishes the judicial authority of the Messengers delegated to them by their Lord¹⁷⁹, who must judge all matters according to the Book revealed to them¹⁸⁰. One cannot be a believer if one does not accept Allah's Rasool/Messenger as the final judicial authority¹⁸¹.

As the first Supreme Judicial Authority the Islamic State, Allah's Prophet/Messenger (s.a.w.) undoubtedly would have interpreted the Divine Law enshrined in the Quran and passed judgements accordingly on countless occasions in numerous matters, which can serve as 'judicial precedents' for the later judicial authorities, provided the precedents have been recorded and reported correctly. A 'judicial precedent' is a principle established in a previous case by a judicial authority/court that is either binding or

¹⁷⁸ Al-Quran Surah 6: Verse 57; Surah 6: Verse 62; Surah 7: Verse 87; Surah 10: Verse 109; Surah 11: Verse 45; Surah 12: Verse 40; Surah 12: Verse 67; Surah 28: Verse 70; Surah 28: Verse 88; Surah 40: Verse 12]

¹⁷⁹ Al-Quran Surah 2: Verse 213; Surah 5: Verse 44; Surah 6: Verse 89; Surah 24: Verse 48; Surah 45: Verse 16

¹⁸⁰ Al-Quran Surah 4: Verse 105; Surah 5: Verse 42; Surah 5: Verses 44-45; Surah 5: Verses 47-49]

¹⁸¹ Al-Quran Surah 4: Verse 65

persuasive for the same or other judicial authorities/courts when deciding subsequent cases with similar issues and facts. This principle of judicial precedents is now prevalent in the courts all over the world. It is not only that the judgements of Allah's Messenger but also those of the courts of the rightly guided caliphs and the later Islamic Courts can serve as judicial precedents for today's modern Islamic Courts, as the judgements of the supreme courts of the United Kingdom, the United States and other countries serve as judicial precedents for their courts.

Nationality and Citizenship

Nationality and citizenship are two legally distinct concepts in a number of countries. For example in Israel, there are Israeli citizens of diverse religions but Jewish nationality is distinct from Israeli citizenship¹⁸². The definitions and criteria of nationality and citizenship differ according to the laws of different countries. But wherever these concepts are distinct, nationality and citizenship entail different rights and obligations for their holders. Muslim Nationality is not based on birth within a particular geographical area or on having a particular ethnicity, mother tongue, race, colour, descent or any such criteria wherein a human being has no choice. Muslim Nationality is based on belief in and adoption of the Islamic Ideology by free choice. In an Islamic Republic, people belonging to any religion, race, colour, descent or language can have full citizenship, abiding by the laws of the state. However, one can have Muslim Nationality only through wilful adoption of Islamic Belief System and Ideology. Consequently, the rights and obligations of Muslim Nationals and citizens will be different from the rights and obligations of non-Muslim citizens of the Islamic State. All non-Muslim citizens will have complete freedom to order their private lives according to their own religious beliefs and customs. However, in their public life, they shall have to abide by the laws of the State.

¹⁸² <http://www.jewishvirtuallibrary.org/jsource/Politics/theocracy.html> accessed 9/12/2013

Sects and Parties

The Believers (in the Islamic Ideology) have been told categorically in the Quran that all of them are a single brotherhood¹⁸³. They are enjoined to hold Allah's rope (i.e. His Book) firmly all together and do not become divided into sects¹⁸⁴. Dividing *Ad-Deen* into various sects is tantamount to associating partners with Allah which is unforgivable¹⁸⁵. The believers have been warned in the Quran that if they divide themselves into sects, then Allah's Prophet (s.a.w.) will have no concern whatsoever with them¹⁸⁶, and they will suffer from severe punishment¹⁸⁷.

The Islamic Political System does not allow any religious or political divisions or social classes within the Muslims. Differences of opinion may exist but based on the difference of opinion they are not allowed to form any sects or parties. The Quran makes mention of two main parties, i.e. Allah's Party¹⁸⁸ and the Satan's party¹⁸⁹. Within Allah's Party, which comprises the believers, there are no sects and parties. During the life time of the Prophet Muhammad (s.a.w.) there were no parties or sects among the Muslims, despite differences of opinions on several issues. Many so-called Muslims today have divided themselves into different social castes, religious sects and political parties in addition to

¹⁸³ Al-Quran Surah 49: Verse 10

¹⁸⁴ Al-Quran Surah 3: Verse 103, Surah 42: Verse 1

¹⁸⁵ Al-Quran Surah 30: Verse 31-32; Surah 4: Verse 48

¹⁸⁶ Al-Quran Surah 6: Verse 159

¹⁸⁷ Al-Quran Surah 3: Verse 105

¹⁸⁸ Al-Quran Surah 5: Verse 56; Surah 58: Verse 22

¹⁸⁹ Al-Quran Surah 58: Verse 19

ethnic, racial and linguistic divisions. Islam is a unity and true Muslims are nothing but a single brotherhood. They are supposed to be a unity because of their common ideology and belief system despite their diversity of ethnicity, race, colour or language.

Criteria for the People in Authority

The following criteria can be derived from the Quran for electing or appointing people in authority: (1) integrity (*taqwa*)¹⁹⁰, (2) honesty¹⁹¹ & trustworthiness¹⁹² (*amanat*), (3) knowledge (*ilm*)¹⁹³, (4) wisdom (*hikma*)¹⁹⁴, (5) sound judgement (*hukman*)¹⁹⁵, (6) decisiveness (*fasl-al-khitab*)¹⁹⁶, (7) safeguarding of national interests (*hafeez*)¹⁹⁷, (8) physical capacity (*jism, quwat*)¹⁹⁸, (9) good intelligence quotient (*istimbat*)¹⁹⁹.

People in the executive authority should be conscious of Allah's commands and not prone to follow their personal desires instead of the will of the Almighty²⁰⁰; they should not be extravagant²⁰¹; they should not be disbelievers and deniers of the Islamic belief system nor be hypocrites²⁰²; they should not be liars, habitually swearing to win public trust²⁰³; they should not be slanderers or calumniators of their rivals or peers²⁰⁴; they should not be

¹⁹⁰ Al-Quran Surah 49: Verse 13

¹⁹¹ Al-Quran Surah 28: Verse 26

¹⁹² Al-Quran Surah 4: Verse 58

¹⁹³ Al-Quran Surah 2: Verse 247; Surah 21: Verse 79; Surah 27: Verse 15; Surah 12: Verse 55

¹⁹⁴ Al-Quran Surah 38: Verse 20

¹⁹⁵ Al-Quran Surah 21: Verse 79

¹⁹⁶ Al-Quran Surah 38: Verse 20

¹⁹⁷ Al-Quran Surah 12: Verse 55

¹⁹⁸ Al-Quran Surah 28: Verse 26; 2:247

¹⁹⁹ Al-Quran Surah 4: Verse 83

²⁰⁰ Al-Quran Surah 18: Verse 28

²⁰¹ Al-Quran Surah 26: Verse 151

²⁰² Al-Quran Surah 33: Verse 48; Surah 76: Verse 24

²⁰³ Al-Quran Surah 68: Verses 8, 10

²⁰⁴ Al-Quran Surah 68: Verse 11

involved in any illegal or criminal activities²⁰⁵; and they should not be uncivilized or ignoble²⁰⁶; No one has the right for any authority just because of their affluence and virile progeny²⁰⁷.

People need to be educated well that they should vote in elections based on the above given criteria, instead of considering wealth, property, lineage, race, color, kinship, language, ethnicity or tribal affiliations of the candidates. Elected representatives as well as the appointed officials should be based on merit according to the criteria given above. Meritocracy is a fundamental feature of the Islamic Political System. Any kind of monarchy, dynastic rule or nepotism is against the basic principles of Islam.

²⁰⁵ Al-Quran Surah 68: Verse 12; Surah 76: Verse 24

²⁰⁶ Al-Quran Surah 68: Verses 13

²⁰⁷ Al-Quran Surah 68: Verse 14

The Electorate and the Electoral Process

The Quran does not explicitly give any specific composition of the electorate or any specific electoral process for electing the Chief Executive or Head of the Islamic State. However, it has alluded to various criteria for the candidate²⁰⁸ and has enjoined to incorporate the 'consultation among the Muslim community'²⁰⁹ in the appointment process. Moreover, the Quran has not given any fixed method of consultation, and this may vary depending on time and circumstances as is evident from the early history of the Muslims. After the demise of the Prophet Muhammad (s.a.w.), all the first four rightly guided caliphs were elected through different electorate and varied electoral processes. The first Caliph, Abu Bakar (r.a.), was elected by the representatives of the Muslim community present at the time of the demise of the Prophet (s.a.w.) by mutual consultation. While the first Caliph was on his death bed, he designated Umar (r.a.) as the second Caliph after consultation with some representatives of the Muslim community. This designation was later on ratified by the Muslim community (by a process that may be likened to modern-day referendum). The second Caliph formed an electoral body of six most prominent representatives of the Muslim Community. The electoral body nominated Uthman (r.a.). This nomination was later on ratified by the majority of the Muslim Community. The fourth Caliph, Ali (r.a.) was elected by a congregation of the

²⁰⁸ See the section 'The Criteria for People in Authority'.

²⁰⁹ Al-Quran Surah 42: Verse 38

Muslim community at Masjid-e-Nabwi, with majority of the community pledging him support²¹⁰, ²¹¹.

²¹⁰ Muhammad Asad, "The Principles of State and Government in Islam", Islamic Book Trust, Kuala Lumpur.

²¹¹ M. Basheer Ahmed, Syed A. Ahsani, Dilnawaz Ahmed Siddiqui, "Muslim Contributions to World Civilization", International Institute of Islamic Thought (2005).

Accountability of the People in Authority

Accountability is one of the core creeds of Islam. The Quran says, if anyone does an atom's weight of good shall see it in Allah's court, and if anyone does an atom's weight of evil shall also see it²¹². However, any bearer of burden (of responsibility & accountability) shall not bear anyone else's burden²¹³. The Prophet (s.a.w) is reported to have said, "Every one of you is a shepherd and every one of you is answerable with regard to his folk". God commanded the Prophet (s.a.w) to declare: "I would, if I disobeyed my Lord, indeed have fear of the penalty of a Mighty Day"²¹⁴. No one is above the Divine Law. The Prophet (s.a.w) declared that "I am the first one to submit to the will of Almighty"²¹⁵. The Prophet's successor, Abu Bakar (r.a.) announced the following in his inaugural speech: "I have been given authority over you but I am not the best of you. If I do well, help me, and if I do ill, then put me right.....The weak among you shall be strong in my eyes until I secure his right if God will; and the strong among you shall be weak in my eyes until I wrest the right from him...Obey me as long as I obey God and His apostle, and if I disobey them you owe me no obedience"²¹⁶.

²¹² Al-Quran Surah 99: Verses 7-8

²¹³ Al-Quran Surah 35: Verse 18

²¹⁴ Al-Quran Surah 6: Verse 15; Surah 10: Verse 15; Surah 39: Verse 13

²¹⁵ Al-Quran Surah 6: Verse 14

²¹⁶ A. Guillaume, "The Life of Muhammad", Oxford University Press, 2006 edition, page 687.

Limits to Obedience of the People in Authority

In Islam, the Supreme Authority is always Allah's command in every matter. Even the Prophet's power or right to give orders is with Allah's permission²¹⁷. It is binding upon the Muslims to obey Allah, His Messenger (s.a.w) and those who have been given the executive authority among them²¹⁸. However, anyone with executive authority is allowed only to give lawful commands²¹⁹ (*al-amr al-ma'roof*) and the people are also bound to follow only the lawful (*al-ma'roof*) commands²²⁰.

²¹⁷ Al-Quran Surah 4: Verse 64

²¹⁸ Al-Quran Surah 4: Verse 59

²¹⁹ Al-Quran Surah 3: Verses 104, 110, 114; Surah 7: Verse 157; Surah 9: Verses 71, 112; Surah 22: Verse 41; Surah 31: Verse 17

²²⁰ Al-Quran Surah 60: Verse 12

The Church/Masjid and the State

In Islam, the state is a unity and there is no distinction or dualism of the masjid and the state. During the lifetime of the Prophet Muhammad (s.a.w) and his four rightly guided successors, the church/masjid and the state were not separate entities with separate authorities. Masjid had a multi-faceted role including an office of the head of the state, a place of meetings of the cabinet/council as well as meetings with foreign delegates, and a community centre. There is no priesthood in Islam and no so-called religious authority separate from the state authorities. The distinction or separation of the state and the church/masjid was made during the Umayyad and Abbasid dynasties who ruled after the first four successors of the Prophet (s.a.w.). The head of the Islamic state is neither a high priest nor an infallible representative of God. Even the Prophet (s.a.w.) himself said that 'I am a man like you'²²¹, and that 'even if I disobey the Almighty, I fear the penalty of the Mighty day'²²², and that 'I am the first one to submit to the will of the Almighty'²²³. In the Islamic State, the ruler and all those in authority are subject to same laws as everybody else.

²²¹ Al-Quran Surah 18: Verse 110; Surah 41: Verse 6

²²² Al-Quran Surah 6: Verse 15; Surah 10: Verse 15; Surah 39: Verse 13

²²³ Al-Quran Surah 6: Verse 14

Immutability of Islamic Laws

Three things which are particularly mentioned in the Quran as unchangeable or immutable or for which there can be no substitute are: (1) *Kalimaat-i-Allah* (i.e. Allah's words, precepts, or laws given in the Quran)²²⁴, (2) *Sunnat-i-Allah* (i.e. Allah's laws in the universe or nature or His laws about the rise and fall of people or nations)²²⁵, and (3) *Khalq-i-Allah* (i.e. Allah's way of making things whereby He has endowed every creation with a certain nature or constitution)²²⁶.

The idea of unchangeability or immutability has been extended by some Muslims to other texts besides the Word of God in the Quran, including books of hadith (most of which were compiled more than two centuries after the death of the Prophet (s.a.w.), and about which the compilers themselves never guaranteed that these were the actual words uttered by the Prophet (s.a.w.), and the texts, laws and interpretations done by or attributed to different Islamic scholars, caliphs or rulers from time to time. This ascription of immutability to the sources of Islamic Law other than the Quran has so far mostly been a hindrance rather than help in the implementation of Islam as a socio-politico-economic system in recent times because of lack of agreement among Muslims on these sources. Every Muslim sect claims to be following the Quran and Sunnah, yet every one of them appear to have their own

²²⁴ Al-Quran Surah 10: Verse 64; Surah 6: Verse 34; Surah 18: Verse 27; Surah 6: Verse

115

²²⁵ Al-Quran Surah 33: Verse 62; Surah 35: Verse 43; Surah 48: Verse 23

²²⁶ Al-Quran Surah 30: Verse 30

version of Sunnah, which is even distinguishable from the style of their beard and headgear.

Undoubtedly, guidance must be sought from the judicial precedents of the Prophet (s.a.w) and other judicial authorities of the past by the authorities of our time. But whether these are as immutable as the word of God in the Quran, is a question of serious consideration for any student of Islamic jurisprudence. It needs to be thought whether the objective of cleaning the teeth is more important or cleaning it specifically with a particular length of a branch of particular tree is more important.

There are various degrees regarding the question of extent of immutability in Islamic Laws, including: (1) nothing is permanent (not even the word of God); everything is changeable, (2) only the word of God is unchangeable; every other law is amendable, (3) both the word of God and the word of the Prophet (s.a.w) are unchangeable; every other law is amendable, (4) word of God, the word of the Prophet (s.a.) and the word of the founder of a particular school of thought or a particular Islamic scholar of the past, all are unchangeable.

Whatever we decide the optimal combination of permanence and change in Islamic Jurisprudence, we should not forget to consider what the Quran declares as unchangeable, i.e. *kalamat-i-Allah*, *Sunnat-i-Allah* and *Khalq-i-Allah*.

There is also another way of looking at the question of immutability of sources of Islamic Laws. The Supreme Islamic Law

given in the Quran by the Almighty Allah is called *al-hukm*²²⁷. As far as *al-hukm* is concerned, only Allah has the authority to give *al-hukm*²²⁸. He does not take any one (not even the Prophet (s.a.w.)) as a partner in *al-hukm*²²⁹. No one is authorized to review, revise, reverse or amend His *hukm*²³⁰. Hence, Allah's *hukm* is the Supreme Law that is immutable and unchangeable, and there is no Supreme Law or *hukm* parallel to Allah's *hukm*.

In addition to the Supreme Law (*al-hukm*) given in the Quran by Allah, there is another body of law, legislated in the light of the Supreme Law, called *al-amr*. As far as *al-amr* is concerned, Allah commanded the Prophet (s.a.w.) to do consultation with the community of believers regarding *al-amr*²³¹. The community of believers are also enjoined to do consultation among them regarding *al-amr*²³². Now the point of consideration is that whether a body of law (*al-amr*) legislated through mutual consultation of a community of believers of a particular space and time can be as immutable as the Supreme Law (*al-hukm*) given by the Almighty. In the light of the principle of mutual consultation given above, another point that is also of paramount importance is that the interpretation of any individual scholar, whoever he/she may be, cannot be implemented as such without

²²⁷ Al-Quran Surah 13: Verse 37

²²⁸ Al-Quran Surah 12: Verse 40; Surah 12: Verse 67

²²⁹ Al-Quran Surah 18: Verse 26

²³⁰ Al-Quran Surah 13: Verse 41

²³¹ Al-Quran Surah 3: Verse 159

²³² Al-Quran Surah 42: Verse 38

undergoing the process of mutual consultation among the community of believers, made mandatory by the Quran²³³.

In short, one extreme view is that there is no such thing as permanent values or absolute truths; everything is changeable and relative. Another extreme view is that everything that was decided through mutual consultation or otherwise by the Prophet (s.a.w), the caliphs, the Imams, or doctors of Islamic Law centuries ago, is permanent and cannot be amended or changed. Between these two extremes is a point of view that only the word of God is permanent and every other law is changeable or amendable by consultation among the Muslims, either in the parliament of their representatives or through referendum.

²³³ Al-Quran Surah 42: Verse 38

The Socio-Economic Order

The term '*Salat*' has been used in the Quran not only to refer to a ritual (prayer)²³⁴ to commemorate Allah's Guidance individually²³⁵ and collectively²³⁶ and in the consultative assemblies and conferences of the Muslims²³⁷ but it also refers to a just socio-economic order that must be established if the Muslims have their own sovereign State²³⁸. During the independence movement in India at the dawn of the 20th century, the Muslim scholars were clearly divided into two main camps. Those who considered Islam merely a ritualistic *Madhab* and just had a narrow vision of the terms like '*salat*' and '*zakat*' were not keen for a separate sovereign homeland for the Muslims but were happy to have a united India where Hindus would be in majority and the Muslims would have complete freedom to perform their ritual '*salat*' as well as other Islamic rituals. But those who had a broader view of Islam as a *Deen* and understood the terms like '*salat*' and '*zakat*' in wider sense were ardent supporters of the movement for a separate sovereign homeland for the Muslims of India, where Muslims would be able to order all political, social and economic aspects of their lives according to the Divine Law.

There are several verses of the Quran which make it abundantly clear that the term '*salat*' is not restricted merely to a ritual but it

²³⁴ Al-Quran Surah 5: Verse 6

²³⁵ Al-Quran Surah 21: Verse 14

²³⁶ Al-Quran Surah 62: Verse 9; Surah 2: Verse 43

²³⁷ Al-Quran Surah 42: Verse 38

²³⁸ Al-Quran Surah 22: Verse 41

also has connotations of a socio-economic order. This socio-economic order not only defines whom we serve, obey and adore but also how we handle our economics and what we do with our possessions²³⁹. It is an order which restrains us from any indecent behaviour and any unlawful deed²⁴⁰ and for which it is necessary to have a sovereign state²⁴¹. The followers of such a socio-economic order (*musalleen*) are incessantly in a state of '*salat*' (following intimately Allah's laws in all walks of life) and consider in their wealth a recognized right for those who are needy and seek their financial assistance²⁴². Such *musalleen* (followers of the complete Islamic socio-economic order) have been contrasted in the Quran with those who although perform the ritual '*salat*' but negating its socio-economic aspect, do not take care of those who are left alone in the society (such as orphans and widows) and do not urge feeding the poor. The Quran says that such *musalleen* (performers of ritual '*salat*' only) are doomed²⁴³.

It cannot be a coincidence that the terms '*salat*' and '*zakat*' have been used together at many places in the Quran²⁴⁴. It is also noteworthy that the phrase '*aat-al-maal*' and '*aat-az-zakat*' have been used distinctly in the Quran²⁴⁵. It appears that on one side

²³⁹ Al-Quran Surah 11: Verse 87

²⁴⁰ Al-Quran Surah 29: Verse 45

²⁴¹ Al-Quran Surah 22: Verse 41

²⁴² Al-Quran Surah 70: Verses 22-24

²⁴³ Al-Quran Surah 107: Verses 1-7

²⁴⁴ Al-Quran Surah 2: Verse 43; Surah 2: Verse 83; Surah 2: Verse 110; Surah 2: Verse 177; Surah 5: Verse 55; Surah 9: Verse 5; Surah 9: Verses 11, 18, 71; Surah 19: Verse 31, 55; Surah 22: Verses 41, 78; Surah 24: Verse 56; Surah 27: Verse 3; Surah 31: Verse 4; Surah 33: Verse 33; Surah 58: Verse 13; Surah 73: Verse 20

²⁴⁵ Surah 2: Verse 177

the Quran enjoins the Muslims to practice individual acts of charity and on the other hand it enjoins them to establish²⁴⁶ a collective system of *zakat*²⁴⁷ which assures physical, mental and spiritual development of all citizens of their state.

In my humble understanding, as far as the individual ritual *salat* and individual charity is concerned, the Islamic state is not entitled to enforce these individual acts upon anyone although it should encourage, urge and exhort for performing ritual *salat* and giving individual charity. But as far as the collective socio-economic system of the state is concerned, it is the duty of the state to take such measures by which Muslims order their lives according to the Islamic Teachings and where all citizens of the state can fulfil their physical, mental and spiritual potentials. Of course, an obligatory taxation will be a part of such a system.

²⁴⁶ 22:41

²⁴⁷ The word 'zakat' literally means 'growth, development, increase, augmentation'.

The Islamic Union

According to the Quran, the believers in the Islamic Ideology and belief system are a single brotherhood²⁴⁸. Being a single Muslim Community (*ummatan Muslimatun*)²⁴⁹, they are all believers in one God and are obliged to submit to the Ultimate source of Law given by the Almighty in the Quran. All this necessitates their political and economic union in the comity of nations of the world. Currently, the Muslim Community in the world is divided into 57 independent sovereign states, with a variety of political systems including kingdoms, sultanate, emirates, democratic republic, Arab republic, Islamic republic, federal republic, people's republic, and so on.

Currently, the 57 independent sovereign states of the Muslims are joined together by (a rather ineffective) Organization of the Islamic Conference (OIC), which was established by an initial 25 founding member states on 25 September 1969, in the wake of arson of Al-Aqsa Mosque in Jerusalem. Notably, the European Union of 28 member states is much more effective as compared to the OIC of 57 member states. The OIC also needs to be transformed into the Islamic Union of the Muslim States.

Currently, the supreme authority of the OIC is the Islamic Summit (a counterpart of the European Council), comprising the Kings and Heads of States or Governments of the member states. The

²⁴⁸ Al-Quran Surah 49: Verses 10

²⁴⁹ Al-Quran Surah 2: Verse 128

Summit convenes every three years in one of the member states unless there is need for any extraordinary session during that period. Quite a number of Kings or Heads of States or Governments of currently existing Muslim countries are not ever elected, so not the true representatives of the people living in their states.

In addition to the Islamic Summit comprising the elected heads of the Governments, the Islamic Union of the Muslim States should also have an Islamic Parliament, which could be a directly elected parliamentary institution of the Islamic Union with legislative powers. The Islamic Parliament (the Lower House) along with the Council of Foreign Ministers of all the Muslim States (the Upper House) may comprise a bicameral legislature of the Islamic Union. They should have the Islamic Constitution drafted in the light of the Quran to provide a framework for future legislations.

It is vital that all the members of the Islamic Union have joint Defense and Foreign policies. In the light of a Quranic Verses²⁵⁰, there should be an Islamic Peace Force and an International Islamic Court of Justice. The Islamic Peace Force may be a joint deterrence against any possible foreign aggression as well as a means of establishing peace and security within the Muslim states against any terroristic activities or aggression of one state against the other. The Islamic Court of Justice will not only be the final arbiter in disputes among the Muslim states but also the definitive authority for the interpretation of the Islamic Law or

²⁵⁰ Al-Quran Surah 49: Verses 9-10

Sharia. All the currently existing 57 Muslim States may not be willing at once to join the Islamic Union. A small number of Muslim States will have to take the initiative and others will hopefully join in later with the passage of time.

'The United Nations'

All mankind were once one single community (*ummah*); [then they began to differ -] whereupon God raised up the prophets as heralds of glad tidings and as warners, and through them bestowed revelation from on high, setting forth the truth, so that it might decide between people with regard to all on which they had come to hold divergent views. Yet even after all evidence of the truth had come unto them, some people continued to disagree out of selfish rivalry and mutual envy²⁵¹. The Prophet Ibrahim (a.s.), an exemplary leader of the mankind (*imam*²⁵²) and an *ummah*²⁵³ in himself laid the foundation of the Sacred House in Makkah which was supposed to bring the whole mankind to some common ground. That is why, it is no coincidence that when Allah mentioned the Sacred Masjid of Makkah in the Quran, whether calling it the Sacred House (الْبَيْتِ الْحَرَامِ) or the Cube (الْكُفَّةِ)²⁵⁴ or the Sacred Masjid (الْمَسْجِدِ الْحَرَامِ)²⁵⁵, He mentioned that it has been made for (the benefit of²⁵⁶) mankind (لِلنَّاسِ) and NOT (just) for the Believers (لِلْمُؤْمِنِينَ) or the Muslims (لِلْمُسْلِمِينَ).

²⁵¹ Al-Quran Surah 2: Verse 213

²⁵² Al-Quran Surah 2: Verse 124

²⁵³ Al-Quran Surah 16: Verse 120

²⁵⁴ Al-Quran Surah 5: Verse 97

²⁵⁵ Al-Quran Surah 22: Verse 25

²⁵⁶ One of the implications of the preposition 'li' (لِ) before للناس is 'for the benefit (of)'

He has called it a rendezvous for the mankind to get together²⁵⁷ (مَثَابَةٌ لِلنَّاسِ)²⁵⁸; a sanctuary (أَمْنًا)²⁵⁹ (for refuge or asylum); a source of Guidance or Direction for the nations of the world (هُدًى لِّلْعَالَمِينَ)²⁶⁰; a source of uplift of the mankind (رِيسَالًا لِلنَّاسِ)²⁶¹. It was proclaimed to mankind to make the Pilgrimage to this House to witness the benefits that laid therein for them²⁶² (لِّيَشْهَدُوا مَنَافِعَ لَهُمْ). It may be a good food for thought for the Muslim custodians of the Sacred House to ponder whether they are making this place to play the role in the world that it was envisaged to play according to the Quran. They need to ponder if their lack of thought in this respect has led to the transfer of some of the key roles to the United Nations Organization.

²⁵⁷ Al-Quran Surah 2: Verse 125

²⁵⁸ The Arabic Word 'Mathaba' (مَثَابَةٌ) means a place where people assemble or get together after they have separated or dispersed [Arabic-English Lexicon by E.W.Lane].

²⁵⁹ Al-Quran Surah 2: Verse 125

²⁶⁰ Al-Quran Surah 3: Verse 96

²⁶¹ Al-Quran Surah 5: Verse 97

²⁶² Al-Quran Surah 22: Verse 27-28

Bringing Change

The Holy Quran propounds an immutable law of change, i.e. “people or nations can’t have their state of affairs changed until they change their own psyche or mindset or paradigm”²⁶³. A long-lasting positive change in a society can only be brought about through appropriate education. Even when a revolution is indispensable, the step of appropriate education and awareness in the community is a pre-requisite.

The Quranic strategy of the Prophet Muhammad (s.a.w) for bringing positive change in the society of his time was primarily based on four points: (1) *Taleem-e-kitaab-o-hikmat* (i.e. Education about the Quranic Injunctions and the wisdom behind those injunctions), (2) *Tazkiya* (i.e. Human Resource Development; the word *tazkiya* is based on the root z-k-w, which primarily means ‘to grow or to develop’. The purpose of *tazkiya* is to develop the positive attributes and potentials in the people through appropriate education), (3) *Tazkeer* (i.e. Good Advice/Admonition/Exhortation), (4) Being a role model in integrity of character (*Uswa-e-Hasna*). A brief historical account of the struggle for change by the Prophet Muhammad (s.a.w.) is given below, which may serve as guidance.

The people of the pre-Islamic Makkah in the 6th century AD had some great virtues including admirable habits of hospitality and

²⁶³ Al-Quran Surah 13: Verse 11; Surah 8: Verse 53. The keyword in these Verses is ‘**nafs**’, which has many meanings, including the mindset and psyche.

generosity, forbearance and fortitude, and a sense of great determination and firm will. But till the dawn of the 7th century AD, the state of human rights in the city state of Makkah was abysmal. Slavery was commonplace, and slaves were bought and sold like a commodity. Women were considered an inferior genus. Female slaves were forced to prostitution and female infants were buried alive. People were supremely superstitious, and most of them used to worship hand-made idols. Any followers of the Divine religions had lost or adulterated their original sacred texts and were impelled to follow the interpretations of the religious elite, who were never shy to misinterpret their religion for petty gains. Drinking, gambling and adultery were rampant. Political, administrative and religious portfolios were in the hands of a few influential tribal lords and trade was monopolized by a few rich traders²⁶⁴.

In this backdrop in 610 AD a forty-years old noble personality of Makkah named Muhammad (s.a.w.), well-known among his people at that time as a truthful (*sadiq*) and honest (*ameen*) man, received the first installment of the Divine Revelation, with the proclamation of the name of his Guardian Lord²⁶⁵. In the next installment, he was commanded by his Lord to rise up and warn his people of the harmful consequences of their prevalent way of life²⁶⁶. Then he was commanded by his Lord to embark upon a program of social, political, economic and religious reforms in his

²⁶⁴ "Muhammad at Makkah" by W. Montgomery Watt; "The Life of Muhammad" by Guillaume

²⁶⁵ Al-Quran Surah 96: Verses 1-3

²⁶⁶ Al-Quran Surah 74: Verse 3

society and urge people, inter alia: to comply with the commands of only One God Who was their Creator and Sustainer²⁶⁷; to not worship idols or call upon entities besides Allah who could be of no benefit or harm to them²⁶⁸; to not spread corruption in the land²⁶⁹; to be kind to their parents²⁷⁰; to take care of their relatives, orphans and the poor²⁷¹; to free their slaves²⁷²; to not commit adultery²⁷³; to not kill innocent human beings²⁷⁴; to fulfill their promises²⁷⁵; to give full measure and weight in business and trade²⁷⁶; to not follow blindly anything without knowledge²⁷⁷; and to mete out justice even if it goes against their relatives²⁷⁸. He warned them against burying alive the female infants²⁷⁹ and killing their children for fear of hunger²⁸⁰. He told people that Allah has honored all the children of Adam²⁸¹, and tribal affiliations and descent had no merit. In the eyes of Allah, all have ranks

²⁶⁷ Al-Quran Surah 10: Verse 3; Surah 6: Verse 102

²⁶⁸ Al-Quran Surah 11: Verse 2; Surah 10: Verse 18; Surah 10: Verse 106

²⁶⁹ Al-Quran Surah 7: Verse 56

²⁷⁰ Al-Quran Surah 17: Verse 23; Surah 6: Verse 151

²⁷¹ Al-Quran Surah 17: Verse 26; Surah 89: Verse 17-18; Surah 107: Verse 2-3

²⁷² Al-Quran Surah 90: Verse 13

²⁷³ Al-Quran Surah 90: Verse 32

²⁷⁴ Al-Quran Surah 17: Verse 33; Surah 6: Verse 151

²⁷⁵ Al-Quran Surah 17: Verse 34

²⁷⁶ Al-Quran Surah 17: Verse 35; Surah 6: Verse 152

²⁷⁷ Al-Quran Surah 17: Verse 36

²⁷⁸ Al-Quran Surah 6: Verse 152

²⁷⁹ Al-Quran Surah 81: Verse 8-9

²⁸⁰ Al-Quran Surah 6: Verse 151

²⁸¹ Al-Quran Surah 17: Verse 70

according to their deeds²⁸² and the person with highest integrity is worthy of the greatest honour²⁸³.

His wife Khadija (r.a.), his adopted son Zaid (r.a.), his cousin Ali (r.a.) and a trusted friend Abu Bakar (r.a.) immediately believed in his prophetic status and stood up in support of his mission with further support from his uncle Abu Talib. (The Prophet's father had died even before his birth and his mother had died during his childhood). The poor and the disadvantaged in the society were among the first to respond to his call to Islam, who saw a ray of hope for the amelioration of their socio-economic conditions. After the initial three years of private and individual preaching, the Prophet (s.a.w.) was commanded by the Almighty for open preaching, starting with the near kindred²⁸⁴. Tribal leaders like Abu Jahal, Abu Sufyan, Abu Lahab and other rich and the influential Quraish of Makkah were extremely concerned with the emerging ideology, which was meant to free the common man from the shackles of their lordships. They made every attempt to check the spread of this ideology named Al-Islam, i.e. submission of one's will to Allah's commands. They ridiculed and belied the Prophet (s.a.w.), called him insane²⁸⁵ and a liar²⁸⁶. They launched slander and false propaganda campaigns against him and persecuted and tortured his followers. Bilal (r.a.), the slave of Umayyah bin Khalf who had accepted Islam, was severely tortured

²⁸² Al-Quran Surah 6: Verse 132

²⁸³ Al-Quran Surah 49: Verse 13

²⁸⁴ Al-Quran Surah 26: Verse 214

²⁸⁵ Al-Quran Surah 15: Verse 6

²⁸⁶ Al-Quran Surah 38: Verse 4

by his master. Another victim of cruelty was a freed slave Ammar bin Yasir. His father and mother were tortured to death in front of his eyes. Other victims of torture included Abu Aflah, a freed slave of Bani Abdud-Dar and Khubbab bin Al-Arratt. The list of victims also had women including Umm Ubais, Zanirah and her daughter, just to name a few.

In order to escape from the day-by-day increasing persecution, some believers in Al-Islam had to leave their homes and emigrate from Makkah to Abyssinia (Ethiopia). But the Quraish could not tolerate any safe haven for them and followed them even there, to get them back and persecute them again. But the king of Ethiopia was kind enough to grant asylum to the believers. Meanwhile, the Quraish in Makkah socially and economically boycotted the prophet (s.a.w.) and his key protectors and supporters. The tyrants of Makkah also began hatching schemes to kill the prophet (s.a.w.). The life in Makkah became so dangerous for the prophet (s.a.w.) and his companions that ultimately they had to migrate to Medina, leaving behind their homes and their property, which was later plundered by the Makkahn tyrants.

This is a glimpse of the circumstances during the early 13 years of the prophetic life of Muhammad (s.a.w.) in Makkah, when he was enjoined by the Almighty for a strenuous struggle, i.e. **Jihad** against the disbelievers with the help of the Quran²⁸⁷. This strenuous struggle or Jihad continued peacefully after migration

²⁸⁷ Al-Quran Surah 25: Verse 52

to Medina²⁸⁸ but the Makkahn tyrants did not leave any stone unturned to harm the community of the believers even in Medina and continued hatching conspiracies along with the hypocrites of Medina. In such circumstances, while the community of believers was steadily gaining support and strength in Medina, they were now in a better position to offer a tougher resistance to their opponents. Now the believers were commanded by their Lord to strive hard against the disbelievers and the hypocrites, and to be stern against them²⁸⁹. When the battles were imposed upon this community of believers while they were in Medina, they were commanded by their Lord to offer the armed resistance²⁹⁰. Thus Jihad, which started in Makkah as a purely peaceful strenuous struggle with the help of the Quran for socio-politico-economic reformation, had to be transformed into an armed struggle by the believers to respond to the armed aggression of the anti-reform disbelievers and their supporters. At last, the strenuous struggle of the believers with unstinting patience and perseverance resulted in triumph with Allah's help and people entered the fold of Islam in throngs²⁹¹. According to Montgomery Watt, "Foremost among the reasons for this success of Muhammad's was the attractiveness of Islam and its relevance as a religious and social system to the religious and social needs of the Arabs"²⁹².

²⁸⁸ Al-Quran Surah 2: Verse 218

²⁸⁹ Al-Quran Surah 66: Verse 9

²⁹⁰ Al-Quran Surah 9: Verse 41

²⁹¹ Al-Quran Surah 110: Verse 2

²⁹² W. Montgomery Watt, "Muhammad at Medina", Oxford University Press, 1956.