

Islam and International Relations

by

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Declaration

I, the undersigned, declare that this thesis which I am now presenting for the degree of philosophiae Doctor (Ph.D.) of the University of Wales has not previously been accepted in full, part or even in substance for any degree at any university nor is it being concurrently submitted in support of candidature for any degree at any other university.

FAHAD HAMAD AL-MEKRAD
Candidate

Statement

I, the undersigned, affirm that except where acknowledged this thesis is the result of my own investigation and research.

Acknowledgements

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Abstract

Islam and International Relations

This thesis deals mainly with the role of Islam in international relations, which is based on the Qur'ān (the revealed book) and the Sunnah (prophetic tradition). The study has used the analytical approach and the interdisciplinary approach to examine and investigate Islamic international relations theories in an attempt to demonstrate that they offer a practical alternative to resolve crises in international relations. This thesis highlights the Islamic alternative in dealing with the major issues in the world today, namely peace, security, balance of power, and co-operation among nations. The thesis, therefore, outlines certain concepts and themes which examine and explore the actual and potential relevance of Islamic law (Shari'ah) in relation to these issues. The main findings of the thesis include that Islam can indeed play a positive role in the field of international relations and that peace is the role and war the exception in most of the theories of Islamic international relations based on the Qur'ān and the Sunnah. Also, the Islamic theory of international relations provides a valuable framework of general application for international order. The concept of community (Ummah) is the most important factor which defines the function of the Islamic state. Moreover, authority in Islam is based on the Ummah. The role of the state in Islam is to establish justice

and equality and to protect religious values. The concept of security in Islam is collective and is therefore concerned for both Muslims and non-Muslims alike. The purpose of Jihād is primarily to maintain security and justice. The study has found that certain issues and themes such as supremacy, power, security, peace, war, equality, neutrality, diplomacy and treaties are reflected in Islamic international relations. The conduct of internal and external affairs in the Islamic state is based on the Qur'ān, Sunnah and human reason (ijtihād). In Islam political life and religion cannot be separated from each other because Islamic public order is deeply rooted in the Shariāh (Islamic law) and is regulated by its law and at the same time guided by its past centuries of experience.

TRANSLITERATION TABLE

Consonants. Arabic

initial: unexpressed

medial and final: د	د	ض	ك
ء	د	ض	ك
ب	ذ	ط	ل
ت	ر	ظ	م
ث	ز	ع	ن
ج	س	غ	ه
ح	ش	ف	و
خ	ص	ق	ي

Urdu and Persian the same except the following:

پ	ڈ	ژ
پ	د	ز
ٹ		
ٹ		
چ	ڑ	گ
چ	ر	گ

Vowels, diphthongs, etc.

short: ا a; ی i; و u.

long: آ ā و ū ی ī ی iy

diphthongs: ا aw

ی ay

INTRODUCTION

The record of religion as a means to establish international peace is uneven. In the upheavals of human history it has been as often a contributing factor as an ameliorating one. Yet when attempts are made to curb the propensity for warfare that besets humankind, the impulse remains to appeal to extraempirical, or transcendent, notions. The basic dilemma is the perennial question of whether aggression in international affairs can be curbed, and if so at what price. In an effort to provide possible alternatives to the present system of international relations*, this study attempts to investigate the role of Islam and its possible contribution to international peace.

The study will try to determine whether any political programme can be derived from the Qur'ān and Sunnah which could be the basis for an Islamic theory of international relations, particularly because the very word "Islām" means peace, obtainable as a result of human beings' preparedness to submit to the beliefs and values which Muslims claim is given to humanity by God through revelation and prophets.

* International relations is a human activity in which persons from more than one nation, individually and in groups, interact. Usage of the term "International relations" by scholars in the field is not consistent. Some use "International relations" and "International politics" for relations between governments and use "International relations" as a more inclusive term. The study of International Relations includes certain aspects of nations and their governments particularly foreign policy making activity. For more details see International Encyclopedia of the Social Science by David L. Sill, Vol.II, 1986.

In the case of Islam the Qur'ān represents God's final revelation to humanity through the prophet Muḥammad (PBUH), and because Muslims hold him to be the last prophet, he completes the prophetic mission. The Qur'ān is the foundation and mainstay of Islamic life and culture. Muslims believe it to be God's final revelation to humanity, in addition the Qur'ān itself claims to preserve and protect what has already been revealed to humanity through earlier prophets, completing and perfecting that guidance for the future. As it is considered the first basic source for Muslims and they adhere to it throughout their life as a fundamental source of knowledge, we must consider it the most important primary source in the study of international relations in Islam because substantially the Qur'ān is concerned with values and norms which promote peace, justice and equality.

Since the Qur'ān is subject to the space-time in which it was revealed it has been necessary throughout Islamic history for there to be exegesis which takes into account new time-space contexts and different cultural milieux, so that Muslims can meet the ideals and expectations of the divine word within the intellectual, political, economic, environmental and educational circumstances in which they find themselves.

The second major source after the Qur'ān is the Sunnah (prophetic tradition). The prophet himself was not a mere messenger who delivered the book of God; he launched a movement, founded a community, established a state, and spent every moment of his prophethood in guiding, directing and leading his followers. His example of living by

God's guidance, consisting of whatever he did or said or approved of, is the Sunnah. The prophetic model is not only the realization of the ideal, it also inaugurates a process through which those who have followed in the footsteps of the prophet throughout the ages have continued to strive to understand, interpret, explain and implement the word of God.

Deriving from these two primary sources is the Shari'ah, which represents a framework and process for decision-making, legal or otherwise, but enabling the Muslim at both an individual or collective level to meet the values and ideals of the divine word. It is claimed to be the code of conduct for total life laid down by Islam, and is the fulfilment of the total man, inner and outer, individual and corporate as he seeks to live by the will of his one and only God.

This study will therefore try to determine whether any principles of international relations can be derived from these sources.

According to some authors on international relations Islam is viewed as a set of traditions bound to a point in history and tied to its space-time dimension and therefore incapable of leading a dynamic modern state. On the other hand some authors in the field of International relations seem to mix Islamic political thought with theories of Islamic international relations.

The main objective is to examine these theories in relation to the contribution which Islam can make to international relations; moreover,

this study will try to investigate whether Islam is capable of being applied to international affairs. The thesis will promote new modes of thought, a new orientation and a new set of values, thereby creating a strategy of global reform.

The purpose of the study is to prepare the ground for studying the actual and potential relevance of Islamic doctrine and concepts to the current situation and in conclusion to provide an option or model of reform for the World Community.

This thesis also highlights Islamic theory as a possible alternative way of dealing with the major issues in the world today, namely, peace, security, balance of power and co-operation among nations. Therefore, the study outlines certain concepts and themes which provide an examination of the actual and potential relevance of Islamic Law (Shari'ah) related to these issues. Hence, the following propositions will be examined:

Proposition I

Islam is capable of providing systematic and collective solutions in international relations.

Proposition II

Islam, with its system of Law, can contribute to international peace. Its laws are flexible enough to meet the changing circumstances of time and place.

Proposition III

Islam, as a political entity, can provide a systematic approach to security among Muslim nations.

Proposition IV

Many aspects of the modern concepts of supremacy, power, peace, equality, neutrality, diplomacy, treaties, etc., are reflected in Islamic political framework.

-

The scope and methodology used in this study

The methodology used in this study reflects the analytical approach by examining certain outstanding themes and concepts, which characterise the way in which the Islamic state should interact with other countries and communities. In this case the study will reflect upon the sources of Islam in addition to contemporary thinking to come to understanding of those concepts which could contribute to the Islamic understanding of peace, power, justice and equality.

Secondly, an interdisciplinary approach will be applied in Islamic history, culture and politics in order to provide an understanding of Islam in world affairs.

The primary sources and most frequently quoted works in this study will be the following -

- A. The Qur'ān (revealed book) as the first basic source for Muslims, to which they should adhere throughout their lives as a basic source of knowledge. For Muslims, the Qur'ān is considered

applicable and suitable for all times and all places.

- B. The second source is the sunnah of the prophet Muhammad (PBUH) which is considered the second source after the Qur'an, this will also be quoted to support and clarify certain issues.
- C. Basic works of Tafsīr (commentary on the Qur'ān) by classical authorities such as al-Tabarī, Ibn Kathīr, Ibn Taymīyah etc.
- D. Historical documents also will be used in this study; for example, al-Sirah (Biography of the prophet), such as Al-Sīrah al-Nabawīyyah of Ibn Hishām¹.
- E. Dustūr al-Madīnah (constitution of Madinah) will be examined and analysed in this study.

The nature of this work requires an extensive use of Arabic sources extant on the subject, written by scholars in the Arabic language. Relevant literature of Western orientalist will also be cited from time to

1. Ibn-Hishām, Abū-Muhammad 'Abdul-Malik, Al-Sīrah al-Nabawīyyah (the Biography of the Prophet). Cairo, 1955.

time to illustrate certain issues.

The reader of this research has to be aware of the difficulties in the composition and terminology of some basic terms which are taken from the Qur'ān and Arabic literature. For this reason the researcher has drawn up a glossary which is to be found at the end of the thesis to enable the reader to familiarise him or herself with these terms and abbreviations.

The study will be divided into seven chapters. The first chapter will focus on international relations before Islam. It will present an overview of the general setting of the political situation in the pre-Islamic period and how Islam emerged from out of this content.

The second chapter outlines the pillars upon which the theory of an Islamic state is built, namely

- a. The issue of ummah (community), its meaning and realisation.
- b. The issue of Dār-al-Islām (territory of Islam).
- c. The issue of Sultah (authority) in terms of the leadership of the state including the Khalifah (trustee), Sultān (power of authority) and Imām

(leader), Ahl-al-hal-Wal'aqd (those making decisions), Ijma' (consensus) and how this concept shaped the first Islamic state.

Chapter Three is mainly concerned with the concept of Quwwah (power) as an instrument to achieve Jihād (to exert) according to Islamic doctrine.

Chapter Four will deal with the concept of 'peace'. It will analyse how Islam perceives peace between individuals, communities and nations. In addition, this chapter will examine whether the concept of peace in Islam is a universal or a strictly internal concept.

In Chapter Five which will deal with Islam and 'foreign relations', attempts will be made to determine the basic relations between the Islamic state and the non-Islamic state. In this chapter, the following will be discussed: the right of the Islamic nation to intervene in the affairs of other nations, and the view of Islam regarding prisoners of war, neutrality, diplomacy, commercial relations, the status of dhimmas (non-Muslims) in Dār al-Islām (the territory of Islam) and the bipolarity system of power and the status quo of the modern world.

Chapter Six will attempt to shed some light on the concept of security from the Islamic point of view. In

addition, the question of whether this concept includes the non-Muslims or is only concerned with the Muslims, will be considered. The issues of love, equality, justice and co-operation will also be examined.

Finally, Chapter Seven will attempt to study the concept of treaties and the basic types of treaties. This chapter will focus on the legality of the conditions of the treaties with enemies as well as with friendly nations.

Summary Review of Literature

Classical Theory of International Relations (750 - 1100 AD)

In the classical Islamic literature most of the theory of international relations is presented under the Title of Siyar which includes Jihad, treaties, Dhimmīs (the non-Muslim subjects of the Muslim state), Mu'ahidīns (non-Muslim parties of peace agreement with the Muslim state), Musta'min (enemy subjects granted safe conduct by Muslims to enter Muslim territory), besides the question of Jihād between Dār al-Harb (the non-Muslim states or territories at war with the Muslim state) and Dār al-Islām (territory of Islam).

Basic work of the classical Arab writers include Abu-Hanifah who gave the name Siyar to his lectures on Islamic law of war and peace. Later these lectures were incorporated by his disciple Muhammad al-Shaibani in to Kitāb al-Saghīr and Kitāb al-Siyar¹. Mālik Ibn Anas, another venerable jurist, wrote a separate chapter on Siyar. In the Kitāb-al-Kharāj of Abu Yusuf, there is a lengthy discussion on rules concerning Jihad, peace treaties, the distribution of the spoils of war, Jizyah (poll tax), Kharāj (land tax) and arbitration.²

Al-Shafi'ī, in his basic work Al-Umm, wrote about the same issues, under the title of al-Jizyah. These aspects of international relations are treated by the above jurists as unclassified historical material and this is mixed with other subjects in the same code of faith, ethics and criminal law.

1. Muḥammad ibn al-Ḥasan al-Shāybanī, Sharḥ al-Siyar al-Kabir, (commentary on the book of the Great Siyar) dictation of Muḥammad ibn Ahmad al-Sarakhsi and edited by Salūh al-Munajjid (Cairo Maḥad al-Makhtūtāt bi Jāmiāt al-Duwal al-'Arabiyyah, 1958).

2. Abū-Yūsuf, Kitāb al-Kharāj, (The book of Land Tax) narrated by Muhammad I. Al-Banna, Cairo, Dar al-Islāh, 1981.

These writers succeeded in linking these issues with the main source of Islam, the Qur'ān. Thus, the classical theory covers the sum of medieval Muslim juristic opinions on issues of Muslim external relations as expounded in the work of major jurists and thinkers, such as al-Shaybānī, al-Shāfi'ī, al-Māwardī, al-Gazzālī and Ibn Taymiyyāh.

Although these jurists and thinkers were in agreement on the basic principles of Islam and on some of the basic philosophical and theological issues, this does not mean that they had uniform legal opinions. Examples from the area of international relations itself (Siyar) demonstrate the lack of a unified classical legal code. This point has important implications for the Islamic theory of international relations, as will be explained later.

Other major works on international relations from Islamic jurisprudence include that of al-Māwardī in his basic work Al-Ahkām al-Sultāniyah³ which deals with Khilāfah (Caliph), peace and war. A lengthy discussion about the rules of war and peace during the Abbasid period (750 - 1100 AD) and during the fast moving territorial expansion of early Islam has been presented by the above author.

The early Muslims realised the importance of political authority as a central power for the establishment and continuity of the Islamic Ummah. After the death of the Prophet (PBUH), the first Muslim 'government' of the first Khalīfah Abu-Bakr decided to suppress the tribal uprising against the central political authority of Madinah in order to maintain the Ummah. The decision was historical, since the issue was both organisational and philosophical.

3. See Abū-al-Hasan 'Alī ibn Muhammad ibn Habīb al-Baṣrī al-Baghdādī al-Māwardī, (1057 AD/450 AH). Al-Ahkām al-Sultāniyah Wa al-Willāyat al-Dīniyah (The Ordinance of Government and the Religious Offices), Cairo, published by al-Halabi, 1966.

Such classical jurists as 'Abdal-Qāhir, al-Baghdādī, al-Māwardī, Abū Yāla and al-Ghazzālī, who wrote between the 11th and 14th centuries, insisted on a single unified supreme central political authority.⁴

The jurists seem to have emphasized central authority as the concrete model of a simple, single state of the prophet in the city state of Madinah(622-632). In regard to the relations between Muslims and non-Muslims, such relations did improve due to the example established by the early Muslim community in giving communal and legal autonomy to non-Muslims, in displaying lenient attitudes, better defined rules and more restrained use of power. In spite of this the jurists did not deal with the concept of equality, justice and security for the non-Muslim in the framework of the Islamic state. Because of lack of clarity on these issues there is need for a major investigation to analyse them. This will be undertaken in later chapters by the author of this thesis.

4. See 'Abdīl-Qāhir ibn Tāhir al-Tamīmī al-Baghdādī (1038 AD) Ahkar al Imāmah wa Shurūt al-Zu'āmā' (Rules of Imāmah and Qualifications for Leadership), pp.126-262.

Islamic theory of international relations
by contemporary Muslim scholars

In modern times not much has been written by Muslim scholars about international relations according to the Qur'ān and the Sunnah, although there is an attempt among some contemporary Muslim authors to consider Islamic international relations in general. Major works related to the study include: Muhammad Abū-Aahrah,⁵ in his book, Islam in International Relations, (1964). 'Ali A Mansur,⁶ Al-Shari'ah al-Islamiyah wal Qānūn Al-Duwalī al-Ām, (1969). Wahbah Mustafa Al-Zuhaili,⁷ The Effect of War in Islamic Jurisprudence, (1965). Muḥammad Hamīdullah,⁸ The Muslim Conduct of State, (1968). Aby-Sulayman Abdul-Hamid,⁹ The Islamic theory of international relations, (1987).

These writers establish that the Islamic Da'wah, the invitation to adopt Islam, was based on logical persuasion and idealism, not on force and violence.¹⁰

Notwithstanding their valuable contribution in this field, no attempt has been made by them to investigate how Islamic international relations can play a significant role. The author will therefore examine the Islamic solution in dealing with world crises, and to what extent Islam is applicable to modern political issues.

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5. Muḥammad Abū-Zahrah, al-'Alaqāt-al-Duwalīyah Fi al-Islām, (International Relations in Islam, Cairo, 1964).
 6. 'Ali A. Mansur, Al-Shari'ah al-Islamiyah wal-Qānūn al-Duwalī al-Ām, (Islamic Shariah and Public International Law), Cairo: Dar al-Qalam, (1969).
 7. Wahbah Mustafā al-Zuhailī, Āthār al-Harb Fi al-Fiḥ al-Islamī, (The Effects of War in Islamic Jurisprudence), Damascus: Dar al-Fikr, (1965).
 8. Muḥammad Hamidullah, The Muslim Conduct of State, Lahore, Pakistan, Muḥammad Ashraf Print, (1968).
 9. Abū-Sulayman Abdul Hamid, The Islamic Theory of International Relations, published by the International Institute of Islamic Thought, Washington, (1987)
 10. For a detailed account of these doctrines see Hamidullah The Muslim Conduct of State, op.cit.

These are some examples from the writer who have recognised the effectiveness of the spiritual bond of Islam as a unifying force amidst divergent ideologies and the legacy of the impact of the west on Islam. On the other hand, these are scholars who emphasise that at present, there is no other force except Islam capable of bringing harmony in the Muslim world.

Montgomery Watt writes:

"There is little hope of increased harmony and adjustment except through the operation of the religion of Islam."¹¹

Contemporary writers have given little or no attention to important issues in international relations in modern times, such as peace, security, neutrality, balance of power among nations, and diplomacy. These contemporary writers also seem to ignore the important questions in international relations. To what extent can Islam face a modern international crisis and what methodology can Islam provide as a framework for solving modern crises?

The next question that arises is how to give a practical form to these various feelings and attitudes so as to bring about unity in thought and action among the Muslim countries, thus giving a new life and strength to the Muslim world.

¹¹ Montgomery W Watt, "Thought on Islamic Unity", The Islamic Quarterley, Vol.III, No.3, October 1956, pp.193-194.

Theory of Islamic International Relations
as discussed by non-Muslim scholars

Modern theory of Islamic international relations has to a certain extent been examined by some non-Muslim scholars. Major works relating to the study of international relations include the contemporary writings of Majid Khadduri in his book The Islamic Law of Nation. He states that as far as the relation between the Islamic state and non-Islamic state is concerned it is based on two communities, Dār al-Islām (abode or territory of Islam) and Dār al-Harb (abode or territory of war). Furthermore, the Dār al-Islām, Khadduri contends, was theoretically in a state of war with Dār al-Harb because the ultimate objective of Islam was to bring the whole world under its sway.¹²

Some writers have argued that this Islamic division of the world into two communities resembles the more recent communist division of the world into the communist and capitalist arts, with all efforts directed to "convert" the latter into the former by all possible means.¹³

The controversial concept of the jihād is referred to by many writers as the instrument which would be used to transform the Dār al-Harb into the Dār al-Islām. Unfortunately, an erroneous idea among these writers is that Islam attained its great success by violent means, and that the jihad was Islam's instrument in achieving this expansion.¹⁴

12. Majid Khadduri, The Islamic Law of Nations: Shaybanis Siyar, (Baltimore: John Hopkins University Press, 1966, p.10).

13. See for example, Nagib Armanazi, L Islam et le Droit International, (unpublished doctoral dissertation, University of Paris, 1929; the same in Arabic with certain additions "Al-Shari'a Al-Duwali Fi AL-Islam, Damascus, 1930).

14. Majid Khaddur, War and Peace in the Law of Islam, Baltimore: John Hopkins University Press, 1955, p.52.

It follows, according to Khadduri, that arrangements made between the Dār al-Īslām and the Dār al-Harb must of necessity be short-lived because they carry with them no applied recognition of equal status under Islamic law.¹⁵

James E Dougherty and Robert L Pfaltzgraff in their book Contending Theories of International Relations argue that:

"the prophet Muhammad preached the jihad (holy war) as a sacred duty and a guarantee of salvation, and for several centuries Moslem theorists, accepting the reality that Arab rulers were for the most part a war minded group, assumed that the world is divided into the Dar al-Islam (the peaceful abode of the true believers and those who submitted to their tolerant rule) and the Dar al-Harb (the territory of war). Inasmuch as Islam was a universalist system of belief, the two territories were always theoretically at war with each other, for war was the ultimate device for incorporating recalcitrant peoples into the peaceful territory of Islam. The jihad, therefore, was a form of bellum justum (just war), not entirely unlike that of medieval Christian writers." 16

P J Vatikiotis recently in his book Islam and the State, (1987) claimed that jihād

"is a most amenable notion to the purposes of state: it can legitimize aggressive policy." 17

He further states that political order in Islam emphasises the community, not the individual and it seeks a unitary not a plural civilization and political culture.

Another author claimed that international relations in Islam are not simply based on Qur'anic sources. Other traditional, cultural and environmental influences, such as tribalism, Byzantine-type despotism, Iranian-style court practices and later Turkish autocracy also helped to shape it.¹⁸

15.. Majid Khadduri, The Islamic Law of Nations, op.cit. p.12.

16. James E Dougherty and Robert L Pfaltzgraff, Jr. Contending Theories of International Relations. Philadelphia: J.B Lippincott Company, 1971, p.149.

17. P J Vatikiotis, Islam and the State, published by Croom Helm, 1987, p.21.

18. G E Von Grunhaum, Medieval Islam, Chicago, 1945, p.24.

In similar view Majid Khadduri argues that:

"the Islamic theory of international relations is to be found neither in the Qur'an nor in the prophet Muhammad's utterances. It was rather the product of Muslim speculation at a time when the Islamic Empire had reached its full development. 19

According to Khadduri, the Islamic state passed from its beginning through various stages of evolution, culminating in a golden age of ascendancy often referred to as the Islamic classical period during which the Islamic theory of external relations was formulated.²⁰

These modern theories of Islamic international relations among the orientalist raise the question to what extent these works are applicable to Islamic principles and to what degree are they valid? This study attempts in later chapters to examine these theories.

19. Majid Khadduri, "The Islamic Theory of International Relations and its Contemporary Relevance", Islam and International Relations, ed. J. Harris Proctor, New York: Praeger, 1965, p.29.

20. *Ibid.*, p.30.

CHAPTER ONE

BACKGROUND

I. International Relations in Pre-Islam

In order to understand the values and principles of Islam, a knowledge of the pre-Islamic situation will be useful. The geographical make-up of Arabia and its climatic conditions were among the major factors that shaped the life and influenced the activities of its people. Hitti, who is a specialist in Arab history, observes:

"The geographical division of the land by the trackless desert into northern and southern sections has its counterpart in the people who inhabited it....like a thick wedge, the Arabian peninsula thrust itself between the two earliest seats of culture, Egypt and Babylonia. It could not escape their influence."²

The people of Pre-Islamic Arabia were divided into groups or tribes and moved from place to place in search of water and grass for their camels and sheep. Their nomadic life, which depended largely on camel breeding,

2. Philip Hitti, The Arabs: A Short History, (Chicago: Henry Regenry Company, 1970), p.22.

was characterized by an intense competition for water resources and pastures to maintain the economic base and to provide for the welfare of the tribes as a whole.³

The ghazw (raid) was a common phenomenon among Arab tribes of the pre-Islamic period. This type of hostile relation during the Jāhiliyyah (ignorance) period can be illustrated in the following examples. The first was a ghazw known as Harb al-Basūs in which the tribes of Banu Taghlib and Banu Bakr fought for forty years over the killing of a camel. The second was that of Harb Dahis wa'l-Ghabra, a war fought between the 'Abs and the Dhaibān over a horse race.⁴ The 'asabiyyah (tribal loyalty) of the people was another important characteristic of that period. Ibn Khāldun identifies 'asabiyyah as "a social solidarity found only in groups related by blood ties or by other ties which fulfil the same function."⁵

Hitti says that "tribal loyalty (asabiyyah) is the spirit of the clan... a tribal spirit." He further states that "asabiyyah implies boundless and unconditional loyalty to fellow clansmen."⁶ This form of

3. Deiranieh Akram Raslan, The Classical Concept of Islam, unpublished thesis, Howard University, 1975, p.22.

4. See for example Ibrāhīm Haṣṣan, Tārīkh al-Islām as-Siyāsī wal-dīnī wal-thaqāfī wal-ijtimā'ī, (Cairo: Maktabat an-Nahda al-Misriyyah, 1959), pp.44-45.

5. Ibn Khaldun, The Muqaddimah Vol.I. Ch.2 p235 trans. by Muhsin Mahdi, London, 1957.

6. Philip K. Hitti, History of Arabs: From the Earliest Times

solidarity among the tribes represented and promoted social integration among other tribes.

It was customary in Pre-Islamic Arabia for the largest and the most influential family to be entrusted with the leadership of the tribe and the administration of its affairs. This family would use their power to influence other tribes and to maintain economic advantage through ghazw (raids) against weaker tribes.

II. Political Institutions in Pre-Islamic Arabia

When there were disputes among the tribes, the shaikh (tribal chief) and the Kāhin (soothsayer) acted as arbitrators. The shaikh was elected by the elders of the tribe usually from among members of a single family, known as Ahl-al-bait, "the people of the house". He was advised by a council of elders called the Majlis, consisting of the head of the families and representatives of clans within the tribe.⁷ The source of legitimacy of the Majlis was the custom of the practice of the ancestors, which owed such authority as

to the Present, (8th ed., London: MacMillan & Co. Ltd., 1964), pp.27,289.

7. Bernard Lewis, The Arabs in History, Hutchinson Publishing group, Great Britain: ed. 1985, p.29.

it had to the general veneration for precedent and found its only sanction in public opinion.⁸ The tribal chief (Shaikh) was the symbol of tribal authority and was its representative in inter tribal or foreign relations. In the study of Arab tribalism, Gabrieli states that:

"Within its democratic and patriarchal structure, the tribe acknowledges a freely elected head (Sayyid, Sheikh) with limited authority confined particularly for advice and guidance.....The affairs of common interests are discussed and decided by the assembly of the entire tribe where great prestige is attached to the wisdom of old age, prowess in war and to eloquence in skill and poetry."⁹

By the end of the Pre-Islamic period, the Arabs were divided into many political units of which Mecca, Medina and Taif were a part. Indeed Mecca (Makkah) was the most developed of these three cities. Hamidullah states,

"Mecca alone had a city state governed by council of ten hereditary chiefs who enjoyed a clear division of power."¹⁰

Professor Saab observes:

"Another factor gave to the political organization of Mecca its importance. Mecca enjoyed full political independence. While the Syrian and the Iraqi fringes of the Arab peninsula and the south of Arabia were

8. Ibid.

9. Gabrieli Francesco, Mohammad and the Conquests of Islam, (New York: McGraw-Hill Book Company, 1968), pp.30-31.

10. Muhammad Hamidullah, Introduction to Islam, (Paris: Centre Cultural Islamique, 1969), p.4.

subjected on the eve of Islam to foreign rule, Mecca suffered foreign influences without being subject to foreign domination."¹¹

The region of Hġjāz (the western coast of the Arabian peninsula) escaped the power struggle which was taking place between the Byzantine and the Persian empires over Arab lands. The Persians established for themselves "a sphere of influence in the Persian Gulf and along the south coast of Arabia."¹² The Hejaz, with its type of nomadic life and its inaccessible land seemed unattractive to colonial adventurers. "With the available arms and means of communication", Watt states, "it was a task beyond the strength even of great empire."¹³

The major tribe that dominated in Mecca, during the pre-Islamic period was the Quraish. The founder of the Quraish, Quṣāy Ibn Kilab, soon afterwards established the institution of Dār al-Nadwah, a conservative assembly of notables of the Quraish family and expanded the administrative activities of his government. Dieranieh stated that:

"Political and social offices were divided among the major clans according to their

11. Saab Hassan, "The Spirit of Reform in Islam", Islamic Studies, II, No.1, (March, 1963), p.30.

12. W. Montgomery Watt, Muhammed: Prophet and Statesman, (London: Oxford University Press, 1961) p.4.

13. Ibid., p.5.

status. This expansion of government institutions was politically motivated. It was dictated by the earnest desire of Quraish leaders to include all its clans in conducting the affairs of Mecca in order to guard against factionalism and jealousy among their clans."¹⁴

The most important Meccan institutions were al-Hijābah, al-Siqāyah, al-Rifādah and Dār al-Nadwah.¹⁵ The first three were traditional offices and concerned themselves with social and religious matters. Al-Hijabah was the custody of al-Ka'abah. It dealt with the opening, closing and the maintenance of the holy shrine. It was also known as Sidanat Al-Ka'bah. Al-Siqāyah concerned itself with providing an adequate supply of water for the pilgrims. Al-Rifādah was to provide food for the pilgrims during the holy season of the pilgrimage to the Meccan shrine. Dār al-Nadwah was the political administrative office of Mecca and its most influential institution. Its authority and its functions were similar to that of a congress of parliament. It consisted of two houses, the majlis, and the al-mala'. The majlis, the council of the heads of the clans of Quraish, was the upper house of Dār al-Nadwah and the policy-making office. Al-Mala', the general assembly was

14. Deiranieh Akram Raslan, The Classical Concept of State in Islam, op.cit., p.45.

15. Hassan Ibrāhīm Hassan, Tarīkh al-Islām as-Siyāsī wal-dīnī wal-thaqāfī wal-ijtimā'ī, (Cairo: Maktabat al-Nahḍa al-Misriyyah, 1959), p.39.

merely an advisory office. It included the notables of Mecca, its businessmen as well as the chief military personnel.¹⁶ Dār al-Nadwah, as an institution, is comparable to the public institutions of debate of modern times. Saab states:

"The senate and the council (the upper and lower houses of Dar al-Nadwah) had such a traditional and moral prestige that there was very seldom a decision concerning the destiny of Mecca which was not debated in one or the other of them."¹⁷

Dār al-Nadwah was also the place designated for the departure and the return of trade caravans as well as the official centre for military expeditions and war activities.¹⁸

III. Foreign Relations

Pre-Islamic Arab society was not isolated from the civilized world but rather lay on the fringes of that world. Bernard Lewis observes:

"Persian and Byzantine culture, both material and moral, permeated through several channels most of them connected with the trans-Arabian trade routes. Another factor of some importance was the settlement of foreign colonies in the peninsula itself. A number

16. Saab Hassan, "The Spirit of Reform in Islam", op.cit., p.9.

17. Ibid., p.10.

18. Zaydān J̄yrjī, Ta'rikh al-Tamaddun al-Islāmī, Vol.5, Cairo: Dār al-Hilāl, 1958.

of Jewish and Christian settlements were established in different parts of Arabia, both spreading Aramaic and Hellenistic culture. The chief southern Arabian Christian centre was in Najran where a relatively advanced political life was developed."¹⁹

The Arab converts to Judaism and Christianity lived especially in the Yathrib which was later renamed Madina. There were also some channels which connected the Arabs to the Romans and the Persian empires, which helped in the development of Arab border states on the Arabian frontiers of Syria and Iraq.

In fact, the Arabs of the pre-Islamic period knew sufarā (diplomatic) mediation used to stop disputes in their own tribes, as well as in conflicts with other tribes. Umar Ibn Al-Khattab (the second trustee of Islam) was the last ambassador of Quraysh during the Jahiliyyah (ignorance) period.²⁰ The most important Meccan officials, according to Hamidullah were,

"A minister of foreign relations, a minister guardian of the temple, (al-Ka'bah), a minister of oracles, a minister guardian of offerings to the temple, one to determine the torts and the damages payable, another in charge of the municipal council or parliament to enforce decisions of the ministries. There was also a minister in charge of the military affairs....as well as reputed caravan leaders."²¹

19. Bernard Lewis, The Arabs in History, op.cit., p.30.

20. Muhammad Ali Al.Hassani: International Relation in Quran and Sunnah, Maktabat Al-Nahda, Jordan, 1982.

Clan representatives had equal rights in tribal decision making, "independent of each other, and acknowledged no political superior".²² This type of approach to collective political leadership is similar to the modern theory of national integration as formulated by Arend Lijphart. The Politics of Accommodation, focused on elites' negotiations and compromises in a spirit of accommodation to settle decisive issues and conflicts by pragmatic solutions.²³ He provides us with three major characteristics of political accommodation. (1) the pre-eminent role of the top leaders; (2) the participation of the leaders of all blocs in the settlement; and (3) the principle of proportional representation.²⁴ Of these three aspects, only the first two apply to the political life of Quraish, for their tribal policy making included all, clan leaders and the notables of Quraish, Major decisions were accepted as binding on all clan leaders.

Into this environment Muhammed was born. His life

21. Hamidullah, Introduction to Islam, op.cit., p.4.

22. Watt, Muhammad at Mecca, op.cit., p.17.

23. Arend Lijphart, The Politics of Accommodation, Pluralism in the Netherland (Berkely: University of California Press, 1968), p.103.

24. Ibid., p.111.

was influenced by the human conditions of his time and the political and social institutions of his tribe, the Quraish. He dissociated himself from idol worship and spoke of a new way of life, advocating religious monotheism under Islam.

IV. The Rise of Islam and the Concept of Islam

At the age of forty, Muhammad claimed to have received Wahy (revelation from God). Muhammad (570-632), the Prophet, belonged to the well-known Arab tribe of Quraysh. He claimed to be an appointed Prophet and Messenger of Allah. This Wahy, the word of Allah (according to the Islamic faith, the Qur'ān) constitutes the First source of Shari'ah (Islamic law)²⁵. Shari'ah is based upon the doctrine of Al-Tawhīd (unity), the Oneness of God, the unity of mankind and universal divine law. The Qur'ān was revealed gradually over a period of about twenty-two years (610-632 A.D) and became the main source of law among Muslims. The traditions of the prophet of Islam formed the second major source. During this short period, Islam succeeded in transforming the polytheistic multi-tribal society of Arabia into a monotheistic society. Muhammad's claim to prophethood and his call for social action to reform the institutions of Arabia

25. Abu-Sulyman Abdul Hamid, The Islamic Theory of International Relations, 1973, p.10.

were threats to the established status quo of the Meccan elite because he called for the liberation of man from his human bondage²⁶ and his teaching provided an ideology for action and a system for complete social transformation.²⁷

The Islamic creed "ashahadu an lā ilāha illa Allāh w'anna Muḥammadan rasūl Allāh" (There is no god but God and Muḥammad is the Messenger of God) is an article of the faith in Islam.

'Islam' is an Arabic word and connotes submission, surrender and obedience. As a religion, Islam stands for complete submission and obedience to Allah and that is why it is called 'Islam'. Islam (submission to the will of God) was first preached by Muḥammad.^{28^A} In his preaching, Muḥammad called on men to do what is pleasing to God and defined those beliefs and acts on which God has commanded.

"Men, he taught, must believe that God is unique, that He has revealed His will through the medium of Prophets, that Muḥammed is the last of the line of Prophets, that the message revealed through Muḥammad, the Qur'ān

26. Daranieh Akram Raslan, The Classical Concept of State in Islam, unpublished thesis, 1975, p.53.

27. Jack Plano and Milton Greenberg describe ideology as the way of life of people reflected in terms of their political system, economic order, social goals and moral values. The American Political Dictionary, p.8.

28^A. Another literary meaning of the word 'Islam' is peace and this signifies that one can achieve real peace of body and mind only through submission and obedience to Allah. See Sayyid Abul Ala Mawdudi, Toward Understanding of Islam the U.K. Islamic mission, London: 1980, p.9.

last of the line of Prophets, that the message revealed through Muhammad, the Qur'an is the literal word of God containing the expression of His will for Man, they must act in accordance with the commands it contains, and the world will end with a judgement on which their acts will be weighed and they will be held responsible for them.

To the Prophet's followers it seemed clear that the revelation of which he was the instrument, since he was the last, must also be the most complete, and that the Qur'an together with his own precepts and example, must contain explicitly or by implication all that was necessary to live rightly."²⁸

At the beginning of the rise of Islam, the two world powers were the Byzantine Empire and the Persian Empire. By 642, ten years after the death of the Prophet, the Persian Empire was destroyed and the Byzantine Empire was stripped of its provinces in Africa and Asia (Greater Syria and Egypt). Islam achieved its full political maturity within the first century and its greater geographical extent during the first seven hundred years of existence.²⁹

The next chapter will deal with the role of Muhammad in the establishment of the first Islamic state.

28. Albert Hourani, Arabic Thought in Liberal Age, 1939 (London, Oxford University Press, 1970, p.2.)

29. For a short history of Islam, see Anthony Nutting, The Arabs: A Narrative History From Muhammad to the Present, (New York: New American Library, 1964.)

CHAPTER TWO

THE ISLAMIC STATE PILLARS

In this chapter it is essential to discuss the manner and instruments by which the actual establishment of the Islamic State took place therefore, this part will deal with the establishment of the Islamic State in the light of the following four basic elements:

Sovereignty, ummah (community), sultāh (power of authority) and Dār al-Islām (the territory of Islam) to determine whether these concepts can be considered in political terms, and to what extent these propositions shaped the first Islamic State under the leadership of MUhammad (PBUH).

A. The emergence of the First Islamic State (622-632)

I. Sovereignty

Sovereignty is Islam belongs to Allah alone - it is He who is to be worshipped and it is His guidance on which the entire structure of morality, society and culture is to be reared.

The concept of sovereignty is clearly explained in the following verse:

"Verily, your Lord is Allah who created the heavens and the earth in six days, then mounted He the Throne, He covereth the night with the day, which is in haste to follow it, and hath made the sun and the moon and the stars subservient¹ by His command. Verily His is all creation and His is the command (the law). Blessed be Allah, the Lord of the Worlds."¹

From this Qur'ānic verse, we can notice that everything in the earth and beyond belongs to Allah, he is the creator, the ruler and the dominant.

Sayyid Abul A'la Mawdudi summarises the Qur'ānic concept of sovereignty as follows:-

"God is the creator of the universe. He is its real sustainer and ruler. It is will that prevails in the cosmos all around. As all creation is His, His command should also be established and obeyed in man's society. He is the real sovereign and His will should

1 . The Qur'ān, al-Āraf, 7:54

reign supreme as the law."³

This view of sovereignty is presented in the following verses of the Qur'ān. Prophet Joseph (God's blessing be on him), on announcing the mission entrusted to him, declared:

"Verily I have abandoned the creed on a people who believe not in Allah and who are disbelievers in the hereafter. And I have followed the religion of my fathers, Abraham and Isaac and Jacob. It never was for us to attribute aught as partner to Allah. This is the bounty of Allah unto us and unto mankind; but most give not thanks. O my fellow prisoners! Are diverse lords better, or Allah, the one, the subdued? Those whom ye worship beside Him are but names which ye have named, ye and your fathers. Allah hath revealed no sanction for them. The authority rests with Allah alone, who hath commanded you that ye obey none save Him. This is the right religion, but most men know not."⁴

3. Sayyid Abul A'la Mawdūdī, The Islamic Law and Constitution, Islamic Publications Ltd. 13 E. Shah Alam Market, Lahore (Pakistan) 1967 P.178

This concept of sovereignty gives the fact that Allah alone and he is the only law-giver.

II. Ummah (Community)

The meaning of community as defined by political and social scientists ranges from a small "locality group"⁵ within a society to "any area of common life, village or town or district or country,"⁶ or even wider areas.⁷ The leading denominator of the Western concept of a community is geographical locality and physical territoriality; the Islamic term for community is Ummah, derived directly from 'umm' meaning mother. Ummah in Islam according to Abdo Elkholy means more than the motherland in its

4. The Qur'^ān, Yūsuf, 12:37-40

5. Rene Koning, The Community, (Tr. Edward Fitzgerald), New York: 1968, p.180.

6. Louis Wirth, Community Life and Social Policy, Chicago: 1956, pp.10-12.

7. Harold F. Kaufman, Toward an International Concept of Community, Chicago: 1966, p.89.

geographical-territorial limitation. It means faith and creed. Ummat al-Islām encompassed the entire collectivity of the Muslim community regardless where they reside.⁸ The word "Ummah" is mentioned sixty-four times in the Qur'ān, including the following verses that Muslims frequently cite on various occasions. The Qur'ān stated:

"Ye are the best of people (Ummah) evolved for mankind enjoining what is right, forbidding what is wrong, and believing in God."⁹

The Qur'ān adds:

"Verily this brotherhood of yours (Ummah) is a single brotherhood and I am your Lord and Cherisher, therefore serve me (and no others)."¹⁰

According to the classical interpretation of the Qur'ān on the word Ummah it is apparent to most Muslim scholars that there are at least several definitions or meanings attached to the word Ummah as used in the Qur'ān. In one sense, the word Ummah is interpreted to mean an individual who embodies all good and becomes a

8. Abdo .A. Elkholy, The Concept of Community in Islam, The Islamic Foundation, England: 1980, p.173.

9. The Qur'ān, Al-Imrān 3:110

10. The Qur'ān, al-Anbiyā 21:92

model for others. As the following Qur'anic verse indicates:

"Abraham was indeed a model (ummah) devoutly obedient to God (and) true in faith and he joined not gods with God."¹¹

A. Yusuf Ali in his interpretation of this verse has stated that:

"Ummah here was used to signify a model, a pattern, an example for imitation but the idea that he was an ummah in himself, standing alone against his world should not be lost sight of. The gospel of unity has been the cornerstone of spiritual truth for all time. In this respect Abraham is the model and fountain head for the world of Western Asia and its spiritual descendants all over the world. Abraham was among a people (the Chaldaeans) who worshipped stars and had forsaken the Gospel of unity. He was among them but not of them."¹²

This is an indication of the meaning of ummah as the good man, who follows the word of God. The other common interpretation of the word ummah is used to identify a group of people characterized by moderation and justice. The Qur'an stated:

"Thus we have made of you an (ummah) justly balanced, that ye might be witnesses over the nations, and the Apostle a witness over

11. The Qur'^{ān}, al-Nahl, 16:120.

12. Abdullah Yusuf Ali, The Holy Qur'^{ān}, p.688, Aman Publishing 1980.

yourselves."¹³

All of these expressions therefore clearly explain the origin, ideological orientation and character of the Muslim community.¹⁴ Another more universal concept of ummah is alluded to in the following Qur'anic verse:

"O mankind! We have created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honored of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well acquainted (with all things)."¹⁵

Further the Qur'ān has proclaimed:

"Lo! those who believe (in that which is revealed unto thee, Mohammed), and those who are Jews and Christians and Sabeans - whoever believeth in God and the Last Day and doeth right. Surely their reward is with their Lord and there no fear shall come upon them neither shall they grieve."¹⁶

The Muslim scholars of Qur'ānic exegesis, however, have frequently preferred to link the previous meaning

13. The Qur'ān, al-Baqarah 2:143

14. Manzooruddin Ahmed, 'Ummah. The Idea of a Universal Community', Islamic Studies, Vol.XIV (No:1-Spring 1975), p.27.

15. The Qur'ān, al-Hujurat, 49:13.

16. Ibid., al-Baqarah, 2:62.

with the latter one as in the following Qur'anic verse:

"Mankind was one single nation (ummah) and God sent messengers with glad tidings and warnings, and with them He sent the book in truth, to judge between people in matters wherein they differed, but the people of the Book, after clear signs came to them did not differ among themselves, except through selfish contumacy. God by His Grace guided the believers to the truth concerning that wherein they differed. For God guides whom he will to a path that is straight."¹⁷

Further, the term ummah can be explained as a community owing common religious allegiance to a specific divine scripture.¹⁸

The Qur'ān explains:

"To every people did We appoint rites (of Sacrifice), that they might celebrate the name of God over the sustenance He gave them from animals (fit for food). But your God is one God; submit then your wills to Him (in Islam) and give thou the good news to those who humble themselves."¹⁹

Another definition of ummah in the Qur'ān is

17. The Qur'ān, al-Baqarah 2:213.

18. Al-Braik, Nasser Ahmad, Islam and World Order Foundations and Values, unpublished thesis, The American University 1986, p.24.

19. The Qur'ān, al-Baqarah, 2:213.

interpreted as indicative of the people who followed the principles of Islam as preached by Prophet Muhammad (Muhammad's followers).²⁰

When the Prophet once said, "The saved group among the religions is one", His companions asked Him, "Oh, Messenger of God which one? He said, "The people of the Sunnah and the followers of the community" (Ummah). They asked, "Who are the people of the Sunnah and the followers of the community ? " (ummah). He said, "those who follow what I and my companions abide by."²¹

We can conclude from the above that the term ummah was meant to signify a community and a brotherhood, a single faith (Ummah Wāhidah) justly balanced (Ummah Wasat), peaceful (Ummah Muslimah) and loyalty to God.

It should be noted here that the notion of Islamic community (Al-Ummāh Al-Islāmiyyah) with its sense of unity (Wāhidah) and solidarity is not only established in

20. Al-Braik, Nasser Ahmad: Islam and World Order, op.cit., p.25.

21. Ali Issa Othman, The Concept of Man in Islam in the writing of Al-Ghazzali, Cairo: Dār Al-Máarif Printing and Publishing house 1960), p.213.

the Qur'^{ān} but also in the tradition of the Prophet Muhammad (PBUH).

"The Muslims in their mutual affection and mercy should be as a single body. If one member is affected, the other members suffer fever and sleeplessness (Muslim)." ²¹

The Prophet also said,

"One believer is to another like the parts of one structure each part strengthening the other (Muslim)." ²²

The initial Muslim community grew on a period of time and eventually became the nucleus of the Islamic State. At this stage in the development of the life of Islam it was decided to leave Mecca and emigrate to Medina. Upon the arrival of the Muslims in Madina, the Prophet and his followers (Al-Muhājirīn) from Mecca united themselves with the ansār (the supporters), the people of Medina who supported and welcomed the Muslims of Mecca. A formal written constitutional arrangement with the Muslim community of Medina and its surrounding communities was made as a pledge of unity. This political integration in the process of state building by Muhammad illustrates the successful transformation of an ideology into the concrete political reality of a new

21. Al-Bukhārī, Adab, 37, Muslim, Birr, 66.

22. Al-Bukhari, Salat, 88, Adab, 36, Mazalim, 5. Muslim, Birr, 15; al-Tirmadhī, Birr, 18; Nasa'ī, Zakat, 67.

social order.²³

Watt states:

"Toward the end of the Mekkan period however the word ummah makes its appearance in the Qur'an. At first it is equivalent to qawm (people)... Mostly however, the ummah is the community formed by those who accepted the Messenger (Mohammed). The first article of the constitution of Medina is that the Muslims of Quraish and Yathrib (Medina) and their associates constitute a single ummah (nation)."²⁴

The Medinan period which was the second phase of Muhammad's religious and political leadership took shape in Medina.

Hamilton A.R. Gibb, on his part, has stated that the term ummah in its restricted sense,

"consists of the totality (Jammah) of individuals bound to one another by ties, not of kinship or race, but of religion, in that all its members profess their belief in the one God, Allah, and in the mission of his Prophet Mohammed. Before God, and in their relation to Him all are equal without distinction of rank, class or race."²⁵

23. Deoranieh Akram Rasalan, The Classical Concept of State in Islam, unpublished thesis Howard University, Washington D.C.: 1975, p.75.

24. W.Montgomery Watt "Ideal factors in the Origin of Islam", The Islamic Quarterly, II, (3 October, 1955), p.161.

Ummah according to Gibb continues:

"at once a religious and a social term... the first political pronouncement of the Prophet Mohammed to the infant Muslim community at Medina was "Ye are one Ummah over against mankind," one single society, that is to say, welded together by community of religious purpose and the resulting social relationships and obligations."²⁶

He continues by asserting that the great conquest that followed the Prophet Muhammad's death gave practical meaning to the issue of unity and solidarity of the community. Gibb continues by stating that what held the community together was, therefore,

"not any kind of formal organization but a collective act of will, inspired by personal conviction and a sense of election (I hesitate to use the term "pride") and sustained by the ritual duties of daily prayer and the month of fasting, and especially by the ecumenical experience of the annual pilgrimage to Mekka. It is in keeping with this that the Islamic conception of its own history is embodied, not in its political annals, but in the immense output of biographical compilation which preserve the memory of countless men and women

25. H.A.R Gibb "Constitutional Organization" in Majid Khadduri and J.Liebesny (eds), Law in the Middle East, Washington.D.C.: The Middle East Institute (1955), p.3.

26. H.Gibb, "The Community in Islamic history, The American Philosophical Society Proceedings, Vol.107, No.2 (April 1963), p.173.

in every region, from the first generation of Muhammad's contemporaries onward through the centuries, who by their activities and their influence contributed to maintain and to develop the spiritual life of the community."²⁷

Watt turns to another aspect of this concept by affirming,

"against the occidental principle of homo homini lupus - which may be part of the reason for the emphasis on freedom - the Islamic community has a strong sense of brotherhood...This brotherhood is not just theoretical, but influences the actual conduct of Muslims in many ways. Thus there is no racial discrimination in Islam."²⁸

He later concludes that

"the sense of Muslim solidarity (was independent of the unity or the disunity in the political system), has fostered the integration of many races into the unity of Islam, especially Sunnite Islam with its tendency toward homogeneity in social and intellectual patterns."²⁹

C.A. Van Nieuwenhujze wrote that,

"the history of Islam can, in a way, be written as the history of the manner in which this primordially functional entity (the Ummah) has been realized under the prevailing

27. "H. Gibb, The Community in Islamic History, op.cit., p.174-175.

28. W.M. Watt, Islamic Political Thought, University of Edinburgh Press, 1954, p.97.

29. Ibid., p.98.

conditions of the day, which have been its supposed coordinates. In the same manner, the position of Islam at a given moment can be studied in terms of the manner in which Muslims try to understand and in understanding it to realize, the Ummah."³⁰

Nieuwenhuijze characterizes the Ummah as a "symbol of Cohesion", it is "the unique principle of social identity valid in Islam, it makes for the only Islamic community of which any Muslim is a member simply by virtue of being a Muslim."³¹

He later describes,

"the Ummah as a social unit gives its member, the Muslim, probably more latitude of "individual" non-socially controlled movement than any other community, religious or otherwise can afford to do."³²

From a close examination of the meaning of the term ummah in the Qur'ān, we observe that in the earlier Meccan Suras, the word is used synonymously with all these terms, Qawm, Millah, dīn, tarīqah, Jamā'ah and Shāb and that gradually, towards the later Madinan period, all

30. C.A. Van Nieuwenhuijze "The Ummah - An Analytic Approach", Studia Islamica, 10 (1959), p.18.

31. Ibid., p.20.

32. Ibid., p.21.

these terms acquired their more specific meaning. Their meanings can only be understood in the light of the development of their usage in the Qur'ān itself. Thus in Madinan Sūras, "Ummah" is often used in a more restricted sense that applies to the newly-emerging Muslim community.³³

The broader sense of ummah was not discontinued in Medina, however. In the document called the "Constitution of Medina", the term ummah is used in two different senses in the two parts of the document:

(1) in the earlier part it is used in the specific sense of a religious community of believers and (2) in the latter part it is used in a general sense of a confederal community.³⁴

The first Article (1)(2) of the constitution is stated as following:

"In the name of God, the Most Merciful, the All Merciful"

33. Ahmed Manzooruddin, "Ummah The Idea of a Universal Community", Islamic Studies, 14, (1975), p.27.

34. Ibid, p.34-35.

- (1) This is a prescript (Kitāb) of Muhammad, the Prophet (the messenger of God) to operate among the Faithful Believers (mu'minīn) and the submissive to God (Muslimīn) from among the Quraish and the people of Yathrib and those who may be under them and join them and take part in wars in their company."
- (2) Verily they constitute a political unit (Ummah) as distinct from all the people (of the world)."³⁵

Bernard Lewis observed that:

"the feeling of identity and cohesion of a single ummah remained powerful and effective even in the absence of political unity."³⁶

The importance of the Ummah can be noticed in a saying of the Prophet Mohammed:

"My community will never agree in error."³⁷

35. Muhammad Hamidullah, The First Written Constitution in the World, Lahore: Sh Muhammad Ashraf (1968), pp.41-54.

36. Bernard Lewis, "Politics and War" in Schacht and Bosworth, The Legacy of Islam, (Oxford: Oxford University Press, 1974), p.173.

37. Al-Tarmadī al-fītan No.7., Ahmad Ibn Hanbil, 5 (145).

This special characteristic is behind the idea of ijmā' which is considered one of the basic institutions of Islamic Law.

"Now the fact that "ijma" (consensus) is produced by the Ulama does not minimize the role of the Ummah in the process because the Ulama are supposed to be acting on behalf of the whole community."³⁸

"Thus the Ummah can be thought of as the only successor of the Prophet and being so it is entitled to as much authority and sacredness as was due the Prophet himself."³⁹

In addition to this, verses in the Qur'ān can be interpreted to mean that Vicegerency rests with the Ummah.⁴⁰

Joseph Schacht and C.E. Bosworth described the Ummah as

38. Jindan, Khalid Ibrahim, The Islamic theory of Government according to Ibn Taymiyah, unpublished thesis, University of Georgetown Washington D.C., 1979, p.122-123.

39. Al-Rayys, Muhammad, Al - Nazariyāt al - Siyāsiyyah al - Islāmiyyah, Cairo: Dar al -Maarif bi Misr, 1969, p.382.

40. The Qur'ān, al-Anām, 6:165 and al-Baqarah, 2:30.

follows:

"From the start, the Islamic Ummah had a dual character. On the one hand it was a political society - a chieftaincy which swiftly grew into a state and then an empire; on the other it was a religious community, founded by a Prophet and ruled by his deputy. In its origins, it followed the only acceptable political model, that of the Arabian tribe or tribal confederacy. Already during the lifetime of Muhammad, this model underwent important changes, both of content and of emphasis. Under the rule of the Caliphs these changes were vastly extended and accelerated. The caliphate was a polity defined by Islam. Religion replaced kinship as the ultimate basis of corporate identity and loyalty. It either supplanted or sanctified custom as the law of the community while the tribal Sheikh presided by the voluntary and vocal consent of the tribe. Muhammad came to rule by absolute spiritual prerogative deriving his authority not from the governed but from God. The Caliphs did not claim to inherit the spiritual functions and privileges of prophethood. They were, however, the religious heirs of the Prophet, as heads of the Ummah which he had founded with the same task of upholding the law of God and bringing it to all mankind. Through this period the term Ummah became and grew as one of the major pillars of the Islamic State and the most influential term which shaped Muslim political life."⁴¹

Islam and Nationality

The question raised here is whether the term Ummah refers specifically to the Muslim community or could involve non-Muslim living in an Islamic State and to what

41. Schacht, Joseph and Bosworth, D.C.E.: The Legacy of Islam, second edition, Oxford, at the Calrendon press, 1974 pp:157-8

extent the issue of language, ethics, group, race and birth determine the issue of (Tabi'iyah or Ra'awiyah) or affiliation.

The Qur'an states that God sent His messenger the prophet Muhammed (PBUH) to all people:

"Say O men! I am sent unto you all as the Apostle of God."⁴²

Furthermore the Qur'an says:

"We have not sent thee but as a universal messenger."⁴³

A. Yusuf Ali explained this as the following:

"God's revelation, through the Holy Prophet, was not meant for one family or tribe, one race or set of people. It was meant for all mankind to whom, if they turn to God, it is a message of the glad tidings of His Mercies and a warning against sin and the inevitable punishment."⁴⁴

This is a clear indication that the message of Islam was meant for the entire human race regardless of place

42. The Qur'an, al-Araf:7:158.

43. The Qur'an, al-Saba', 34:28.

44. Abdullah Yusuf Ali, The Holy Qur'an, Translation published by Amana, p.11.42.

of origin, language, race or ethnic background. Thus Islam is in essence, a universal call for all times and all places. Muhammad in Islamic thought is the last Messenger sent by God to all humanity.

The Qur'ān declares:

"Muhammad is not the father of any of your men, but (He is) the Apostle of God, and the seal of the Prophets."⁴⁵

From this Qur'anic declaration it can be seen that those who accept Islam and Muhammad the Messenger of Allah are accepted as Muslims and those who rejected Islam are denounced as Kāfirūn (unbelievers). Thus the criteria here for inclusion in the Muslim Ummah (in the community of Believers), is not race, sex or language affiliation. Rather it is purely on the basis of acceptance or rejection of the message of Islam.

The Qur'ān indicates this in the following verse:

"then as to those who believed and did righteous deeds, their Lord will admit them to His mercy; that will be an achievement for all to see. But as to those who rejected God (to them will be said), "Were not our signs rehearsed to you? But ye were arrogant and were a people given to sin."⁴⁶

45. The Qur'ān, al- Ahzāb 33:40.

46. The Qur'ān, al-Jāthiyah 45:30-31

Islam and Citizenship

From the previous discussion, we can see that the Qur'an distinguished between two groups of humanity, Muslims (who believe in Islam) and the non-believers (who reject Islam). It should be noted here that citizenship of the Islamic State is based on residency in Dar-al-Islām (the territory of Islam), whether the resident be a Muslim or a non-Muslim. During the first Islamic State at the time of the Prophet (PBUH), the citizens of Islam included both Muslims and non-Muslims.

Modern theory concerning affiliation

The First theory bases citizenship on birth within the territory of the state. According to this theory only those people will be included as a citizens of the state.

The Second theory: According to this theory those who live in the territory before the separation or the formation of the state are considered natives of the state.

The Third theory: This theory consists of a combination of the two previous theories. It accepts those who have been born in the territory as well as those who live in the territory as citizens of the state.

The Fourth theory is only concerned with citizenship

by birth or residency in the territory.⁴⁷

In an Islamic framework, the concept of nationality does not exist as it is understood in the modern sense rather the word used is Ra'iyah (affiliation). Likewise, the term Dār al-Islām is used since the concept of territory in the modern sense is foreign to Islamic political thought. Muslim jurists consider those who live in Dār-al-Islām automatically in the category of Ra'iyah (affiliation) and thereby enjoying the rights and responsibilities of the resident of an Islamic State.⁴⁸ On the other hand, if a Muslim lives in foreign territory he will not be covered by Islamic law, therefore he will be considered a foreigner with regard to his relation to the Islamic State. He will not be asked to pay Zakat (alms) and the Islamic penal code (Hudūd) will not apply to him. The evidence for this is in the saying of the Prophet Muḥammad (PBUH):

"Let them transfer from their home to the

47. . Jahar Jad Abd Rahman, Private International Law, Maktabat Al-alamiyah, 1958, p.188.

48. Of course there is a private law which is not applicable to the non-Muslim such as Zakat (alms), Jihād, while they are responsible to pay Jizyah (tax protection in order for the Islamic State to protect them).

emigrant home, and if they do they will be considered as affiliates of Dar al-Islām (the territory of Islam)."⁴⁹

This is an indication that the Islamic State is only concerned with residency of a more permanent nature and not temporary living situations such as visits or temporary residency. For example, if a Muslim travelled to a country outside of the territory of Islam for business or for pleasure, he is still to be considered an affiliate of the Islamic state and Islamic law fully applies to him as it would to any Muslim citizen.⁵⁰ If, on the other hand, a person who came to visit or live temporarily in a Muslim state whether he is a Muslim or not he would be a non-citizen.⁵¹ From this, we can conclude that the affiliation according to Islam is granted not by temporary living or by birth within the territory. It should be a permanent stay in order for him to carry out 'the Haqq Al-Ra'āwīyah (the right of affiliation or citizenship).

49. Abū 'Abīd Kitāb al-Amwāl, p. 35.

50. Muhammad Ali Al-Hassan, International Relations in Qur'an and Sunnah, Maktabat Al-Nahdah Jordan, op.cit., p.16.

51. Ibid., p.16.

The Affiliation of the First Islamic State

According to the Qur'ān, people are divided according to belief into Muslims and non-Muslims. After closely examining the groups existing during the Prophet Muhammad's time, we find the following:

The Muslims included al-Muhājirīn (those who emigrated) and al-Ansar (the Muslims of Madīna). The Al-Mushrikīn (Polytheists) such as al-Aws tribe and al-Khazraj tribe were those who remained faithful to their traditional religion.⁵² The Jews included the following tribes -- Banū Nadīr, Banū Qaynūqah, Banū Quraydah and the Jews of Khaybar.⁵³

All these groups were living under the jurisdiction of the first Islamic State in Madīna. It should be noted here that the Jewish community in Madīna, a homogeneous community which existed before Islam. Where the new Islamic State was established, they were included in the process of organizing treaties and mutual responsibilities which took place between the Prophet

52. Muhammad Ali Hassan, International Relation in Quran and Sunnah, op.cit., p.17.

53. Ibid., p.17.

Muhammad (PBUH) and other communities.⁵⁴

Other Categories of People

Al-Majūs (Zoroastrians): They were considered citizens of the first Islamic State, because they stayed in Islamic territory. Muslim jurists differ concerning whether they should be considered Ahl al-Kitāb (the people of the book) or not. The consensus however is that they are not to be counted among Ahl al-Kitāb.

A Hadith of the Prophet says:

"Treat them as you treat Ahl al-Kitāb"⁵⁵

This is an indication that they don't belong to Ahl al-kitāb because they don't have a book of revelation.

The Sabians: Abū al-Hasan al-Basrī, stated that they are in the same category as the Majus (Zoroastrians).⁵⁶ Some

54. See Appendix. (Some of the treaties were included in the Dastūr Al-Madīnah (The Constitution of Medina).)

55. Ibn Qudāmah, Kitāb al-Amwāl, OP, cit p. 495

56. Ibn Qudāmah, Kitāb al-Amwāl, OP, cit pp 497-498

other scholars however such as al-Awzā'i and Mālik in particular have classified them as Mushrikīn (polytheists) because they are neither Jews nor Christians and lack a divine revelation.⁵⁷ These people were, however, considered affiliates of that Islamic State. They thus fall under the jurisdiction of the Islamic State. They were, however, given the freedom to choose their own beliefs whether they recognized Islam or not.

The Qur'ān declares clearly that

"Let there be no compulsion in Religion.
Truth stands out clear from Error."⁵⁸

Accordingly, non-Muslims under the first Islamic State were free to practice their own beliefs as long as they respected the rules of the Islamic State. It was reported that a delegation of Christian Arabs came to Madina from Najran. They visited the Prophet Muhammad (PBUH) in his mosque. During their stay, they prayed in the Prophet's Mosque according to their religious rites and the Prophet (PBUH) accepted that. Later they drew up

57. Muḥammad Abū-Zahrāh, Al-Hadīth Wal Muḥadithūn, First Print, Cairo.P 132 1958.

58. The Qur'ān: alBaqarah 2:256.

an agreement with the Prophet, according to which they paid jizyah in return for the Muslims' protection.⁵⁹ This is a classical example of the free choice given to non-Muslims in an Islamic State and an indication of the justice of Islam.

The Non-Muslims' Obligation Towards the Islamic State

The question I would like to address here is what are the responsibilities of such non-Muslim groups with regard to the Islamic State? According to the Qur'an, the Sunnah non-Muslim citizens are bound by Islamic law including the Islamic Penal Code. For example, in an agreement made between the Prophet (PBUH) and the delegation of Najran it is stated that:

"The Christian of Najran should not deal with riba (usury). Dealing with (riba) was forbidden in the Islamic State. This was laid down in the agreement between Prophet Muhammad and the Christian delegation from Najran that they must not deal in interest."⁶⁰

Family affairs such as marriage and divorce were left up

59. Muhammad Ali Hassan, International Relation in Quran and Sunnah, op.cit., p.20.

60. Muhammad Ali Hassan, International Relations in Quran and Sunnah, op.cit., p.28.

to them to practice according to their respective religions. Some may be surprised by this distinction between the application of Islamic law to some aspects of life and the permission to follow another code with respect to personal law. Muhammad Abū Zahrah responded to this saying that,

"There are situations where the non-Muslims must deal with Muslims, for example financial affairs, trade etc. This kind of interaction between the Non-Muslims and Muslims must be subject to the same rules since it is not fair for the non-Muslims to deal in trade and financial matters exclusively among themselves. Otherwise they will be considered a state within a state. In these kind of matters Islamic law applies to them, for an arbitration exists between the Muslims and non-Muslims."⁶¹

"Al- Jizyah (poll-tax) is an obligation subject to the non-Muslim in the Islamic State, this term is identified by Ibn Al-Ather as the amount of money that the Dhimmis (people of the book) have to pay annually to the Islamic State in return for Muslim protection."⁶²

In the event that the Islamic State cannot meet their protection needs, the payment of Jizyah is suspended. It should be noted here that the term Jizyah is not the same term as Kharāj. Abū-Abīd in his book

61. Muhammad Abū-Zahrāh, International Relation and Islam, Dar AlFakar Al Arbi Publisher, Kuwait: 1985, p.62.

62. Muhammad Ali Al-Hasan, International Relation, op.cit., p.31.

distinguished between these terms. He said that Jizyah is prescribed as a duty by the Qur'ān and must be given by the Dhimmis to the Islamic State for the reason we have mentioned above. As a result he doesn't have to serve in the Muslim army, while the term Kharāj refers to the tax paid by non-Muslims to the Islamic State on land they own.⁶³ The Qur'ān has stated that

"Fight those who believe not in God nor the last day, nor hold that forbidden which hath been forbidden by God and His Apostle, nor acknowledge the Religion of Truth, (even if they are) of the people of the book, until they pay the Jizyah."⁶⁴

A. Yusuf Ali has commented in this verse as follows:

"Jizyah : the root meaning is compensation. The derived meaning which became the technical meaning was a poll-tax levied on those who did not accept Islam but were willing to live under the protection of Islam and were thus tacitly willing to submit to its ideals being enforced in the Muslim state, saving only their personal liberty of conscience as regarding themselves. There was no amount fixed for it and in any case it was merely symbolic and acknowledge that those whose religion was tolerated would in turn not interfere with the preaching and progress of Islam. Imam Shafi suggests one dinar per year which would be Arabian gold dinar of the Muslim states, equivalent in value to about half a sovereign or about 5 to 6.7 rupees. The tax varied in amount, and there were exemptions for the poor, for females and children (according to Abu Hanifa), for slaves and for monks and hermits. Being a tax on able bodied males of military age it was in a

63. Ibid., p.32.

64. The Qur'ān: Al-Tawbah 9:29.

sense a commutation for military service.⁶⁵

In a Hadith of Prophet Muhammad (PBUH) it is stated that

"Whenever a military commander was sent on a mission of Jihad he advised him to ask people to come to Islam, or to pay Jizyah or prepare for war."⁶⁶

The Jizyah is excluded for children, women and physically handicapped.⁶⁷ Also the Jizyah is not required for the blind, the elderly or even the poor. It has been narrated that Umar Ibn al-Khattāb, the second Caliph, waived a poor man from the payment of Jizyah, when he later saw him asking for money, and Umar provided him with the amount of money from the Muslim treasury.⁶⁸

When the Payment of Jizyah is Suspended

Muslim jurists are in agreement that the payment of Jizyah is suspended under the following condition.

65. A.Yusuf Ali, The Holy Qurān Translation, op.cit., p.447.

66. Al-Bukarī, ch.jihad.

67. Ibid., 34.

68. Abū Yūsuf Kitāb Al-Kharāj, OP.CIT. P.135

"If the Islamic State is not able to protect the Dhimmis from external threats."

It is stated that Khālīd Ibn al Walīd, the leader of Muslim army, did suspend the Jizyah in the city of Hira from the non-Muslim until the Muslim army could ensure their protection.⁶⁹

From this, we can conclude that the Jizyah is absolute duty according to the Qur'ān, that is dismissed only when the Islamic State is unable to protect the non-Muslim from external threats or not meet their security needs.

II. Sultah (Authority or Power)

This is the final factor of the state pillars and the cornerstone to practice authority over a group of people who live in a territory. In order to understand the concept of Sultah in Islam, the reader should be aware of the following terms:

1. Khalīfah (Trustee)
2. Sultān (authority or power)

69. Muhammad Ali Hasan, International Relation in Qurān and Sunnah, op.cit., p.34.

3. Amīr al-Mūminīn (The Commander of the Faithful)
4. Imām (a leader)

These four terms are titles for a person who holds authority and power in the Muslim state.

Khalīfah (Trustee) in the general Qur'anic sense is also an expression of the concept that man was given the ability to manage and control his affairs in this world as a trust through which he achieves what he is worth and thus decides his eternal destiny in the after life.⁷⁰ The Khalīfah, unlike the Pope (the Vicar of Christ), is bound by the Sharīah (Qur'ān and Sunnah) and has no authority to modify Islamic doctrine in any way. "In Muslim political thought, the Khalīfah (Trustee), beginning with the first Khalīfah, Abu Bakr, was given the title Khalīfat Rasūl Allāh (trustee of God's Messengers)."⁷¹ Muhammad was the leader of the community. Prophet's trustee was entrusted to carry out the functions of leadership the community, with the framework laid down by the prophet.

 70. Abu-Sulyman Abdul Hamid, The Islamic Theory of International Relations: Its Relevance, Past and Present, op.cit., p.57.

71. Ibid., 58.

Imām: identified by Abu-Sulyman in contrast to the term Amir al-Mūminīn (the Commander of the Faithful of the trustee). It should be noted here that the term Imam is not only refer to a spiritual and prayer leadership, but also as a leader of the community. ‘Alī Ibn Abī Talīb, the fourth trustee took the title of Imām ‘Alī as a result of his knowledge depth in shariāh. Imam signifies leadership with more emphasis on the spiritual affairs of the community.⁷² The title of Amīr al-Mūminīn was indeed the title of the second trustee Umar Ibn Al-Khattāb.⁷³ It should be noted here that the person who leads congregational prayer or any pious Islamic intellectual authority could be called an Imām.

Sultān: literally means power or authority. In a political sense this word signifies power rather than the spiritual leadership of the community.⁷⁴ When we refer to

72. Ibid., 58.

73. See Ibn Kathīr, Tafsīr al-Quṛān, III.330.

74. See E.J.Rosenthal, Political thought in Medieval Islam, pp.8, 38-39, 54, 241-42 and 244. See also an Arabic dictionary article Salāṭa in such work as Muḥammad Ibn Abū-Bakr al-Rāzī: Mukṭār al-Sihāh (Cairo: Sharikat Wa Maktabt Mustafā al-Bāb al-Halab), 1950, p.330.

the Qurʾān we find the following verses which indicate the necessity of the practice of the authority.

The Qurʾān stated that:

"O Ye who believe! obey God, and obey the authority and those charged with authority among you."⁷⁵

The word for authority used in this verse (ulū-ʾal-amr) is explained by Yusuf Ali thus:

"Ulu-al-amr are those charged with authority or responsibility or decision, or the settlement of affairs. All ultimate authority rests in God. Men of God derive their authority from Him. As Islam makes no sharp division between sacred and secular affairs, it expects ordinary governments to be imbued with righteousness and stand in the place of the righteous Imam, and we must respect and obey such authority; otherwise there will be no order or discipline."⁷⁶

In another part of the same verse the Qurʾān stated:

"God doth command you to render back your trust to those to whom they are due and when ye judge..."⁷⁷

Further it said:

"But no, by thy Lord, they can have no (real)

75. The Qurʾān: al-Nisā 4:59.

76. A. Yusuf Ali, The Holy Qurʾān Translation, Amna printed, 1980, p.198.

77. The Qurʾān: al-Nisā 4:45

faith, until they make thee judge in all disputes between them, and find in their souls no resistance against thy decisions, but accept them with the fullest conviction."⁷⁸

In Sūrat al-Mā'idah verse of the Qur'ān it is stated:

"If any do fail to judge by the light of what God hath revealed, they are (no better than) those who rebel."⁷⁹

It further said:

"and if any fail to judge by (the light of) what God hath revealed they are no better than wrong-doers."⁸⁰

From the previous verses in the Qur'ān, we can notice the absolute necessity of a Khalīfah (Trustee) and that it is the duty of Muslims to apply Islamic Law. The Prophet underscored the necessity of leadership and commanded:

"If three people embark on a journey, they should designate one among them their leader. Sixty years of tyranny are better than one night without a ruler."⁸¹

Other prophetic traditions make it a religious obligation

78. The Qur'ān a-Nisā . 4:65

79. The Qur'ān al-Mā'idah 5:50

80. The Qur'ān al-Mā'idah. 45.

81. Ibn Tayamīyah, Al-Siyāsah al-Sharīyah, (Cairo: Dar al-Kitāb al-'Arabī, 1951), p.174.

to advise political leaders and obey their orders.

"Verily God is pleased when three things happen: that you worship Him and never associate with Him a partner; that you indissolubly bind yourself with the rope of God; that you offer advice to whomever God had appointed to lead you."⁸²

Ibn Taymīyah concludes from these traditions that the practice of establishing a government must be seen as a religious duty that has to be observed by every Muslim and also as a means by which man "draws nearer to God."⁸³

Closer examination of the Qurʾān reveals concepts such as justice, brotherhood, equality, consultation, unity, solidarity, co-operation, guardianship, obedience and adjudication. One can also find in the Qur'an general laws or directives pertaining to the waging of war or the making of peace.⁸⁴

82. Ibid. 175.

83. H. Siegman, "The State and the Individual in Islam", Muslim World, 54 (1964): 21.

84. al-Raiys, Muhammad D., Al-Nazarīyat al-Siyāsiyyah al-Islāmīyah, (Political theory in Islam), Cairo: Dār al-Maʿarif bi Miṣr, 1969, p.155.

The author in this respect does not agree with what Majid Khadduri claimed, that "the Islamic theory of international relations is to be found neither in the Qur'ān nor in the Prophet Muhammad's utterances".⁸⁵ He further claimed that the Islamic theory of international relations was a result of the development of Fiqh and the expansion of Islam.⁸⁶ The Qur'anic verses mentioned above reflect the role of the Prophet who fulfilled and led the Islamic state in Al-Madina, and demonstrated his leadership abilities by making treaties with other communities and dealing with matters of war and peace. Jindan Khalid Ibrahim observed that:

"the important religious obligations that are specified in the Qur'an and the Sunnah such as the collection of Zakat (alms), the punishment of criminals, the distribution of benefits among those who deserve them, the organization of Jihad (Holy War) may not be effectively accomplished without the formal intervention of political authority."⁸⁷

85. Majid Khadduri, The Islamic theory of International Relations and its Contemporary Relevance, ed. J.Harris Proctor (New York: praeger, 1965), p.29.

86. Ibid., 30.

87. Jindan Khalid Ibrahim, The Islamic theory of Government according to Ibn Taymiyah, unpublished thesis, Georgetown University, 1979, p.77.

Ibn Taymiyyah frequently stated that state and religion have to be "indissolubly linked; without the persuasion power (shawkah) of the state, religion is in danger."⁸⁸

He stated that,

"None among mankind can attain to complete welfare either in this world or in the next, except by association (ijti'ma), co-operation and mutual aid. Their co-operation and mutual aid is for the purposes of acquiring things of benefit to them, and their mutual aid is also for the purpose of warding off things injurious to them. For this reason it is said that man is a political being by nature. But when they unite together there must of necessity be certain things which they do to secure their welfare and certain other things which they avoid because of the mischief which lies in them and they will render obedience to the one who commands them to the attainment of those objects and restrains them from those actions of evil consequence. Moreover, all mankind must of necessity render obedience to a commander and restrainer. Even those who do not possess divine books or those who are not followers of any religion obey their kings with regard to those matters wherein they believe that their worldly interests lie, sometimes rightly, sometimes wrongly."⁸⁹

I present Ibn Taymiyyah's thoughts because of his great contribution to Islamic political thought, especially as regards the concept of the state. He based

88. Ibid., 78.

89. Ibn Taymiyyah, Majmū' al-Fatawā. Vol.28, p.62.

his arguments on reason, on the universal need for men to establish governments. Ibn Taymīyyah cites a series of traditions or sayings attributed to the Prophet which underscore the necessity of leadership and command.

The institution of the authority and leadership of Muhammad took place upon his arrival in Madina (622-632 A.D.). Muhammad's role became not merely that of an honoured Prophet but also that of an arbiter and political leader of the united Muslim and non-Muslim communities of Madina. Raslan pointed out that

"His authority was legally established by the consensus of the people in a written compact as head of the state and sole arbitrator in both religious and civil affairs."⁹⁰

Huston Smith states that,

"From the moment of his arrival at Medina, Muhammad assumes a different role. From prophecy he is rocketed into administration, the despised preacher becomes a masterful politician; the Prophet is transformed into statesman."⁹¹

A noticeable development began to shape the Muslim

90. Deiranieh Akram Raslan, The Classical Concept of the State, unpublished thesis Howard University, Washington.D.C.: 1975, p.90-91.

91. Smith, Huston, The Religions of Man Harper and Row Publisher, New York: 1958, p.25.

community in both spiritual and political spheres. Ross and Hills observe,

"Muhammad was now in a position to exercise great power. He became ruler and priest, law-giver and judge, prophet and commander-in-chief for the whole community. He drew up a constitution for his people, trying hard to unite the different groups into a closeknit fellowship. The people were to help each other against all enemies and in all difficulties. They were to abide by the decisions of Allah as revealed to His Prophet, Muhammad."⁹²

Hitti states:

"The hejra [hijrah] with which the Meccan period ended and the Medinan period began proved a turning point in the life of Muhammad. Leaving the city of his birth as a despised prophet he entered the city of his adoption as an honoured chief. The seer in him now recedes into the background and the practical man of politics comes to the fore. The Prophet is overshadowed by the statesman."⁹³

Watt writes:

"For the men of Madina in this situation much of the attraction of inviting Muhammad lay in the fact that he would be able to decide their disputes impartially.... For several reasons, Muhammad was the most acceptable person to the Medinians. They were hopeful that he might deliver them from their troubles and establish a new era of peace."⁹⁴

92. Floyed H, Riss and Tynette Hilled, The Great Religion, (Greenwich, Connecticut: The Beacon Press, 1956), p.165.

93. Philip Hitti, The Arabs: A Short History, (Chicago: Henry Regnery Company, 1970), p.34-45.

94. Watt, W. Montgomery, Muhammad At Mecca, London: Oxford

Before the Prophet's arrival in Madina, Madina was a territory occupied by a disorganized multitude of clans, fragmented, hostile and without a common leader to administer their affairs.⁹⁵ The political organization that emerged between the people of Madina and their surrounding communities concluded a pact between themselves and Muhammad, and formed a new political organization. By the end of 632, the general framework of the state began to shape Muslim life. Plano and Greenberg define the state as "a political community occupying a definite territory having an organized government and possessing internal and external sovereignty."⁹⁶ "Modern states", we are told by Charles O'Lerche, "are territorial and their governments exercise control over persons and things within their frontiers."⁹⁷ In less than eight years, Muhammad was

University Press, 1961. p.89.

95. Deiranieh Akram Raslan, The Classical Concept of State in Islam, op.cit., p.92.

96. Plano, Jake and Greenberg, Milton The American Political Dictionary, New York: Holt, Rinehart and Winston, 1962, p.15.

97. Charles O'Lerche, Principles of International Politics, (London: Oxford University Press, 1956), p.13.

able to integrate socially and politically the people of Arabia. The scope of his power, authority and prestige was felt throughout the Arabian peninsula. Watt notes:

"He (Muhammad) had done more than skeptic European scholars have allowed... The framework had been built. A political system with strong foundation had been created into which tribes could be brought... The economic basis of the system was sound."⁹⁸

Indeed one of the major achievements of Prophet Muhammad was the transformation of the divided and pre-literate society of Arabia into a cohesive and progressive social order. Shwikar Elwan observed that "One of the first acts of Muhammad as a statesman was to inaugurate a virtual brotherhood (Muakhāt) among the believers which became stronger than the bond of blood."⁹⁹ Muhammad succeeded to establish and maintain close relations between the people of Medina and the

18. W. Montgomery Watt, Muhammad at Medina, (London: Oxford University Press, 1956), p.149.

19. Shwikar I. Elwin, Constitutional Democracy and Islam: A Comparative Study, (unpublished Ph.D dissertation, Emory University, 1971), p.95.

emigrants from Mecca. Raslan writes, "It created a mutual relationship in which the economic wealth of a Muslim from Madina was shared with his Meccan brother who lost his fortune when escaping the wrath of Mecca's hostile leaders."¹⁰⁰

The social integration of the Muslim community under the leadership of Muḥammad reflected the Islamic ideal of social unity in the Qur^{ān}. Brotherhood, common interest, one faith and loyalty were transferred from the smaller units of family, clan or tribe to the larger central organization of the community. This process was a basic step in the task of building a new nation. According to Almond and Powell, the first process in the formation of the state "refers to the process whereby people transfer their commitment and loyalty from smaller tribes, villages or petty principalities to the larger central political system."¹⁰¹ State formation, moreover, refers to the development and organization of a centralized bureaucracy to penetrate the society and

100. Deiranieh Akram Raslan, The Classical Concept of State in Islam, op.cit., p.97.

101. Almond Gabriel and Powell, Comparative Politics - A Development Approach, Boston: Little Brown and Company, 1966, p.36.

regulate its resources and capabilities.

The charter of Madina laid down the rules and regulations governing the affairs of the Ummah, the citizens of the Islamic State. The charter of Madina, commonly known as the "Constitution of Madina",¹⁰² was the most significant political act taken by Muhammad after his arrival at Madina. An exact date for the establishment of the Madina charter is not known, but it's signing is generally thought to have occurred between January of 623 A.D. and February of 624 A.D.¹⁰³ The comprehensive political document represents the political organization and legal political integration of the whole people of Madina and its surrounding communities. It included Muslims, Jews, and non-Muslim Arabs. The document, according to Elwan, was a "constitution for the embryonic state, rather than a treaty of alliance."¹⁰⁴ Elwan says of the charter:

"With its promulgation, a state came into

102. Williams, John Alden ed., Islam, New York: Washington Square press, 1963, p.11.

103. Deirahieh Akram Raslan, The Classical Concept of State, op.cit., p.101.

104. Elwan, op.cit., p.95.

being that possessed all the characteristics of a modern state: a defined territory, a specific population composed of people of different ethnic background and religious beliefs, a governing authority, and a basic law applicable to all equally."¹⁰⁵

The constitution of Madina was a framework formulated by Muhammad. It included the emigrants from Mecca and their supporters (al-Anṣār) in Madina as well as others who lived in the areas surrounding Madina. It was concerned with matters of citizenship, religious freedom and property rights.¹⁰⁶ Spiritual identity among religious groups was marked by mutual responsibility and compassion. All individuals had legitimate rights to conduct their religious affairs freely and in the spirit of their religious convictions. The Qur'an enjoins all Muslims to honour their contracts to keep their pledges and to obey God, Muhammad and those who are in authority.

"O You faithful! Obey God and obey the Apostle and those in authority from among you."¹⁰⁷

Muhammad was reported to have said:

"He who obeys me obeys God; and he who disobeys me disobeys God. And he who obeys

105. Ibid., p.94.

106. See the major articles in the Appendix about the constitution of Medina.

107. The Qur'an, al-Nisā: 4:59

the Amir (ie the head of the state), obeys me, and he who disobeys the Amir disobeys me."¹⁰⁸

and,

"Hear and obey, even though your Amir be an Abyssinian slave with crinkily hair."¹⁰⁹

and,

"Hearing and obeying is binding on a Muslim whether he likes or disliked the order, so long as he is not ordered to commit a sin, but if he is ordered to commit a sin, there is no hearing and no obeying."¹¹⁰

According to the constitution of Madina, Muhammad was designated the sole leader of the people and the political head of the new state. Consultation and debate were specifically mentioned in the articles of the constitution. The Qur^ʾan, moreover, stipulated that Muhammad consult with the members of his community on all (non religious) communal matters. It commands:

"Take counsel with them (the believers) in all communal business and when you have decided in a course of action, place your trust in God."¹¹¹

108. Asad Muhammad, The Principles of State and Government in Islam, Berkely: University of California Press, 1961, p.36.

109. Ibid., p.42.

110. Ibid., p.35-36.

111. The Qur^ʾan AL-Imrān.3:159

and,

"Their (the believers') communal business is to be transacted in consultation among themselves."¹¹²

This type of relationship between Muhammad and his people was guided by the Islamic values of justice, righteousness and dignity. In matter of civil affairs, the principle of justice under the law was extended to all people.¹¹³ The sharing of wealth and financial aid, or contributions from the rich to the poor, was a social and religious duty.¹¹⁴

The author of this thesis does not agree with what Shaikh Ali Abd Al Rāzeq claimed in his book, Al Islām Wa Usūl al-Hukm, that the Prophet was nothing "but a Rasūl (messenger) for a religious call, purely for the sake of religion, unblemished by any tendency to rule or call for (the formation of) a state", and that "Islam is a

112. The Qurān, al-Shūra42:38

113. Deiranieh Akram Raslam, The Classical Concept of State in Islam, op.cit., p.104-105.

114. Ibid., 105.

religious unity, and the Prophet called for that unity and had actually achieved it before his death, and that for the sake of that unity he, peace be upon him, struggled with his tongue and his sword and Allah's help and victory came to him." Shaikh 'Alī 'Abd al-Razzāq further said that it should be realized that "al-Risalah (the message of Islam) in itself required the Prophet to acquire some form of leadership of kings and their power over their subjects. Hence, one must not confuse the leadership of al-Risalah with that of the king", and that "the rule of the Prophet over the Muminin was the rule of al-Risalah which is untainted by (any urge to) rule."¹¹⁵

This claim did not go without challenge and criticism from Muslim scholars, among them Shaikh Muhammad al-Khīdr Husain who later became the grand shaikh of al-Azhār, and later by Shaikh Muhammad Bakhit Al-Muttii, who was the grand mufti of Egypt at the time, and others.¹¹⁶ They all agreed that Islam has laid down

115. Shaikh Alī Abd Al-Razzāq Al-Islām Wa Usūl al-Hukm, published in April 1925. Al-Azhar print. p. 99.

116. See opposing views in "Mabādī Nizām al-Hukm fī al-Islām" 'Abd al-Hamid Mutwalli (Comprehensive Edition), 1966. p. 40-42.

principles for a system of government in the verses of the Holy Qur'ān.¹¹⁷ They also agree that the verses added by the Prophet (his Sunnah) followed the same course in establishing the overall general rules concerning the system of government and the policy of the state. Shaikh Ali 'Abd Al-Razzāq seems to have ignored the beginning of the establishment of the Islamic State in Madina, and he also ignored the constitution of Madina which is considered the first written constitution in Islam.

The Islamic state was in its formative years during the time of Muḥammad. After his death in the year 632 A.D., there followed a period of political consolidation and governmental institutionalization under his two immediate successors (caliphs) Abū-Bakr and 'Umar. The era of these two Caliphs ushered in the political practice of debates and elections, initiating a time known in Islamic history as the Era of the Rightly guided Caliphate.¹¹⁸ Before his death, the Prophet defined the principles of state building to be followed and he left

117. Muhammad S. El Awa, On the Political System of the Islamic State, American Trust Publications, Indianapolis, Indiana U.S.A. Second Edition 1978. p. 26.

118. Elwan. op.cit., p.105.

the Valuable Book (The Qur'ān) and his Sunnah (tradition) to guide them in future generations. Later, the Muslim jurists devised a framework of the authority through caliph or imām. This is known among Muslim jurists as the centre of authority.

The Centre of Authority

The question here is whether Islam recognizes multi-caliph system or a central political unity (single authority) to rule Dar al Islam. Whabāh Al-Zūhīli believes that in Dār al Islām there can be more than one caliph or imām to run Muslim affairs, especially if there is a large area and geographic separations. Whabah stated that, as long as the multi-authority rules according to the Shariāh (Islamic Law) and does not contradict the Islamic law, then it can be accepted. He supports his arguments by citing the examples of the Muslims in Al-Andalus (Spain), Morocco, Egypt and Baghdad who were ruled by separate governments.¹¹⁹

Classical jurists like 'Abdul-Qādir al Baghdādī, Al-Māwardī, Abū Yalā and Al-Ghazzālī, who wrote between the

119. Al-Zuhaili. Wahba Mustafā Athār al-Harb Fī al-Figh Al-Islāmī (The Effect of War in Islamic Jurisprudence). Damascus: Dar Al-Fikr. 1965. p. 181.

11th and 14th centuries, insisted on a single unified supreme central political authority.¹²⁰ Although they admitted the existence of a multiple state system in the Muslim World, they nevertheless hesitated or refused altogether to help with reorganization and to grant legitimacy to the evolving multiple state system.¹²¹ The jurists seem to base their argument on the concrete model of a simple, single state of the Prophet and the memories of the sad and bitter historical experience of anarchy and civil wars during the reigns of Abū Bakr, Ali and Muāwiyah as well as the civil war between 'Abdul Malik Ibn Marwān and 'Abdullāh Ibn al-Zubayr.¹²² It should be noted

120. See 'Abdul-Qādir Ibn Tāhir al-Tamīmī al-Baghdādī, (1038 A.D.), "Ahkām al-Imāmah Wa Shurūt al-Zāmah", (Rules for Imamah and Qualifications for Leadership) in Nusus al-Fikr al-Siyāsī al-Islāmī, pp.126-262. See also Abu-Sulayman Abdul Hamid, The Islamic Theory of International Relations its Relevance, Past and Present, op.cit., p.84.

121. See Imām al-Haramayn 'Abdul Malik Ibn 'Abdullāh Ibn Hayawayh, al-Juwaynī (1085 A.D.) (chapter regarding appointment of two persons for Imāmah) in Nusus al-Fikr al-Siyāsī al-Islāmī, ed. p.279.

122. Abu-Sulayman Abdul Hamid, The Islamic Theory of International Relations its Relevance, Past and Present, op.cit., p.84.

here that the second view of a single authority for the Khalīfah (Trustee) is not only supported by Islamic history but also by the traditions and the Hadīth of the Prophet (PBUH).

A true Hadīth from the Prophet states as follows:

"Whoever wants to be removed from hell and to enter heaven, he should die believing in Allah and the Last Day, and he should treat people the way he would like them to treat him, and whoever gives allegiance to an imam (khalifah) his approval and loyalty of heart he should obey him if he can, and if someone else comes to challenge him strike the neck of the other (i.e. kill him).¹²³

So it is logically the second view that is more acceptable with regard to the centralization of authority. Al-Mawārdī in his book al-Ahkām al-sultāniyah has stated the following as the framework of the Trustee System:

A. The Constitutional basis:

According to Al-Mawārdī the institution of the trustee is a necessary requirement of the Sharīah and not a requirement of reason.¹²⁴

123. See Abū-Ya'la al-Farrā, "Kitāb al-Imāmah" in Nuṣūṣ al-Fikr. OP:GD, P. 218

B. The Constitutive Process:

(1) The caliphate is instituted by election. But the election is confined to an electoral college consisting of persons who are known for their honesty, knowledge, insight and judgement.¹²⁵

(2) The right of franchise is not only enjoyed by the people of the capital, but for practical reasons the Caliph is traditionally elected in the capital.¹²⁶

(3) The election of a less qualified individual in the presence of a more qualified is perfectly legal.¹²⁷

(4) Apart from election, a caliph can be chosen and

124. Qamaruddin Khan. "Al-Māwardi's Theory of the State", Iqbal 3iii (1955) p.61.

125. S.M. Iqbal. "Political Thought in Islam", The Sociological Review, 1 (1903) p.255.

126. Qamaruddin, "Al-Māwardi's Theory..." op.cit., pp.61-63.

127. Qamaruddin, Ibid.

invested as a result of his designation by the reigning Caliph. This designated successor is styled walī al-ahd.¹²⁸

(5) Once elected and invested, the Caliph binds himself to the Jāmaah by a contract (ahd) guaranteeing loyal fulfillment of his duties and receiving in exchange a binding promise of obedience.¹²⁹

Qualification and Duties

To be able to rule efficiently and defend the faith, the Imam must satisfy seven conditions: justice, knowledge, mental and physical health, courage, determination and the Quraishite origin.¹³⁰ The Imām is expected to fulfill ten principal duties.

(1) Safeguard and defense of religious principles;

128. E.I. Rosenthal, Political Thought in Medieval Islam, (Cambridge: The University Press, 1958), p.33.

129. Ibid., p.32.

130. Ibid., p.32.

- (2) Dispensation of justice in accordance with the Shariāh;
- (3) Maintenance of law and order;
- (4) Enforcement of Qur'ānic laws;
- (5) Defense of frontiers;
- (6) Organization and Prosecution of Jihad;
- (7) Collection of taxes according to the Shariāh;
- (8) The appointment of allowance and stipends from Bayt al-Māl (public treasury) to those who are entitled to them;
- (9) Appointment of honest and sincere civil servants, and
- (10) Providing guidance and supervision.¹³¹

Right to resist authorities

Once the Trustee is selected or enthroned, obedience to him is considered not just a political duty but a religious necessity. According to the orthodox Muslim Jurists, an Imām may lose his authority, if there is a change in his moral status affecting his character or faith or if he is inflicted with serious physical or psychological handicaps."¹³² At the same time, Al-

¹³¹. Qammaruddin, al-Māwardi's Theory....., op.cit., pp.69-70.

¹³². Ibid., pp.71-75.

Māwardī does not believe in divine right of rule. For him obedience is due "only when the order of the ruler is in keeping with truth." (i.e. in conformity with the Sharīah 133

Al-Māwardī's principles of the Trustee are considered the most reliable and rationalized because it has a basis of Sharīah. (According to the Qur'ān and the Sunnah.)

III. The Islamic Territory (Dār Al-Islām)

The other cornerstone of the state pillars is territory. With regard to the first Islamic State, the city of Yathrib or Al-Madina became the capital of the Muslim state shortly after Muḥammad (PBUH) and his followers emigrated from Mecca. According to Muslim scholars, a territory is considered Islamic territory as long as it is ruled by Islamic law. Abī Yūsuf observed that the territory of Islam is recognized when it applies Islamic law and is protected by the Islamic State.¹³⁴ It should be noted here that the concept of territory is

133. Quoted in Qamaruddin. Ibid., pp.77-78.

134. Muḥammad Tbn Al-Ḥasan Al-Shaibānī, Al-Siyar al-kabīr, Dār Al-Sādah No. J. p. 144.

tied to presence of the institution of Islamic law. Muslim scholars have identified the Islamic territory which belongs to their rules or under their own hand.¹³⁵

It is stated in the Qur'ān:

"Said Moses to his people:

Pray for help from God, and (wait) in patience and constancy: For the earth is God's to give as heritage to such of His servants as He pleaseth, and the end is (best) for the righteous."¹³⁶

And in another verse:

"Do no mischief on the earth, after it hath been sent in order, but call on Him with fear and longing (in your hearts) For the mercy of God Is near to those who do good."¹³⁷

Further, the Qur'ān stated:

"to the Madyan people we sent Shuabb of their own brethren: He said "O my people! worship God; Ye have no other God but Him. Now hath come unto you a clear (sign) from your Lord! Give just measure and weight, nor withhold from the people the things that are their due; and do no mischief on the earth after it has been set in order, that will be best for you, If ye have faith."¹³⁸

¹³⁵. Muhammad Ali Hasan. International Relation in Quran and Sunnah, op.cit., p.45.

¹³⁶. The Qur'ān, al-Araf 7:128.

¹³⁷ The Qur'ān: al-Araf 7:56

In Surat al-Anfām it is declared that:

"Thy Lord is self-sufficient, full of Mercy: If it were His will, He could destroy you and in your place appoint whom He will as your successors, even as He raised you up from the posterity of other people."¹³⁹

According to Islam, when the majority of people live in a certain territory in the world it is the duty of the people to add their territory to Dār-Al-Islām. The result is that the territory of Islam is under one ruler (Imām or Caliph).¹⁴⁰

All these are an indication that the territory of Islam exists when it applies Islamic rules. In the antime, there is no limitation for the territory.

"God has promised to those among you who believe, and work righteous deeds that He will, of a surety grant them in the land, inheritance (of power) as He granted to those before them, that He will establish in authority their religion the one which He has chosen for them."¹⁴¹

138 The Qur'ān: at-Arāf 7:85.

139 The Qur'ān: al-Anām 6:133.

140. Muhammad Ali Hassan, International Relation in Qurān and Sunnah, op.cit., p.46.

141 The Qur'ān: Al-Nūr 24:55

The territory of the first Islamic State, the town of Yathrib, has been mentioned in an article of the Medinan constitution as the following:

"The town of Yathrib shall constitute a sanctuary for the parties of this covenant."¹⁴²

Conclusion

We can conclude that the pillars of the Islamic State co-existed within the Qur'ān and the Sunnah of the Prophet (PBUH). It is different from the Western theory of the State in that, it is created by Divine God law, whereas the Western political thought regarding the state was a result of a formative process in the history of the state. The words Ummah (community), territory (Dār al-Islām), Sultah (authority) have been mentioned in the Qur'ān and in the Sunnah of the Prophet (PBUH). These terms are used in a political context. In order to understand Religion and State in Islam a person should consider the terms Ummah, Dār al-Islām, and Sultah as key concepts.

142. For more details see Appendix (Constitution of Madinah).

The issue of Ummah is a universal concept which is not tied to speakers of a certain language or members of a particular race or nationality. Thus it is not a nationalist concept for a certain group. The Ummah in the Islamic State is the source of sultah (authority) according to ijmā' (consensus). The issue of Dār al-Islām is not limited to certain boundaries. It could exist anywhere in the world as long as it applies Islamic rules. As regards Sultah (authority), leadership is central where, the Imām becomes the head of the state as a result of the ijmā' of the Ummah.

It is very clear from our previous discussion that we can define the Ummah as a community guided by divine laws (Shariāh) and regulated by consensus (Ijmā') of its members co-operating (Taāwun) for the sake of common good (Maslahah).

CHAPTER THREE

POWER AND ISLAM

In this chapter an attempt will be made to answer the following questions:

1. What is the concept of power according to Islam?
2. Are there any similarities between Islam and secularism with regard to power?
3. How does Islam view balance of power?

I. Modern Theory of Power

Modern theories such as Hans Morgenthau's theory of power goes the longest way towards accounting for the popularity of power as an analytic tool in the study of international relations.

"Man possesses an inherent "lust for power" that he desires control over his fellow men and that men aggregated into states behave as a function of this basic drive."¹

Morgenthau goes one step further by saying that:

"a struggle for power....whenever (nations) strive to realize their goal by means of

1. Hans Morgenthau, Politics Among Nations, (New York: Knopf, 1967) p.18.

international politics, they do so by striving for power."

In his view, nations try to retain their power by adopting policies that support the status quo and attempt to increase their power, usually through some sort of imperialistic outward movement. In Han's point of view, balance of power has been used to describe a process of "power politics" to describe equilibrium hegemony or to describe a universal law. On the other hand, Deutch and Singer argue that "as the system moves away from bipolarity toward multipolarity the frequency and intensity of war should be expected to diminish."²

Singer and Small see instability resulting from a bipolar world, while Inis Claude argues that the balance of power has too many meanings. Claude concludes that the concept of the balance of power is extremely difficult to analyze and is bound to frustrate; nevertheless, it is theoretically possible to conceive of the balance of power as a situation or condition, as a universal tendency of law of state behaviour, as a guide for statemanship and as a mode of system maintenance characteristic of certain types of international systems. He goes on by saying that balance of power as a system refers to a multinational society in which all essential

2. James E. Dougherty and Robert Pfaltzgraf, Contending Theories of International Relations, 1981, Harper and Row Publishers 2nd ed., p 18.

actors preserve their identity, integrity and independence through the balancing process.³

According to Claude, the theory of international relations contains three basic concepts which may be regarded as relevant to the problem of the management of power.^{3a}

1. Balance of Power.
2. Collective Security.
3. World Government.

It is designed to indicate the character of a situation in which the power relationship between states or groups of states is one of rough or precise equality. In a similar thought, Lassa F. Oppenheim, the great international lawyer, observed that a law of nations can exist only if there is an equilibrium -- a balance of power between the members of the family of nations. According to Morton Kaplan, the balance of power systems, for instance, requires that nations continually increase their capabilities and negotiate rather than fight. Karl Deutch says, who will be at the top of the pecking order? More often than not the powerful countries will win, and therefore power seems totally relevant.⁴

3. Ibid., p. 19.

3a. Ibid. p. 86.

4. Ibid. p. 87.

4a. Dougherty & Pfaltzgraff, Contending Theories of

The most widely utilized definition of power is that of strength, implied in Deutch's questions, who is the strongest? Who is the biggest?^{4a} The main theories on power indicate that somehow the theory involves power relations and the ability of a nation to produce a desired effect in international affairs by using its power. In summary, there are essentially two general perspectives on power. The first sees power as involving attributes, the second sees power as involving the ability to influence.

Balance of power theorists do not speak with one mind. Singer and Small see instability resulting from a bipolar world. Waltz⁵ notes that the post World War II system, a fairly tight bipolar world, has been in fact very stable, despite crises and disruptive periods. On the question of stability, Kaplan and Waltz appear to be on opposite sides. Kaplan contends that the multipolar system has greater stability and Waltz argues that the bipolar is more stable. Balance of power, in other words, plays a role in the formation of alliances. On the other hand, Morgenthau's general statement that "alliances are a necessary function of the balance of

International Relations, Harper & Row Publishers, 1981, pp. 85-87.

5. Ibid., p.88.

power operating within a multiple state system" does not present a theoretical proposition linking the two phenomena. Nevertheless, he does observe that an alliance will form when general countries are threatened by one large country or when a group of countries feels it must come together to confront another alliance but the major issue in this regard (the balance of power) is as Inis Claude described:

"balance of power as a situation or condition, as a universal tendency or law of state behaviour, as a guide for statemanship, as a mode of system maintenance characteristic of certain types of international systems. As long as we think in terms of equalization rather than of superiority."⁶

According to the author, balance of power as a system refers to a multinational society in which all essential actors preserve their identity, integrity and independence through the balancing process.

Muslim Scholars and Concepts of Power

1. Ibn Taymiyyah

According to Ibn Taymiyyah (1261-1328) the concept of power comes through a strong authority to maintain justice and cooperation.

6. Ibid., pp.89-91.

"to govern the affairs of men is one of the most important requirements of religion, nay without it religion cannot endure. The duty of commanding the good and forbidding the evil cannot be completely discharged without power and authority."⁷

Ibn Taymiyyah view the power through God and should be maintained through his representative on earth that man on earth vicegerent of God, with the implication that man can have a limited sovereignty in the form of a vicegerency and only for the purpose of fulfilling God's will.

Ibn Taymiyyah supports his view from the following two Quranic verses:

"...Say: O God, Lord of power (and Rule), thou givest power to whom thou pleasest, and thou bringest low whom thou pleasest: In thy hand is all God, verily, over all things thou has power."⁸

7. See Ibn Taymiyyah Majmū' al-Fatāwā, Riyad: 1963 Ed. by Muhammad Abdul Raghman, P.45; see also E.I.J. Rosenthal, "Political Thought", Medieval Islam, Cambridge, 1958, P.53

8. Quran, al-Imrān, 3:26

"To God belongeth the dominion of the heavens and the earth, and God hath power over all things."⁹

Thus vicegerency is legitimate only when the vicegerent executes the will of God or when he applies the laws of God (the Shari'ah).

According to him physical force is just to maintain a strong authority, (ahl-al-shawkah) so they can maintain security, co-operation and justice worldwide. His focus centered on two basic qualities only: honesty or trust (amānah) and power or ability (Quwwah), drawing this position from a Qur'anic verse which states:

"surely the best of those that you can employ is the strong, the trustworthy."¹⁰

In his view the power is to promote the religion of Allah. For Allah says:

"Fight in the cause of God those who fight you, but do not transgress limits; for God loveth not transgressor."¹¹

9: The Qur'an, al-Imran 3: 189

10: The Qur'an, al-Qasas 28: 26

11: The Qur'an, al-Baqarah 2: 190

In other verses of the Qurān which indicate right to resort to violence three conditions are stated: (1) to defend one's self against a perpetrated aggression (udwān), to redress an inflicted injustice (zulm), or to foil a subversive activity that aims at sowing dissension among Muslims and splitting their ranks (fitnah). The religious duty of jihād is interpreted in a much broader sense than the traditional connotation of forced conversion that has historically been associated with it.

From this point of view, we can notice that according to Ibn Taymiy , the concept of power is to protect rules of God and for the welfare of the community (naṣṣlahat al-jamāah) as God intended to legislate for the good of mankind.

2. Ibn-Khaldūn

Ibn-Khaldūn (1332-1406) stated in his famous work entitled Al-Muqaddimah¹² (Introduction):

"When mankind has achieved social organization,
and when civilization in the world has thus

12. Abd al-Rahman Ibn Khaldūn , Al-Muqaddimah (Introduction), Dār Al-Turāth, Beirut, 1983. Also see Muhsin Mahdi. International Encyclopaedia of the Social Sciences, edited by David Sills and others, Vol. 7, pp.53-57.

become a fact, people need someone to exercise a restraining influence and keep them apart, for aggressiveness and injustice are in the animal nature of man. The weapons made for the defence of human beings against the aggressiveness of dumb animals do not suffice against the aggressiveness of man to man, because all of them possesses those weapons. Thus, something else is needed for defence against the aggressiveness of human beings towards each other.

It could not come from outside, because all the other animals fall short of human perceptions and inspiration. The person who exercises a restraining influence, therefore must be one of themselves. He must dominate

them and have power and authority over them so that no one will be able to attack another. This is the meaning of Royal authority.¹³

Ibn Khaldūn in his Muqaddimah refers to three political forms. The first type he identifies as the natural rule or governance (Al-Mulk al-Tabāi).

"It is based on natural solidarity alone which is used by the ruler to further his own purposes and satisfy his own lower impulses. Paramount among these are his choleric desires which dominate the state. The ruled are oppressed and used merely as instruments to satisfy these desires. The ruler has ended the state of war among his subjects and checked their lower impulses for the sole purpose of waging a war against them and giving free rein to his own lower impulses"¹⁴

The second type is identified as the rational politics or regimes (Al-Siyāṣah al-Aqliyyah), which:

13. See Franz Rosentha: The Muqaddimah (An Introduction to History) Princeton University press, 1981, p. 47.

14. See Muhsin Mahdi, Ibn Khaldun's Philosophy of History, op. cit., p. 264.

"...are brought into existence by natural solidarity modified by rational precepts concerning the ways and means of attaining worldly ends. What is added to solidarity and its power of restraint and domination in this case is an external bond. The ruled do not obey the ruler because of their belief in the goodness and the ultimate salutary effects of the law, but because of forceful compulsion, the fear of immediate punishment, and the hope for mundane rewards. There are thus two causes leading to the decline and disintegration of solidarity in rational regimes: external compulsion weakens the solidarity of the ruled, and so does the gratification of the desires for mundane ends which the rational regimes pursue."¹⁵

The third and final type is identified as the regime of law (Al-Siyasah al-Shariyyah). It is brought into existence by a most vigorous and socially effective force which is indeed the cause of a miraculous transformation in social relations. Through the successive performance of amazing miracles, and other acts contrary to the normal operation of nature, the Prophet creates in his followers that deep-rooted faith in the rewards and

15. Ibid., op. cit. p.266

punishments of the world to come which greatly changes their social life. He gets rid of the low impulses which are the causes of factions and conflicts, and unites them for a cause superior to their individual appetites and interests. He induces them to get rid of their bad habits and to replace these with moderate and just habits.

Since their hopes and desires are now directed to intangible and other-worldly ends like immortality and happiness in the world to come, they are able to be moderate in the pursuit of this worldly ends, and their energies can be directed towards fighting for just and good causes. Finally, since the restraints against bad action and the desire to act in accordance with the prescription of the law are the result of inner faith, the ruled do not need to be forced to obey the laws by threats of punishment in this world or the inducement of external rewards. They will obey the law, and even die for it, for the sake of God, hoping that He will reward them for their piety in the world to come. The result is a strong, united, virtuous, and obedient group which can conquer and rule nations greater, richer and stronger in all other respects except that inner faith which distinguishes a religious community.¹⁶

16. Ibid. op. cit. p.266.

Ibn-Khaldun further explains that since the regime of law is not based on worldly interests but on inner faith, there is no external cause which can preserve the regime after the inner faith declines. The law may remain, but once the inner impulse vanishes and the law as a moving force in the hearts of men ceases to exist, the regime of laws as a dynamic reality ceases to exist. Natural solidarity re-emerges to assert itself, and unless a rational regime is substituted for the regime of law, the latter is bound to degenerate into natural rule serving the lower impulses of whoever happens to have the stronger solidarity.¹⁷

From the above discussion, we can find that Ibn Taymiyyah and Ibn-Khaldūn reach (to an) agreement that the concept of power comes from a strong authority to apply for) justice (Adalah), equality (Musawah), cooperation (Taa'wun) and to prevent war and maintain peace and security for the human kind. These concepts are not created in a vacuum but they are based on the concept of power in Shariah (Islamic law).

17. Ibid. op. cit. p. 268.

See Also E.I.J. Rosenthal, Politics Thought in Medieval Islam, op. cit., pp. 52 and 84-113.

Power According to Islam and Declaration of Jihād

The concept of Power through jihād (to exert) is emphasized in several verses of the Holy Qur'an as an instrument of the exertion of Muslims themselves for the cause or path of God in four major areas:

1. Jihād as a way to defend the Islamic nation from (any) outside attack:

Its ultimate power is to defend the Islamic state's territorial jurisdiction and boundaries from any unexpected attack by an external, belligerent power. The following Qur'ānic verses indicate the concept of defensive war in Islam.

"Against them make ready your strength and the utmost of your power, including steeds of war to strike terror into (the hearts of) the enemies of God and your enemies, and others behind them whom you do not know but whom God knows. So, whatever you sacrifice in the cause of God, you will be completely rewarded for, and you will never be treated unjustly."¹⁸

"And fight in the cause of God those who attack you, but do not be aggressive; verily God does not love the aggressors."¹⁹

"And they will continuously attack you in order to turn you back from Islam if they can."²⁰

18. The Qur'ān, al-Anfāl 6:60

19. The Qur'ān, al-Baqarah 2:190

These three verses provide logical instructions for the concept of defensive war in Islam. The first verse emphasizes the necessity for the Islamic state to prepare its power and the importance of preserving the state's will and its potential sovereignty.

The second verse determines clearly the basic principle of defensive war. It orders the Islamic nation not to instigate aggression or declare war unless it is attacked, when counter attack is certainly required.

The last verse completes the service in predicting and warning Muslims that unbelievers never have and never will give up their attempt to demolish Islam, not only by fighting but also by all possible means. Their ultimate goal is to turn Muslims away from their belief.

However, if the unbeliever does not act aggressively toward Muslims then it is the duty of the Muslims to treat them kindly and sincerely.

"God does not forbid you to be faithful and to deal justly with those who do not attack you and do not drive you from your land because you are Muslim. God certainly loves those who are just".²¹

20. The Qur'an, al-Baqarah 2:214

21 The Qur'an, al-Mumtahanah 80:60

Finally these defensive instructions are emphasized in a verse from the Sunnah, which underscores the necessity of having an army stationed around the Islamic nation.

"Defence of one day (for defending the Islamic nation's boundary) in the cause of God (its reward) is better than to have possession of the whole world and whatever it contains."²²

"However the Muslims must not hold malevolent feelings towards non-Muslims and also must not consider the non-Muslims clients or patrons."²³

Islamic principles do not give Muslims the right to claim superiority over non-Muslims. Superiority in Islam can be achieved by any individual who devotes himself to God by means of purity, piety (taqwa) and righteous deeds as declared in the following verse of the Qur'ān.

"O, mankind, verily we have created you from a single male and female, and rendered you nations and tribes for knowing surely the most superior in the sight of God is the most pious one, thereupon God is Omniscient and Expert."²⁴

22. Saḥīḥ Muslim, Imārah, 163; Al-Bukhārī, Jihād.

23 The Qur'an, AL-Imrān, 3:28

24 The Qur'an, AL-Hujurat, 49:13

2. Jihād: As a way to direct one's effort

According to the Qurān, self exertion in the cause of God is considered jihād. Preventing evil things and performing good things is jihād.

"He (God) named you Muslim in this message as He named His worshippers long ago (The purpose of this appointment is that) as the Prophet will be a witness over you; you will be witnesses over mankind, so perform prayers, pay zakah (income tax) and hold on to God. He is your Sovereign, He is, indeed, the Protector and the Patron."²⁵

"It is your mission to convey even one verse of mine to the people."²⁶

In another hadith Prophet Muhammad said:

"The Muslim should do his best to rectify wrongs either by hand, if he cannot he must do

25 The Quran, al-Hajj. 22. 78

26. Al-Bukhārī al-Anbiyā, 50.

so by his tongue; if he cannot he must do so by his heart (through disapproval) and that is the weakest in faith."²⁷

A. Yusuf Ali commented in this verse as follows:

"Here is a good description of jihād. It may require fighting in God's cause, as a form of self-sacrifice. But its essence consists in (1) a true and sincere faith which so fixes its gaze on God that all selfish or worldly motives seem paltry and fade away, and (2) an earnest and ceaseless activity, involving the sacrifice (if need be) of life, person, or property, in the service of God. Mere brutul fighting is opposed to the whole spirit of jihād, while the sincere scholar's pen or preacher's voice or wealthy man's contributions may be the most valuable forms of jihād."²⁸

27. Al-Bukhāri, Ch. Jihād.

28. A. Yusuf Ali, commentary on The Holy Qurān, Published by American Trust Publication., Jan. 1977, p. 444.

There is an interesting conversation between the Prophet and a man who came to him to join his troops in fighting jihād: The Prophet asked the man if his parents were alive, and the man said, "yes"; the Prophet then told him "then strive in serving and providing for them".²⁹

The answer given by the Prophet clearly shows that jihād is the Muslim's striving to fulfill every kind of his responsibility and to serve the Islamic cause and principles in a manner consistent with the Islamic framework, rather than its being confined to the single meaning of fighting. Even the seeking of knowledge, according to Islam, is considered as jihād.

3. Jihād as a way to protect wealth, property and self

Jihād can also be viewed as when Muslims stand against external aggression which aims to threaten Muslim lives and property. An important and interesting saying of the Prophet enumerates the kinds of defence of Muslims' property and their lives.

"whoever make jihād in defense of his person and is killed, he is a martyr; whoever is killed in defense of his property is a martyr;

29. Al-Bukhārī and Muslim, Ch5, Jihād.

whoever fights in defense of his family and is killed is a martyr; and whoever is killed for the cause of God is a martyr."

As a result of Islamic principles, Muslims should not attack non-Muslim property and human lives. Nor can Islam accept non-Muslims attacking them on their own land and damaging their properties.

For this purpose Islam considers those who protect their wealth, property and secure their homes from aggression as a Mujāhid (martyr).

The Qur'ān has explicitly addressed itself to that effect by addressing those who cry for help and saying:

".... why should you not fight in the cause of God and of those who, being weak; are ill-treated (and oppressed)? Men, women and children whose cry is: "Our Lord! rescue us from this town, whose people are oppressors; and raise for us from thee one who will protect; and raise for us from thee one who will help."³⁰

This verse from the Qur'ān clearly indicates that Muslims will be considered as a mujāhid when they face such cases.

30. The Qur'ān, al-Nisān 4:75

In fact, Islam totally rejects almost all pretense to the means or causes that normally precipitate a war situation; it tries its utmost to abolish all types of war for unjust gain or oppression. Sayyid Qutb, in his book Islam and Universal Peace, has indicated very clearly that Islam,

"First: condemns war based on racialism as contrary to the principle of the oneness of humanity. Second: (it) condemns war caused by ambition and exploitation. The Islamic creed does not permit war which aims at capturing markets, acquiring materials or exploiting human labor and resources. In fact, Islam looks at humanity as one big cooperative family and as part of a universal unity. It ordains all believing people to cooperate in realizing universal welfare and in abstaining from doing wrong. Islamic jurisprudence promises all humans absolute equality and justice regardless of race, sex or creed. Third: Islam prohibits wars of ostentation which purpose to magnify the pride and pomp of kings. Islam also prohibits the looting which usually follows conquest.³¹

Another interesting saying of Prophet Muhammad is that:

"Bukhari relayed that a man approached the Prophet and said: There is the man who fights for gain, the man who fights for fame, and the man who fights for status, but who fights for the way of God? The Prophet replied "He, who fights for the word of God to become supreme - not worldly gains or ambition - fights for the way of God."³²

31. Sayyid Qutb , Islam and Universal Peace Indianapolis, American Trust Publications (1977), p. 15.

4. Jihād as a way to call to Islam

Invitation (dāwah) to Islam for other people continuously until every human being knows about the existence of the Islamic message is in fact, the basic idea of the jihād.

"Call to the path of your God (that is to Islam) with wisdom and fair exhortation, and argue with them (the non-Muslims) in courtesy and considerate manner. Verily your God knows those who have gone astray and who have been guided."³³

It is important to point out here that Muslims are restricted to conveying Islam, not to forcing their beliefs on others.

It stated in the Qurān:

"let there be no compulsion in religion; truth stands out clear from error."³⁴

32. 'Azzām 'Abd al-Rahmān. Ar-Risālah Al-Khālidah (The Eternal Message of Muhammad). Translated from the Arabic by Caesar E. Farah. New York, The Devin-Adair Co., (1964) p. 170.

33 The Qur'ān, al-Nahl, 16:125

34 The Qur'ān, al-Nahl, 16:125

The dāwah (invitation) to Islam can be done through the use of wisdom and discretion meeting people on their own ground and convincing them with illustrations from their own knowledge and experience.

This is the role of a Muslim, to act as a witness to mankind and to exert himself to warn and convey the message of God without expecting any result.

Kurdi Abdulrahman in this regard pointed out that:

"Jihād offers three ways for Muslims to follow in the path of God: to abolish any inquitons power which forces a certain ideology on its people, to call to Islam and convey the message of God to all people and to defend the Islamic nation from any attack. It is obvious that Muslims have never had and never will have any intention of killing the non-Muslims throughout the world.³⁵

V. The Conduct of Jihād

The Islamic law of nations was largely the product of juristic writing. Muslim jurists developed a special branch of the Shariāh known as Siyar (based on the same sources of the Shariāh) which was presented as the law of nations of the Muslims.³⁶ The subject matter was

35. Kurdi Abdulrahman Abdul Kadir. The Islamic State: A Study based on the Islamic Holy Constitution, Mansell Publishing Limited, London and New York, 1984, p. 109.

discussed under various titles such as Jihād, Ghanimah (war spoils), Sulh (amnesties), Amān (pledge of security) etc. Thus Abū-Hanifah gave the name Siyar to his lectures on Islamic law of war and peace. Later these lectures were incorporated by his disciple Muhammed Al-Shaibany into Kitāb al Saqhir and Kitāb al Siyar al Kabir.³⁷ Mālik Ibn Anas, another venerable jurist, wrote a separate chapter on Siyar. In the Kitāb al Kharāj of Abū Yūsuf, there is a lengthy discussion on rules concerning Jihād, peace treaties, the distribution of the spoils of war, Jizyah and Kharāj, slavery and arbitration.³⁸ It was through the efforts of these Muslims and other Muslim jurists that the Islamic legal science of Siyar came into existence as part of Fiqh (Jurisprudence). "Laying down elaborate rules of war, peace treaties, and neutrality governing the relationship of Muslim and non-Muslim states."³⁹

The Orientalist and the Concept of Jihād

Unfortunately the meaning and the purpose of Jihād had been misunderstood among some authors in the West.

36. M. Khadduri, International Law, op.cit., p.3439-50.

37. Shameen Akhtar, "An Inquiry into the Nature, Origin and Source of Islamic Law of Nations", Islamic Studies, (10) (1971), p.32.

38. Ibid., pp.31-32.

For example, Majid Khadduri claimed that the duty of jihād, or as the westerners named it, holy war, required (the) Muslims to fight all (the) unbelievers, whenever they find them.⁴⁰ He further claimed that in Islamic international theory the world was divided into two communities, Dār al-Islām (abode or territory of Islam) and Dār al-Harb (abode or territory of war). Furthermore, Dār al-Islām, Khadduri contends was theoretically in a state of war with Dār al-Harb because the ultimate objective of Islam was to bring the whole world under its sway. Therefore according to him Islam attained its great success by violent means, and jihād was the ultimate instrument in achieving this expansion.⁴¹

This understanding of the Islamic approach to international relations, did not go unchallenged by other scholars and jurists, who provided different interpretations and analyses of the subject as it is known for the main sources of the Muslims in the Qur'ān or the Hadīth (Sayings of Prophet Muḥammad).

According to them, the division of the world into two communities was not spelled out in the Qur'ān and Hadīth. Thus this discussion had no basis in Islamic Shari'ah.

39. Ibid., p.33.

40. Majid Khadduri, The Law of War and Peace in Islam, Burleigh press, 1966, p.15.

Mohammad Abu-Zahra, a prominent contemporary Muslim jurist, argues that the division of the world into Dār al-Islām and Dar al-Harb was but a formula devised by Muslim jurists in the eighth and ninth centuries to explain the existing situation and not an interpretation of the primary source of Islam.⁴² Rather, the division was intended as an explanation of the existing international system in which war was the predominant rule, except where a treaty existed.⁴³

Accordingly, if this was an expression of the status quo, without any legal bases, then it was obvious that it would come to an end whenever the system underwent a change. It should be noted here that Muslim jurists do not hold the view that in theory the world was split into only two parts. For example, Al-Shāfi'ī devised a third division called Dār al-'Ahd (territory of covenant) or Dār al-Sulh (territory of peaceful arrangement) which was not conquered by the Islamic state but reached a peaceful arrangement with it.⁴⁴ On the contrary, the ultimate objective of Islam was to achieve a permanent peace and not to perpetuate conflict; Muslims think of war only as

41. Ibid. p. 16.

42. Muhammad Abū-Zahrā, Al-'Alaqat Al-Dawliyah Fī al-Islām (International Relations in Islam), Cairo (1964); Dar-Al-Fikar Al-Arabia, p. 53.

43. Madani Nizar Obaid, The Islamic Content of the Foreign Policy of Saudi Arabia, King Faisal's call for Islamic solidarity, 1965-1975. Unpublished dissertation Ph.D. The American University (1977), p. 17

a necessary evil not as a desirable objective to be sought after.⁴⁵

These writers support their view by pointing out that the Islamic dāwah (invitation) to adopt Islam was based on logical persuasion and idealism and not by force and violence.⁴⁶

The Qur'ān said:

"Invite (call) to the way of the Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious. For the Lord knoweth best, who have strayed from His path, and who receives guidance"⁴⁷

Muslims invite all to the way of God and expound His universal will. This can be done through the use of wisdom and discretion, meeting people on their own ground and convincing them by illustrations from their own knowledge and experience.

The dāwah to Islam is not necessarily fulfilled through fighting or (as Khadduri said) through violence. Jihād, according to Islamic law, does not mean to fight

44. Ibid.

45. Muhammad Hamidullah, The Muslim Conduct of State, Lahore, Pakistan. Muhammad Ashraf print, 1968, p.162.

46. 'Alī A. Mansur., Al-Sharīah Al-Islāmiyah Wal-Qanūn al-Duwalī al-Ām, (Islamic Shari'ah and Public International Law). Cairo, Dar al-Adām, 1969, p. 290.

humankind until they convert to Islam. The objective of jihād was not fighting per se; it was a concept to apply faithfully the Islamic principles of social justice. If this could be achieved by means other than fighting such as dāwah, the duty to perform jihād was considered fulfilled.⁴⁸

As M. Hamidullah points out, Muslims think of war only when it is unavoidable and not as something desired or sought after.⁴⁹ The Qur'ān says:

"And if they incline to peace, incline thou also to it, and trust in God"

"So do not falter and invite to peace when ye are the uppermost and God is with you, and He will not grudge (the reward of) your actions."⁵⁰

All of the Qur'ānic verses contradict the view of most orientalist about the concept of jihād. Indeed even the Hadith of the Prophet counters their opinion toward jihād. For example a hadīth of the Prophet says:

"Do not be eager to meet the enemy, but ask God for safety. Yet if you meet them persevere and have patience and know that paradise is under the shadow of swords".⁵¹

47The Qur'an, Al-Nahl, 16:125.

48. Nizar Madani, The Islamic Content of the Foreign Policy of Saudi Arabia, op. cit., pp. 19-20.

49. Muhammad Hamidullah, Muslim Conduct of State, op. cit., p. 162.

50The Qur'an al-Anfal, 8:61

On another occasion, the Prophet said:

"Do not be eager to meet the enemy, perhaps you may be put to test by them, but rather say, "O, God! Suffice for us and keep their might away from us!".⁵²

Later Muslim authors strike an interesting note by saying:

"Wars are accidents among the happenings of the time. Just like sickness, in contrast to peace and security, which resembles health for bodies. So it is necessary to preserve health by means of political action, and to shun sickness by means of warlike action and by busying one's self with the preservation of health."

"Jihad in the technology of law is used for expanding ability and power in fighting in the path of God by means of life, property, tongue and other than these".⁵³

Another suggests that:

"Muhammad was a militant preacher who combined possession of the world of God with a particularistic ethnos - the Arab tribal communities of Arabia - to produce a dynamic for the conquest of the region, without any prior political tradition."⁵⁴

P.J. Vatikiotis recently in his book Islam and the State (1987) claimed that jihad "is a most amenable notion to the purposes of state. It can legitimize

51. Al-Bukhārī, Ch. Jihād.

52. Al-Bukhārī, 56, 112, 156, 94:8; Sahīh Muslim V 143, Ch. Jihād.

53. Al-Khashan Abubakar Maṣūd Ahmad Ala Al-Dīn, Bādayah al-Sanāyah Fi Tartīb Al-Shariyah, Dār Al-Kutab al-Arabi, Second Edition, 1982, p. 32.

aggressive policy."⁵⁵

R. Peter suggests that the primary aim of the jihad is not, as it was often supposed in the older European literature, the conversion by force of the unbelievers, but the expansion - and also defence - of the Islamic state.⁵⁶

The Rules of War in Islam

In the Islamic rules for wartime, war has to be subject to certain moral principles and a code of behaviour. For example, the Muslim army in such cases is forbidden from killing non-combatants, women, minors, servants and slaves who accompany their masters yet do not take part in actual fighting, the blind, monks, hermits, the very old, those who are physically incapable of fighting. Prisoners of war are not to be decapitated, mutilation of men as well as beasts, treachery and perfidy, devastation, destruction of harvest, cutting trees unnecessarily,⁵⁷ excess and wickedness,⁵⁸ adultery and fornication even with captive women are not allowed. As regards a free enemy woman, the violator is to be

54. Patricia Crone, Slaves on Horses, Cambridge, 80, p.25.

55. P.J. Vatikots, *op. cit.* P.17

56. R. Peters, Tr, Jihad in Medieval and Modrn Islam, Brill, Leiden, 1977, p.3.

57. Al-Māwardi, Al-Ahkām al-Sultāniyah, *op.cit.*

stoned to death or whipped according to whether he is married or unmarried. If, however, she is a captive, he is to receive discretionary punishment and to be fined an amount equal to Mahr⁵⁹ (or bride money) which would be added to the general booty.⁶⁰ Killing enemy hostages, even if those of the Muslim state have been murdered by the enemy and even if there is express agreement that hostages may be beheaded in retaliation, is not allowed.⁶¹ Neither is severing the head of some fallen enemy and sending it to higher Muslim authorities. This is regarded as improper and disliked (Makruh).⁶²

There is no instance in the time of the Prophet when a massacre was allowed after vanquishing the enemy or otherwise occupying a place. The conquest of Mecca provides a fine example. After all those innumerable physical tortures and property damages which the Muslims had received at the hands of their Meccan enemy, when the Prophet conquered the city, he declared a general amnesty excluding about half a dozen named persons, who were declared out-laws to be killed wherever found. They were state criminals having committed murder and apostasy except three who were killed by Muslim soldiers without

58. Sharḥ al-Siyar al-Kabīr, I, 27, 34: The Qur'ān 205.

59. Ibid., I, 37.

60. Ibid., I. 38.

61. Ibid., p.84, Sarakhsī, Mabsūt, X.129, Sharḥ al-Siyar al-Kabīr: III, pp.332-33, IV, 43.

referring back to the Prophet.⁶³

Killing parents except in absolute defense, even if they are non-Muslims and in the enemy ranks is not allowed. There are more cases than one in which the Prophet forbids persons who had asked for permission to kill their non-Muslim parents on the grounds of hostility to Islam.⁶⁴ Traders, merchants, contractors and the like are to be spared if they do not take part in actual fighting.⁶⁵ Burning a captured man or animal to death is strictly forbidden. Once the Prophet dispatched a detachment with the instruction to arrest a culprit and burn him alive, but he immediately recalled them and ordered them not to burn the criminal, but simply to kill him, for he said only the Lord of fire could punish with fire.⁶⁶

The Use of Power in Islam

Fathi Al-Drinie stated that justice in Islam is not only concerned with the victory of the nation, but also the fate of the defeated nation and not just with the powerful nation, but also the weaker nation neither just

62. . Şarakhsī , al-Mabsūt, X, 131.

63. Ibn Hishām, Al-Siyrah-al Nabawīyah, pp.818-19.

64. Sharah al- Siyar al- Kabīr., I, pp.75-76.

65. Abū Yūsuf, Kitāb al-Kharāj p. 122

66. Tirmidhī II, 298

with the rich nation, but also the poor nation."⁶⁷

When we refer to the Qur'an on this matter, we find the following:

"We sent aforetime our apostles with clear signs and sent down with them the Book and the Balance (of Right and Wrong), that men may stand forth in justice; and we sent down Iron, in which is (material for) mighty war, as well as many benefits for mankind that God may test who it is that will help."⁶⁸

The symbol of power is tied with the establishment of justice among people on the earth. Islam views power as an instrument to keep peace not only for the Muslim but also for non-Muslim. Al-Draini stated that the struggle is between right and wrong and this struggle is a constant one.

The Qur'ān stated that:

67. Fathi Al-Dinie, The Characteristics of Islamic law in Politics and Government, Al-Rasalah Publishing, Beirut, 1982, p. 58.

"and we test you by evil and by good by way of trial, to us must ye return."⁶⁹

Therefore power is to maintain welfare for humanity and to be used to avoid evil (al-Shar), and establish al-adaḷ (Justice). This is the cornerstone of international relations in Islam.⁷⁰ When we view the concept of power in Islam, we notice that the major aim of Islam is to change the status quo of pre-Islam, where the group or nation in power applies its forces for its own self interest. The Maslahah (interest), defined by Islam is the interest of Justice, the removal of al-udwān (aggressiveness) and the application of equality among people without regard to his color, nationality or race. Without the fulfillment of these principles no peace or security would be possible.

Upon his succession to the caliphate, Abu-Bakr stated that:

"Those who have power among you are weak in my view until I took the truth (Al-Haqḳ) from him, and those who are weak among you are poorer in my view until I took the truth from him."⁷¹

68 Qur'ān: Al-Hadid 57:25

69 Qur'ān: Al-Anbiyāa, No: 35.

70. Fathi Al-Dinie, The Characteristics of Islamic Law, op.cit., p. 61.

This statement demonstrates a major principle of Islamic civilization concerning humanity and is considered the basis of international relations at all times and all places. Muslims in general view themselves as the people of the Great Message. Thus, they have been delegated the responsibility of guiding the entire international community. This has been ordered through the Qur'ān, which states:

"O ye who believe! stand out firmly for justice, as witnesses to God, even as against yourselves, or your parents or your kin, and whether it be (against) rich or poor.....".⁷²

Further it adds:

"God doth command you to render back your trusts to those to whom they are due; And when ye judge between man and man that ye judge with justice.....".⁷³

A close observation of the previous verses indicates that the idea of justice is a collective one, which includes in its framework, both Muslims and non-Muslims. al-Mufasssirūn the interpreters of the Qur'ān are all in agreement that the meaning of this verse is general, not specific.⁷⁴ Whether they are from East or West, black or white, the main purpose of Islam is to keep justice and equality among nations, whatever their language or race may be.

71. Quoted from Al-Drinie Fathi, The Characteristic of Islam, op. cit., p. 61

72. Qur'ān: AL-Nisā 4: 135

73. Qur'ān: AL-Nisā 4: 58

74. Shaike Bakeet Al-Mutiya: The Reality of Islam and the

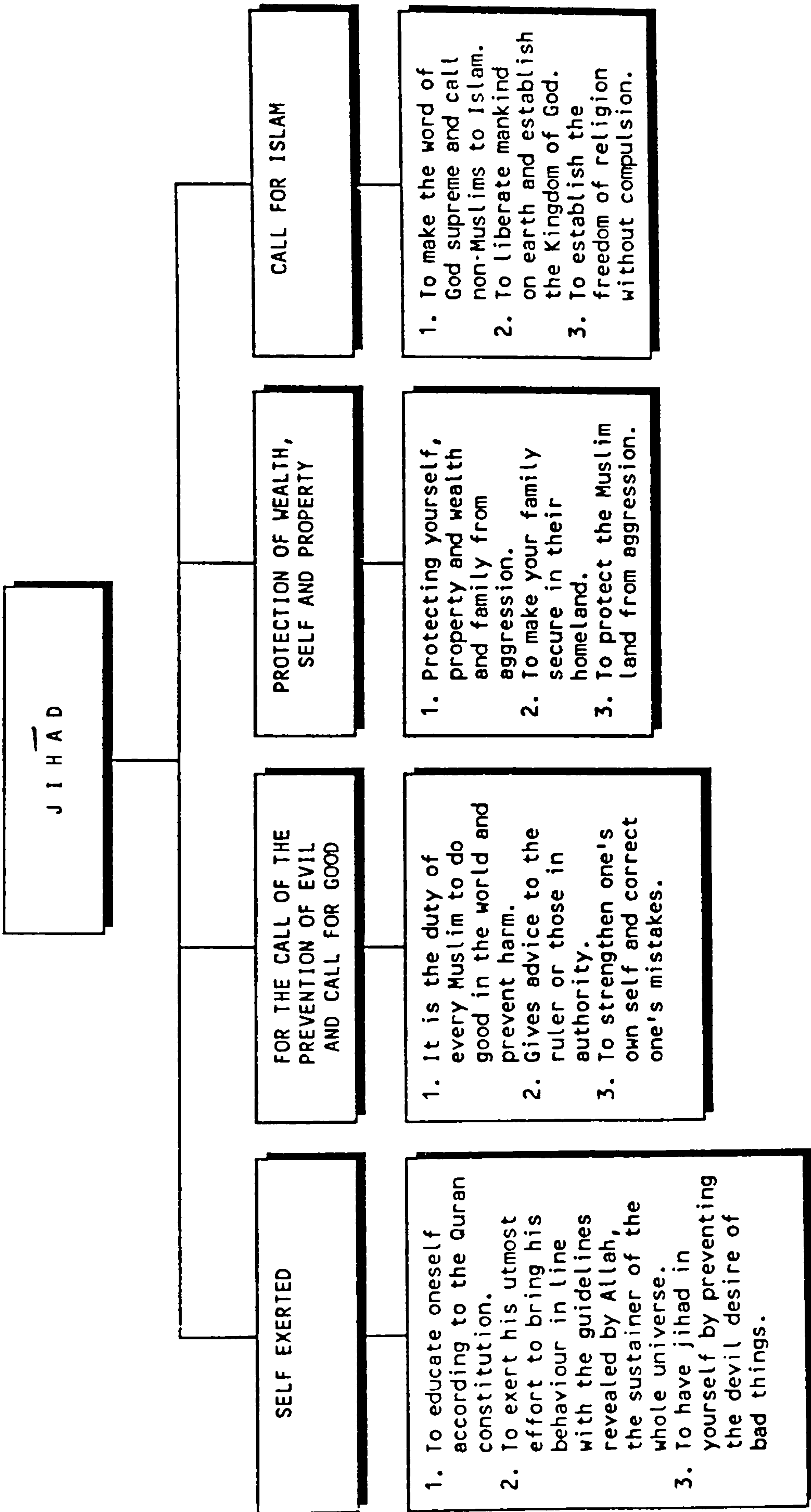


Fig. 1
Types of Jihād

Summary

According to Islam, Jihād starts with the individual to strengthen his effort to act according to Shariāh (the law of Islam). Protecting yourself and your family and property is considered jihād (fighting in the path of God). From this explanation, we can notice that Jihād is a continuing struggle on a number of different levels and exists at all times as long as Islam exists.

Jihād exists for every time and every place, (in other words, proper for all time). Clearly Jihād is meant to permeate all phases of a Muslim's life. Jihād is not a defensive or offensive instrument as many orientalist claim. Jihād is therefore, considered a basic Islamic principle and a duty of every Muslim who is able to carry out the mission (See diagram No.1).

Ex

CHAPTER FOUR

ISLAM AND INTERNATIONAL PEACE

In the previous chapter we discussed the concept of state of Islam and how Islam has the capacity to maintain power as a means to establish Islam in the universe. In this chapter we attempt to study the concept of peace in Islam; how Islam deals with individual groups and states.

It is worth noting that the word Islam means peace, it is derived from the same root and may be considered synonymous. The concluding words of the daily prayers of every Muslim are words of peace. When Muslims greet each other they use the word Salam meaning peace upon you. The word "Muslim" means peaceful. The territory of Islam is called Dār-al-Islām which means abode of peace.

In order for us to understand the basic framework of peace, we have to give some attention to the following elements.

I. ISLAMIC THEORY OF INTERNATIONAL PEACE

A. Oneness of God

Islam begins by establishing the principle of the Oneness of God (Tawhīd) as it is from Him that life ensues and unto Him that it returns.

"Say: He is God, the One and the only God, the Eternal Absolute; He begetteth not, nor is He begotten; and there is none like unto Him."¹

"Glory to God, who created in pairs all things that the earth produces, as well as their own (human) kind and (other) things of which they have no knowledge."²

He is the creator of the heavens and the earth; He has made for you pairs from among yourself."³

All individuals are equally related to the same origin:

"Mankind! Reverence you Guardian, the Lord who created in you from a single person, created in like nature, his mate, and from them twain scattered (like seeds) countless men and women."⁴

The Qur'an has explicitly stated from time to time that faith in God, who has created this world to good purpose, and ensuring justice and freedom, equality and accountability are all inevitable preconditions for one's attainment of peace.⁵

The Qur'an encourages peace and rejoices in it in this life and in the hereafter as the following quotation explains:

There hath come to you from God a (new) light and a perspicacious Book wherewith God guideth all who seek His good pleasure to ways of peace and safety, and leadeth them out of darkness, by His will, unto the light - guideth them to a path that is straight.⁶

1. The Qur'an, al-Ikhlās, 172: 1-4.

2. The Qur'an, Yāsīn, 36.

3. The Qur'an, al-Shūrah, 42: 11.

4. The Qur'an, al-Nisā, 4: 1.

5. Khwaja G. Saiyidain, Islam: The Religion of Peace, first edition, Bombay, Current Book House (1976), p.158.

6. The Qur'an, al-Māidah 5: 17-18.

The Qur'an further adds, to

"... those who believe and work righteousness will be admitted to gardens beneath which rivers flow - to dwell therein for age with the leave of their lord. Their greeting therein will be: peace."⁷

God doth call to the home of peace. He doth guide whom He pleaseth to a way that is straight."⁸

We have already shown the call for authentic peace in Islamic doctrine is deeply rooted in the knowledge of God's ways, in abiding by his commands and by abstaining from evil deeds.

B. The Right to Believe

Freedom, which is known in Arabic as Hyrriyah, is the channel for individuals to believe without compulsion. It is stated in the Qur'an in the following verse:

let there be no compulsion in din (religion); truth stands out clear from error."⁹

In the strict sense, freedom means "the status of a person who is not under absolute domination" and hence the possibility of acting without restraint.¹⁰ The right to believe is applicable not only to Muslims, but also to non-Muslims as well. Al-Braik Nasser Ahmad has distinguished two types of freedom, freedom to choose a religious faith

7. The Qur'an. Ibrāhīm, 14: 23.

8. The Qur'an, Yūnus, 10: 25.

9. The Qur'an. al-Baqarah, 256.

10. Al-Braik Nasser Ahmad, Islam and World Order: Foundations and Values, unpublished thesis, 1986, American University, Washington D.C., p.125.

and freedom of expression on religious matters. He distinguishes the difference as follows:

"the latter freedom allows a Muslim free expression of thought and is referred to as 'freedom of interpretation or hurrihyat al-Ijtihad' while the former concept entails freedom for non-Muslims either to maintain their own faith or, when converting to Islam, to be endowed with all the amenities which other members seem to enjoy, without being discriminated against."¹¹

Although compulsion (Ikrāh) in Islam is not accepted as we have noticed earlier, there is a condition where force is applicable and this may be used against those who prevent a free choice of religion. To this effect, war is not only permitted, but it is prescribed by the Qur'an and the Sunnah as a legal method. Those who fight to achieve this end will be generously rewarded in the life hereafter.

Sayyid Qutb comments on this by saying that:

"whoever, Muslim or non-Muslim, violates this rule is an antagonist and a transgressor and here force can be applied."¹²

It states in the Qur'an:

"Invite (all) to the way of thy lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious. For thy Lord knoweth best who have strayed from His path, and who receive guidance."¹³

The Qur'an adds:

"on no soul doth God place a burden greater than it can bear. It gets every good that it earns, and it suffers every ill that it earns."¹⁴

11. Ibid.

12. Sayyid Qutb, Islam and Universal Peace, American Trust Publications, 1977, p.11.

13. The Qur'an, al-Nahl, 16: 125.

14. The Qur'an, al-Baqarah, 2: 286.

It is clear from these verses that although Islam is al-da'wah (an invitation) to Islam as a revealed knowledge, at the same time it is not a compulsory religion.

When the Muslim warriors conquered parts of Asia, Africa and Europe, there was no imposition upon the people of these parts of the world to convert to Islam. However, conquered people were given the choice of becoming Muslims or of paying Jizyah, a poll tax levied on those who did not accept Islam but were willing to live under the protection of Islam.

C. The Right to Security

Security (al-amanah) is the inborn right of every man according to Islam. Hence the rebuke of 'Umar Ibn Khattab the Second Caliph (Khalifah) (A.D. 634-644) to the Governor of Egypt:

Whence did you enslave people who were born free".¹⁵

The Qur'an has extrapolated the inter-relationship between individuals thus "... the servants of (God) most gracious are those who walk on the earth in humility, and when the ignorant address them, they

15. Quoted from Al-Braik, Naser Ahmad, Islam and World Order, op.cit., p.124.

say peace."¹⁶

The Qur'an states that "Muhammad is the apostle of God and those who are with him are strong against unbelievers, (but) compassionate among each other".¹⁷ Al Braik Nasser comments on these verses saying that Islam aims at securing people against terror, tyranny (Tughyan), and injury.¹⁸ "We have not sent thee but as a universal messenger to men giving glad tidings and warning them (against sin), but most men understand not."¹⁹ There is, however, an epigrammatically worded tradition which says, "Help your brother (Muslim) whether he is an aggressor or a victim of aggression". The Prophet was asked by his companions, while they could obviously help the aggressive party, how could they help an aggressor? The reply was "By doing your best to stop him from aggression".²⁰ The injunction in this tradition to stop aggression applies not only to Muslims, but also non-Muslims. This is because Islam was not sent to the Arabs or any particular group. It was

16. Surah: al-Furqan or the Criterion 25:63. The believer's humility "is shown in two ways: (1) to those in real search of knowledge, they give such knowledge as they have and as the recipients can assimilate, (2) to those who merely dispute, they do not speak hardly, but say: peace, as much as to say 'may it be well with you, may you repent and be better' or may God give me peace from such wrangling' or 'peace, and goodbye; let me leave you". A.Y. Ali, The Holy Qur'an, op.cit., p.941. See also surah al-Nahl or the Bee 16: 125.

17. Surah: al-Fath No: 29

18. Al-Braik, Nasser Ahmad, Islam and World Order Foundations and Values, op.cit., p.159.

19. The Qur'an, al-Saba, 34 :28.

20. Khwaja G. Saiyidain, Islam: The Religion of Peace, First Edition, Bombay: Current Book House, 1976, p.159.

sent for all humanity. We can discern from the following that "the whole of mankind is God's family. He holds him the dearest who does the most good to his family".²¹ This advice is not addressed merely to Muslims but to all mankind.²² From this point of view, we can notice that the da'wah (invitation) to peace is a collective approach, the purpose of which is to maintain social order among individuals, groups and nations. It should be noted here, however, that the message of maintaining peace at all costs within the Islamic traditions is of utmost importance to all believers.²³

D. Equality Among Individuals

Social equality is referred to as Musāwah in Islam, meaning equal rights for all human kind.

The Qur'an affirms and encourages such a principle by stating:

"O ye who believe! let not some men among you laugh at others: it may be that the (latter) are better than the former: nor let some women laugh at others it may be that the (latter) are better than the former: nor defame nor be sarcastic to each other, not call each other by (offensive) nicknames: ill-seeming is a name connoting wickedness, (to be used of one) after he has believed: and those who do not desist are (indeed) doing wrong. O ye who believe! avoid suspicion as much (as possible): for suspicion in some cases is a sin: and spy not on each other, not speak ill of each other behind their backs. Would any of you like to eat the flesh of his dead brother? Nay, yet would abhor it... but fear

21. Ibid., p.160.

22. Al-Braik, Nasser Ahmad, Islam and World Order: Foundations and Values, op.cit., p.160

23. Wahbah Al-Zuhaili in his book Athār Al-Harb fī-al-Fiqh Al-Islām. The effects of war in the Islamic Jurisprudence. Beirut: dar al-Fikr, 1965, p.90.

God: for God is oft-returning, most merciful. O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well acquainted (with all things).²⁴

Islam prescribes principles of equality to govern relationships among Muslims between Muslims and non-Muslims, and between men and women as we have mentioned earlier. Usually the Qur'an addresses mankind, rather than Muslims alone when it wants to focus attention on general facts. Equality before the law is the fundamental basis of the whole Islamic system.²⁵ Therefore, it decrees that all human beings are equal or must be treated equally before the law and no one, no matter of what social or political status, is immune from legal punishment.²⁶

In Islam there is no superiority. Equality before the law is the fundamental basis of the whole Islamic system. Umar Ibn al-Khattab, the Second Khalifah, once said to one of his distinguished deputies, Abu Musa al-Ashari, "let them all be equal before thee in respect of thy

24. The Qur'ān, al-Hujurāt, 49:11-13.

25. Abdul rahman Kurdi, The Islamic State, op.cit., p.44.

26. Ibid.

justice and tribunal, lest the powerful put their hope in thy partiality and the weak despair of thy justice...".²⁷

Nevertheless, Islam recognises differences in talent and ability among individuals. The Qur'an states: "It is He who hath made you (His) agents, inheritors of the earth; He hath raised; you in ranks some above others: that He may try you in the gifts He hath given you...".²⁸

The Qur'an adds:

"It is they who would portion out the Mercy of thy lords? it is we who portion out between them their livelihood in the life of this world; and we raise some of them above others in ranks, so that some may command work for others. But the Mercy of thy Lord is better than the (wealth) which they amass."²⁹

The Qur'an tells us here that the only criterion among people is virtue of character or intellect to perform good and forbid wrongs. Here equality is not only exclusive to Muslims but for all human kind. The Qur'an further adds:

"Say: Are they equal, those who know and those who do not know? Only those who are highly rational recognise [this fact]."³⁰

The verse emphasizes the inequality between men in regard to natural endowments, the difference among human beings readily apparent

27. Thomas Arnold, The Legacy of Islam, op.cit., p.186. Also, for an insightful analysis of the principle of equality, see the unpublished dissertation of Salah Fatis Zahrani, "Political Representation in Islam", Washington: The Catholic University of America (1982), pp.234-259.

28. The Qur'an, al-An'am, 6: 165.

29. The Qur'an, al-Zukhruf, 43: 32.

30. The Qur'an, al-Zumar, 39: 9.

to all. Without specifying what type of knowledge, the verse simply refers to the inequality between those who know and those who do not. A classical example regarding equality of all men before the law can be found during the prophet era.

When the nobles of Quraysh once feared that legal punishment would be inflicted on a lady of Banū Makhzūm who committed theft. They discussed the matter amongst themselves because she belonged to a high ranking branch of the Qurayshite tribe. Their fallacious hope was to save her from legal penalty. But, who dared to talk to the prophet in her case? One of them suggested Usāmah, the favourite of the prophet. Usāmah accepted the mission, but when the prophet heard him, he exasperatedly said, 'Do you intercede with me to violate one of the legal punishments of God? Then the prophet stood up and addressed the people, saying: "O people, nations before you were destroyed and went astray because when a noble person committed a crime they did not apply the law to him but when an ordinary man committed the same crime they inflicted the legal penalty on him. I swear by God if Faṭimah the daughter of Muḥammad (referring to his own daughter) commits theft, Muḥammad will cut off her hand."³¹

31. Al-Bukhārī, Hudūd, 13

E. The Right to Life

The right to life (Ḥaq al-Baqā') for all human kind is one of the principles which God gave to humanity.

Islam as a revealed religion confirmed this fact through the Qur'an:

Do not kill a man whose soul (nafs) has been made sacred, except through the due process of law.³²

Therefore, God has foreordained to the sons of Israel that whosoever kills a human being without any lawful reason (such as due to the man's slaughtering or corruption in the earth) it is as though he has killed all mankind. And whosoever saves a life, it is though he has saved the lives of all mankind.

The prophet (pbuh) has also pointed out that:

"The greatest sins, which will not be tolerated or forgiven on the Resurrection Day, are those of associating a god with God and those of killing a human being (nafs) without due process of law."³³

It should be noted here that the Qur'an uses the word 'nafs' (soul) for a human being without any distinction as to religion, colour, race or sex. Moreover, unlawful killing is considered an act of war against God himself and his prophets. Therefore the Qur'an emphasises the equality of all human beings in respect to the sacredness of their lives and states that they deserve equality of protection. Thus, wrote Ibn

32. The Qur'an, al-An'am, 6: 151.

33. Al-Bukhari, Hudūd, 44; Muslim, Imām, 144-5.

Taymiyyah, the Muslim exegete:

"Taking the life of men is allowed only to prevent harm and establish the public good. But if the unbelief of a man does not cause harm to the community, it becomes his individual concern; for whoever does not prevent Muslims from practising their religion hurts only himself by his unbelief."³⁴

We can note here that the life of any person is the most valuable right in that he has the right to live in security and peace.

F. Interdependence among Individuals

Co-operation among individuals and nations is emphasized in the Qur'^{ān} as a process of peace. It is a means to know each other. The Qur'^{ān} states:

"Oh Mankind! We created you from a single (pair) of a male and female, and made you into nations and tribes, that ye may know each other."³⁵

By establishing the singularity of mankind's origin, and emphasizing that all individuals have the same nature, Islam strongly repudiates segregation and apartheid. God gave this united humanity one faith in order that all believing people should become one nation.

"The same religion has He established for you as that which He enjoined on Noah, which we have sent by inspiration to thee and that which He enjoined on Abraham, Moses and Jesus, namely, that ye should remain steadfast in religion and make no divisions therein."³⁶

"Say ye, 'We believe in God and the revelation given to us, and to Abraham, Ismail, Isaac, Jacob and the Tribes, and that given to

34. Ibn-Taymiyyah, Siyāṣah Al-Sharīyah, op.cit., p.125.

35. The Qur'^{ān}, al-Hujurat, 49: 13.

36. The Qur'^{ān}, al-Shura, 42: 13.

Moses and Jesus, and that given to (all) prophets from their Lord. We make no difference between one and another of them; and we bow to God."³⁷

The Qur'an further adds:

"Oh ye Apostle! Enjoy (all) things good and pure, and work righteousness; for I am well acquainted with (all) that ye do. And verily, this brotherhood is one and I am your Lord and Cherisher, therefore fear me (and no other)."³⁸

It is required in Islam that, to have a durable peace any where, certain conditions must be met. This includes:

"the peace between the individual and his creator, between the individual and his conscience, and between him and his community."

These above verses illustrate that the world is moulded as an arena where human beings will compete and strive toward the noble objective of attaining good deeds throughout their lives.

M. Al-Ghunaimi explains that the term "that ye may know each other"

"is the translation of the Arabic text 'litaarafu' which derives from the word 'urf'. It connotes besides knowledge that which people rationally accept in their conduct as the right pattern of behaviour. Admittedly, maintaining peace in mutual relations enters under the connotation of 'urf'. Hence, the verse states that peace should be one of the basic aims of states in their mutual intercourse."³⁹

In this regard, the term 'urf' reaffirms the utmost purpose of the charter of the United Nations as mentioned in Article I/1, 2, 3 which reads:

37. The Qur'an, al-Baqarah, 2: 136.

38. The Qur'an, al-Mu'minun, 23: 51, 52.

39. Al-Ghunaimi, op.cit., p.199.

- (1) to maintain international peace and security;
- (2) to develop friendly relations among nations, based on respect for the principle of equal rights and self-determination of people, and to take other appropriate measures to strengthen universal peace; and
- (3) to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.⁴⁰

This type of cooperation leads to world unity and human dignity.

Al-Braik Nasser points out that:

"this not only benefits all nations but rather fulfils the aspirations of human brotherhood and all peoples around the world."⁴¹

The absence of aggression and violence is one of the aims of the Islamic doctrine, which emphasizes the requirement of just, brotherly, and peaceful relations among Muslims and non-Muslims. The Qur'an states that:

"Help ye one another unto righteousness and pious duty. Help not one another unto sin and transgression, but keep your duty to Allah. Lo! Allah is severe in punishment."⁴²

40. Charter of the United Nations and Status of the International Court of Justice, New York: U.N. Office of Public Information, 1974, pp.1-2.

41. Al-Braik Nasser, Islam and World Order, op.cit., p.182.

42. The Qur'an, al-Ma'idah, 5: 2.

II. Islam and Universal Peace

From the previous discussion, it is clear that Islam did not speak from a single point of view; it spoke for all human kind. It is laid down quite clearly in the Qur'an from the verse which reads

"Say O people of the Book! come to common terms as between us and you that we worship none but God; that we associate no partners with Him; that we erect not, from among ourselves, lords and patrons other than God."⁴³

In fact, the term "common terms" or "agreement" in the verse is a translation of the Arabic word (Kalimatun Sawā) which literally means "a word on the basis of equality".⁴⁴ Thus, when relations with other states are based on the right of legal equality, the latter should acknowledge and recognize voluntarily and convincingly the idea of the unity of God (oneness or Wahdāniyyatu-Allah).⁴⁵ International relations in Islam are based on the concept of a lasting and universal peace.⁴⁶ The understanding of the concepts of fraternity, equality, justice and peace is fundamental to understanding the norms of law among nations in

43. The Qur'an, Al-Imrān, 3: 64.

44. Al-Ghunaimi, Mohammad Talat, The Muslim Conception of International Law and the Western Approach, The Hague: Martinus Nijhoff, 1968, p.196.

45. Ibid., 197.

46. See Abduh Hmaid Abu Sulyman, The Islamic Theory of International Relations, op.cit., Zufurullah Khan, "Islam and International Relations", The Islamic Review, XLIV, No.7 (July 1956), pp.7-11. "The Islamic Theory of International Relations", Journal of South Asian and Middle Eastern Studies, Vol.II, No.3 (Spring 1979), pp.84-92.

Islamic traditions.⁴⁷ And therefore, Muslim International law, according to Mohammed Al-Ghunaimi,

"was a great advance on both the Greek and the Roman systems of international law. First Muslim international law attaches much more importance to ethical values because, though the study of international law evolved into an independent branch of law, yet it continued to be subservient to the religion. Second, in Muslim international law, we find, for the first time in recorded history, a full-fledged notion of recognized rights for the enemy, in peace as much in war. Moreover, Muslim jurists were the first to develop the science of international law as an independent branch of law in general, and distinct from political science in particular."⁴⁸

Then later he concluded by stating that the legal theory of Muslim international law is capable of contributing to further development of modern international law.⁴⁹

Most Muslim scholars and jurists consider peaceful means as the only legal method through which Islamic ideals may be fulfilled. This is based on precise injunctions of the principles of the Shariah which constitute sound bases for the establishment of world justice and the protection of a durable peace. Among these scholars of Islamic thought is Muhammad Abū-Zahrāh. He stated that "the origin of Islam is peace and the origin of war is evil, therefore the origin of international

47. Al Braik, Nasser Ahmad, Islam and World Order, op.cit., p.175.

48. Al-Ghunaimi, Mohammad Talat, The Muslim Conception of International Law and the Western Approach, The Hague: Martinus Nijhoff, 1968, p.84.

49. Ibid., p.85 on p.78-81. Al-Ghunaimi also analyses the Muslim International legal theory in dealing with the people of Dhimma (guarantee of security and protection). He describes three types of conduct with them. (1) amān (self conduct), (2) hudna (truce) and (3) the mu'ahadah of Sulh (covenant).

relations in Islam is the call for peace".⁵⁰

Furthermore in a Hadīth (saying of the Prophet Muhammad), he asserts "there is no difference between an Arab and a non-Arab, between a white man and a black man except that of faith, 'piety-Taqwā'". The Prophet adds, addressing the Muslim tribe of Makkah, "O Quraysh (the major tribe in Makkah), God has suppressed among you the pride of nobility and the arrogance of the time of ignorance (Jāhiliyyah). All men are descended from Adam, and Adam was created from clay."⁵¹

The Qur'ān states:

"For Muslim men and women, for believing men and women, for devout men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast (and deny themselves), for men and women who guard their chastity and for men and women who engage much in God's praise - for them has God prepared forgiveness and great reward."⁵²

There is no superiority among the people whether they are men or women, black or white, they are equal in all matters.

50. Abu-Zahra Muhammad, International Relations in Islam, Dar Al-Fakir, Al-Arbi, Kuwait: 1986, p.47.

51. Ibn-Hishām, Al-Sīrah al-Nabawīyyah, OP. cit p. 185

52. The Qur'ān, al-Ahzāb, 33: 35.

CHAPTER FIVE

ISLAM AND FOREIGN RELATIONS

In this chapter an attempt will be made to examine the bases of the Islamic state's dealings in foreign affairs, particularly with regard to intervention against enemies, prisoners of war, neutrality, diplomacy, commercial relations and bipolarity in modern times. The purpose is to answer the question whether Islam can deal systematically with foreign affairs.

"O mankind! Lo! We have created you from a single male and female, and We have made you into nations and tribes that you may know each other. Verily the most honored of you in the sight of God is he who is the most righteous of you." (Q.al-Hujurāt 49:13) .

It is clear in the light of these verses that while mankind remains a single community, its division into tribes and nations is a natural phenomenon. Islam recognizes unity in diversity. This being so, it follows that the rules of Islamic Law of Nations must, in normal circumstances, recognize states which are composed of tribes or nations. This, however, does not amount to an approval of the moral or political system of non-Muslim states with whom the Islamic State might be at odds. The recognition of the existence of non-Muslim states is simply the recognition of an existing fact.¹

The Qur'ān enjoins Muslims to live in peace with non-Muslim states if such states also desire peace. (8:61). The relations between Abyssinia and the Islamic State of Madina are an early illustration of the validity of this principle. In Islamic law, peaceful relations are not a matter of political expediency, but a positive legal doctrine. The contemporary jurist, Abū Zahrā, is of the opinion that in Islam peace, and not war, is the basis of relations between States.² Islam respects the right of a state to its independent existence and its right to defend its sovereignty and territorial integrity.³ No state has the right to dominate or impose its sovereignty upon the other, for sovereignty is the national right of every group of people.⁴

The answer to the question whether or not a Muslim State should make treaties with a non-Muslim State lies in the Qur'ān, the Sunnah of the Prophet and later precedents and the opinion of the learned Muslim Jurists. Much as the Qur'ānic verses warn Muslims of the perfidy

1. Shameem Akhtar, Relations Between Muslim and Non-Muslim States Under Islamic International Law, Islamic Order Quarterly, First Quarter, Vol:9, No.1, 1987, pp. 17-30.

2. Abū Zahrāh. Al-Alaqāt al-Dawīyah Fi al-Islām (International Relations in Islam), Cairo: Al-dar al-Qawmiy Li al-Tibā'āt wa alnashr, 1985), p.45.

3. Ibid., p.46.

and treachery of idolators and non-believers; they also enjoin upon them a duty to abide by the treaties which they have made with other parties.⁵ Referring to the treacherous role of the hypocrites whose defection caused the Muslims to lose the battle of Uhud, the Qur'ānic verses warn Muslims against their various designs to persuade Muslims to turn into non-believers like them.

Muslims are therefore forbidden to make friends with them (until they leave their homes in the way of Allah). In case they start hostility against Muslims, Muslims should kill them and refrain from taking them as friends or allies (Q.al-Niṣā:89.4), except those who take asylum with a people who have a treaty with the non-Muslims (Q.al-Niṣā:90:4). However, if they prefer to stay neutral and offer peace to Muslims, Allah does not permit Muslims to commit any excess against them. (Q.al-Niṣā:91.4)

I. The Islamic State and External Intervention

In considering the Islamic state's behaviour with regard to declarations of war, we may refer to the practice of the Prophet, that safe and perennial source of Muslim law. There are three kinds of circumstances when the Prophet seems to have waged war without previous

4. Ibid.

5. Shameem Akhtar, Relations between Muslim and non-Muslim

notice.⁶

- Preventive war (against the threatened aggression of a foreign state with whom no treaty relations exist). The wars of Banu'l Mustaliq, Khaibar, Hunain are all of this kind.

- Punitive and retaliatory war (to punish a state for a breach of treaty). The attack on Banu Qainuqa, Banu Quariazah, Mecca etc. are instances thereof. If peace is made on the payment of tribute and later the payment is with-held, there is some divergence of opinion as to the question of whether an ultimatum is necessary or an attack may be launched without further notice (Māwardi al-Ahkām Alsulṭaniyah Ch.jihād).

On this issue the Qur'an states:

"And if thou fearest treachery from any folk then, throw back to them their treaty on a par. Lo! God loveth not the treacherous." (VIII. 58).

Sarakhsi⁷ comments on this verse in the following terms:

"On a par, that is you and they are on a par with regard to knowledge and thus we learn that it is not permissible to fight them before throwing back the treaty and before their knowing that."⁷

According to Islam there are situations, when the Islamic State has the right to intervene in the internal affairs of another country. If there is an indication that a country is preparing to attack the Islamic State and evidence that the non-Muslims are planning to subvert the treaty they made with the Islamic state, then the

states Under Islamic International Law, op.cit., pp.17-19.

6. Ibid., pp.193-195.

7. Al-Sarakhsi ..., Mabsūt, al Sa'ād Print, Egypt (1324 A.H.) X,

Islamic state is allowed to abrogate it.

For example, there is a verse which refers to the treachery of Banū Qainūqā who, in violation of the treaty, provoked an incident which led to war between the Muslims and the Jews.⁸

As Shameen Akhtar has pointed out,⁹ Muslims are expressly forbidden to intervene against non-Muslims with whom they have a treaty, even on behalf of Muslims seeking help in a matter of religion (Q. al-Anfāl.8:72). However, they are at liberty to go to their help in a case where there is no treaty between them and the non-Muslims. Muslims would be released from their treaty obligation should the non-Muslims break their pledge and solemn undertaking. "And if they break their pledges, after this treaty hath been made with you and assail your religion, then fight the heads of disbelief. Lo! They have no binding oaths." (Q. al-Tawbah12:9).

Those non-Muslims who repudiate the agreements and pacts which they have concluded with Muslims have been called offenders by the Qur'ān. It appears that, according to the Qur'an, the parties who

p.87.

8. 'Ali Maqrīzī ed. Mahmūd Muhammad Shakir, Imtā' al-Asmā', Cairo: Maktabat al-Tālif wa al-tarjamat wa nashr, 1941, p.104.

9. Shameem Akhtar, Relations between Muslim and non-Muslim

bind themselves to an agreement are subject to its terms to the extent of their commitment as if they were under a legal obligation.¹⁰ The conduct of the Prophet on the conclusion of the Treaty of Hudaibiyah established a guiding precedent in Islamic International Law: Muslims are under an obligation to fulfil the terms of the treaty they make with non-Muslims even if they (the terms) appear to be unfavourable to them.¹¹

The agreement for the extradition of Abu Jandal, the son of the Quraysh envoy, Suhail, in compliance with the terms and conditions of the treaty made with the non-Muslims at Hudaibiyah, was much against the sentiments of his followers.¹² According to the constitution of the Qur'an, the Islamic State permits the prosecution of a just war or jihād by a Muslim state against a non-Muslim state under certain conditions, for example, the violation of treaties.

"and they observe toward a believer neither pact nor honour. These are they who are transgressors. (Q.al-Tawbah10:90)

Will ye not fight a folk who broke their solemn pledges, and purposed to drive out the Messenger and did attack you first...." (Q.al-Tawbah13:9)

Muslim Jurists have divided the world into

states Under Islamic International Law, op.cit., p.19.

10. Ibid., p. 20

11. Ibid., pp. 20-21

- (i) Dār al-harb or the abode of war
- (ii) Dār al-Islām or the abode of Islam and
- (iii) Dār al-Sulh or the abode of peace.

Dār al harb or the Abode of War is the name given to the territory controlled by the non-Muslim enemy who, in the eye of Islamic law, is in a state of war with the Muslim country.¹³

Dār al Islām or the Abode of Islām is a territory predominantly Muslim where the writ of Islamic law runs supreme and which is ruled by a Muslim sovereign.¹⁴

Dār al Sulh or Dār al-ʿAhd or the Abode of peace is a non-Muslim country which has agreed to the status of tributary in relation to the Muslim country.¹⁵

The conception of Dār al Sulh has its origin in the treaty made between the Christian community of Najran and the Prophet by virtue of which the Muslims guaranteed safety and independence to the Christians and imposed upon them a certain tribute by way of kharāj and jizyah.¹⁶ The Hanbalī school has developed the principle

12. Ibid., p. 20.

13. Encyclopaedia of Islam, Vol.1 (London: Luzac & Co., 1913), p.917.

14. Ibid., p. 917.

that it is legal and valid for the Muslim state to make treaties with the non-Muslims on condition that the non-Muslim power should pay something or give assistance to the Muslim State.¹⁷ The Shāfi' school has enunciated certain rules which the Imām or head of the Muslim State should observe in entering into a treaty relationship with the non-Muslims. If the non-Muslim offer to make peace was made on the condition that they would retain control of the land, the Imām may agree to conclude the treaty with them provided they pay a fixed amount by way of kharāj.¹⁸ It is important for the validity of the treaty that the value of kharāj must be equal to that of jizyah.¹⁹

Any such terms where non-Muslims retain control of the land and pay kharāj to the Muslim state at a rate dependent on the raising of crops will be deemed invalid.²⁰ If the non-Muslim offer to give the produce to the Muslim state but retain the ownership of the land, the Imām should not agree to make treaty on these terms for it may well be that the produce may not be equal to

15. Ibid., p.918.

16. Shameem Akhtar, Relations Between Muslim and Non-Muslim States Under Islamic International Law, Islamic Order Quarterly, First Quarter, Vol:9, 1987, pp. 17-30.

17. Ibn Qudāma, op. cit., p.458.

18. Shāfi', "Umm", op. cit., p.104

19. Ibid.

20. Ibid.

the amount of jizyah.²¹

If the Imam fights a non-Muslim state and, before he conquers it, the latter offers to make peace on the terms that it would either give him part of the land or the value of the product equivalent to that of jizyah or more, and in addition accepts the suzerainty of the Muslim State, then he should conclude the treaty with that state on these terms.²²

Jizyah was generally levied upon non-Muslims who did not participate in the military campaign along with Muslims against the enemy. Thus, during the reign of Umar in particular, treaties were concluded with the non-Muslims of Jurjān, Dihistān, Bab (Armenia), Jarjooma, etc, exempting them from the payment of jizyah on condition that they fought on the side of the Muslims against the enemy.²³ In the treaty made with the people of Hira, the old and the indigent were also exempted from the payment of jizyah.²⁴ It is significant to note that in the first treaty made by the Prophet at Madina, he accorded equal status to immigrants, helpers, polytheists

21. Ibid., pp.103-104

22. Ibid., pp.103-104.

23. Tabarī, Tarīkh al-Rusul wal Mulūk, p. 2657. Suwaid B. Mukarrinn had waived the Jizyah from such people as had undertaken to defend the frontiers while others had to pay the tax.

24. Abu Yusuf, Kitāb al Kharāj, op. cit., p.85.

and Jews who together constituted a single community,²⁵ enjoying freedom of worship and civil rights. Even after the conquest, the Christians of Najran were guaranteed protection of their lives, property and places of worship,²⁶ while the Jews of Khaybar and Fidak were admitted to partnership with the Muslims sharing half the produce of their land.²⁷ Following the Prophet, his immediate successors made peace with the non-Muslims of Jerusalem, Egypt, Nubia (Sudan), Isphahan, Tiflis and other conquered territories, guaranteeing them right to life, property and religious worship.²⁸

The history of early Islam bears testimony to the fact that Muslim rulers scrupulously honoured treaties made with non-Muslims. Salim Bin Amir narrates that there was a treaty between Mu'awiya and the Byzantines and while the former was advancing toward the frontiers in order to attack them on the expiry of the treaty, Amr Bin al-'As, told them to be loyal to the treaty and not to violate it.²⁹ When asked by Mu'awiya, he replied that he had

 25. Abū 'Ubayd, Kitāb al-Amwāl, (Cairo: Matba'at al Shāb, 1353 A.H) p.125.

26. Bālādhari, Futūh al Buldān (Leiden: E.J. Brill, 1866), p.65.

27. Ibn Hishām, Al-Siyrah Al Nabūwīyah, Vol.II, op. cit., p.49.

28. Tabarī, Tarikh al Rusul Wal Muluk, op.cit., p.2402, 2405. For treaty with Egypt and Nubia see Ibid., 2588, 2593. For Isphahan see Ibid., p.2641.

29. Ibn Athīr al-jazari and ed. Muhammad Hamīd, Al Faqih Tamil al usul, Vol.3 (Cairo: Matba'at Sunnaht al-Muhammadiya, 1950)

heard the Prophet say that if there was any treaty made between two people, there should be no interference with it until the expiry of its period, or else the treaty should be declared as withdrawn so that the parties might stand on equal footing.³⁰ After hearing the Prophet's directive, Muawiya stopped his advance. An important rule concerning the treaty had been established by the precedent that during the continuance of a treaty, the Muslims should refrain from any hostile operations against the other party.

The question that we attempt to answer in this section is whether Islam has established certain rules and attitudes with regard to external relations with other nations. What are the conditions and exceptions?

To analyse this issue, we need to refer to the Qur'ān as a major source. The Qur'ān has explicitly addressed itself to this matter by addressing those who cry for help saying:

"...Why should ye not fight in the cause of God and of those who, being weak, are ill-treated and oppressed? Men, women and children whose cry is "Our Lord! rescue us from this town, whose people are oppressors, and raise for us from Thee one who will protect; and raise for us from thee one who will help."³¹

p.257.

30. Ibid., p.256 Qaḍi Abū Ḥanīfah al-Nu'mān is of the opinion that the Imam may be previous ultimatum abrogate the treaty even before its expiry if he feels that the interests of the

Against this background and the failure of all local and available remedies, Muslims are advised to strengthen their power and be prepared to wage a just war wherever circumstances demand.³²

The following noble passage of the Qur'ān stresses such a method.

"Against them make ready your strength to the utmost of your power, including steeds of war, to strike terror into the hearts of the enemies of God and your enemies, and others besides, whom ye may not know, but whom God doth know. Whatever ye shall spend in the cause of God, shall be repaid unto you, and ye shall not be treated unjustly."³³

The preparation for power by all means is a central theme in Islām, but mainly to stop aggression, unjust causes or oppression. . Muhammed T. Al-Ghunaimi, for his part as well as that of many other writers on Muslim international law, has categorized five successive periods in the policy of the Qur'ān regarding warfare

Muslims will be served by such .

31. The Qur'ān: al-Nisā 4:75

32. War in this condition, ie, deter aggression, is a social necessity as indicated in Ibn Khaldūn,, Mu'qaddimah (the introduction) see M. 'Afīfī, al-Mujtama' al-Islām-Wal'Alāqat Al-Duwalīyyah (The Islamic society and International Relations), Cairo: Muktabt al-Khanji, (1980), p.225, Also for a brief review of how Muslim and non-Muslim scholars treated the concept of Jihād, see Farooq Hassan, The Concept of State and Law in Islām, Lanham: University press of America 1981, p.202-210.

33. The Qur'ān al-Anfāl 8:60

against unbelievers:

- (i) a period of trust, forgiveness and withdrawal
- (ii) a second period summoning them to Islam;
- (iii) a third period of fighting in self defence;
- (iv) a fourth period of aggressive fighting at certain times;
- (v) a fifth period of aggressive fighting in general or absolute terms.³⁴

It should be noted here that Muslims have the right in such situations to protect their religion and defend themselves from external threats. The sayings and practice of the Prophet Muhammad also emphasize this aspect of a "defensive war" by explaining that Muslims should not fight for the love of fighting and dying. It is reported that the Prophet once warned that:

"Do not desire to meet the enemy in battle and ask God to preserve the peace."

Thus the Prophet has "discouraged hopes for war, even with the worst of enemies, and besought God to perpetuate the blessings of peace."³⁵ Furthermore, in the early days of Islam, the believers (the Muslims) had

34. Al-Ghunaimi, Mohammad Talat, The Muslim Conception of the International Law and Western Approach, The Hague: Martinus Nijhoff, 1968. p.74.

35. Azzām, Abd-al-Rahmān, Al-Risālah Alkhālidah (the Eternal Message of Mohammad). Translated from the Arabic by Caesar E. Farah, New York: The Devin-Adair Co, 1964, p.170.

to defend themselves in Madina against the attack of Al-Ahzab (the confederates). During such times the Prophet would help move dirt while they dug trenches, reciting:

"O Allah, Were it not for You we would not have found the path, nor believed, nor prayed. Send down Your Calm and Strengthen our stand once we meet them in battle. It is they who covet this war upon us for they desire the hostility which we refused."³⁶

Further examples may be cited here to show how Muslims conduct wars with their opponents in conformity to the precepts of a defensive war. The Imām 'Alī Ibn Abī Talib, the fourth Caliph, once laid down the following rules:

1. Never begin a war yourself. God does not like bloodshed. Fight only in self-defence.
2. Never be the first to attack your enemy. Only repulse his attacks but do so bravely.
3. When reciting the declaration before actual fighting, do not waste your time and instead of speaking about yourself and your deeds speak about God and the Holy Prophet.
4. Never follow and kill those who run away from the battle or an encounter. Life is dear to them; let them live as long as death permits to do so.
5. Never kill wounded persons who cannot defend

36. Ibid., p.171.

themselves.

6. Never strip naked a dead man for his coat or arms or dress.
7. Never cut the nose and ears of the dead to humiliate them.
8. Never take to loot or commit arson.
9. Never molest or outrage the modesty of a woman.
10. Never hurt a woman even if she swears at you or hurts you.
11. Never hurt a child.
12. Never hurt an old or an enfeebled person.³⁷

Muhammed Al-Ghunaimi argues that war is not aimed at ambitious or lucrative ends. War in Islamic theory seeks to attain one or more of the following objectives:

(i) To repel acts of aggression against the Islamic community; (ii) to redress violation of the law, with a view to setting right injustice committed to the detriment of the Muslim; (iii) to allow followers of revealed religions to practice their faith freely; (iv) to cooperate in establishing an operable system of peace and security.³⁸ In addition, "Islam makes it obligatory

37 For more detail see Al-Mawārdī, AL-ahkam AL-Sultāniyyah op. cit., ch. Jihād.

38. Muhammad T. Al-Ghunaimi, The Muslim Conception of the International Law and the Western Approach, op.cit., p.208.

on Muslims to help their co-religionists when they ask for help on a just cause."³⁹

The Qur'ān explains:

"Those who believed, and adopted exile and fought for the faith, with their property and their persons in the cause of God, as well as those who gave them asylum and aid - these men are all friends and protectors, one of another. As to those who believed but came not into exile, but if they seek your aid in religion it is your duty to help them, except against a people with whom ye have a treaty of mutual alliance, and remember God seeth all that ye do."⁴⁰

According to Islam war is permitted against atheism which is the worst kind of injustice. Such a peril should be checked by temporary drastic measures in order that peace be maintained.⁴¹ The Qur'ān commands "and fight them on until there is no more tumult or oppression."⁴²

II. Islam and the Rights of Prisoners of War

In contemporary text books on International law, we read that the rules regarding prisoners of war were framed at the Brussels Conference of 1874. The first

39. K.G.Saiydain, Islam: The Religion of Peace, op.cit., p.163.

40 The Qur'ān: anfal: 8:72.

41. Sayyed Qutb, Islam and Universal Peace, op.,cit., p.9.

42 The Qur'ān: Al-Baqarah 2:193.

Hague Conference of 1899 adopted these and the second Conference of 1907, after making some additions, adopted the Hague rules as a part of International law.⁴³ Nowadays this is known as the Geneva Convention of 1949 which contains a code of provisions regarding prisoners of war. Unfortunately, the writers of International Public Law ignored the rules and principles of Muslim International Law which have existed since the fourteenth century, long before the Geneva Convention.

In the Qur'ān we find the following verses about prisoners of war.

"And they feed, for the love of God, the indigent, the orphan and the captive saying, "We feed you for the sake of God alone; no reward do we desire from you, nor thanks; we only fear a day of distressful wrath from the side of our Lord."⁴⁴

Islam encourages proper treatment of prisoners of war by the Muslim state. In the Prophet's tradition, it is stated that:

"release the prisoners, feed the hungry and visit the ill."⁴⁵

Islam introduced important changes in the existing

 43. Syed Sharifuddin Pirzada, Islam and International Law, published by Islamic council of Europe, Ed. by Altaf Gauhar, 1978, p.207.

44. Qur'ān: al-Dāhīr , 8:9.

45. Sayid Sabiq, Fiqh Al Sunah, Cairo. Kuwiat, Dār Al-Bayn, 1968, p. 201.

law. The Qur'ān established the principle that prisoners should be released either in exchange for Muslim prisoners or for an amount of money called Fidyah.⁴⁶ Since then it became the practice of the Prophet to grant gratuitous release to prisoners of war.⁴⁷ He released the prisoners captured during the battles of Badr. successors of the Propnet followed this policy and it became the established law of Islam to release prisoners of war.⁴⁸

Prisoners of war enjoyed certain rights under Islamic law. They could not be punished for their acts during the war, such as injuries to the life and property of the Muslims. During their captivity, the prisoners should not be subjected to forced labour or torture.⁴⁹ They should be properly looked after and provided with food, clothing and shelter by the captor state. Children should not be separated from their mothers or other relatives after their capture⁵⁰ and while in custody, a prisoner could draw up his will regarding his property in

46. Hamidullah, The Muslim conduct of State, op.cit., p.219.

47. Shameem Akhtar, Relations Between Muslim and Non-Muslim States Under Islamic International Law, Islamic Order Quarterly, First Quarter, Vol:9, No.1, 1987, p.29.

48. Ibid., p.29.

49. Shankhsj, Sharah al Siyar al Kabir, IV, pp.241-43.

50. Ibid., pp.228-229.

his country.⁵¹ A prisoner should be released on the understanding that he would not take part in the hostilities against Muslims.⁵² If he escaped from custody and was recaptured, no action would be taken against him for such an escape.⁵³

III. Islam and Neutrality

Neutrality is known in Arabic by the word haidah or itizāl. In modern times it is known as non-alignment. In this section we attempt to examine the issue of whether Islam recognizes neutrality and what the view of Islam is with regard to neutrality. Majid Khadduri argues that Islam divides the world into two divisions, one is Dār al-Islām and the other is Dār al-Hārb. Therefore according to him no such neutrality is recognized in Muslim legal theory.

He states that:

"The world, it will be recalled, was sharply divided under Muslim law into two divisions: the Dar Al-Islam, comprising Muslim territory and those lands which submitted to Muslim rule, and the Dar Al-Harb, comprising the rest of the world."⁵⁴

51. Hamidullah, The Muslim conduct of State, pp.222.

52. Ibid., p.217.

53. Abu Zuhra, op.cit., p.83.

54. Majid Khadduri, War and Peace in the Law of Islam, The John Hopkins Press, 1955, p.251-252.

He further says, "strictly speaking, such states were not neutral, in the sense of the modern law of nations which recognizes the right of a state to declare her neutrality toward two or more belligerent powers; these states were neutralized states, that is their neutrality was guaranteed by the powers including the belligerent power or powers themselves. Neutralization therefore, not neutrality may be said to have been permissible in Muslim legal theory, and practice."⁵⁵

Khadduri is responsible for this misconception about Islam. He has a one-sided view of events in portraying Islam as a forceful approach to convert people and to bring Dār al Hārb to Dār al-Islām, one of the Muslims' aim. Thus, sooner or later jihād must be enforced on all people, regardless of their racial character or the physical nature of their country.⁵⁶ Khadduri adds that the law of neutrality, unlike the law of peace, was designed to serve a temporary purpose: that is, until the entire world had become Islamic.⁵⁷ Khadduri here ignores the obvious verse in the Qur'ān which is stated as follows:

"Let there be no compulsion in religion;
Truth stands out clear from error."⁵⁸

55. Ibid., 252.

56. Ibid., p.267.

57. Ibid., p.267.

Abu Zahra, taking a contrary view, asserts that like Dār al 'Ahd (Abode of Peace) there is a place of neutrality known as Dār al Haidah (Abode of Neutrality) in the legal order of Islam.⁵⁹ Since classical jurists had given rulings (Fatwā) on war and peace, the only issue which faced contemporary Islam was the concept of neutrality. Consequently, modern jurists jumped to the conclusion that Islam did not recognise neutrality.⁶⁰ There is a clear injunction in the Qur'an that if certain nations do not take sides in a war between Muslims and non-Muslims and prefer to remain neutral, Muslims should respect their neutrality and refrain from any interference in their affairs.⁶¹

Another verse enjoins Muslims to respect a treaty with such idolaters as have remained faithful to their treaty obligations and have neither infringed upon their rights nor helped their enemies.⁶² . Hamidullah says that the ancient Arabs, including those of the days of early Islam, used the term 'itizāl' for neutrality while its modern Arabic equivalent is hiyadah.⁶³ The pact of

58The Qur'an: AlBaqara 2:257.

59. Abū Zahrāh, op.cit., pp.83-84.

60. Hamidullah, The Muslim Conduct of State, op.cit., p.292.

61The Qur'an, al-Nisa 4:90

62The Qur'an, al-Nisa 4:44

63. Hamidullah, The Muslim conduct of State, op.cit., p.292.

Madina contained a neutrality clause for non-Muslims, particularly Jews, who were to be exempted from religious wars⁶⁴ waged by Muslims. The Prophet made a policy of neutrality and a non-aggression pact with the chief of the Banū Damra⁶⁵ in 2 A.H., and another with the Banū Ghifār, a tribe living around the Red Sea coast. The treaty bound the parties in a mutual assistance alliance except in a religious war. In a treaty between the Prophet and the tribe of Banū 'Abd Ibn 'Udiyy in 5 A.H., the latter promised to help the Muslims in their expeditions but refused to fight against the Quraysh.⁶⁶ The famous treaty of Hudaybiyah also included a provision of neutrality. It bound both the Muslims and the Quraysh neither to fight each other nor to extend secret help to an enemy that may violate neutrality.⁶⁷ The neutrality imposed an obligation upon the State to avoid direct and indirect hostility towards another state. Any secret help given to the enemy of the contracting party would constitute a breach of neutrality. This principle is embodied in certain treaties made during the days of the early caliphate. The charter issued by Swaid bin Mukarram assured protection to Farrukhān, the Commander of Khurajan, provided he prevented the robbers and the

 64. Ibn Sa'ad, Tabaqāt al Kabīra, Vol.2/1, (Braille:1325 A.H), p.3

65. Hamidullah, The Muslim Conduct of State, p.304.

66. Shameem Akhtar, Relations Between Muslim and Non-Muslim States Under Islamic International Law, p.30.

67. Tabari, op.cit., p.2659.

people of the neighbouring country from making mischief and denied asylum to the rebels of the Muslim State and gave no secret help to the enemy.⁶⁸

In another charter issued to the people of Rai, Nuaim Ibn Mukarrin promised protection on similar terms and conditions binding them against helping the enemy.⁶⁹ The Muslim governor of Egypt concluded a treaty of non-aggression and neutrality with the Nubians (Sudanese) according to which the Muslims undertook not to fight them so long as they abided by its terms and conditions.⁷⁰ During the insurrection, Ali promised amnesty to all those who returned to allegiance or remained neutral.⁷¹ The Muslims signed a treaty with Cyprus which established their relations on the basis of neutrality and non aggression.⁷²

IV. Islam and Diplomacy

68. Ibid., p.2655.

69. Ibid.

70. al-Tabari, op cit., p.3425.

71. Ibid., p.2826.

72. al-Abu-Zahra op.cit., p.86.

Meaning of Diplomacy

One of the most significant means of the execution of foreign policy goals is diplomacy. The term diplomacy has been used to convey a wide variety of meanings. Harold Nicolson points out that this term is carelessly taken to mean several things. Sometimes it is used as a synonym for foreign policy. At other times, diplomacy refers to negotiation as in when we say "the problem is one which can be solved by diplomacy." Further, diplomacy denotes the process and machinery by which negotiations are carried out. Sometimes a branch of foreign service is also called diplomacy. Lastly, the word diplomacy is used to denote an abstract quality or gift which implies skill in the conduct of international negotiations.⁷³ Sir Ernest Satow defines diplomacy as "the application of intelligence and tact to the conduct of official relations between governments of independent states, extending sometimes also to their relations with vassal states."⁷⁴

73. Harold Nicolson, Diplomacy, (Second Edition, New York: 1952) p.18.

74. Sir Ernest Satow, A Guide to Diplomatic Practice, (Third Edition, London: 1952), p.1.

The Muslim Conception of Diplomacy

Diplomacy is known in Islam as rasūl (plural-rusul) or safir (plural sufara). The term rasūl is derived from Irsal, which literally means sending and includes the dispatch of an agent charged with a specific mission.⁷⁵ In this sense Muhammad (PBUH) himself was a rasūl (a messenger) to all people whatever their sex, colour, language or nation. The Qur'ān states: "Say: O men! I am sent unto you all as the Apostle of God". From the time of the Prophet Muhammad, emissaries were sent abroad for religious or political purposes.⁷⁶ The Prophet Muhammad sent emissaries to Byzantine, Egypt, Persia and Ethiopia, inviting them to adopt Islam. The contents of the letters emphasised peace, good neighbourliness and co-operation. The text of one of these letters sent to the Byzantine emperor is as follows:

"In the name of Allah, the compassionate, the Merciful. From Muhammad, the Apostle of Allah to Heraclius, grand chief of the Rum (Byzantines). Peace be on those who follow the truth. It is my duty to call you to Islam, in the name of Allah. Be a Muslim, and you will be safe; for Allah will compensate you double the merits and you, the People of the Book, will find the same word of God among us. Let us worship no other God than Allah nor adopt other gods besides Him. If you believe, then say: "We are Muslims", if not, you will be responsible for the sins of your people."⁷⁷

75. Majid Khadduri, War and Peace in the Law of Islam, The John Hopkins Press (1955), p. 240.

76. Ibid., 241.

77. .. Abraheem Ahmed Aladw, Islamic Embassies to Europe in

This type of policy was adopted during the early caliphate as well. We can notice that Islam has used diplomacy as a peaceful channels to invite people to adopt Islam. In this way peace is the rule while war is the exception.

Diplomatic treaties

In classical Arabic literature on diplomacy the particular work known as "Envoys of Kings and who is fit to the messengership and ambassadorship" by Abū Ya'la Al-Hussain Ibn Mohammad, known as Ibn Al-Farrā, published in Cairo in 1947, deals with commercial as well as political affairs.

In older times, the Prophet himself took the initiative of giving impetus to trade and commerce even at the expense of the income of the state. Thus, it was he who abolished all inter-provincial customs duties within the realm, and he who concluded the many treaties with tribes submitting to his authority.⁷⁸ Foreign trade, however, remained subject to the usual customs duties or whatever percentage was stipulated for by express

the Middle Age, Akra Magazine, No. 179, Dār al-Ma'ārif Cairo: 1957, p. 7.

78. M.Hamidullah, The Muslim Conduct of State, op.cit., 1977, p.147.

treaties and conventions between states.⁷⁹ The treaty for levying a tithe on the traders of Manbij (Hierapolis) is said to be the first of its kind in the time of 'Umar.⁸⁰ The words 'tariff' and 'douane' or cognate words in European languages were borrowed from Arabic and have a history in themselves.⁸¹ There is an implied reference in the writings of al-Shaybanī that sometimes the goods for trade belonging to minors or women or in custody of slaves were exempt from customs duties in Islamic territories.⁸² Goods of a value less than 200 drachmes belonging to a person were customs free.⁸³ Abū Yūsuf in his book Al-Kharāj records an interesting correspondence exchanged between 'Umar and one of his appointed governors, Abū Mūsā al-Asharī:

Al-Asharī wrote: "Some merchants of ours go to non-Muslim territories where they are subjected to taxes." Umar replied: "Levy thou also on them as they levy on Muslim traders."⁸⁴

Although Abū-Yusuf has known dumping and 'darness in spite of abundance',⁸⁵ he still believes in free trade,

79. Abū-Yūsuf, Kharāj, p.78.

80. Ibid., p. 78.

81. M.Hamidullah, The Muslim Conduct of State, op.cit., 1977, p.148.

82. Al-Shaybānī, Muhammad International Law of Islam, translated by Majid Khadduri. Adar al Mutahidah wa Nashar, Beirut, 1975 p139

83. Abū-Yūsuf Al-Kharāj, op.cit., pp.76-77;

84. Ibid, p.78.

85. Ibid., p.28.

and quotes the injunctions of the Prophet not to interfere with prices.⁸⁶

As for diplomatic relations and representation in the time of Prophet, whenever a foreign envoy or delegation came, we find there was a sort of Master of Ceremonies who instructed the guests, in advance of their reception by the Prophet, in the local formalities.⁸⁷ The envoys sometimes disregarded them.⁸⁸ There are many incidents in the time of 'Umar when Muslim envoys disregarded certain local formalities especially prostrating in foreign courts, and caused umbrage.⁸⁹

When in Madina, the Prophet used to receive foreign envoys in the Great Mosque where the Pillar of Embassies still commemorates the place. The Prophet and his companions are said to have worn their finest clothes at the time of the ceremonial reception of envoys.⁹⁰

A good example of the contrast of the simplicity of early times as against the grandeur of later times is

86. Ibid., p.29.

87. Ibn-Hāshim, Al-Sīrah al-Nabawiyah, op. cit., p. 916.

88. Ibid., p.917

89. Ibn-al-Athīr Izz al-Dīn Abū al-Hassan Ibn al-Karam
Al-Kāmil fial-Tārikh. Beirut: Dar Beirut Lial-Tabah
Wahh Nashr 1965 p 19.

90. Ibn Sa'ād Al-Tabaqat Al-Kubrā, vol/2/1, Braille, 1325 A.H.
P. 509.

provided by the Byzantine ambassador to 'Umar, who found 'Umar sleeping on the ground in the sun unattended by any courtier⁹¹ and the ambassador of the same empire at the court of Al-Muqtādir Billāh at Baghdad.⁹²

Envoys generally presented gifts from their senders to the ruler to whose court they were accredited.⁹³ The practice of the Prophet appears to have been that presents of foreigners in peaceful relations could be appropriated by the person of the head of the state, at his discretion. The Prophet sometimes refused to accept such presents, when he suspected possible consequences; but presents coming from a foreign potentate in war were confiscated as war booty. For instance, when a Muslim envoy was assassinated in Byzantine territory, and on the demand of reparations from the Prophet, Herculius gave an evasive reply, the presents brought by the Byzantine ambassador (some money in fact) were declared war booty by the Prophet. In fact, the Prophet was leading a punitive expedition and was camping at Tabuk.

91. Muhammad Hamidullah, The Muslim Conduct of State op, cit, p.149

92. Ibid: 150; 105; Ibid ; 150-151.

93. Ibid: 150.

The Policy Towards Envoys in Islam

Envoys are to be officially entertained. There were several large houses in Mādina at the time of the Prophet, especially meant for foreign guests. There is frequent mention of the house of Ramlah Bint al-Hārith in Ibn Saūd, in this connection. The Prophet⁹⁵ took special pains personally to entertain the envoys of Abyssinia,⁹⁶ for it was in this country that he had found a most friendly state even when he was in extreme danger in Mecca in the early days of his mission. Generally speaking, envoys were treated according to their personal position and that of their sender.⁹⁷

Envoys along with those in their company, enjoy full personal immunity. They must never be killed,⁹⁸ nor be in any way molested or maltreated. Envoys were accorded full freedom of prayer and religion. The Prophet allowed the delegations of the Christians of Najran to celebrate their services in the very Mosque of the Prophet. Muslim historians mention as a curiosity that these Christians

95. M. Hamidullah, The Muslim Conduct of State, op. cit., p. 151.

96. Ibid.

97. Hasan Ibn Abdullah, Athar Alawail fi Tarteep Aldawal, compiled 708 H.p.151.

98. Ibn Hishām, Al-Siyrah -al-Nabawiyah, op,cit,p969.

turned their faces towards the east and prayed.⁹⁹

An interesting case, which shows how Islam deals with treaties with non-Muslims peacefully, relates to Abū Dāwūd (Sunnah, Ch. Jihād) who once apparently soon after the battle of Badr in the year A.H., when the Meccans sent Abū-Rāfi', as their envoy to meet the Prophet in Madina, embraced Islam and did not want to return to Mecca. The Prophet said:

"I do not violate the pledge, nor detain the envoys, so return; and if the present inclination of mind continues, thou mayest come back."¹⁰⁰

The Objective of Islam through Diplomacy

According to Islam, there are several principles which shaped responsibilities towards other states. The property of envoys is exempted from import duties in Muslim territory.¹⁰¹ So, al-shaybani says:¹⁰²

"If the foreign states exempt Muslim envoys from custom duties and other taxes, the envoys of such states will enjoy the same privileges in Muslim territory; otherwise, they may, if the Muslim state so desires, be required to pay ordinary dues like foreign visitors."

99. Ibid., p. 902

100. Ibid., p.460.

101. Sarakhsi, Sharah al-Sir Alkabir, IV, 67.

102. Ibid., p.68.

M. Hamidullah points out the object of diplomacy is the peaceful solution of international problems and the promotion of harmony between different states. Mutual negotiation is conducted through permanent or special and extraordinary envoys.¹⁰³

To allow all arbitration (Tahkīm) means the determination of a difference between two states through the decision of one or more umpires chosen by the parties concerned.¹⁰⁴ The most important case in the time of the Prophet is the arbitration regarding the treatment to be meted out to the Jewish tribes of Banū Quraizah after their capitulation on condition that a certain person should decide their lot. The Prophet accepted it, and accepted the arbitral award fully.¹⁰⁵ He did this to emphasize the meaning of friendship among people and to decrease hostility by helping each other for the sake of mankind. Also he sought to make the treaties documentary and compulsory in order to keep peace and security and to avoid misunderstandings.¹⁰⁶ It decreases the risk of war and avoids violence and stops aggression.¹⁰⁷

103. M. Hamidullah, The Muslim Conduct of State, Ashraf Press, 1977, p.299.

104. See Lexicon, Taj al-Arūs, S.V. Tahkīm.

105. Ibn Hishām, pp.688-89; Abū Yūsuf, op.cit., p.124.

106. Athman J. Dhamariyah, Curriculum of Islam in War and Peace, Dar al-Arqam, Kuwait: 1982, p.95.

107. Ibid, p.96.

V. Islam and Commercial Relations

Islam indeed encourages commercial relationships (tijāra) for the benefit of worldly life as long as it does not result in monopoly or unbalanced relations. This type of relation should not, however, take precedence to Prayers, Zakat and remembering Allah. The Qur^ʾān states:

"Men whom neither merchandise nor selling divert from the remembrance of Allah and steadfastness in prayer and giving alms, who fear a day when hearts and eyes shall be upset."¹⁰⁸

The Prophet Muhammad himself (PBUH) dealt with commerce when he worked for his wife Khadija in the pre-Islamic period. The environment of Mecca was known as a commercial centre. Arab history indicates that trade in the Arabian Peninsula even before Islam was the major type of relations with other nations such as Syria, Egypt and beyond that. After the rise of Islam, trade was subject to certain regulations and professionally organized. Internationally, Islam opened its boundaries for trade to all people regardless of nationality, race or religion.

¹⁰⁸The Qur^ʾān: al-Nūr, 24:37

In Dār al-Islām, non-Muslim merchants were, as a rule, granted aman for four months, subject to renewal if their business transactions were not completed during the interim.¹⁰⁹ Al-Māwardī in his book Kitāb al-Ahkām al-Sultāniyyah mentions some of the merchant regulations in Dār al-Islām in summary. If the merchant desired to stay for a minimum of one year and agreed to pay the Jizyah in the capacity of a dhimmi, his request was ordinarily granted. As a mustamin, he could, with perfect freedom, move within dār al-Islām but not visit the ḥaram, the sacred places of the Hijāz.¹¹⁰ But during war-time, relations between Dār al-Islām and Dār al-Harb became subject to special regulations.

In this regard, jurists have formulated certain restrictions upon the free exchange of commodities which they advised the imam to enforce upon foreign merchants. The general principle implied is that Dār al-Islām, being at war with Dār al-Harb, should not permit the export of war material which might strengthen Dār al-Harb against Dār al-Islām. All jurists indeed agree that weapons and war implements are contraband, the sale of which is absolutely prohibited. Many of them, however, are of the

 109. al-Tabarī, Kitāb al-Jihād, Schacht, (Leiden: 1933), p.36. See also Majid Khadduri, War and Peace in the Law of Islam op.cit., p. 224.

110. Al-Māwardī, Kitāb al-Ahkām al-Sultāniyyah, op.cit., p.291. See also Ibn Quduma, Al-Mughni ed. Rashid Rida (Cairo, A.H.136) vol.VIII, p.531.

opinion that horses, mules and slaves are so useful in war that their sale must also be prohibited.¹¹¹

Abū Yūsuf advises the Imam to set up guarding centres (Masilah) on the frontiers of Dār al-Islām to inspect foreign merchants and prevent the export of contraband.¹¹² There are of course things which are prohibited for non-Muslims to sell to Muslims, such as pork, wine or any kind of alcohol. As in the case of trade within Dār al-Islām, the Muslim is not permitted to trade in such prohibited goods as pork and wine, or in the practice of ribā (usury) and he is advised to abstain from trade in animals and plants which are harām (forbidden).¹¹³ The Muslim merchant is not allowed to carry contraband with him to Dār al-harb, for the same reason as the non-Muslim merchant is not permitted to carry it home with him.¹¹⁴ Nor should Muslims carry Sābī (woman and children as spoils) or any material which could be used for war purposes.¹¹⁵ If, however, the Muslim merchant carried with him slaves and merchants for his own protection on the understanding that these would

111. Shaybānī, Kitāb al-Āthār, Lucknow: p.135.

112. Abū Yūsuf, Kitāb al-Kharāj, (Cairo: A.H. 1352) p.188.

113. Ghazzālī, Kitāb Ihyā' Ulūm al-Dīn, (Cairo: A.H. 1334) Vol. II, pp.59-60.

114. Majid Khadduri, War and Peace in the Law of Islam, op.cit., p.228.

115. Shaybānī, op.cit., Vol.III, pp.177-178.

be brought back upon his return, they were permitted to cross the frontiers of Islam.¹¹⁶ During his visit to Dār al-Islām, whether he entered by aman or not, the non-Muslim merchant was expected to observe the law of the country of his origin, and he was required to follow the same rules as those imposed on the Muslim mustamin while he was in non-Muslim lands.¹¹⁷ There is no doubt that commercial relations between the Islamic nations and other nations played an important role in spreading the message of Islam. Many nations in Africa and Asia entered Islam through these channels. Majid Khadduri stated that:

"Muslim trade with foreign countries, whether by land or sea contributed to the development and diffusion of certain commercial techniques and practices throughout the world. Not only did they bring from East Asia new goods and commodities, which were later introduced into Europe, but also adapted from China the practice of issuing paper money and passed it on to other nations. Further the Muslims contributed to the development of the techniques of international banking. Cheques were widely used and letters of credit and bills of exchange were popularized by Muslim bankers. Muslim merchants from certain commercial centres, such as Basra were found in North Africa as well as in East Asia, which indicates the extent to which one important commercial city could with freedom exchange goods from one extreme part of the then known world to the other."¹¹⁸

116. Ibid., pp.175-276.

117. Majid Khadduri, War and Peace in the Law of Islam, op.cit., p. 228.

118. Ibid., pp.229-230.

VI. Dhimmas Relation in Dār al-Islām

All Muslim jurists are agreed about the treatment of the Dhimmas Ahl al-Kitāb, meaning the tolerated people, primarily Christians and Jews, with possibly some other groups who could be linked with them directly or indirectly, such as al-Sābīn (the Sabeans). The Magians (Zoroastrians) were also included based on the authority of Hadith.¹¹⁹ In this section, we will try to shed some light on their relation within the Islamic State.

When we refer to the Qur'ān and how it speaks of the Dhimmas (mainly Christians and Jews) and those who believe in God, we find the following verse:

"Say: O people of the Book! come to common terms as between us and you; that we worship none but God; that we associate no partners with Him; that we elect not from among ourselves lords and patrons other than God....."¹²⁰

In fact, the term "common terms" or "agreement" in the verse is the translation of the Arabic text (Kalimatun Sawā) which literally means "a word on the basis of equality".¹²¹ "The Arabic text thus connotes that the

119. Abu-Sulayman Abdul Hamid, The Islamic Theory of International Relation -Its Relevance, Past and Present, op.cit., p.76-77. See also Ibn Qudāmah Al-Mughnī, IX, 194-195 and Al-Shāfi'ī Al-Umm IV, 94-97.

120. Qur'an: Al-Imrān 3.64.

121. M.T. Al-Ghunaimi, The Muslim Concept of International Law and the Western Approach, op.cit., pp.196-197.

agreement to which the scriptures are called is based on the principle of legal equality since the only condition (existing to that effect) is to admit the oneness of God, not to become Muslim" and hence from" the Islamic point of view the acknowledgement of the oneness of God is the preliminary prerequisite for establishing peaceful relations among the Muslims and the non-Muslims".¹²² Accordingly, the Qur'ān commands: "And dispute ye not with the People of the Book, except with means better than mere disputation"¹²³. In other words, for the Islamic state to have mutual relations with other states based on the right of legal equality the latter should acknowledge and recognise voluntarily and convincingly the idea of the unity of God (oneness or Wahdāniyyatullāh).¹²⁴ The Qur'ān and the Sunnah have indeed distinguished between the pagans and the Dhimmas. Thus the Qur'ān and the Sunnah ordered an all-out war against the Arab pagans who were always referred to as Mushrikīn (idolator or associator). Each time the Qur'ān speaks of these Arabs, it stresses their cruelty, treachery, hypocrisy, greed, savagery, etc. The Arabs who were the subject of these verses were mainly the Beduins. They continuously attacked and persecuted Muslims and betrayed the agreements and pledges they made with Muslims.¹²⁵ Thus

122. Ibid.

123 Qur'ān: al-Ankabūt 29:46.

124. Al-Braik Nasser Ahmad, Islam and World Order Foundations and Values, op. cit., p. 175.

Islam viewed them as savage, uncivilized people who lacked the necessary requirements for orderly human interaction.¹²⁶ Accordingly, the Qur'ān forbade any relations with them and ordered Muslims to fight them. On the other hand, the Qur'ān stated that those who live with Muslims peacefully should be treated kindly.

The Qur'ān stated:

"God forbids you not, with regard to those who fight you not for your faith nor drive you out of your homes, from dealing kindly and justly with them: for God loveth those who are just. God only forbids you with regard to those who fight you for your faith and drive you out of your homes, and support others in driving you out, from turning to them for friendship and protection. It is such is turn to them in these circumstances that do wrong."¹²⁷

Therefore, it is the obligation of Muslims to treat them (those who are not aggressive) properly and kindly with justice and truth.

The Qur'ān in this respect states:

"O ye who believe ! stand out firmly for God, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just that is next to piety and fear God. For God is well acquainted with all that ye do."¹²⁸

125. Abu-Sulayman Abdul-Hamid, The Islamic theory of International Relation, op. cit., p. 78.

126. Ibid.

127. The Qur'an: al-Mumtahanah; 60:9

128. The Qur'an: al-Mā'idah; 16:8

Further the Qur'ān states:

"God commands justice, the doing of good and liberality to kith."¹²⁹

We can conclude that justice, good treatment, forbidden evils are the principles of Islam toward the Dhimmas. Thus peaceful relations is the basic policy of Islam toward the non-Muslims. A significant example of this is the agreement made with the Christians of Najran after the conquest of Makkah when they came in peace to the Prophet. Also the example of the treaty with the Jews in what is known as the constitution of Madina (The Covenant of Medina). Even after the long bloody struggle with the Jewish tribes in Madina and Khaybar whereby their political and military power was destroyed, Jews were allowed to live in peace in Madina.¹³⁰ They were tolerated and were never forced to accept Islam because it was felt that they still had enough social ethics and order to allow orderly human interaction.¹³¹ It should be noted here that a distinction between the aggressive Mushrikīn (pagans) and the People of the Book (Dhimmas) has to be made clear. We should not take the aggressive, corrupt enemy as representative of all non-Muslims. From this we can notice that the basis of relations between

129 Qur'ān : Al-Nahl, 16 : 90.

130. Abu-Sulayman Abdul-Hamid, The Islamic theory of International Relations: Its Relevance past and present, op. cit., p. 79.

131. Ibid., 79.

Muslims and non-Muslims is peace, justice and equality; the exception is war. Ibn Rushd, widely known to Western scholars as Averroes, summarized a few of the various opinions of Muslim jurists on the issues of war and peace in Islam:

"Some of those approved of peace whenever the Imam finds it in Muslims' interest are Malik, Al-Shafi' and Abū-Hanifa. Al-Shafi' (only) does not approve of a peace duration longer than the period which the Prophet, peace be upon him, made with the non-believers the reason for their differences in approving of peace without necessity is the apparent contradiction between His (Allah's) saying(s) "Then, when the sacred months have passed, slay the idolators wherever ye find them". "Fight those who believe not in God nor the Last Day", and His.... saying, "If they incline to peace incline thou also to it and trust in God." Those who considered that the verse of fighting..... is abrogating to the verse of peace, did not approve of peace except for necessity. Those who considered that the verse of peace is limiting to that (verse of fighting) did approve of peace if Islam saw so."¹³²

Besides Abū-Hanīfah's favourable position towards peace, Al-Sarakhsī expounds the position of al-Thawrī which was also shared by many other juristic authorities, such as Ibn 'Umar, 'Atā, and Ibn Shibrimah.

"Fighting the idolators is not an obligation unless the initiative comes from them. Then they must be fought in fulfillment of His (Allah's) obvious saying "If they fight you, then kill them and His saying: 'and fight all idolators as they fight you all.'"¹³³

132. Ibn Rushd al-Hāfiḥ, Bidāyat al-Mujtahid Wa Nihāyat al-Muqtasid, (A beginning for the Ambitions and the End of the Contented) Cairo: Makkabat al-Khanji p.313.

133. Ibn Qudamah, Al-Mughnī, IX, Cairo: Maktabat al-Asimah, p.286-287, Al-Shaybānī Muhammad Ibn al-Hassan, Sharh al-Kāfir

Majid Khadduri claimed that the basic relation between the Islamic state and non-Muslims is hostility until the non-Muslims became Muslims in Dār al-Islām. It is, however, a matter of fact that history demonstrates that non-Muslims lived in peace and showed respect to the Muslims in Dār al-Islām. The Prophet Muhammad (PBUH) said:

"Beware whosoever is cruel and hard on a contractee or curtails his rights or burdens him more than he can endure or takes anything of property against his free will, I shall myself be a plaintiff against him on the Day of Judgement."¹³⁴

"And once they (non-Muslims) are willing to conclude the dhimma contract, then let it be clearly known to them that all rights and duties are equal and reciprocal between you and them."¹³⁵

These examples from the Qur'ān and the Sunnah for a theoretical account of the Islamic legislation regarding non-Muslims. When we return to the first treaty which was concluded between Muhammad and the Jews of Madina, we notice that it was a form of confederacy due to the multiplicity of the population groups. It was documented

 (Commentary on the book of the Great Siyar) Cairo: Maḥad al-Makhtūtat Bi Jāmi'at al-Duwal al-'Arabbiyah, 1958, See also Abu Sulyman Abdul Hamid, The Islamic theory of International Relations op.cit., p.41.

134. Abū-Yūsūf, Kitāb al-Kharāj, Bulaq, 1304 A.H., op.cit., p.71.

135. Abdullah Mustafā al-Marāghī, "Al-Tashrī al-Islām Li Ghairil Muslimīn", (Islamic Legislation for Non-Muslims) Cairo: 1965 p.64.

as a constitutional framework. The Prophet said:

"All Jews who choose to join us shall have all the protection that Muslims have. Neither will they be oppressed nor may there be a Muslim communal agitation against them. To the Jews their religion and the Muslims their religion. The Jews of Banī 'Awf make a community with the faithful."¹³⁶

The non-Muslims who lived in Dār-al-Islām are required to pay jizyah annually. Jizyah is imposed only on males. Women and children are exempted from it, so are the blind who have no profession and do not work, so are the chronically sick, the crippled, the monks or the very old who cannot work or have no wealth.¹³⁷ At the same time they are not required to pay zakāt (property tax), which all Muslims, male or female, young or old, pay annually at the rate of 2 1/2 per cent on their cash, commercial goods, herds of cattle, etc. Military service is not compulsory for non-Muslims, whereas all Muslims are subject to it.¹³⁸ Muslim canon law allows non-Muslims to take their cases to the courts presided over by their co-religionists for judgement in accordance with their personal law.¹³⁹ In addition to all these, the non-Muslim enjoys guaranteed protection by the Islamic state. Non-Muslim women, children and indigent including

136. Ibn Hisham, al-Siyar-al-Rasūl, Vol. I, pp. 175-178.

137. Abū Yusūf, Kitāb al-Kharāj, op. cit., p. 69-72.

138. M. Hamidullah, Muslim Conduct of State, op. cit., p. 106.

139. Qur'ān, al-Mā'idah 5: 45

slaves, are not only exempted from jizyah, but are helped by stipends from the Bayt al-māl (public treasury)¹⁴⁰ when necessary. To understand the nature of jizyah, we should bear in mind that non-Muslim subjects are exempted from military conscription. They are citizens of the state and have the right to be protected and defended against both internal and external aggression. For this protection they pay jizyah, and it is for this reason alone that it was called by some Muslim jurists a "protection tax".¹⁴¹

In his work, The Preaching of Islam, Thomas Arnold says :

"This tax was not imposed on the Christians as some would have us think, as a penalty for their refusal to accept the Muslim faith, but was paid by them in common with the other dhimmas or non-Muslim subjects of the state whose religion prevented them from serving in the army, in return for protection secured for them by the arms of Muslims".¹⁴²

The classical example which demonstrates that the jizyah is indeed a conditional situation was when the people of Hira were suspended from paying the jizyah by Khālīd Ibn al-Walīd (the leader of the Muslim army in the city of Hira). He told them (the Dhimmas) not to pay the

140. Abu-Yusuf, Kitab Al-Kharaj, op. cit., p. 85.

141. M. Hamidullah, Muslim Conduct of State, op. cit., p. 108.

142. Thomas T. W. Arnold, The Preaching of Islam, London: 1913, pp. 60-61.

jizyah until the Muslims could ensure their protection.¹⁴³

Khalid wrote :

"If we protect you, then Jizyah is due to us, but if we do not, then it is not due." He adds, more explicitly, " The Jizyah was levied on the able-bodied male in lieu of the military service they would have been called upon to perform had they been Muslims, and it is very noticeable that when any Christian people served in the Muslim army, they were exempted from the payment of this tax".¹⁴⁴

He elucidates this point by recalling incidents related by the two historians, Balādhārī and, al- Tabarī. When some non-Muslim tribes were exempted from paying jizyah in return for their military service. Sometimes a dhimma was exempted from Jizyah if he rendered some valuable services to the state. On the other hand even Muslims were made to pay a tax if exempted from military service like non-Muslims.¹⁴⁵

Dhimmas are allowed to keep their houses of worship and to carry on their religious practice freely. However, it is a matter of controversy whether they were allowed to build new temples in the areas of a Muslim majority. According to Shāfi' school, the Dhimmas are

143. Muhammad Ali Hassan, International Relation in Quran and Sunnah, op. cit., p. 34-35.

144. Thomas Arnold, The Preaching of Islam, op. cit., pp. 60-61.

145. Ibid., p. 62.

allowed to build their churches in Dār al-Islām except in the Hijaz where the Holy Mosque stands. If the church had existed long before the Muslims conquered the territory, it was kept and left to them to practice their religion. On the other side, the Hanbalī school said that the Dhimmas could practice their religion in their own houses but were not to build new churches and keep their old churches. The Mālikī school, however, said that if the Muslims have a Ṣulah relation (an agreement of covenant), they are allowed to establish their churches freely.¹⁴⁶

This is obviously an indication that Islamic history supports the view that the Dhimmas are allowed to practice their religion freely without any restriction. In most Muslim countries in modern times, they are allowed to build churches with permission from the Muslim government.¹⁴⁷ The events of Islamic history during the period of ‘Umar Ibn al-Khaṭṭāb (the second Caliph) indicate that non-Muslims are entitled to keep their properties and conquered lands in their possession. After the subjugation of Iraq, ‘Umar Ibn al-Khattab, summoned his advisers (who were mostly Companions of the Prophet), and it was settled, after a long discussion and argument, that all the lands should be left in the hands

146. For more details see Abdul Kareem Zidan, The Rules of Dhimmas in Dar al-Islam, Al-Quds Library 1976, second edition, p. 98.

147. Ibid., 99.

of the owners upon the payment of Kharaj.¹⁴⁸ Adūd--al-
Dawlā, the Buwaihid ruler, gave permission to his
 Christian minister Naṣr Ibn Hārūn to build new churches
 for the Christians in his country.¹⁴⁹ In another
 instance during the time of the 'Abbāsīd Caliph, Al-Hādī
 'Alī Ibn Sulaymān was the governor of Egypt. Ali
 demolished St. Mary's and other churches in Egypt in 169
 A.H.. In 171 A.H., Ali was dismissed by Hārūn, the next
 Caliph, and Mūsā Ibn 'Īsā was appointed governor of Egypt.
 Mūsā called a meeting of the 'ulamā and asked their
 opinion on the demolition of churches. Al-Layth Ibn Sa'd,
 a well known jurist of the time, gave his judgement that
 all the demolished churches should be reconstructed and
 the state treasury should pay the expenses.¹⁵⁰ With
 regard to the membership of a non-Muslim subject in an
 Islamic state it has been shown that he had as solid a
 footing as a citizen of the state as that of a Muslim
 subject.

'Alī Ibn Abī Tālib, (the fourth Caliph) stated:

"Their blood (Dhimmas) was like our blood.
 The Muslims considered that the obligation to
 protect a dhimmas life ended only when he
 entered into any alliance of conspiracy with
 the non-Muslims in Dar al-Harb".¹⁵¹

 148. Abū Yusūf, Kitāb-al-Kharāj, op. cit., p. 164-165.

149. Ibn al-Athīr, Al-Kāmil Fit-Tawārīkh, Leiden: 1862, Vol.
 VIII, p. 518.

150. Maqriz, Al-Nujuma al-Zahra, Vol. II, Cairo: 1933, pp.
 62-66.

151. K. A. Nizami, Some Aspects of Religion and Politics in

The Dhimmas could hold high positions in the Islamic state such as a cabinet minister, but could not occupy the post of a ruler.¹⁵² It should be noted here that, in the treaty with Jerusalem, Umar gave them protection for their lives, property, churches, and crosses, their sick and sound and the rest of their religion. Their churches were not to be used as dwellings, nor destroyed, nor they (the Churches) nor their estates, nor their crosses, nor their property be diminished in any way.¹⁵³

With regard to the right of self-determination of the Dhimmas, this is derivatively recognized in no less than seven verses of the Sūrah al-Māidah. The Qur'ān states the following:

"If they do come to thee, either judge between them or decline to interfere. If thou decline, they cannot hurt thee in the least. If thou judge, judge in equity between them. For God loveth those who judge in equity."

"But why do they come to thee for decision when they have their own law before them? - Therein is the plain command of the God; Yet even after that, they would turn away. They are not really people of faith."

"It was We who revealed the law to Moses: therein was guidance and light. By its standard have been judged the Jews, by the

India during the 13th Century, p. 311.

152. Al-Braik Nasser Ahmed, Islam and World Order: Foundations and Values, op. cit., p. 112.

153. See Majid Khaduri, The War and Peace in the Laws of Islam, op. cit., p. 145.

Prophets, who bowed as in Islam to God's will
, by the Rabbis and the doctors of law: For to
them was entrusted the protection of God's
book, and they were witness there to:
Therefore fear not men, but fear Me, and sell
not My signs for a miserable price. If any do
fail to judge by the light of what God, hath
revealed they are no better than unbelievers."

"We ordained therein for them:
"Life for life, eye for eye,
Nose for nose, ear for ear,
Tooth for tooth, and wounds equal for equal."
But if any one remits the retaliation by way
of charity, it is an act of atonement for
himself. And if any fail to judge by the
light of what God hath revealed, they are no
better than wrong-doers."

"And in their footsteps we sent Jesus, the son
of Mary, confirming the law that had come
before him. We sent him the gospel: therein
was guidance and light and confirmation of the
law that had come before him:

A guidance and an admonition to those who fear
God."

"Let the people of the gospel judge by what
God hath revealed therein. If any do fail to
judge by the light of what God hath revealed,
they are no better than those who rebel."

"To thee We sent the scripture in truth
confirming the scripture that come before it,
and guarding it in safety. So judge between
them by what God hath revealed, and follow not
their vain desires, diverging from the truth
that hath come to thee. To each among you
have We prescribed a law and an open way.

If God hath so willed, He would have made you
a single people, but His plan is to test you
in what He hath given you. So strive as in a
race in all virtues. The goal of you all is
to God; It is He that will show you the truth
of the matters in which ye dispute."

All these verses are an indication to the Dhimmias to
practice their own laws. It also indicates that the
Qur'an's law is applicable to them and indeed it has come

to supersede the previous revealed books.

VII. Contemporary Treaties

The main question in this section is how Islam views its relations with other organisations and states which have a different ideology and a different political system. Is it possible to apply what happened during the Prophet Muhammad's time to the present time in dealing with contemporary issues such as alliance, friendship or any type of treaties?

Hence, this section will attempt to identify the basic elements regarding Islam and treaties. In the context of contemporary international treaties, world society is made up of countries with different ideologies and different goals. Both East and West have principles relation to world society and they seek to maintain international peace according to their ideology. Capitalism is, for example, in favour of protecting the physical intactness of national life from any external political intrusions; in other words, the aim is to protect national security.¹⁵⁴ Hans J. Morgenthau suggests that political relationships are governed by objective rules deeply rooted in human nature. Since

154. George F. Kennan, Realities of American Foreign Policy, (New York: Norton, 1966) p.11.

these rules are impervious to our preferences, men will change them only at their peril.¹⁵⁵ If these rules themselves cannot be changed, Morgenthau's determinism holds that societies can be improved by first understanding the laws that govern society and then by basing public policy on that knowledge. In his view:

"The concept of the national interest presupposes neither a naturally harmonious, peaceful world nor the inevitability of war as consequences of the pursuit by all nations of their national interest. Quite to the contrary, it assumes continuous conflict and threat of war to be minimized through the continuous adjustment of conflicting interest by diplomatic action."¹⁵⁶

In power struggles, nations follow policies designed to preserve the status quo to achieve imperialistic expansion or to gain prestige.¹⁵⁷

As another alternative, imperialism is a policy designed to achieve a "reversal of existing power relations between nations."¹⁵⁸ The goals of imperialist powers encompass local preponderance, continental empire

155. Hans J. Morgenthau, Politics Among Nations, 5th ed. (New York: Knops, 1978), p.4.

156. Hans J. Morgenthau, Another Great Debate, The National Interest of the United States, American Political Science Review, LXVI (December 1952), pp. 961-998.

157. James E. Dougherty & Robert L. Pfaltzgraff, Contending Theories of International Relations, Harper & Row Publishers, 1981, p.100.

158. Hans J. Morgenthau, Politics Among Nations, (New York: 1978), p.454.

or world domination. Nations may adopt imperialistic policies as a result of victory, defeat or the weakness of other states.¹⁵⁹ To attain imperialistic objectives, states may resort to military force or adopt cultural and economic means extending their influence.¹⁶⁰ In communist ideology, since the Bolshevik Revolution (1917), a set of principles has guided Russian policy against the freedom of religion.

VIII. Islam and Bipolarity

After the end of World War I and the fall of the Ottoman Empire, the Western powers divided Ottoman territory under the mandate system. In the period between the two world wars, a number of treaties were made between European powers and Muslim states, full of terms expressing friendship and alliance, but in reality not representing policies or agreements between independent states. They were rather the terms dictated by the European powers vis-a-vis the occupied Muslim countries, treaties such as those between France and Syria of 1936, France and Lebanon of 1936, Egypt and Britain of 1922 and 1936 and Iraq and Britain of 1922 and 1930.¹⁶¹ The West and the East succeeded in putting an

159. Ibid., p.58.

160. Ibid., p.64.

161. Al-Sayyid 'Abdul-Razzāq al-Husaynī, Tārīkh al-'Iraq al-

end to the Ottoman Empire which was considered a great power in protecting the Islamic territory from external threats. The modernist and secular approach also allows the Muslim world to continue to be basically a sphere of ideological influence and an area of conflict between the different world powers,¹⁶² and shortly after the end of the Ottoman Empire, some of the Islamic States became the victims of military institutions which gained power and ruled under military systems with external influence and sometimes direct aid from the West and the East (economically, politically and technologically) and which adopted an external ideology. Therefore, the external power in the Middle East succeeded in separating religion from the state and Islam, by the end of Ottoman Empire, adopted as a set of moral and traditional values.

The Baghdad pact emerged with the support of the United States and Britain as a frontier zone or what is called the Northern Tier of Turkey, Iran, Pakistan, Afghanistan and Iraq. The Northern Tier policy was implemented through the involvement of these states in the alliance of CENTO (Baghdad pact) to be used against the Soviet Union's expansions.

Siyāsi al-Hadīth (The modern Political History Of Iraq), published by Maktabt al-Irfan, 1958), II, pp.30-38.

162. Abu-Sulyman Abdul Hamid, The Islamic Theory of International Relations, Its Relevance, Past and Present, op.cit., p. 219.

On the other side, the new Soviet approach to support for the Arab world, especially Egypt, was based on the slogan of positive neutrality.¹⁶³ The idea behind this was to persuade the Third World countries to align with the Soviet Union in spite of their ideology. Although positive neutrality represents an attitude of caution on the part of the states which follow it towards the big powers competing in the area, we must remember that positive neutrality does not represent the total course of foreign policy for these states, which simultaneously follow different attitudes and policies towards other Arab and Muslim states.¹⁶⁴

Although both alignment and positive neutrality aimed at serving the cause of independence, survival and participation, the situation did not change appreciably. The economic and technological gap, and dependence on the super powers and their influence in the area, kept increasing, creating one of the most dangerous power vacuums in post-World War II politics.¹⁶⁵ According to the diagram (3) made by Abu Sulaiman Abdul Hamid, we find that according to the suggested Islamic Framework (diagram no:3) there is nothing in the approaches

163. Fayez A., Islam and Neutralism and P.J. Vaikiolis, Islam and the Foreign Policy of Egypt, Islam and International Relations ed. J.H. protector, pp.60-93.

164. Abu-Sulyman Abdul-Hamid, The Islamic Theory of International Relations, op.cit. p. 218

165. Ibid., p.219.

themselves which makes them un-Islamic or anti-Islam.¹⁶⁶

Three major policies characterised the approach of the external power, namely the abandonment of war as the basis of foreign relations with non-Muslims, the adoption of diplomatic reciprocity and alliances with non-Muslim states, and the principle of positive neutrality.

Some writers took the extreme traditional position for granted and insisted on approaching Islam as a set of traditions and forms, overlooking its fundamental nature as a value system and framework. They measured the Ottoman policies very strictly against the Hanāfi jurisprudential manuals, thereby condemning the Ottoman Sultans for deviation from Islam.¹⁶⁷ They raised such questions as whether Islam allows a treaty of a duration of more than ten years, or whether a Muslim subject is allowed to be brought to trial in a non-Muslim court. This approach has led them to conclude that Muslim deviation from the traditional jurisprudence of one school or another is deviation from Islam.¹⁶⁸

Islam does not accept the concept of the duality of

166. Ibid., pp.200-201,202. (Traditional Framework, Modernist and Secularist Framework.

167. M. Khadduri, "Translation Introduction of al-Shaybani" The Islamic Law of Nations, pp.63-64.

168. Abu-Sulyman, Abdul-Hamid, The Islamic Theory of International Relations, op. cit., 1973, p.208.

the secular religions. This difference in opinion between a political authority and a jurist or a group of jurists does not necessarily mean that the jurist is Islamic and the political authority is not. While a political authority may tend under the influence of various political factors to give less attention to the ideological elements of the system, especially in the rigid juristic form, it is also very possible that the jurist is out of touch with and lacking in understanding of the political factors at play.¹⁶⁹

As Abu Sulyman, Abdul Hamid points out, the affiliation of the Ottomans with Islam is beyond any doubt. Accusations against the Ottoman Sultans are a matter of opinion and represent a basically conservative position. The critics, mainly the 'Ulamā', considered any deviation from the classical experience as a sort of heresy. Classical thought and certain specific historical precedents could not be fully accepted by Ottoman statesmen, who were facing daily with the threat of a rapidly modernizing Europe with its growing power and efficiency.¹⁷⁰ As Abu Sulyman, Abdul Hamid points out, such accusations of deviations levelled against the intentions of the Ottoman statesman are ultimately a denial of their right to exercise judgement to avoid

169. Ibid., 208.

170. Ibid., p. 209.

disastrous policies, while the Ottomans, independent of their policies, invoked the classical concept of Maslahah (basically in terms of necessity.)

The Ottoman Sultans of the 18th century whose state was formally admitted as a member of the European State System in the Paris peace agreement of 1856 used the diplomatic approach in order to be able to manoeuvre under new circumstances and developments.¹⁷¹ This was necessary for existence and in order to carry out a new program of reforms.¹⁷²

According to Islam, pressure of circumstances can sometimes make the forbidden permissible.¹⁷³ During the reign of Sultan Abdūl Hamid, the Ottoman Empire did play an important role in maintaining the balance of power to counter the external threat towards the Islamic Ottoman Empire. Reform in the meantime was supposed to restore power to the Empire to withstand any further encroachments.¹⁷⁴ But as a result of the growing military and economic weakness of the Empire and the growing strength of European power, obviously the Ottoman policy makers failed to achieve their objective of

171. Ibid., p.210.

172. Ibid., pp.210-211.

173. al-Sarakhsi, Sharah al-Siyar Al-Kabir, IV, 279.

174. R.H. Davison, Turkey, pp.68-77.

reviving the Ottoman military superiority.

At the collapse and dismemberment of the Empire at the end of the World War I, the gap between the Muslim world and Europe was wider than ever. Most of the Muslim world gained some degree of independence and freedom to try to manoeuvre and participate in worldly affairs. Part of the Muslim world followed a course of alliance with the West and the rest adopted what came to be called positive neutrality.¹⁷⁵ From the previous discussion, it is very clear that Islam did not recognize the bipolarity system, as long as it produced an unjust balance of power, created a mandate system, imperialistic objectives and military superiority.

IX. Islam and the Status Quo

The question that we would like to raise here is to what extent can Islam accept the status quo in modern times? How does it co-exist as an ideology among others such as the communist ideology and capitalist ideology? Does Islam recognise them as a reality in international politics? To examine this issue, we have to refer to the international relations in Islamic history. It is very obvious that the objective of the capitalist as well as the objective of the communist

175. Abu-Sulyman Abdul-Hamid, The Islamic Theory of International Relations, op.cit., p. 212.

systems is to maintain power in order to protect their national interests. According to the WARSAW pact countries, in the context of Soviet ideology and political philosophy, national security is treated on the one hand as a condition valid in the case of potentially hostile countries, and on the other as a completely different condition valid exclusively for the Soviet Union. The discrepancy between the two is in accordance with Soviet view on the dynamics of international events, involving the struggle between the two politically and ideologically hostile military and economic condition of NATO/EEC and WTO/COMECON. Given the Soviet desire and intent that capitalism should and therefore must decline and finally disappear and that socialism should and therefore must emerge and that the socialist system will finally triumph all over the globe, it is self-evident that a state of parity in strategic strength between the WTO countries and the NATO countries is incompatible with the security of the Soviet Union and its satellites; on the contrary it is ensured only by Soviet strategic superiority.¹⁷⁶ Both ideologies, communist and capitalist, have some common characteristics such as to maintain power to influence other nations. Another of their main concerns is to maintain self interest and national security. The kind of status quo they seek in

176. F. Rubin, "The Theory and Concept of National Security in the WARSAW Pact Countries", International Affairs Journal (1980), Spring, p.655.

international relations is rejected by Islamic ideology.

Islam as an ideology permits the state of Jihād against oppressor and aggression. Power in the Islamic view is only for the purpose of securing justice among people, as individuals or as nations which exist as a reality. It is stated in the Qur'ān:

"and those who, when an oppressive wrong is inflicted on them are not cowed but help and defend themselves."¹⁷⁷

A. Yusuf Ali explains this verse as follows:

"This follows from the high value attached on individual soul's personality in Islam. There are four possible situations that may arise. An individual may have to stand against an oppressor (1) for his own trampled rights, or (2) for the rights of others within his kin, or (3) a community may have similarly to stand up for its own rights collectively or (4) for the right of others. Nos. 2, 3 and 4 are considered highly meritorious for all, though few have the courage or the spirit to rise to so high a standard. No. 1 is specially liable to abuse on account of man's selfishness; Nos. 2, 3 and 4 are also abused by men pretending to motives of public good when they are serving their own personal interests or idiosyncrasies."¹⁷⁸

This governs the public principles for the Islamic State and directs it to adopt a universal point of view.

Fathi Al- Draini states:

"to apply power in the interest of a strong nation against the weak nation, which consider the Micafalli concept of power lead to the

177. Qur'ān: al- Shūrā 42.39.

178. A . Yusuf Ali, The Holy Qurān, published by Aman Corp., 1985, p. 1317.

injustice doctrine."¹⁷⁹

Thus Islam rejected the policy of colonialism and capturing markets for its own interests or seeking superiority among nations. The Qur'ān in this regard states:

"That home of the hereafter We shall give to those who intend not high-handedness or mischief on earth."¹⁸⁰

The twentieth century has become a highly dangerous era, the most dangerous in modern history due to the existence of the bipolarity system between East and West. Soon after the Second World War, the world was divided under the influence of the two superpowers, the United States and the Soviet Union. The two systems have a further common characteristic in that the role of religion is minimized in their foreign affairs. Thus materialism has become the focal point in their policy, while Islam does not recognize this approach of policy. In the Middle East, for example, the emergence of nationalism in modern times has had a major influence in politics. Islam in this regard does not recognize nationalism, because nationalism represents locality, while Islam is more than this. Islam is universality for all human beings regardless of race, color, language or

179. Fathi Al-Draini, The Characteristics of Islam in Politics and Rules, op.cit., p.101.

180 Qur'ān: al-Qāsās, 29:83.

sex. On the other hand, the twentieth century has seen the rise of the ideology of secularism. In the Middle East, as other ideologies have come to be adopted in the political systems, many Arab countries such as Egypt, Syria, Iraq, Tunis and South Yemen have separated state from religion. Religion has been made subservient to the state, in contrast to the Islamic political system, where Islam must be dominant in the affairs of state. We can safely conclude that Islam as an ideology does not recognize the international system as long as it is established on the basis of aggression (Udwān), tyranny (Tughyān), corruption (Fasād), and excesses (Isrāf). Islam emphasises this principle greatly.

The Qur'^{ān} says:

"And obey not the command of the prodigal (al-Muswīīn = wasteful or excessive).... who spread corruption on the earth, and reform not
Q.126: 151 - 152."

"Neither obey thou each feeble oath-monger, detractor, spreader abroad of slanders, hinderer of the good, transgressor, malefactor." Q, Al-Qa|ām 10:12

"The blame is only against those who oppress men with wrong doing and insolently transgress beyond bounds through the land, defying right

and justice. For such there will be a penalty grievous. But indeed if any show patience and forgiveness, that would truly be an exercise of courageous will and resolution in the conduct of affairs." Q, : al-Shūrah 42:21 "

"And let not your hatred of a folk seduce you to transgress; but help ye one another unto righteousness and pious duty. Help not one another unto sin and transgression, but keep your duty to Allah. Lo ! Allah is severe in punishment". 5 : 2: Q, AL Maidah 5:6 "

The Prophet said : "Those who are merciful have mercy shown them by the Compassionate One. If you show mercy to those who are in the earth, He who is in heaven will show mercy to you" and "God will not show mercy to him who does not show mercy to others (humans = al-nas) ." al-Tirmidhi, al-Birr, 16 "

The other aspect of conflict between Islam, on the one hand, and Western and communist ideology, on the other, is the separation of religion from politics. Many Western development theorists view the persistence or revival of religion in politics as regressive (or a negative development). Almond and Powell argue that religion in politics will lead to "a decline in the magnitude or a significant change in the flow of inputs" into the political system.¹⁸² According to their view, secularism is a fundamental criterion for political development. Also communist ideology believes that religion and the state should be separate, and they view religion as a sedative of the people. They view

182. Gabriel Almond and G. Bingham Powell, Comparative Politics: A Comparative Approach, (Boston: Little, Brown 1966.) p.34.

secularization as the cornerstone of political development. Islam, however, as a religion deals with worldly affairs, as well as with the life hereafter. Michael C. Hudson has commented on the role of Islam in the following passage:

"Ideally the political leader of the community in Islam is the spiritual leader, the Khalifah (Caliph) or Imam; and his legitimacy is confirmed by the baya (confirmation oath) of the leading members of the community."¹⁸³

Political participation in decision-making is a major element in the policy of the Muslim nation. The Qur'ān prescribes consultation as the means of reaching decisions. In making community policy, the faithful are enjoined to consult with one another. Those engaging in the consultation process are understood to be the spiritual leadership that represents the community. This body, known as the ahl-al-^{al}aqd wal--hall, is composed of 'ulamā' who represent the community and perform a legislative function. This type of a moral mission indeed guides the Muslim among nations. The Qur'ān states: "Thus we have made of you an ummah justly balanced, that ye might be a witness over the nations."¹⁸⁴

With regard to world share in wealth, Islam condemns

183. Micheal C. Hudson, Islam and Political Development, edited by John L. Esposito, Syracuse University Press 1980, p.3.

184 Qur'ān: al-Shūrā 42:38

the use of power to prevent others from extracting and utilizing the resources of the earth and other wealth created by Allah. The use of power to make profit from such wealth and to prevent others from doing the same is against the teachings of Islam.¹⁸⁵ A contemporary example illustrates the gap between West and East on the one hand and Islam on the other concerning the sharing of wealth. As a result of the increase in the price of oil after the Israel Arab war, some Muslim countries became quite rich by the year 1976. It is noteworthy that in that very year, international economic assistance given by the Muslim oil countries alone was more than that of the total economic assistance given by the United States, Western Europe and China together.¹⁸⁶ The willingness to share their wealth reflects the role of Islam in these countries. Islam as a religion does not recognize the gap between rich and poor countries. It is stated in the Qur'ān:

"In order that ye may not merely make a circuit between the wealthy among you."¹⁸⁷

In the West, the present status quo in the twentieth century indicates the unequivalent status between the

 185. Muhammad Baqir Al-Sadr, Iqtisāduna (our economy), Beirut: Dar Al Fikr, 1968), second edition, p.447.

186. "Government Assistance to Developing Countries and other Multilateral Institutions", Middle East Economic Digest, January 1976, p.30.

187. Qur'ān: al-Hashr, 59:7

North and the South. In the West, for instance, the behaviour is manifested by the dumping of Brazilian coffee into the sea to keep milk and the coffee prices high.¹⁸⁸ This kind of policy is prohibited by Islam. The discarding and the destruction of anything, unless full and complete benefit has been derived from it, is against Islamic principles. Such abuse, less than full use, is in Qur'ānic terminology called tabdhīr (profligacy) and Isrāf (extravagance). Profligacy is spending in the wrong way, that is for a prohibited purpose such as bribery or for outlawed or reckless consumption.¹⁸⁹ Islamic teachings recommend a moderate and balanced pattern of consumption and spending - a pattern which lies between thrift and extravagance.¹⁹⁰ Consumption above and beyond the moderate level is extravagance and is condemned.¹⁹¹ Thus, there is a similarity between capitalism, Marxism and national socialism, . Monzer Kahf has pointed out that,

"All three systems look upon man as if he was merely a homoeconomicus. In each of these systems man's satisfaction is considered to be the end of all human activity, the emphasis always remaining on one's own needs, one's own desires. The only difference is that in this case the methods and approach are different,

 188. See for example Dr. Monzer Kahf "Al-ittiḥād", (the unity), Quarterly Journal of the Muslims Students Association of United States and Canada, vol.14, No. 1-2, Jan - April 1977, p.37.

189. Ibid.

190 The Qur'ān: al-Isrā', 17:29

191 The Qur'ān: al-An'ām 6:141

but the ultimate goal of their very existence would seem to be nothing more than the satisfaction of their material wants."¹⁹²

X. Islam and Cultural Relations and Educational Exchange

Culture and education are important goals for humanity world wide. At the first World Conference on Muslim Education held in Makkah al-Mukarramah in 1977 education was defined by scholars as "a process that should aim at the balanced growth of the total personality of man through the training of man's spirit, intellect, the rational self feelings and bodily senses".¹⁹³

According to Islam the search of knowledge in all its aspects - spiritual, intellectual, imaginative, physical, scientific, linguistic, is a duty for everybody both individually and collectively. Understanding these aspects of knowledge will lead to awareness of existence of God. From the Muslim point of view, this is fundamental because this is regarded as the purpose of human existence on this earth.¹⁹⁴

192. M. Monzer Kahf, Al-ittihad, op.cit., p.31.

193. Syed Ali Ashraf, Muslim Education Quarterly. Winter issue, Volume 5, Number 2, 1988, p.8.

194. God's purpose in creating the human species, according to the Qur'an is to place on earth someone who can act as His vicegerent. He told to angels: "I shall place a vicegerent on the earth" (Qur'an, 2:30). In order to be a vicegerent Man's whole life must be so organized that at every step he does

For this reason Islam emphasises learning knowledge from original sources. To understand the importance of education and cultural exchange externally, it is our concern to look at the view of Islam toward cultural and educational relations between the Islamic state and the world. The question raised here is to what extent Islam accepts interdependence of knowledge, education and culture among nations?

Knowledge, which is in Arabic al-Mārifah, is an important factor for understanding human existence in the earth and the creation of Allah. Although Islam has indicated and revealed knowledge through the Qur'ān and the Sunnah of the prophet for all humanity, the Qur'ān insists on the use of the human mind to understand the universe around us.

For example in Quran, God said:

"Read: In the name of thy Lord who created, who created man from something which clings. Read! Thy Lord is the most Noble who taught by the pen, who taught man what he did not know!"¹⁹⁵

It is a clear indication that Islam views knowledge

everything for the sake of God and to please God and he may be able to say with all sincerety "verily my prayer and my service of sacrifice, my life and my death are all for God, the Cherisher of the world" (Quran, 162).

195 The Qur'ān, al-Alaq, 96 11

and education as fundamental principles for understanding the universe and thought about the existence of things created by Allah. It should be noted here that the word Iqraa which is mentioned in the above verse of the Qur'an means "Read"; and reading leads to Marifa (knowledge) of all kind, including science, self-knowledge and spiritual understanding. The exchange of knowledge and science for the benefit of human beings is a major principle of Islam.

The Islamic state opens its territory for all humanity and the cultures of other states as long as this is not in conflict with Islamic principles.

From the above discussion simply indicates that the search for knowledge is not only for certain groups or people, but is also aimed at a worldwide aspect. Islam indeed represents an international idea. Therefore Islam can become the main source for all people in all places to understand and learn its values and principles. For this reason Islamic culture is international and applies to all races and languages.

A good example of exchange of knowledge in Muslim history comes from the conquerer period where Muslims taught the Arabic language, the Qur'an and Sunnah of the prophet (PBUH) to people of those areas. Through this

interaction of knowledge people became aware of Islam as a source of knowledge, way of life and culture. There is no doubt that Islam became the major source of world civilization in all field of education and culture. Therefore Islam views the exchange of knowledge, technology and science as covering all humanity, regardless of their locality or positions.

In the field of international relations, Islam views the world as one unit created by Allah, to whom every thing will return for judgement. It says in the Qur'ān:

"To God belongs all that is in the heavens and on earth, to Him do all questions go back for decision".

This earth is shared by all humankind and they should cooperate among themselves to maintain peace and good living. Islam therefore exists, not for itself, but for mankind. Sharing knowledge, technology, and science among states worldwide is a major characteristic of Islam.

For this reason, Islam does not recognize a global dominance by any superpower or bipolarity in modern time. This new global system is developing features analogous to those commonly attributed to domestic life including structures of power and authority of socio-economic classes, and norms governing behavior within and between classes. This type of system will lead to direct control and accumulation of raw materials and occupation of

wealth and technology. The process of control and accumulation in the global system involve the transformation of fixed value (territory, raw materials) and consumable value (food, shelter, goods) into social value (education, organization, information, technology, ideological value). This type of system has created what it is known as the center and periphery, where the center control values of wealth, technology and knowledge, while the periphery becomes dependent on the centre, economically and politically. Indeed, this is exhibited by the capitalist and the socialist models in modern time.

Khurshid Ahmad a contemporary Muslim scholar described the two above models as follows:

"Both these models of development are incompatible with our values system; both are exploitative and unjust and fail to treat man as man, as God's vicegerent (Khālifa) on earth. Both have been unable to meet in their own realms the basic economic, social, political and moral challenges of our time and the real needs of a human society and a just economy. Both are irrelevant to our situation, not merely because of the differences in ideological and moral attitudes and in socio-political frameworks, but also for a host of more mundane and economic

reasons: differences in resource bases, changed international economic situations, bench-mark differences in the levels the respective economics, socio-economic costs of development, and above all for the fundamental fact that the crucial development strategy of both systems - industrialisation through maximisation of investible surplus is unsuited to the conditions of the Muslim world and the demands of the Islamic social ideals."¹⁹⁶

Islam believes that knowledge and technology are to serve the purpose of creation, which is none other than the worship of God through the attainment of knowledge of God, through a study of the manifested world. Also Islam aims to identify the interrelation of the material order, the material causes and laws that govern the universe and to use this knowledge for peaceful and harmonious living in this world.

Shaikh Abdul Mabud summarizes the aims of science education from the Islamic point of view as follows:¹⁹⁷

16. See Ahmad, Khurshid, "The Third World's Dilemma of Development, Non-aligned Third World Annual, edited by Andrew Carvely, St. Louis, Missouri: Books International, 1970, pp. 18. See also Ahmad, Kurshid, Economic Development in an Islamic Framework, Published by the Islamic Foundation, Leicester 1980, Ch. 15, pp. 223, 227.

17. Shaikh Abdul Mabud. Curriculum Design: for Natural Science from An Islamic Point of View, Muslim education quarterly, Winter issue, Volume No.2, 1988, p. 19-20.

- "(a) an understanding of the physical and biological work as manifesting Allah's unity, creativity, mere justice, glory and beauty through His works. (God is the ultimate cause of everything and the creation as the reflection of His attribute).
- (b) an understanding of the place of His work within the framework of total creation. (Unity of nation)
- (c) to be able to understand the principles and implications of science within the context of the knowledge transmitted through the Quran and sunnah. (Link between scientific knowledge and revealed knowledge).
- (d) to be able to understand that research and application of science should be in adherence to the moral and ethical values of shariah. (Application of science.)"

There are two kinds of knowledge, revealed knowledge which came to the humankind through the Qur'ān and every human being has the right to learn without any obstacle and with freedom of choice; the other kind of knowledge is scientific education, which is concerned with the acquisition of knowledge and its application for the benefit of mankind. This benefit has to be understood within the context of both this world and the world beyond.¹⁹⁸

198. Ibid. p. 20.

We can conclude that the Islamic policy toward other nations is to view them as a one single unit (Tawhīd), sharing wealth, knowledge, and technology without monopoly or control by a bipolarity system. (See figure 2.).

Islam presents an integration approach, that is, interdependence among nations to stand for justice, fairness and equality. Following these values Muslims should live in the context of Tawhīd (unity) which is considered by Muslims as the most important factor.¹⁹⁹

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199. For an insightful analysis of Tawhīd as the principle of ethics, see Ismail R. Al-Faruqi, Tawhīd: Its Implications for thought and Life. Wycote, PA: The International Institute of Islamic Thought, 1982, p. 150.

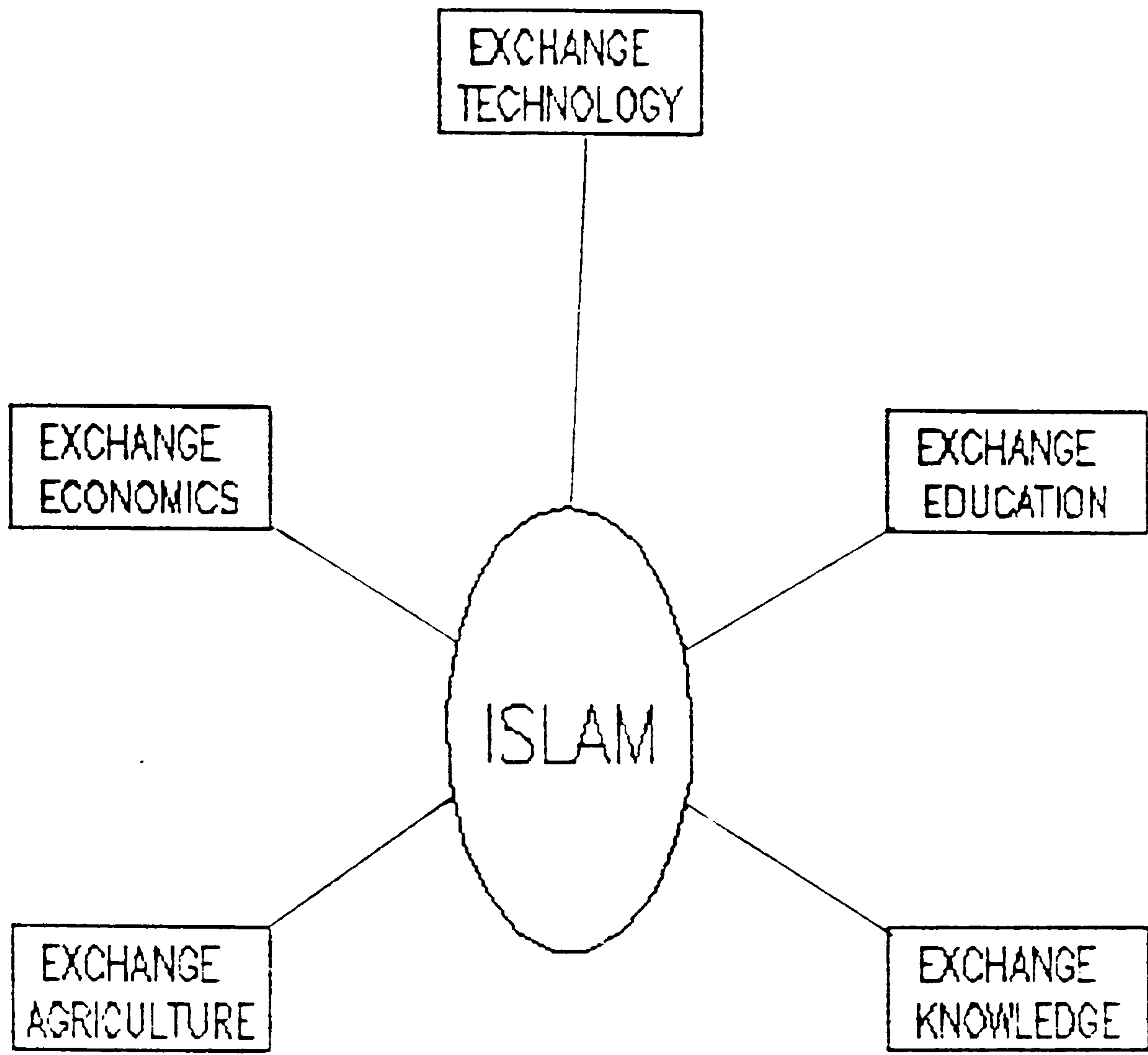


Fig. 2

Thawhid, as S. Parvez Manzoor explains is:

"... the metaphysical and theological principle par excellence which gives the religion of Islam its unique profile and its distinctive morphology ... the identity of personal piety and ritual devotion, of theology and law, of politics and religion, of faith and deeds in Islam are all manifestations of the same all - pervasive principle of tawhid."²⁰⁰

The Qur'an underscores this principle:

"O ye people! Adore your Guardian - Lord who created you and those who came before you, that ye may have the chance to learn righteousness, who has made the earth your couch, and the heavens your canopy; and sent down rain from the heavens; and brought forth therewith fruits for your sustenance, then set not up rivals unto God when ye know the truth."²⁰¹

From this point of view, Tawhid is the Muslims representation of the reality of their collective mind, action and hope. It is within this context that Tawhid establishes the rules of the relationships of human beings with God and each other.²⁰²

200. "Environmenta and Values: The Islamic Alternative" in The Touch of Midas: Science, Values and Environment in Islam and the West, edited by Ziauddin Sardar, p. 15.

201. Qur'an. Surah Al-Baqarah, 2:21-22. Seyyed Hossein Nasr, as an example, states that "it is a general feature of all medieval cosmological sciences that they seek to express the unity of all that exists. This is especially true in the Islamic natural sciences, such as natural history, when this goal has been central, and the idea of the unicity of nature and the interrelatedness of all arts of the universe has remained complementary to and a necessary consequence of the oneness of the creator. "Islamic Life and Thought, Albany: State University of New York press, 1981. p. 124.

202. Al-Bayk, Nasser Ahmad, Islam and World Order op. cit., p. 207.

The second principle which governs the Islamic environmental ethics is the divine arrangement for nourishment (Rūbubiyyah). This is a fundamental law of the universe which constitutes investment and the sharing of available resources, and mutual support and cooperation among individuals. As Al-Barik Nasser²⁰³ pointed out, it will eventually lead human activities to their perfection.

".... So eat and drink of the substance provided by God and do no evil nor mischiefs on the face of the earth."²⁰⁴

Barik, Nasser: Islam and World Order, op. cit., p. 27

Zufair, al-Baqarah, 2:60

CHAPTER SIX

ISLAM AND INTERNATIONAL SECURITY

Introduction

Curt Gasteyer argues that security must begin at home. To maintain national security and independence is the foremost task of every government. Thus he stated "Surely common survival in the face of a nuclear catastrophe is mankind's shared goal. But between national security and the prevention of nuclear war, notions and concepts about international security become hazy, contradictory, if not antagonistic. The challenges to international security today are as numerous as the more or less successful methods to deal with them."¹

He further characterizes the international system as he stated:

"It is well known that the major elements which characterize the complex nature of today's international security is the massive destruction, the rapid projection of military power over long distances and its imbiguity things which we know exist and have existed for some time.

The second characteristic is the multiplication of actors and issues on the international stage has multiplied, the United Nations today counts over three times more members than at its time of creation. In addition to nation-states,

1. Curt Gasteyger, "New Dimensions of International Security", The Washington Quarterly, Winter, 1985, p.85.

there is a multiplicity of governmental and non-governmental international organizations, transnational bodies (i.e. multinational firms, banks, social and political bodies and subnational organizations)".²

The extension of the East-West conflict and the creation of what it is called bipolarity, the extension of U.S-Soviet rivalry into the South, i.e. the developing world, all result in putting the international society at their mercy and under dangerous circumstances. Also with the control of the technology in the hand of the super power, the gap between the South-North or between the rich and the poor countries has become an even bigger threat to international security.

Curt Casteyer concludes that we live in an increasingly unruly world. As most societies, Western ones above all, become more permissive so does the international community. The reasons for this, according to him, are basically the same: an emancipation, an outrance that accepts few restrictions to personal or national independence, and certainly no subordination to a higher authority that lays down the rules of the behavior.³

From this point of view, we can notice that in reality the world under the major ideology -- capitalism

2. Ibid., p.86.

3. Ibid., p.87.

and its goal of expanding its capital markets, is in a state where money from developing countries flows to capitalism ones in the form raw materials and creates a monopoly. On the other hand, the communist and their goal to maintain superiority and support communist ideology over the world is also a threat to developing countries. The result of these conflicts between East-West in modern times caused the creation of NATO and the WARSAW pact.^{4,5}

Going back to our hypothesis (IV) whether Islam can bring solutions for peace and security world wide, we have to analyze how Islam views the international security.

Islam seeks to build principles and an idealistic society against the racial, national and parochial societies existing in the world. The basis of the co-operative effort among men in such a society is not one's birth but a creed and a moral principle. Anyone if he believes in God as his Master and his Lord - and accepts the guidance of the Prophet as the law of his life, can join this community, whether he is a resident of America

4. Nato: was signed on April 4, 1949, by Belgium, Canada, Denmark, France, Great Britain, Iceland, Italy, Luxembourg, The Netherlands, Norway, Portugal and the United States; Greece and Turkey joined the orginazation in 1952, Germany in 1955.

5. WARSAW: This pact was signed between Soviet Union and East Europe to face the Nato Pact.

or Africa, whether he belongs to the Semitic race or the Aryan, whether he is black in colour or white skinned; whether he speaks a European language or Arabic. All those who join this community will have the same rights and social status.⁶

One of the major elements of maintaining security in Islam is the absence of racialism among nations. According to Islam, there is no difference between Arabs and non-Arabs, white or black -- they are equal and share the same responsibilities. Another aspect of security matters in Islam is the maintenance of a collective security not exclusively for a certain group of nations. We understand in the previous chapters that Islam did not seek superiority to maintain a capital market or to expand territorial advantage nor to build military stations here or there. The purpose was rather to establish the Word of God to be supreme and call for Islam without compulsion.

Islam and Universal Security

a. The United Nations and Collective Security

It is well-known that collective security is considered one of the major articles of the United

6. Sayyid Abul¹ala Maududi, Islamic Way of Life, published by International Federation of Student organizations, 1985, p.49.

Nations Charter. In spite of this, the United Nations diplomats, while having been unable to discard the idea of collective security, they are at the same time unwilling to implement it. In San Francisco, they renounced the ambition of subjecting great powers to the operation of a collective security mechanism, but they had difficulty in maintaining a consistent acknowledgment of that limitation. In the fall of 1950, they formally endorsed the proposition that the creation of a universally applicable scheme of collective security could reasonably be undertaken. While this conviction and accompanying enthusiasm for giving it effect quickly faded, the ideological hold of collective security upon the minds of diplomats has impeded the frank admission that they repudiate the notion of making the United Nations an instrument for enforcing collective restraint upon the great powers.

In San Francisco, statesmen announced the ambition of creating a collective security system to be operative in cases marked by great power unanimity, but the effectuation of this project was prevented by the clashes of interest and outcroppings of mistrust which widened in the negotiations relating to the provision of force under article 43.

Inis Claude argues in this regard that there is no real evidence that members of the organization entertain

either the expectation or the intention of establishing and operating a collective security system, limited or universal in its applicability, within the institutional framework of the United Nations.⁷

An additional indication of today's tendency towards bipolarization is that the aggressor may well be the leader or a member of a substantial bloc of states, not an isolated law-breaking state. The strength of ideological ties among members of rival blocs and the disposition of uncommitted states to avoid entanglement in ideological rivalries make it quite unlikely that any aggression today would produce an approximation of collective security's hypothetical situation of all against one.⁸

b. World Government

Inis Claude views the theory of world government as the erection of authoritative and powerful central institutions for the management of relationships among states, specifically for the purpose of preventing international war. Thus, it is conceived as creating "an effective system of enforceable world law in the limited field of war prevention."⁹

7. Inis J. Claude, Power and International Relations, published by Random House, 1960, pp.191-192.

8. Ibid., p.196.

Norman Cousins has put it:

"The establishment of an authority which takes away from nations, summarily and completely, not only the machinery of battle that can wage war, but the machinery of decision that can start a war."¹⁰

The advocacy of world government has had a great impact on contemporary thinking about international relations not because the claim of practical attainability has been taken seriously, but because the claim that it expresses a theoretically valid approach to world order has been acknowledged by numerous statesmen and scholars who are not in any sense committed to the organized movement for promoting world government.¹¹ We noticed in the previous discussion how the international organization failed to establish a collective security through a world government.

c. Concept of World Government in Islam

Coming to the peace aspect or to the need for world peace, Muslim scholars are of one mind. Islam firmly promotes "peace on earth", and has made "this goal a

9. Inis Claude, Power and International Relations, op. cit., p. 206.

10. Norman Cousins, In Place of Folly, New York: Harper, 1961, p. 99.

11. Inis Claude, Power and International Relations, op. cit., p. 209.

basic part of the Islamic world life". The Qur'ān asserts (as given in Surah al-Baqra, v.208),

"O ye who believe act in peace one and all, and do not follow the devil, for he is your obvious enemy."

Islam has always appealed to humanity's intellect and is a guide to correct knowledge the result of which is the establishment of a society based on human dignity, brotherhood, justice and virtuousness. Islam thus has a built-in system of peace and security.

As Khalid Ikramullah Khan pointed out¹² Muslims do not live in a world of peace, and interestingly enough, that the tensions and conflicts and even wars in progress in the world today are in the interest and security of certain other nations. While regional flare-ups are going on, during the forty years of the U.N.'s existence, any new world conflagration has been avoided. The United Nations, with all its faults and irrational structure of veto, is the only world forum where a meaningful foundation of peace and security could be found. Today the problems of peace and security have become the foremost items on the agendas of most international forums.

12. Khalid Ikramullah Khan, "U.N. Peace Security: Muslim Viewpoint", Islamic Order Quarterly, First Quarter, Vol. 9, No. 1, 1987, p. 86.

The world today faces the awesome catastrophe of nuclear holocaust. The Motamar Al-Alamī Al-Islāmi (World Muslim Congress), firmly believes that issues of peace will not be solved from positions of military superiority and pressure, but they can be achieved through mutual understanding and tolerance for the views of the opposite side, confidence in other's sincerity and international cooperation.¹³ On August 6, 1945, the world witnessed the first use of nuclear weapons by a civilized Christian country against a Buddhist nation. As the world enters the 40th year of the nuclear age, the United States and the Soviet Union are poised on the edge of a major development in the thermonuclear weapons bringing into action the Star Wars Syndrome and ultimately towards the nuclear destruction of our earth. Most of mankind have begun the search for ways and means to prevent nuclear war. In this effort the role of the U.N. is most praiseworthy, especially its Centre for Disarmament. The Motamar Secretary General, Dr. Inamullah Khan, in his paper 'Nuclear War and the Defence of Peace: The Muslim View', for the 1984 Bellagio Workshop observes:

"Nuclear weapons are not weapons of war. They are instruments of mass extermination. There is no defence against it. The nuclear war cannot be won and all sides will become victims of awesome annihilation. A total nuclear war is the highest level of human madness, and there can be no such thing as a limited nuclear war. The nuclear weapons were built to be used and the theory of deterrence advanced by many was evolved as an afterthought to justify the

13. Ibid., p. 86.

continued development, production and stockpiling of these mass destructive weapons."

The goal of a totally nuclear-free world is an utopia. It can be achieved only over a long period of time-consuming adjustments in many fields. Not merely a military but a changed political relationship between the capitalist and the communist world is a "must". A change in the prevailing ideas about security policy and military strategy is also essential.¹⁴

Major principles of World Government can be derived from Islam as the following:

(i) Love

The goal of peace and love is a major corner-stone of Islam. It proclaims that love is fundamentally for Allah (God), the Creator of the whole universe. The Qur'ān declares:

But those of faith are overflowing in their love for Allah. (Qur'ān, al-Baqarah, 2:165);

Who is the Absolute God? Islam upholds love for the moral good which emerges from itself in two directions, namely, love for one's self and love for his fellow human beings, but both these directions lead towards one goal

14. Ibid., p. 86.

i.e. love to attain good for the whole universe, without any personal motivation.¹⁵

Love in Islam, therefore, leads to the conscious appreciation of good and hate of evil, but of the evil-doer. In this view of love for one's self, it is necessary to equip oneself with all the good qualities of head and heart, and love for fellow-beings requires "patience and self-restraint" (Q, Hā-Mīm 30:35), and "then will be between whom and thee was hatred become as it were thy friend and intimate". (Q, Hā-Mīm 30:34), enjoining "deeds of kindness and compassion" (Q: Baqara; 16:17) : doing good and abstaining from bad to others in every possible way. It is love which forms the basis of all good human activities. The Prophet Muhammad said:

"None of you can have (real) belief (in Islam) until he loves for all human beings what he loves for himself."¹⁶

(ii) Equality among Nations

Islam did not distinguish between people according to their color, race or class, nor between small groups or big groups or between big states or small states. The Holy Qur'ān declares that the believers are a single

15. . . . Tanzil-Ur-Rahman, "Love, Brotherhood and Equality in Islam", Islamic Order Quarterly, Second Quarter, 1987, Vol. 9, No. 2, p. 17.

16. Ahmad . . . Hanbal, Masnad, Vol. III, p. 272.

brotherhood (Q S.LIV:10). Brotherhood is a corner-stone of Islam and Allah describes it as a favour bestowed upon Muslims:

"And hold fast all together by the rope which Allah (stretches out for you) and be not divided among yourselves; and remember with gratitude Allah's favour on you; for ye were enemies and he joined your hearts in love, so that by His Grace, ye become brothers; and you were on the brink of the pit of fire and He saved you from it" (Q, Al-Imrān, 3:103).

The message of love and brotherhood was emphasized by the Prophet Muhammad in his teachings. He said:

"Muslims are like bricks of a wall, when joined they become a solid cemented structure."

At one time, the Prophet interlocked the fingers of both his hands and said that Muslims were each other's brothers like this. He also gave another example of Islamic brotherhood by saying that:¹⁷

"Muslims are like a body. If one part of the body feels pain, the other parts of the body do not remain unaffected; they also feel pain. Same is the case with Muslims. If one Muslim feels pain, other do feel its pain."

The principle of brotherhood cut through tribal ties and blood kinships in the holy wars during the days of the Prophet. Father fought against son and brother stood against brothers, e.g. Abu Bakr and Abū Ubaydah Al-Jarrāh fought against their sons during the early battles of

17. Ibid., p. 18.

Islam. Islam, however, established a new relationship of brotherhood between Muslims on ethico-religious foundations based on Islam, which is the most valuable and supersedes all other relationships based on the narrow concepts of race, caste and creed or colour.¹⁸

All members of the Islamic society, are, therefore, equal and possess equal rights, regardless of race or tribe. The sole basis of respect or precedence is, in the words of Holy Qur'ān.

"Verily the most honoured of you in the sight of Allah is (he) who is the most righteous of you."

(Q) (AL-HUJĀT 49:13)

(iii) Justice among Nations

Islam stands for human dignity and equality in the international community of mankind without distinction as to race, sex, language or religion, completely unaffected by the different social or cultural environments. It, in fact, advocates universal brotherhood, brought to this world by the Prophet of Islam through his words and deeds which are assimilated into his Last Sermon delivered by him on the 9th Zil-Haj of the 10th year after the Hijrah on the occasion of his final Hāj (pilgrimage) at Arāfāt, about nine miles outside the holy city of Makkah.

In his Last Sermon (congregational address), the

18. Ibid., p. 18.

first of its kind in the history of mankind, the Prophet declared:¹⁹

"Verily in the sight of Allah, the most honoured amongst you is the one who is most God-fearing. There is no superiority for an Arab over a non-Arab, or a non-Arab over an Arab, nor for white over black, nor for black over white, except in righteousness. All mankind descended from Adam and Adam was made out of clay....Behold! every claim of privilege whether that is blood or property, is under my heels."

He further declared,

"O, people, verily your blood, your property, and your honour are sacred and inviolable until you appear before your Lord. Verily you will soon meet your Lord and you will be held answerable for your actions."

Therefore, in the eyes of Islam, all persons are equal. Every one has an equal right to seek his redress through a court of law. Every one has equal right to protection of his life, property and honour. Islam proclaims equal treatment under the law, irrespective of one's status or position in life. Even the ruler is not exempt, even from appearance before a court of law. In a case filed against the Caliph Umar, he personally appeared before the judge with the claimant who was a Jew. This also happened to 'Alī, the fourth Caliph of Islam.

19. Ibn Hishām. AL-Sīrah al-Nabawīyyah, OP, cit, p. 110

An incident is reported by Al-Bukhārī in his famous work on Hadīth, Al-Sahīh, that in Madina a woman of the Banu Makhzūm tribe committed theft. The elders of this powerful tribe prevailed on 'Usamah Bin Zaid to recommend her case to the Prophet, who held him in high esteem, to save the woman from being subjected to the physical punishment of Hādd, i.e. the cutting of hand, as the honour of the tribe was at stake, if the woman was subjected to that punishment. Upon 'Usāmah's intervention, the Prophet said in anger, "Would you intervene in a punishment prescribed by Allah?" He then turned to the Muslim declaring, "The cause of the downfall of nations before you is that when a thief of noble origin is caught, he was allowed to go scot-free without punishment, whereas the thief of humble origin was subjected to punishment. I swear by Allah that if Fāṭimah, daughter of Muḥammad committed a theft I would have had her hand cut off." (Al-Bukhārī, Hudūd, 13).

This tradition furnishes a significant example of the application of the rule of equality in justice in Islam even as regards the Prophet himself and his family, demonstrating fully the truth of the concept of equality in Islam irrespective of caste, creed or colour.

I will quote two other incidents out of the many that occurred during the days of the Caliph 'Umar. The

first event is that of 'Umar Ibn al-'As̄, the then governor of Egypt. 'Umār Ibn Al-'As̄ came to Madina, the capital of Islamic state on his annual state visit. Amān (another companion of the Prophet) stood up in the assembly and accused the governor of whipping him without any just cause. The Caliph 'Umar, upon making an on the spot enquiry, ordered that the said man would lash the governor with equal number of lashes of the whip. He ordered the governor to come out and stand up and prepare for the Qāsās (retaliation). Some of the persons present at the occasion, however, persuaded that man to forego the Qāsās (retaliation) and accept diyāh, monetary compensation for the unlawful injury caused to him by the governor.²⁰

These instances go to prove that Islam presents itself as forming a society based on righteousness, piety and God-consciousness, free from all tyranny, oppression and injustice.

(iv) Co-operation among Nations

Islam views international society as a single unit regardless of their race, language or ideology. The

20. Tanzil ur-Rahman, Op,cit, p.17.

Qur'ān frequently cites this in the following words. "Co-operate with one another in the promotion of virtue and beneficence but co-operate not with one another fostering sin and transgression."²¹ Thus an assembly for an evil conspirational purpose is forbidden. "O Ye who believe!" says Allah in Sūrah Mujādalah, "When you hold secret counsel, do it not for crime and wrong doing and disobedience towards the Prophet, but do it for righteousness and piety and keep your duty towards Allah, unto whom you will be gathered."²² These verses of the Qur'ān and a number of other verses indicate that Islam views the concept of security from a universal perspective. The Prophet (PBUH) himself emphasized human co-operation in theory and practice. In the light of our previous discussion in Chapter One, we noted that the Prophet Muḥammad (PBUH), in the Constitution of Madina (Dustūr al-Madīna), involving the Jews and the Christians, made a pact based on co-operation among themselves, any aggression and established truth, which in modern times is called peace living. The Prophet in a ḥadīth had said:

"God will give power to those who co-operate with other human beings regardless of his territory. "God helps those who help each other." (al-Bukhari).

 21. The Qur'ān, al-Māida 5:3.

22. The Qur'ān, al-Mujādala 58:9.

In the light of this, we can see that the emphasis is not on a specific group or nation but it is for all nations regardless of their religious belief or territory.²³ The tradition adds, "Do not disrupt relations with your fellow men and women; do not live away from one another, entertain no spite or envy and let all men (and women); live like brothers (and sisters)."²⁴

Al-Imām al-Ghazzālī states that,

"The quest for truth is a quest for what satisfies the spirit. It is a quest for attainment of peace within oneself. This peace is achieved when man has experienced and known all levels of existence, penetrating in this process all that which originally obstructed him from knowing the world of his origin, and which has been the cause of his deep disturbance while he was alienated from that world. In his attempt to know the divine world and achieve peace, man has to know the phenomenal world first, and liberate himself from it. Every bit of knowledge is valuable, regardless of his immediate importance in man's life, for it adds to his knowledge of the works of God, enabling him to proceed on his journey to happiness.....".²⁵

The Qur'ān states,

"It is those who believe and confuse not their belief with wrong that are (truly) in security, for they are on (right) guidance."²⁶

23. See for example, Muhammad Abu Zahrah, International Relation in Islam, Dar al-Fakar Al Arabi, Kuwait: 1985, p.25.

24. K.G. Saiyidain, Islam: The Religion of Peace, first edition, Bombay: Current Book house (1976), p.158.

25. Ali Issa Othman, The Concept of Man in Islam in the Writing of Al-Ghazzali, Cairo: Dar al- Maārif printing and publishing house, (1960), p.74.

26. The Qur'ān, al-An'ām, 6:82.

As long as God is the embodiment of peace within Islamic traditions; therefore to whom a Muslim is in pursuit of realizing the noble goal of peace, one is actually trying to spiritually apply one of God's attributes to one's daily chores and activities.

Collective Security and Islam

The concept of collective security was not, of course, invented by Western theory nor by socialist theory. The idea can be found in the Qur'ān (the holy book), when Muḥammad began to receive revelation from Allah. God said:

"If two parties among the believers fall into a quarrel, make ye peace between them: but if one of them transgresses beyond bounds against the other, then fight ye (all) against the one that transgresses until it complies with the command of God; but if it complies, then make peace between them with justice, and be fair: for God loves those who are fair and just."²⁷

The Holy Qur'ān further says:

"The believers are but a single brotherhood; so make peace and reconciliation between you two (contending) brothers; and fear God, that ye may receive mercy." (Q, Al-Hujurāt 6:10).

Individual quarrels are easier to prevent than group

27. The Qur'ān, al-Hujurāt, 6:10.

quarrels, or in the modern world, national quarrels. But the collective community of Islam should be supreme over groups or nations. It would be expected to act justly and try to prevent the quarrel, for peace is better than fighting. But if one party is determined to be the aggressor, the whole force of the community is brought to bear on it. The essential condition of course is that there should be perfect fairness and justice and respect for the highest principles; for Islam takes account of every just and legitimate interest without separating spiritual from the temporal matters.²⁸ The question raised here is whether this verse can be implemented for the Muslims only or it can be universal oriented? Muhammad Abū Zaharah holds the view²⁹ that the previous verse is not only applicable to the Muslims, but to the non-Muslims as well. He has stated six situations.

First Situation: If the dispute happens among Muslim nations, it is the duty of the State to help the defensive against the aggressive nation by making Sulh (arbitration) and finding a compromise solution. The state should be neutral and there is no place to take sides in a dispute. The Muslim nations should not only stop aggression, but also maintain security among Muslims so that aggression does not arise.

Second Situation: If the dispute happens between a Muslim nation and a non-Muslim nation, there is no neutral side but the Muslims should help the Muslim nation. If however, the Muslim nation was the aggressor, it is the duty of the Muslim to stop this dispute.

 28. Abdullah Yusuf Ali, The Holy Qurān, op.cit., p.1405.

29. Muhammad Abū-Zahrah, International Relations in Islam, op.cit., pp.83-87.

Third Situation: If the dispute is among two non-Islamic nations, Abu-Zuhrah stated, If one of them has hostile relations with the Muslim state, had quarreled with the Muslim state in the past, and there is no peace treaty and there is also an indication from the Islamic state that this state (hostile state) is preparing for war with the Muslims, then it is the duty of the Muslim to look after their Maslahah (interest) in deciding whether to interfere or not.

Fourth Situation: If there is a relationship, such as a Half(pact), between the Islamic state and one of the warring states, in this case the obligation of the Muslim is to support that state.

Fifth Situation: In the case that there is no relationship (treaty or covenant) between the Islamic state and the other two nations which are involved in war, there is no obligation for the Islamic state to interfere between them. But if there is an indication that one of them is the aggressor, then it is permissible for the Islamic state to interfere only to stop the aggressive nation.

Sixth Situation: In the case that one nation is weak and the other is more powerful and the purpose of the strong nation is to control the weak and the Islamic State is capable of stopping this kind of aggression, it is then the duty of the Muslims to interfere on the side of the weaker nation.

The collective security is considered one of the major characteristics of Islam, not only for Muslims but also for all people who live on this earth. Islam is against the oppressor whoever he is, whether he is a Muslim or a non-Muslim. A classical example of this is when the Prophet Muhammad (PBUH) supported a non-Muslim tribe called the Khuzāh in the Arabian Peninsula because they had been under oppression.³⁰

These historical events prove the universal concept

30. For more details see Jad Al- Mawla, The Days of Arab, Iasa Press, Cairo: 1965, p.97.

of the issue of security. The Qur'ān frequently states incidents such as this. For example,

"Ye are the best of people (Ummah) evolved for mankind, enjoining what is right forbidding what is wrong, and Believing in God."

This verse indicates that the Muslim's duty to the whole community is to prevent what is wrong and promote justice and stop aggression. Muhammad Shams-al-Dīn stated this in the following verse:

"This Ummah (the Muslim Ummah) does not exist only for itself, but it exists for the whole people, because this Ummah indeed has a universal role as well as a historical role to implement righteousness among people."³¹

This is the focal point for groups interested in promoting the idea of collective security. Islam calls for the balance of power system and the creation of a mechanism for the mobilization of diplomatic, economic and military sanctions against states or groups refusing to submit their disputes to pacific settlement.

Thus, the concept of collective security involves the creation of a single Ummah (One Nation) in which the danger of aggressive warfare by any state is to be met by the avowed determination of virtually all other states to exert pressure of every necessary variety - moral, diplomatic, economic and military - to frustrate an

31. Muhammad Shams al- Dīn, Between Jahiliyyah and Islam, Dar Al- Khatab Al- Bnani, Beirut: 1975, p.52.

attack upon any state. Therefore, the concept of power in Islam should be determined by providing security for all nations and promoting the welfare of nations who seek an advanced society and bring peace to all the community.

The Qur'ān stated that, "Muhammad is the apostle of God and those who are with him are strong against the unbelievers, (but) compassionate among each other."³² The Qur'ān has extrapolated the interrelations between individuals in that ".....the servants of (God) most gracious are those who walk on the earth in humility and when the ignorant address them, they say peace."³³ These and other verses are meant to keep people away from terror, tyranny (Tughyān) and injury.

"We have not sent thee but as an universal messenger to men giving glad tidings and warning them (against sin) but most men understand not."³⁴

There is an interesting saying by the Prophet Muḥammad (PBUH) which says, "Help your brother (Muslim) whether he is an aggressor or a victim of aggression." The Prophet was asked by the early Muslims that while they could obviously help the oppressed party, they did not know how they could help the aggressor? The reply was, "By doing your best to stop him from aggression."³⁵

32. The Qur'ān: al-Fath: 48.

33. The Qur'ān: al-Furqān, 25:63.

34. The Qur'ān: al-Sabā, 34:48.

Hence we can discern that "all mankind is God's family. He holds him the dearest who does the most good to His family."³⁶

E. Summary

In general, Islam views the theory of world government as the erection of authoritative and powerful central institutions for the management of relationships among states, specifically for the purpose of preventing international war. Islam by all means can establish one legal authority according to the Shari'ah (Islamic Law) to central organs of the community.

Islam represents a collective solution to offer to world government not only for the Muslims but also for the non-Muslims. Islamic world government is necessary because all alternative schemes for producing order are inadequate; it is proper because it represents an adequate approach to the task. The Shari'ah (Islamic Law) is the subject to a superior system of laws, and that in all cases and at all times, the effect of such a superior system of law.

35. The Arabic text is the following, "Unsur akhāka Zālīman aw Mazlūman". see K.G. Saiyidain, Islam: The Religion of Peace, op.cit., p.159.

36. Ibid., p.160. Also see The Qur'an al-Mā'idah, 5:47.

The concept of security according to Islam is not only concerned with the Muslim community but is concerned as a collective security for non-Muslim nations. For collective security to operate as advice for the prevention of war, three assumptions must be fulfilled:

1. For the Islamic state to maintain security worldwide, it must be able to muster at all times such overwhelming strength against any potential aggressor or coalition of aggressors that the latter would never dare to challenge the order defended by the collective system.
2. If the Islamic state has evidence against the aggressor then it is the State's duty to stop the aggression.
3. If a weaker nation seeks help facing a strong nation, then it is the duty of the Muslim nation to provide all measures to stop zulm (oppression) and maintain the human good (maslahah) worldwide.

The framework of security in Islam is a universal approach for the whole community regardless of their race, language or colour. The basic elements of security are based on the Qur'^{ān} and Sunnah of the Prophet (PBUH).

These elements can provide the world order system with a valuable framework towards collective security.

Love, equality, justice and cooperation are the cornerstones of collective security among nations in the view of Islam.

CHAPTER SEVEN

ISLAM AND TREATIES

In this chapter, an attempt will be made to identify the principles of relations between the Islamic state and other nations. For example, what is the basic relation between Islam and non-Muslim communities? Is it a state of hostility or of friendship? What are the main objectives of the treaties? Do the treaties have their basis in the Qur'ān? Have they originated legitimately from a Qur'ānic source?

When we refer to Qur'ān, it is stated that:

"O Ye who believe! fulfil (all) obligations."¹

"O Ye who believe! Why say ye that which ye do not?"²

"and fulfil (energy) engagement, for (energy) engagement will be enquired into (on the day of reckoning)."³

"As to those who believed but came not into exile ye owe no duty of protection to them until they come into exile, But if they seek your aid in religion, it is your duty to help them, except against a people with whom ye have a treaty of mutual alliance."⁴

1. The Qur'ān: al-Maidah 5:1.

2. The Qur'ān: al-Saff 61:2

3. The Qur'ān: al-Isrā' 17:34.

4. The Qur'ān: al-Anfāl 8:72.

These verses clearly indicate that the principles of treaties have high priority in religion. The Prophet Muhammad (PBUH) stated that "It is a part of 'Imān (correct belief) to fulfil the treaty."⁵ Accordingly, there is reward for the fulfillment of the treaties of God and He has promised heaven to those who are trustworthy.

"Those who faithfully observe their trusts and their covenants; and who (strictly) guard their prayers; these will be the heirs, who will inherit paradise; They will dwell therein (forever)."⁶

The Qur'ān has declared that trust and honesty were the characteristics of the Prophet:

"also mention in the Book the (story of) Ismail: He was (strictly) true to what he promised and he was an apostle (and Prophet)."⁷

Prophet Muhammad (PBUH) was the classical example of trust with regard to treaties. Once he returned Abū Jandal to his opponents (the unbelievers) because of a treaty he made with them. He told Abū-Jandal that he could not violate his agreement.⁸ This example illustrates the greatest picture of the Prophet (PBUH) in

5. Al- Syūṭī (Hadith Saheeh) true Hadith, Al- Jamih al- Saqir, No. J: p.90.

6. The Qur'ān: al-Mūminūn 23:8,9,10,11.

7. The Qur'ān: Maryam 19:54.

8. Mohammed Hassan, International Relations in Qur'an and Sunnah, op.cit., 1982, p.324.

theory as well as in practice with regard to respect and trust. In a hadith the Prophet said:

"The signs of a hypocrite are three: Whenever he speaks, he talks a lie. Whenever he makes a promise, he breaks it. If he is entrusted with something, he proves to be untrustworthy." (AL-BUKHARI, Bāb AL-Shahādāt P. 28).

The Qur'ānic verses mentioned about those who are untrustworthy are the following.

"Fulfil the covenant of God when ye have entered into it, and break not your oaths after ye have confirmed them; Indeed ye have made God your surety; for God knoweth all that ye do.

And be not like a woman who breaks into unwisted stands the yarn which she has spun, after it has become strong; nor take your oaths to practice deception between yourselves, lest one party should be more numerous than another for God will test you by this and on the Day of Judgement He will certainly make clear to you (the truth of that) wherein ye disagree."⁹

The Conditions of Treaties

The question here is what is the condition of the treaties between the Islamic state and non-Muslim nations? To what extent can the Islamic state be involved in a treaty?

First: One of the major conditions in forming a treaty is that it must not be against the Islamic Shari'ah (Islamic

9. The Qur'an: al-Nahl: 16:91-92.

Law). The Prophet (PBUH) has stated that:

"Any condition with regard to a treaty that does not exist in the Qur'ān is false."¹⁰

If the Caliph makes a treaty or agreement which includes a false condition, then the treaty will be recognized without the false condition.

Second: The treaty is an agreement between two parties and a legitimate process and therefore shouldn't be made through compulsion or under the language of power against the weaker.

Third: The period of the treaty must be determined and there is more than one opinion in Islam about the limitation of a treaty. But this is determined by the Imām or the Caliph taking into account the Maslahah interest of the Islamic state.

Fourth: The articles of the treaty must be clear and elaborate without any ambiguity in order to avoid dispute when it is applied.¹¹

10. al-Tabari, al-Mujam al-Kabir, J.N.2 p.77.

11. Sayyid Sābiq, Fiqh al Sunnah, Kuwait: Dār al-Bayān 1968, p.15.

The Writing of the Treaties

The treaties among nations must be put through a three-stage process before it can be put into effect. These stages are as follows:

- (1) The Period before the agreement
- (2) The Period during the agreement
- (3) The Period after the agreement.

In the first stage, negotiations concerning the treaty and its conditions should take place among nations. Examples of this stage can be seen in Islamic history. In the writing of the Hūdaybiyyah treaty, the Prophet himself negotiated with the People of Quraysh. These people sent a delegation to the Prophet (PBUH) to reach an agreement which is known in Islamic history as Sulah al-Hūdaybiyyah. Another example is when 'Umar Ibn Abdulaziz conquered Egypt and sent 'Ubadah Ibn-al-Sāmit to the Maqwas of Egypt in order to exchange ideas and negotiate and settle on a treaty.¹²

The Second Stage is the agreement upon the treaty. This process begins sometime after negotiation among the parties takes place. The parties involved clarify the

12. Ahmad al-Hasri, International Relations in Islam, Dār al-Talīf, Egypt. 1969, p.18.

conditions and the exceptions in order to make them ready to be written as a document which they will agree to follow. After writing the treaty, it must be ratified officially by the two parties. Thus the witness to the treaty as the Prophet did during the Hudaybiyyah treaty with some people from Qurayish such as Sawheel Ibn Amur and Makraz Ibn Hafs on the Islamic side. The witness to the treaty was Ali Ibn Abi Talib.¹³ Another example of this is when the Prophet Muhammad (PBUH) signed a treaty with a delegation of Najran. There were five witnesses to this treaty. They were Abu Sufyan Ibn Harb, Khiylan Ibn Umar, Malik Ibn Awaf, ~~Al-Asra~~ Ibn Habis Al-Hamdali and Al-Mughirah Ibn Shubah. It was written by Abdullah Ibn Abu Bakr.¹⁴ The same process was followed during the period of Abu Bakr's Caliphate. The witnesses of the treaty, concerned were Al-Mastur Ibn Umar, Rashad Ibn Hudayfah and Al-Mughirah Ibn Shubah.¹⁵ This is an indication that the treaties according to Islam must be written in clear words, documented and must be witnessed by a number of people as is done with any written document in international treaties.

The third stage is the exchange of documents. The written treaty must be exchanged between the two parties.

 13. Mohammed Ali Hassan, International Relation in the Qur'an and Sunnah, op.cit., p.332.

14. Abu Yusuf, Al-Kharaj, the story of Najran, p.71.

15. Ibid., p.73.

The Prophet requested two copies of the treaty of Hudaibiyyah¹⁶ and this is similar to what is done in the cost of modern international treaties. This is necessary for both parties in order to refer to it when there is a misunderstanding about a particular situation in the treaty.

Types of Treaties

Islamic history mentions several types of treaties in which the Prophet (PBUH) was involved. For example, in making the (a) Treaty of good neighbourhood with the Jews of Madina, the Prophet (PBUH) took the initiative. The treaty is stated as given below:

1. This is a prescript (Kitāb) of Muhammad, the Prophet (the messenger of God)¹⁷ to operate among the faithful believers (muminin) and the submissive to God (muslimin) from among the Quraysh and the people of Yathrib and those who may be under them and join them and take part in wars in their company.
2. Verily they constitute a political unit (Ummah) as distinct from all people of the world.
3. The emigrants from among the Quraysh shall be (responsible) for their word and shall pay their blood-money in mutual collaboration and shall secure the release of their prisoners by paying their ransom themselves, so that the mutual dealings between the believers be in accordance with the principles of recognized goodness (maruf) and justice.

16. Mohammed Ali Hassan, International Relation in the Qur'an and Sunnah, op.cit., p.333.

17. Muhammad Hamidullah, The First Written Constitution in the World, Lahore: Sh. Muhammad Ashraf, (1968), pp.41-44.

4. And the Banū 'Awf shall be responsible for their own word, and shall pay their blood money in mutual collaboration as heretofore; and every group shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.
5. And the Banū 'l-Hārith shall be responsible for their word, and shall pay their blood money in mutual collaboration as heretofore, and every group shall secure the release of its own.....
6. And the Banū Sa'idah shall be responsible for their word, and shall pay their blood money in mutual collaboration as heretofore, and every group shall secure the release of its own.....
7. And the Banū Jusham shall be responsible for their word, and shall pay their blood money in mutual collaboration as heretofore, and every group shall secure the release of its own.....
8. And the Banū 'l-Najjār shall be responsible for their word, and shall pay their blood money in mutual collaboration as heretofore, and every group shall secure the release of its own.....
9. And the Banū 'Amr ibn 'Awf shall be responsible for their word, and shall pay their blood money in mutual collaboration as heretofore, and every group shall secure the release of its own.....
10. And the Banu'n Nabit shall be responsible for their word, and shall pay their blood money in mutual collaboration as heretofore, and every group shall secure the release of its own.....
11. And the Banu'l- Aws shall be responsible for their word, and shall pay their blood money in mutual collaboration as heretofore, and every group shall secure the release of its own.....
- 12/a. And verily the believers shall not leave anyone hard pressed with debts, without helping him in recognized goodness with regard to ransom or blood money.
- 12/b. And no believer shall oppose the client of another believer against him. (i.e. this letter)¹⁸

 18. So according to Ibn Hisham: missing in Abū 'Ubayd. The following isolated report of Ibn Hanbal (iii 342) may be a variant of the same clause. Jabir says, The messenger of God prescribed for each clan its blood money, and then wrote:

From the above discussion we notice that the above treaty was an indication that the Muslims sought good neighbourly relations based on the Shariah of Islam (Islamic law).

(b) Non-aggressive Treaties

The question raised here is to what extent can the Muslims be involved in such non-aggressive treaties? If Dār al-Islām (territory of Islam) and Dār al-Harb are always in the state of hostile relations as claimed by Majid Khadduri, then how can these treaties exist? I think a classical example of this type of treaties can be recalled from Prophet Muhammad's period during the period from the battle of Badr to the signing of the treaty with Mecca (A.D.624-630). This was the result of the signing of a peace and non aggressive treaty. 'Alī Ibn Abī Tālib, the Prophet's cousin and son-in law was the representative of the Prophet (PBUH). The text of the treaty is as follows:

"In The Name Of Allah!

This is what Muhammad Ibn 'Abd-Allāh has agreed

verily it is not permitted that a contract of clientage of a Muslim individual should be entered into without permission of his patron (Wali) "May be the word Yukhalif (oppose) by Ibn Isham to read Yuhalifu (enter into contract). For more details see appendix under the title of the constitution of Madina (Dastūr Al- Madīnah).

upon peacefully with Suhayl Ibn 'Amr; they agreed to peacefully postpone war for a period of ten years. People shall be secured and guaranteed (from attack) from each other; If any-one from Quraysh wishes to join Muhammad without the authorization of his Wāli (protector), he should be sent back; If any one of Muhammad's followers wishes to join the Quraysh, he will not be refused. Unbecoming acts between each of us are prohibited and there shall not be between us defection nor treason; those (people) who want to join Muhammad's alliance and his pact may do so; those whom want to join the Quraysh alliance and its pact may do so.¹⁹

To conclude the treaty and to guarantee its implementation Muhammad (PBUH) brought witnesses who swore to observe the treaties provisions. Among the witnesses were Abū Bakr, 'Umar Ibn al Khaṭṭāb and 'Abd al-Rahmān Ibn 'Awf. This treaty, although it seems in favour of the Quraysh, it is a success for Islam because it is defacto recognition of Muhammad's authority in Madina and Islam as the official religion of this authority. The treaty was in fact violated within a period of two years. The reason, as reported in the chronicles, was the attack of the Quraysh on Muhammad's adherents. This action was considered a violation of the clause "those who want to join Muhammad's alliance and his pact may do so...."²⁰ Similarly another non-aggressive treaty was made by the second caliph, 'Umar Ibn al-Khaṭṭāb with the Patriarch of Jerusalem in A.H.17 (A.D.638). The Caliph himself came to Jerusalem to sign the treaty. The text of the treaty

19. For the text of the treaty see Ibn Hisham, Al-Sirāh al-Nabawiyah, Vol. II, p.200.

20. Ibid., p.203.

is as follows:

"In the name of Allah, the Compassionate, the Merciful.

This is what God's slave 'Umar, prince of the believers, has guaranteed to the people of Ilia (Jerusalem); he guaranteed their lives, property, churches and crosses....

Their churches will not be dwelt in (by foreigners) nor will they be destroyed or ruined in any way; Nor their crosses or property (destroyed); They will not be persecuted for their religion, nor will they be molested; Jews shall not be allowed to live with them in Ilia; The inhabitants of the Ilia shall pay the Jizyah, as much as that of the inhabitants of Maidain; They shall force the Rum (Byzantines) and the thieves to leave the city. If they leave, they shall be secured in their lives and property until they reach (their country), Those (Byzantines) who prefer to stay, shall be given security and should accept the same obligations as those of the inhabitants of Ilia concerning the Jizyah. Those who prefer to go with the Rum from among the inhabitants of Ilia shall be secured in their lives and property, (provided) they leave their churches and crosses....Those who were in it (the city) from among the people of the land (farmers), before the death of so and so, shall be allowed if they wish to stay in the city and shall have the same obligations as those of the inhabitants of Ilia concerning the Jizyah. Those who prefer to leave with Rum, (may do so); those who prefer to go to their people (their land) (may do so) until the time of their harvest; This document is guaranteed by the assurance of Allah, of His Apostle, of the Caliphs and of the believers, if the inhabitants paid their duties of the Jizyah; Witnesses are: Khalid Ibn al-Walid, "Amr ibn al As, Abdul Rahman Ibn-Awf and Mu'awiya Ibn Abi Sufyan. It was signed in 15 A.H."²¹

We can conclude from this treaty that no limitation was given to the treaty and that it was meant to be a

21. See Al-Tabari, Tarikh edited by de Geoge (Leiden: 1893), Series I, Vol. V, pp.2405-6.

permanent treaty between the Muslims and the non-Muslims. Thus from the moment the treaty came into force, the Christians became subjects of the Caliph and their territory became part of Dār al Islām .

(c) Treaties concerning the exchange of prisoners

The exchange of prisoners was stated in the Qur'an with relation to the occasion of the Battle of Badr. This battle took place between the Muslims and the tribe of Quraysh the second year after the flight of the Prophet from Mecca to Madina.²² The Muslims, about three hundred in number, opposed approximately one thousand Quraysh warriors and achieved a decisive victory in which most of the Qurayshi leaders were killed or captured. The battle of Badr was the first major armed confrontation between the Muslims and the Quraysh and the other Arab and Jewish tribes of Arabia. This battle came after twelve years of oppression and severe persecution of the Muslims, many of whom were forced to flee, first to Abyssinia and then later to Medina.²³ The Qur'an states:

"It is not for any Prophet to take prisoners of war until they hath thoroughly subdued the

22. See Abū-Mohammad 'Abdal-Malik Ibn Hishām, Al-Sīrah al-Nabawīyyah, (The Bibliography of the Prophet), 1985, p.34-43.

23. See Abu Sulayman Abdul Hamid, The Islamic Theory of International Relation, op.cit., p.144.

land."²⁴

Further the Qurān declared:

"Therefore, when ye meet the unbelievers (in fight) smite their necks, at length, when ye have thoroughly subdued them, bind a bond firmly (on them) thereafter (is the time for) either generosity or ransom, until the war lays down its burdens."

It is the second verse which is the permanent and established rule for deciding the fate of war prisoners. The first is only ~~blames~~ blames Muslims for having taken war prisoners and to point out that the "real" will of God is not to kill war prisoners.²⁵ In the Prophet's bibliography there is no indication that the Prophet killed any war prisoners. It is mentioned that he exchanged his enemy prisoners by the Fidyāh (ransom) and this approach has been stated in the Qur'ān as we have mentioned earlier.

"Fidyah could be a certain amount such as happened in the battle of Badr. Or it can be through the exchange of the prisoners with the Muslim prisoners such as took place between Muhammad and the Banu al-Aqīl tribe."²⁷
Fidyāh (ransom) could be met through certain types of

24 Qur'ān, al-Anfāl, 67:8

25. See W. Al-Zuhayli, Athār al-Harb fī al-Fiqh al-Islāmi (the effects of war in the Islamic jurisprudence, 2nd edition, Damascus: Al-Maktabah, 1965, p.406-408.

26. Ibid.

27. Abū Bakr Ahmad Ali Jaṣṣaṣ, Ahkām al-Qur'an (the laws of Qur'an) Al-Bahi printed in Cairo: 1347 A.H., p.482.

services. For example, after the battle of Badr, the Prophet (PBUH) exchanged enemy prisoners for Muslims mostly through payment of a ransom, but with others through services such as teaching the Muslim boys so that the prisoners could be released.²⁸ Another example of war prisoners in Islamic history was during the Abbasid Caliphate and was called the Prisoners Exchange or Fidyah (ransom) Treaty. The purpose was to release prisoners of war by exchange or by paying a certain amount of money agreed upon. During the same period of the Abbasi Caliph, under the rule of Hārūn al-Rashīd in A.H. 181, the Muslims who were released numbered about 3700 prisoners. Al-Maṣūḍī reports twelve treaties from the time of Harun to this day.²⁹

(d) Military Pacts

Military pact treaties are known in Arabic as Al-ahlāf al-askariyah. In modern times it is known as a type of agreement between two countries or more for common interests to accomplish protection against any external threats. The WARSAW pact and Atlantic pact are examples of this. In this Islam views pacts among nations as a universal pact.

 28. Mohammed Ali Hassan, International Relation in the Qur'an and the Sunnah, op.cit., p.200.

29. Al-Tabari, Tarikh, ed.Goege, SeriesII, Vol.II, p.696.

Al-Sarakhsī, in his book Al-Mabsūt, argues that the Prophet Muhammad (PBUH) said that he will not ask for a pact with unbelievers unless they fought with them under the Islamic command. "If they separate themselves, we will not co-operate with them."³⁰ Thus the Muslims did not tie themselves to the Mushreeken under their command. It is stated that the Prophet (PBUH) accepted Amān of Kuzmān who was a Mushrik (unbeliever) in the Uhud battle.³¹ Also it has been mentioned that the Prophet (PBUH) accepted Safwān Ibn Omaiyah to fight with him although he was a mūshrik (unbeliever).³²

All these indicate that people entered Muslim battles as individuals, not as members of a state, and under the command of the Muslims. Before Islam, Muhammad (PBUH) was sitting in Abdullah Ibn Jadī's house and listening to al-half called Halfal-Fudul pact, and He stated that if they asked him to enter and enjoy the half in Islam, he would accept it because it was against oppression.³³ This indicates that Islam is against Zulm (oppression) and is ready to enter into any pact as long as its basis is justice and its intent is to

 30. Al-Saraksi, Al-Mabsut, Maktābat 'Usūl Al-dīn Cairo: 1324 H., p.14.

31. Muhammad Hassan, International Relations in the Qur'an and the Sunnah, op.cit., p.204.

32. Fatah al-Bārī, J.6, p.180.

33. Jad Al- Mawla, The Days of Arabs in Islam, Iasa print, Cairo.

prevent aggression in conformity with Islamic rules.

The question raised here is to what extent can the Islamic state deal with non-Muslim states in matters of importing weapons as happens in modern times? The Islamic scholar Abū 'Abid in his book Al-Amwāl says that the Treaty of Najran which was made by Prophet Muhammad (PBUH) and the Christians of Najran, contained clauses about the exchange of weapons. It says that if the Muslims face any external threats, the people of Najran should provide them with military aid and economic assistance including all types of weapons. Later when the war ends, the Muslims should return these weapons.³⁴ So this type of agreement is acceptable as long as the Islamic state is weak and is not able to make their own weapons.

Termination Of Treaties

We have seen earlier that the treaties of Islamic Shari'ah (Islamic Law) are based on the framework of the Qur'ān which frequently declares the following:-

"Fulfil the covenant of God, when ye have entered into it, and break not your oaths after ye have confirmed them; Indeed ye have made God your surety; for God knoweth all that ye do."³⁵

34. Mohammed Ali Al-Hassan International Relation in Qur'ān and Sunnah, op.cit., p.359.

35. The Qur'ān, al-Nahl 16:91.

In another verse it is stated:

"But if they violate their oaths after their covenant, and taunt you for your faith, fight ye the chiefs of unfaith;
For their oaths are nothing to them
That they may be restrained.³⁶

The Islamic injunctions stress the respectability of treaties by emphasizing the well known principle Al-'Aqd Shari'at Al-Muta'agidin which is the Arabic equivalent of the rule Pacta Sunt Servanda.³⁷ In this respect Islam does not innovate a new principle. However, this principle was recognized by municipal laws only. It had no validity in the inter state relation. Islam is to be accredited with strong adherence to the principle and its strict implementation in international intercourse to the extent that although Islam did not create the principle it brought it up and introduced it into international law in a way that it made it a well-established principle in international legal theory.³⁸ In the Islamic legal doctrine, treaties are of great importance due to the theory of obligation.

God, in Islamic theory, considers Himself a third party in every treaty that the Muslims conclude.³⁹ Any

36. The Qur'an, al-Twbah 9:12.

37. Al-Braik Nasser Ahmad, Islam and World Order: Foundation and Values, op.cit., p.184.

38. M.T. Al-Ghunaimi, The Muslim Conception of the International Law and the Western approach, op.cit., p.211.

breach of a treaty is an unforgivable sin since it is also a renouncement of an obligation towards Allah. In this respect, we believe that Islamic theory is an advance over the Western theory in giving a satisfactory basis of obligation. Writers on international law would not for long fail to perceive that international law was being undermined, if one based contracts on the will of the state. They, therefore, tried to find a basis which would leave unaltered the principle of sanctity of contracts, in spite of combined adherence to the will of the state as a foundation of international law. Islamic theory amply provides this foundation.⁴⁰ The Qur'ān states that as long as the people that you make the treaty with do not violate their obligations, it is the duty of the Muslims to fulfil the agreement.

"(But the treaties are) not dissolved with those pagans with whom ye have entered into alliance and who have not subsequently failed you in aught, nor aided any one against you. So fulfil your engagement with them to the end of their term; for God loveth the righteous."⁴¹

But if the treaty is used for maneuvering in the wrong path, and for fraud, then the Qur'an later indicates the following:

39. See for example Suras: Ahzāb 33:15, Raād 13:20-25 and Banī Israil 17:34.

40. M.T. Al-Ghunaimi, The Muslim Conception of International Law, op.cit., p.212.

41. The Qur'an: al-Nahl 16:92.

"lest one party should be more numerous than the other."⁴²

Abdullah Yusuf Ali explains this verse as follows:

"Do not make your religion merely a game of making your own party numerically strong by alliances cemented by oaths, which you readily break when a more numerous party offers you its alliance. The Quraysh were addicted to this vice, and in International politics the present day this seems to be almost a standard of national self respect and international skill. Islam teaches nobler ethics for individuals and nations. A covenant should be looked upon as a solemn thing not to be entered into except with the sincerest intention of carrying it out, and it is binding even if large numbers are ranged against it."⁴³

If there is evidence of untrust concerning the other party and it comes to the knowledge of Muslims, then it is not an enforceable matter. The Qur'ān says:

"If thou fearest treachery from any group through back (their covenant) to them (so as to be) on equal terms;
For God loveth not the treacherous."⁴⁴

It is clear from this verse that if there is an indication to use the treaty as an instrument for fraud and manoeuvring, then it will be terminated immediately. In the above discussion, we find that in treaties, the Islamic doctrine is to denounce clearly and publicly the party which terminates the treaty. The treaty can also be terminated after the expiry of the period agreed upon.

42. The Qur'ān: al-Nahl 16:92.

43. Abdullah Yusuf Ali, The Holy Qur'ān, op.cit., p.681.

44. The Qur'ān: al-anfāl 8:58.

The Qur'ān stated:

"So fulfil your engagements with them to the end of your term; for God loveth the righteous."⁴⁵

Therefore the rule of Islam is to fulfil covenants.

Al-Amān (Pledge)

The exact Arabic meaning of the above term can be seen in the following verse from the Qur'ān.

"If one amongst the pagans asks thee for asylum, grant it to him, so that he may hear the Word of God; and then escort him, to where he can be secure; that is because they are men without knowledge."⁴⁶

Some Muslim scholars have defined Musta'min (secured) as follows:

"the person who seeks asylum, he is a non-Muslim or a resident of Dar al-Islam but he seeks temporary asylum in the territory of Islam."⁴⁷

Another definition of the Musta'min (asylum) :-

"He is the person who seeks asylum in another state in a certain time whether he is a Muslim or a non-Muslim."⁴⁸

45. The Qur'ān: al-Twbah 9:4.

46. The Qur'ān: al-Twbah 9:6.

47. Islamic Co-operation Magazine, Issue 7, Muhram (March) Saudi Arabia Printed 1972. p.26.

48. Muhammad Ali Al Hassan International Relation in Qur'ān, and Sunnah, op.cit., p.388.

I believe the second definition is more appropriate than the first because asylum can happen to any one at any time and any place. This type of 'amān' is either implied in a treaty of peace by which the ḥarbis (those belonging to Dār al-Ḥarb) enjoy safe conduct or granted by the Imam or by the commander of an army to one or a few armies for the purpose of negotiations. The Ḥarbis were entitled to protection by Muslim authorities so long as they enjoyed the benefits of the amān.⁴⁹ When the purpose of the aman was achieved, the musta'min would be protected until he returned safely to his place of origin.

Unofficial aman may be granted to the harbi upon request by any adult believer, free man or slave, male or female. There is, however, disagreement among the jurists as to which believers are permitted to be given the amān. The Māliki, Shāfiī and Hanbali jurists approve of giving even slaves, men and women, the right to be given aman; the Hanafi jurists deny the slave this right, unless he is given this right by his master.⁵⁰ But according to the Prophet tradition (Sunnah), all people who enter the house of Abū-Sufyān are secure whether they are black or white and also whoever enters the mosque will be secured.⁵¹ This simply points out that there is

49. Majid Khadduri, War and Peace, op.cit., p.185.

50. Al-Tabari, Kitab al-Jihad, ed. Schacht (Leiden: 1933) p.29.

no distinction between Muslim and non-Muslim, man or woman, are race or colour or another; all have the right to be equally secured.

The procedure of granting aman is very simple and there is no disagreement among the jurists on it. Once the Harbi's intention of requesting the aman is known, regardless of the language he speaks, any word of sign or approval is enough to constitute granting it. Even a hint or mere salutation is enough to grant the harbi protection, provided this is carried out with the intention of giving aman.⁵² If the believer did not mean to give aman, but his sign or hint was understood by the harbi to constitute aman, this would be considered a valid aman. The case of al-Hurmuzan, it will be recalled, illustrates the giving of aman by inference, if not by a trick, without the intention of giving it.⁵³ If the harbi entered Dār al-Islām without aman, or was unable to obtain one, he was liable to be killed unless he adopted Islam.⁵⁴

Shafii advised giving him a period of four months at the end of which he had either to leave (conducted safely

51. Ibn-Hisham, Al-Sirah Al-Nabawiyyah op.cit., pp.3-4.

52. Al-Bukhari, As-Sahih, op, cit p.296.

53. Al-Hurmūzan had attempted to kill Umar Ibn Al-Khattab the second Caliph. See Muhammad Ali Hassan, International Relation in Quran and the Sunnah, op.cit., p.390.

to the frontiers), pay the Jizyah and become a Dhimma or adopt Islam.⁵⁵ Other jurists advise that he should be expelled provided he is given protection until he reaches Dār al-Hārb.⁵⁶ If the harbī claimed he was on a mission, carrying a message to the Imām, he was permitted to proceed to the Imām without amān since he possessed diplomatic immunity. If the Imām, however found that the messenger lacked the letter of credence or that he had no message to deliver, he was liable to be killed, especially if he attempted to kill the Imām or any other person in Dār al-Islām. The harbi may enter Dār al-Islam by mistake or as a result of a shipwreck, whereby he finds himself among the Muslims, without aman. The majority of the Muslims advise giving the Imām the choice of setting the harbi free, or ordering his immediate execution, or releasing him after payment of ransom.⁵⁷

Types of Amān

First: The Aman of the Muslims to cover Mushrikīn.

As we have pointed out, the Qur'ān has ordered Muslims to welcome the Mushrikīn as a Musta'mīn.

"If one amongst the pagans asks thee for asylum grant it to him, so that he may hear the Word of

54. Abū Yusuf, Kitāb al-Kharaj (Cairo: A.H. 132) p.188.

55. Shafīī, Kitāb Al-Umm, Vol.IV, p.201.

56. Majid Khadduri, War and Peace, op.cit., p.168.

God, and then escort him to where he can be secure, that is because they are men without knowledge."⁵⁸

Even if they are the enemies of Muslims, the Mushrikīn have the right to be secure and safe. A hadith of the Prophet (PBUH) said:

"Whoever comes from far away or nearby whether he is free or slave, indicates by his hand or his tongue, do accept his request and provide him with security and safety."⁵⁹

One can safely conclude that the Qur'ān and the Sunnah gives the amān to all humanity.

Second: The Aman of the Muslim in non-Muslim Territory

Islamic history indicates that the Muslims indeed have asked at times for security and asylum in a non-Muslim territory due to internal threats. The classical example of this in the beginning of the Dawāt al-Islām (call for Islam) in the Arabian Peninsula where the Prophet Muḥammad ordered his followers to leave Mecca for Abyssinia.

When Islam emerged in a hostile environment, it was therefore not unnatural for Muḥammad to look to Christian Abyssinia as a potential supporter as she had

57. al-Tabari, op.cit., p.32.

58. The Qur'an: al-Tawbah 9:6.

59. Quoted from Muhammad Ali Hassan, International Relations

opposed paganism in Arabia. Indeed Christianity and Islam have more than one common characteristic. The most important one is the unity of God. The second most important is that both are opposed to paganism. Some of Muḥammad's followers were of Abyssinian origin, the most famous of whom was Bilāl (Muḥammad's favourite Mu'adhīn is one who calls to prayer). This is often referred to as the first Abyssinian Hijrah, which took place in A.D. 615.⁶⁰

According to traditional reports, the chiefs of the Quraysh, the rulers of Mecca, sent a delegation to Najāshī the Abyssinia king, to demand the return of the refugees. The Najāshī summoned the refugees to inquire about their dispute with the Quraysh. Jāfar Ibn Abī Tālib, their chief, replied (indicating their motives for Hijrah) as follows:

"O king, we are a nation in the days of ignorance (Jahilliyah) worshipping idols, eating carrion, committing shameful acts, killing our next of kin, violating our obligations towards our neighbours, the strong among us eating the weak. This continued until Allah sent us an apostle from us, whose ancestry, honesty, trustworthiness and chastity are known to us. He summoned us to Allah to believe in His oneness to worship Him and abandon stones and idols which we and our forefathers worshipped instead. He ordered us to speak the truth, to be faithful, to observe our obligations to our next of kin and neighbours, to refrain from forbidden acts and bloodshed, from committing shameful

in Quran and Sunnah, op.cit., p.395.

60. For more details about Ethiopian hijra see Ibn Hisham, Kitab al-Sirah al-Nabawiyah, op.cit., pp.208-21. See also see W.Montgomery Watt, Muhammad at Mecca (Oxford, 1953) pp. 12-

acts and telling the false, from dispossessing orphans and slandering virtuous women. He ordered us to worship Allah and associate no other with Him, to pray, give alms and fast....so we believed in him and followed what was brought to him from Allah. We therefore worshipped Allah alone, associating no one with Him, abandoning what was forbidden to us and doing what was allowed to us. This resulted in the enmity of our people who persecuted us and tried to abjure us in our religion and go back to idolatry."⁶¹

Jafar's discourse with the Najāshī supported by quotations from the Qur'ān, (Maryam, 16-34) resulted in the people of Najran's decision to protect the Muslims without even listening to the demands of the Quraysh delegation. It is known from the Muslims who sought amān in Abyssinia 'Uthman Ibn 'Affan (the third Caliph), his wife Ruqayyah, Al-Zubayr Ibn al-Awam and Abdu Al-Rahman Ibn 'Awf. The Quraysh had sent 'Amr Ibn al-Ās and Abdullah Ibn Abi Rabiyyah to the Najashis in order to return the refugees.⁶²

Another incident which made the Muslims well disposed toward Abyssinia was the favourable reply of the Najashi to Muhammad's letter of invitation to accept Islam. In the eighth year of the Hijrah, Muhammad sent a letter to Najāshī as he did to other rulers, in which he said:

"In the name of Allah, the Merciful and the

117.

61. Ibn Hisham, Kitab al-Sira al-Nabawiyyah, op.cit. 19-20.

Compassionate.

From Muhammad the Apostle of Allah, to Najashi, King of Abyssinia. Peace be on you. Glory be to Allah the only One, the Holy One, the Peaceful and the Faithful Protector. I testify that Isa (Jesus) son of Mary, the blessed and the immaculate virgin and she conceived. He created Isa of His own spirit and made Him to live by His breath, even as He did Adam. I now summon thee to worship Allah who is without partner and who rules the heavens and the earth. Accept my mission, follow me, and become one of my disciples, for I am the apostle of Allah...set aside the price of thy sovereignty. I call upon thee and thy hosts to accept the worship of the supreme being.

My mission is over. I have preached, and may heaven grant that my counsel may be of benefit to those who hear. Peace shall be with the man who shall walk in the light of the belief."⁶³

According to Muslim chronicles, Najāshī laid the letter on his head as a mark of respect and accepted Muhammad's mission. He replied with gifts sent to Muhammad as follows:

"In the name of Allah, the Merciful, the Compassionate.

To Muhammad the apostle of Allah, Peace be on you. May Allah shelter thee under his compassion, and give thee blessings in abundance. Thy letter I have read. What thou has said about Jesus is the right belief, for He hath said nothing more than that. I testify my belief in the King of Heaven and Earth. Thine advice I have pondered over deeply....I testify that thou are the apostle of Allah and I have sworn this in the presence of Jafar and have acknowledged Islam before him. I attach myself to the worship of the Lord of the Worlds, O Prophet. I send my son as my envoy to thee, but if thou dost command it, I will go myself and do homage to the holiness of thy mission. I

62. Muhammad Ali Al-Hassan, International Relations in Quran and Sunna op.cit., p.396.

63. al-Tabāri, Tarikh, ed. De Goege (Leiden, 1885) series I,

testify that thy words are true."⁶⁴

This indicates that there was good relationship between Muhammad and Najāshī. Friendship, respect and good neighborliness existed before the Muslims sought refuge in Abyssinia. Another example of this type of amān happened to the Caliph Abu Bakr the first, successor of the Prophet Muhammad (PBUH). When he sought amān in the house of Ibn Ildkhnah (and he is a non-Muslim), he welcomed Abū-Bakr and accepted him as a Must'amin (secured).⁶⁵ Abu Bakr did this to escape the persecution of his people. This simply means that the Muslims, individually or collectively can seek security from non-Muslims if it is necessary to do so.

Vol. III, p.1569. See also Majid Khadduri, War and Peace in the Law of Islam, Op. Cit., p. 255.

64. al-Tabari, op.cit., pp. 1570-1571.

CONCLUSION

In the first chapter an attempt was made to familiarize the reader with the historical picture of the pre-Islamic political situation as a background to the rise of Islam and its development against a challenging environment. In the second chapter the researcher examined the pillars of the Islamic State, Ummah (Community), Dār al-Islām (abode of Islam) and the Sultah (Authority) as basic concepts in the framework of the state.

In this section we concluded that the Pillars of the State in Islam find their meaning in the Qur'ān and the Sunnah of the Prophet (PBUH). In other words, they do not come about as a result of a formative process, as is the case in Western theory. The concept of Ummah, which is considered the cornerstone of the Pillars of the State in Islam, is not limited to a religious context but has also a political content. Nor is it limited to any one language, race or colour, it is a universal concept. Furthermore, the geographical boundaries of the Islamic state are not limited, as is the case with the Western theory of the state, the Islamic state is more universal territorially.

The meaning of Ummah originates from the Qur'an, which indicates that the word is an Islamic term. Moreover, the concept of Ummah is not concerned with a particular nation, such as the Arabs or any other national group, but it has a universal reference. The Ummah in Islam has played an influential role in politics through ijmā' (consensus), which is its source of legitimacy.

In chapter three the concept of power in Islam was examined, with emphasis for the field of international relations. The researcher finds that according to the Qur'ān and Sunnah, the concept of power in Islam means to accept the Word of God as supreme in establishing justice, equality and freedom among nations. The balance of power accordingly is intended to ensure stability and mutual security in the international system. Among orientalist the word Jihād has been described as a holy war, whereas in reality the Jihād can be considered fulfilled if the purpose of Islam can be achieved peacefully. Therefore, peace is the rule, and war the exception.

Chapter four closely examined Islam and international peace, and included a review of literature on this subject. This was followed by consideration of the concept of peace in Islam. The author concluded that for Islam peace is a universal concept, and is not limited to Muslims. Accordingly, there can be no peace in the world unless the individual is at peace with himself. The individual, therefore, is the basic unit for serving universal brotherhood. Knowledge of the oneness of God, interdependence among individuals, the right to believe, the right of life, liberty, equality, merit and security are the cornerstones of peace in Islam.

In chapter five the researcher examined the relation between Dār-al-Islām and non-Muslim nations. We concluded that the basic relation between the Islamic nature and non-Muslims should be tolerance, respect and a desire for peace. This chapter confirmed the findings of the previous chapter that peace and not war is the basis of relations between states. The principles of war and peace have been presented through the Qur'ān and the Sunnah systematically. The conduct of

foreign policy in Islam is also based on the major sources of the Qur'ān and Sun-
nah. The law of the Rights of Prisoners of War was discussed in this chapter and
we found that this issue both originated and was expanded in Islamic law. The
issue of Hiayd (neutrality) was discussed in this chapter and it was found that Islam
recognises neutrality. Therefore, the study clarifies misconceptions about this issue
and shows how Islam views neutrality.

The issue of diplomacy was considered and it was found that diplomacy had
been practised from the time of the Apostle period in the first Islamic state as a
peaceful mission within the framework of the Call to Islam. Commercial relations
between Dār-al-Islām and non-Muslim countries are seen to be based on free-
trade. Dhimmas (the people of the revealed book), such as Jews and Christians,
were examined and the status of Dhimmas in Dār-al-Islām discussed, and it was
noted that they have equal rights with Muslims, based on free choice and self-
determination.

In the section on Islam and contemporary treaties, we found that Islam did not
recognise the period of colonialism which took place after the Second World War.
Therefore, Islam does not recognise the bipolarity system of modern times. In other
words, Islam does not recognise imperialism as an ideology. Islam, therefore,
views the modern status quo as unbalanced, concerned only with self interest and
self security. For this reason Islam cannot accommodate this type of policy.

Chapter six was concerned with Islam and international security and we found
that the concept of security was a universal concept and therefore applied to all

nations. According to Islam the world community is based on love, equality, justice and cooperation. The concept of security is collective and originates from Islamic roots. Islam supports the theory of world government by envisaging the establishment of authoritative and powerful central institutions for the management of relationships between states, specifically for the purpose of preventing international war.

In chapter seven the researcher discussed the principles of treaties between Islamic nations and non-Islamic nations, and described the conditions of treaties and the way they operate and function. It was found that the principles of treaties were based on the Qur'ān and the Sunnah. Islamic treaties are similar to modern international law, but based on divine law. The types of treaties were also examined and in the last section we discussed the termination of treaties, an issue which is also a basic element in the Qur'ān.

In conclusion, the major findings of this thesis can be summarized as follows:

- (a) Islam is both a religion and political institution (a state), i.e. it does not separate political affairs from religious values and morals. This is rooted in the Shariāh (Islamic law), and at the same time, the fundamental principles have been guided and practised through past centuries.
- (b) The exercise of power, according to Islam, is mainly for promoting social justice, equality and freedom on a collective basis. Acts of aggression are condemned.

- (c) The concept of Ummah, which is one of the most influential pillars of the State, is found to have a collective meaning, and includes those who live under Islamic law. This differs from Western pillars of the state.
- (d) The basic principles of theory which govern international relations are to be found in the Qur'ān and Sunnah and are indeed regulated by its law.
- (e) Islam represents a universal system for both Muslims and non-Muslims, which could provide the basis for a universal theory for the ordering of international relations. The Islamic model of international relations is capable of making a great contribution to the field of international law among nations.
- (f) The accusation that Islam is only concerned with Dār-al-Islām and Dār-al-Harb does not have any basis in the Qur'ān or in the Sunnah (Prophet tradition), nor can any such suggestion be found in the Qur'ān or in the Sunnah.
- (g) Islam does not recognise the ideology of imperialism.
- (h) The Islamic theory of international peace seeks to promote stability and interdependence among states, individuals and groups. In this regard Islam views the individual as subject to the law governing external relations, and central authorities can deal with him directly, apart from the state.
- (i) The concept of collective security was to be found in the Qur'ān well before the United Nations declared such a concept of collective security.

- (j) The idea of World Government is an Islamic principle to be implemented through a central authority based of love, equality, justice and cooperation.
- (k) The study has shown that Islamic international theory is not influenced by Western theories, but is based on pure Islamic sources. Thus the Siyar is based on the Qur'ān and Sunnah (Prophet tradition). The study also illustrates that 'Ulamā' (a scholar) has played an important role in identifying and interpreting the theory of international relations according to the Islamic Shari'ah (Islamic law).
- (l) Sovereignty in Islam belongs to Allah (God), not to a human being or piece of land, or certain groups of people.
- (m) The authority in Islam is based on the Ummah (community).
- (n) The translation of the word Jihād among some authors in international relations as holy war is not accurate. The more appropriate word is to exert.
- (o) The conduct of internal and external affairs in the Islamic state is based on The Qur'ān, Sunnah and ijtihad (human reason).
- (p) Decision-making in the Islamic state is based on Shūrā (participation).
- (q) The Qur'ān not only lays down principles of morality and ethics, but also gives guidance in the political, social and economic fields.

GLOSSARY

- Allah: God, Lord.
- ‘Ahd: Pledge, treaty.
- Ahl al-Kitāb: The tolerated people, the people of the book (primarily Christians and Jews).
- Amān: Safe conduct or pledge of security.
- Al-Dhimmah: Permanent consitutional agreement between Muslim political authorities and non-muslim subjects whereby subjects receive protection and peaceful relations in exchange for acceptance of Muslim rule and payment of Jizyah.
- Dār al-‘Ahd: (alternatively Dar al-Sulh). Non-Muslim territories involved in treaty agreement with Muslim state. (Term coined by al-Shaf‘ī.)

Dār al-Ḥarb: Non-Muslim territories hostile to Muslim
(opposite to Dār al-Islam).

Dār al-Sulḥ: See Dār al-ʿAhd.

Dār al-Islām: Territories in which Muslims are free and
secure.

Fatwā: Legal and/or religious judgments.

Fidyah Ransom (liberation of prisoner in
consideration for a sum of money or value
paid for release).

Fiqh: The rules and injunctions deduced from
Shariah (Qurʾān and Sunnah); sum of Muslim
legal decisions and opinions;
jurisprudence. The principal vehicle of
reflection for classical and traditional
Muslim intellectuals.

Fitnāh: Temptation, trial; attractiveness,
enchantment.

Ghanimah Booty or spoils of war.

<u>Ḥadīth:</u>	Saying; the traditions about the Prophet; the Sunnah.
<u>Ḥiyād:</u>	Neutrality.
<u>Hijrah:</u>	Emigrant.
<u>Ijmāʿ:</u>	Consensus.
<u>Ijtihād:</u>	Use of human reason (Aql) in elaboration and interpretation of Shariah; original juristic opinions.
<u>Imām:</u>	Caliph; Muslim leading Congressional prayer; a pious Islamic intellectual authority.
<u>Imāmah:</u>	The Caliphate.
<u>Imān:</u>	Faith, trust, belief; from the verb ' <u>amana</u> ', to believe (in).
<u>Jihād:</u>	A struggle; a Muslim trying to fulfil his Islamic responsibility, both in outward

actions and in inward correction of his own mistakes; working or fighting in the cause of Allah.

Jizyah:

A special tax levied by an Islamic State on the non-Muslim subjects. According to the Qur'an, the spirit of the poll-tax seems to be an expression of non-Muslim subservience (to Islam or Muslims). But since the very beginning poll-tax and protection of non-Muslims became interdependent. It was in this sense of protection to the life and properties of non-Muslims that the Holy Prophet termed them as ahl-adh-dhimma or dhimmi. The rates of this levy are discretionary. It may be a per head levy or on the community as a whole. The state may exempt some or all from the levy.

Kāfir, Kuffār: Denier (of the existence of Allah).

Kharāj:

Kharaj is a tax on land not on the produce of land, it is leviable on the lands owned by the non-Muslims at the time of the

establishment of the Islamic State.

Makkah: Mecca, the holy city located in Saudi Arabia.

Maslahah: Interest

Mithāg: Covenant, pact.

Muāhadah: Treaty.

Mu'min: Believing, faithful, believer.

Mushrikīn: Making partners (literary); attributing partner or associates to God.

Musta'min: Enemy subjects granted safe conduct to enter a Muslim territory.

Shariāh: The will of God for human conduct revealed through the Prophet; the Qur'an and the Sunnah; Islamic law; fiqh.

Shirk: Associating other than Allah with Allah,

idolatry, polytheism; from the verb 'Sharika', to be a companion, to share, participate, associate mushrik perpetuates this association.

Sīrah:

The biography of the Prophet.

Siyar:

Account of Muslim external achievements
juristic source for Muslim law of nations.

Sulh:

Peace treaty; truce.

Sunnah:

Way, habitual custom, line of conduct,
used in reference to Allah or the Prophet.
From the verb Sanna, to shape, form,
prescribe, enact, establish.

Surah:

Chapter of the Qur'an, sign, degree of
rank, from the verb Sara, to mount a wall
or sawwara, to enclose, fence in.

Tahkīm :

Arbitration.

Tajārah:

Commerce.

Tagwā:

Fearful awareness, devoutness, from the verb waqa, to guard preserve, shield, shelter, protect, prevent (a danger).

Tawhīd:

Divine unity, union, belief in Allah's oneness. From the verb wahada to be alone, unique, singular, unmatched, without equal.

'Ulamā:

Muslim scholars, theologians and learned men.

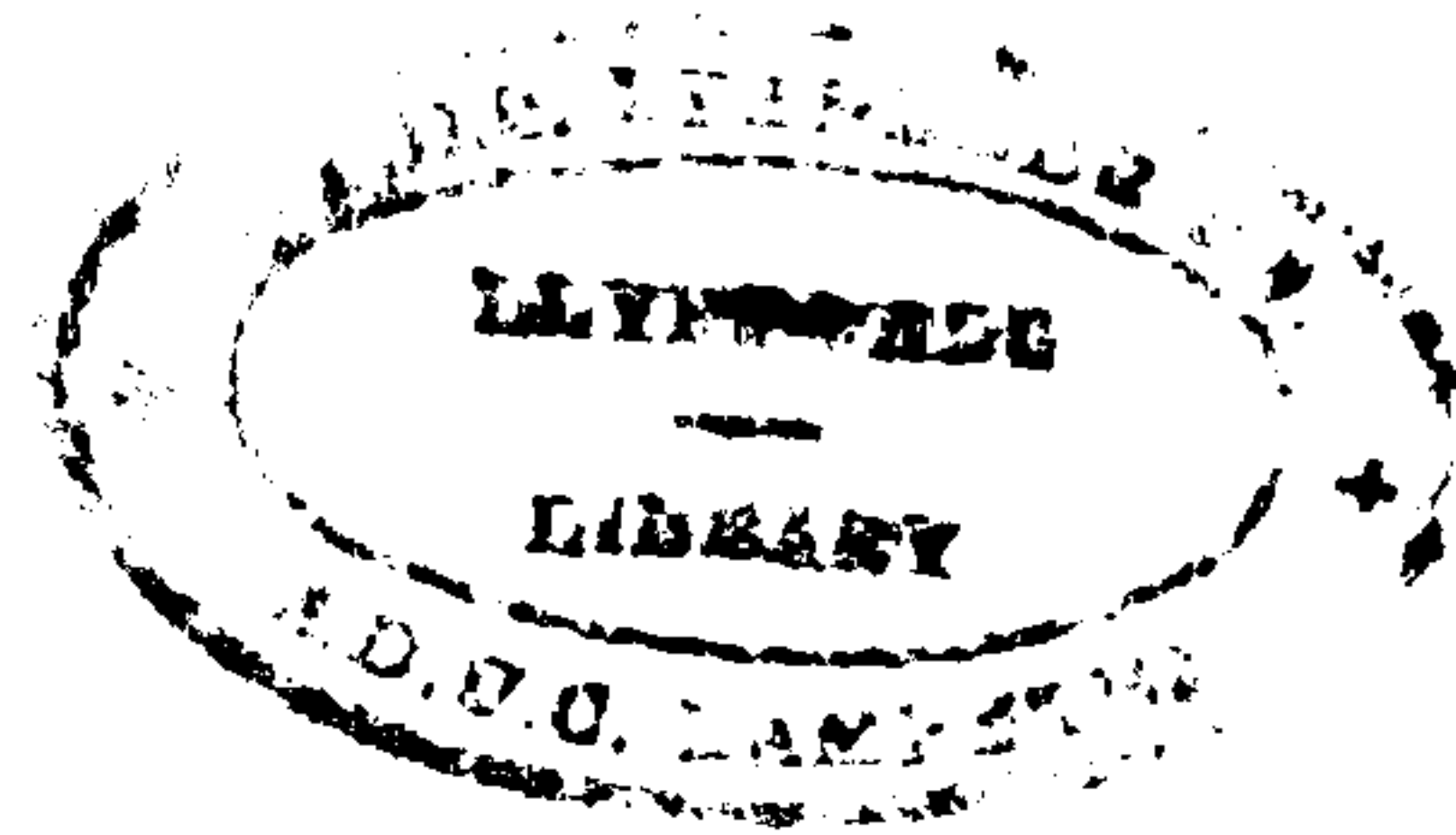
Ummah:

Community, people, nation, group of people.

Zakāt:

(alms, lit, purity), technically it is a levy on annual savings as also on the produce on the land, set apart mainly for the indigent. The Qur'ān ordains the payment of Zakat or the interchangeable word as-Sadaqa and lays down the heads on which zakat proceeds are to be spent. The rates of payment, the nature and quantities of wealth, the crops on which it is to be charged and the rules of

exemption from zakāt are laid down by the Holy Prophet. The rate is generally two and a half percent on wealth, five to ten percent on the produce of land, and twenty percent (lit, khums) on bounties and treasure troves.



Terminology

Terminology & Abbreviations

PBUH = Peace be upon Him.

Mecca = Makkah

Q = Quran.

APPENDIX
DUSTUR AL-MADINAH (CONSTITUTION OF MEDINA)¹

In the name of Allah, the Beneficent, the Merciful

1. This is a document from Muhammad, the Prophet, peace be upon him, governing the relations between the Believers and Muslims of the Quraysh and Yathrib (Madinah), and those who followed them and joined and labored with them.
2. They are one Ummah to the exclusion of all men.
3. The Qurayshite emigrants, according to their present custom, shall pay the bloodwit within their number and shall redeem their prisoners with the kindness and justice common among the Believers.
4. The (tribe of) Banu Awf, according to their present custom, shall pay bloodwit they paid previously; every section shall redeem its prisoners with the kindness and justice common among the Believers.
5. The Banu al-Harith b. al-Khazraj, according to their present custom, shall pay the bloodwit they paid previously; every section redeem its prisoners with the kindness and justice common among the Believers.
6. And the Banu Saidah, according to their present custom, shall pay the bloodwit they paid previously; every section shall redeem its prisoners with kindness and justice common among the Believers.
7. And the Banu Jusham, according to their present custom shall pay the bloodwit they paid previously; every section shall redeem its prisoners with kindness and justice among the Believers.
8. The Banu al-Najjar, according to their present custom, shall pay the bloodwit they paid previously; every section shall redeem its prisoners with the kindness and justice common among the Believers.
9. The Banu Amr b. Awf, according to their present custom shall pay the bloodwit they paid previously; every section shall redeem its prisoners with the kindness and justice common among the Believers.
10. The Banu al-Nabir, according to their present custom, shall pay the bloodwit they paid previously; every sections shall redeem its prisoners with the kindness and justice common among the Believers.

1. This document is quoted in its entirety from : Mohamed S. El-Awa, On The Political System of the Islamic State (Indianapolis, Ind., American Trust Publications, 1980.). p. 15-20.

- 11 The Banu al-Aus, according to their present custom, shall pay the bloodwit they paid previously; every section shall redeem its prisoners with the kindness and justice common among the Believers.
- 12 (a) The Believers shall not leave anyone destitute among them by not paying his redemption money or bloodwit in kindness.
- 12 (b) A Believer shall not take as an ally the freedman of another Believer against him (latter).
- 13 The Allah-fearing Believers shall be against the rebellious or him who seeks to spread injustice or sin or enmity or corruption among the Believers. The hand of every man shall be against him even if he be son of one of them.
- 14 A Believer shall not slay a Believer for the sake of an Unbeliever nor shall he aid an Unbeliever against a Believer.
- 15 Allah's protection is one; the least of them (the Believers) may give protection to a stranger on their behalf. The Believers are guardians one to the other to the exclusion of all men.
- 16 To the Jew who follows us belongs help and equality. He shall not be wronged nor shall his enemies be aided.
- 17 The peace of the Believers is indivisible. No separate peace shall be made when the Believers are fighting in the way of Allah. Conditions must be fair and equitable to all.
- 18 Forays that fight with us shall alternate in expeditions.
- 19 The Believers must avenge the blood of one another shed in the way of Allah.
- 20 (a) The Allah-fearing Believers enjoy the best and most upright guidance.
- 20 (b) No polytheist (resident of Madinah) shall take the property or person of the Quraysh under his protection nor shall intervene against a Believer.
- 21 Whosoever is convicted of killing a Believer without good cause shall be subject to retaliation unless the next of kin is satisfied (with blood-money) and the Believers shall be against him as one man, and they are bound to take action against him.
- 22 It shall not be lawful for a Believer who holds by what is in this document and believes in Allah and the Last Day to help an evil-doer or to shelter him. The curse of Allah and His anger on the Day of Resurrection will be upon him if he does, and neither repentance nor ransom will be accepted from him.
- 23 When a matter is disputed, it must be referred to Allah and to Muhammad.

- 24 The Jews shall contribute to the cost of war as long as they are fighting alongside the Believers.
- 25 The Jews of the Banu Awf are one community with the Believers, the Jews have their religion and the Muslims have theirs, they and their freedmen, except those who behave unjustly and sinfully, for they injure only themselves and their families.
- 26 The same applies to the Jews of the Banu al-Najjar as applies to the Jews of the Banu Awf.
- 27 The same applies to the Jews of the Banu al-Harith as applies to the Jews of the Banu Awf.
- 28 The same applies to the Jews of the Banu Saida as applies to the Jews of the Banu Awf.
- 29 The same applies to the Jews of the Banu Jusham as applies to the Jews of the Banu Awf.
- 30 The same applies to the Jews of the Banu Thalaba except those who behave unjustly and sinfully, for they injure only themselves and their family.
- 31 The same applies to the Jews of the Banu Aws as applies to the Jews of the Banu Awf.
- 32 And the Jafna, a clan of the Thalaba, are as themselves.
- 33 The same applies to the Banu al-Shutaybah as applies to the Jews of the Banu Awf. Loyalty is a protection against treachery.
- 34 The freedmen of Thalaba are as themselves
- 35 The close friends of the Jews are as themselves.
- 36 (a) None of them shall go out of Madinah except with the permission of Muhammad.
- 36 (b) But he shall not be prevented from taking revenge for a wound. He who slays a man without warning slays himself and his household, unless it be one who has wronged him, Allah will accept that.
- 37 (a) The Jews must bear their expenses and the Muslims their expenses. Each must help the other against anyone who attacks the people of this document. They must seek mutual advice and consultation. and loyalty is a protection against treachery.
- 37 (b) A man is not liable for his ally's misdeeds. The wronged must be helped.
- 38 The Jews must spend with the Believers so long as war lasts.
- 39 Yathrib shall be a sanctuary for the people of this document.

- 40 A stranger under protection shall be as his host, if harmless and not a criminal.
- 41 No protection shall be given without permission of the people concerned.
- 42 If any dispute or controversy likely to cause trouble among people of this document should arise, it must be referred to Allah and to Muhammad, Rasul Allah. Allah accepts what is nearest to piety and goodness in this document.
- 43 The Quraysh and their helpers shall not be given protection.
- 44 The contracting parties are bound to help one another against any attack on Yathrib.
- 45 (a) If they are called upon to make peace and maintain it, they must do so; and if they make a similar demand on the Believers, it must be carried out except in the case of war in the cause of religion.
- 45 (b) Everyone shall have his portion from the side to which he belongs.
- 46 The Jews of the al-Aws, they and their freedmen, have the same standing with the people of this document in complete loyalty from the people of this document. Loyalty is a protection against treachery. He who acquires anything acquires it for himself. Allah approves of this document.
- 47 This document will not protect the unjust and the sinner. The man who goes forth to fight and the man who stays at home at Madinah are safe unless he has been unjust and has sinned. Allah is the protector of the good and the Allah-fearing, and Muhammad is the Messenger of Allah.

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