

BOOK 3 - DUTIES RELATING TO THE SOCIETAL WHOLE

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PART 1. DUTIES OF THE INDIVIDUAL TOWARDS THE MUSLIM SOCIETY

END:

Creation, Preservation and Promotion of Collective Life in a manner which ensures the Spiritual, Moral and Social Progress of the Individual in a healthy manner and eliminates the contrary.

1. PREAMBLE:

Society vis-a-vis the Individual.

2. DUTIES:

1. Duty relating to active struggle for the Spiritual and Moral Perfection of the Muslim society.
2. Duties relating to active struggle for ensuring and promoting the economic soundness of the Muslim society.
3. Duties relating to active struggle for ensuring and promoting the political stability of the Muslim society.

Chapter 1

PREAMBLE: SOCIETY VIS-A-VIS THE INDIVIDUAL

(1) The organic nature of human society:

Arabic text

“Oh mankind! reverence your Guardian-Lord, Who created you from a single soul, created, of like nature, his mate, and from them twain scattered (like seeds) countless men and women;—Reverence Allah through Whom you demand your mutual (rights), and (reverence) the wombs (that bore you): for Allah ever watches over you.” (4:1).

Arabic text

“O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well-acquainted (with all things).” (49:13).

Arabic text

“And your creation and your resurrection is in no wise but as an individual soul: for Allah is He Who hears and sees (all things).” (21:28).

(2) The organic nature of Muslim society as coming into existence by a “Contract”:

Arabic text

“Allah has purchased of the Believers their persons and their goods; for theirs (in return) is the Garden (of Paradise): They fight in His Cause, and slay and are slain: a promise binding on Him in Truth, through the *Taurāt*, the *Injīl*, and the Qur’ān: and who is more faithful to his Covenant than Allah? Then rejoice in the bargain which you have concluded: That is the achievement supreme.” (9:111)

(3) The manifoldness of social life as the natural condition of the progress of human civilization:

Arabic text

“By the Night as it conceals (the light); by the Day as it appears in glory; by (the mystery of) the creation of male and female;— verily, (the ends) you strive for are diverse.” (92:1-4).

(4) The importance of social environment for the development of the individual:

Arabic text

“And fear tumult (or oppression), which affects not in particular (only) those of you who do wrong: and know that Allah is strict in punishment.” (8:25).

(v) Treating the demands of society above the demands of self, i.e., subordinating personal interests to the interests of the Social Whole created by Islam, enjoined:

Arabic text

“Say: if it be that your fathers, your sons, your brothers, your mates, or your kindred; the wealth that you have gained; the commerce in which you fear a decline; or the dwellings in which you delight—are dearer to you than Allah, or His Messenger, or the striving in His cause;—then wait until Allah brings about His decision: and Allah guides not the rebellious.” (9:24).



1. DUTY RELATING TO ACTIVE STRUGGLE FOR THE SPIRITUAL AND MORAL PERFECTION OF THE MUSLIM SOCIETY

Active struggle for the spiritual and moral perfection of humanity in general, and of their own community in particular, is the very mission of the Muslims:

Arabic text

“You are the best of People, evolved for (the service of) mankind, enjoining what is right, forbidding what is wrong, and believing in Allah ...” (3:110).

Indeed, it is the inseparable quality of Muslim character:

Arabic text

“... (it is their character that) they (always) enjoin good and (always) forbid evil ...” (9:112).

Hence, Muslims have been commanded to set aright their affairs:

Arabic text

“... So be careful of your duty to Allah and set aright matters among you (in respect of your mutual duties) ...” (8:1).

Nay, the Holy Qur'ān goes beyond that. It orders all Muslims to engage in an unceasing struggle for the promotion of the Cause of spiritual and moral perfection of Muslim society in particular and of humanity in general. It says:

Arabic text

“O you who believe! Be you helpers (in the Cause) of Allah (the Cause of helping human beings to spiritual and moral perfection) ...” (61:14).

While laying down that duty, however, the Holy Qur'ān also guarantees success, if the struggle is pursued with the fulfillment of all the prescribed conditions:

Arabic text

“... Allah will certainly aid those who aid His (Cause);— for verily Allah is Full of Strength, Exalted in Might, (able to enforce His Will).” (22:40).

Arabic text

“... O you who believe! If you will aid (the Cause of) Allah, He will aid you and make your foothold firm.” (47:71).

One of those conditions is that the struggle has to be pursued not only as an individual responsibility but also co-operatively and collectively:

Arabic text

“... Help you one another in righteousness and piety, but help not one another in sin and enmity ...” (5:3).



2. DUTIES¹ RELATING TO ACTIVE STRUGGLE FOR ENSURING AND PROMOTING THE ECONOMIC SOUNDNESS OF THE MUSLIM SOCIETY

1. THE PRINCIPLE OF ‘WEALTH FOR WELFARE’:

The Holy Qur’ān denounces inordinate love of wealth as an anti-Islamic quality of character, which leads to hell:

Arabic text

“Woe to every (kind of) scandal-monger and backbiter, who piles up wealth and lays it by, thinking that his wealth would make him last for ever! By no means! he will be surely thrown into ‘That which Breaks to Pieces’.” (104:1-4).

Similarly, it condemns those who amass wealth, make it idle, and do not spend freely for the good of their fellow-beings:

Arabic text

“... And there are those who bury gold and silver and spend it not in the Way of Allah: announce unto them a most grievous penalty—On the Day when heat will be produced out of that (wealth) in the fire of Hell, and with it will be branded their foreheads, their flanks, and their backs.— ‘This is the (treasure)

which you buried for yourselves: taste you, then, the (treasure) you buried!’.” (9:34-35).

Abstaining from spending for the promotion of truth and righteousness and the welfare of fellow-beings leads to the ruin (moral, spiritual and economic) of the individual and the community:

Arabic text

“And spend of your substance in the cause of Allah, and make not your own hands contribute to your destruction; but do good; for Allah loves those who do good.” (2:195).

Its consequences are, indeed, grave, as exemplified in the story of Qārūn (or, Korah):

Arabic text

“Qārūn was, doubtless, of the people of Moses; but he acted insolently towards them: Such were the treasures We had bestowed on him, that their very keys would have been a burden to a body of strong men. Behold, his people said to him: ‘Exult not, for Allah loves not those who exult (in riches). But seek, with the (wealth) which Allah has bestowed on you, the Home of the Hereafter, nor forget your portion in this world: but do good, as Allah has been good to you, and seek not (occasions for) mischief in the land: for Allah loves not those who do mischief.’ He said: ‘This has been given to me because of a certain knowledge which I have.’ Did he not know that Allah had destroyed before him (whole) generations,—which

were superior to him in strength and greater in the amount (of riches) they had collected? But the wicked are not called (immediately) to account for their sins. So he went forth among his people in the (pride of his worldly) glitter. Said those whose aim is the Life of this World: 'Oh! that we had the like of what Qārūn has got! for he is truly a lord of mighty good fortune!' But those who had been granted (true) knowledge said: 'Alas for you! The reward of Allah (in the Hereafter) is best for those who believe and work righteousness: but this none shall attain, save those who steadfastly persevere (in good). Then, We caused the earth to swallow up him and his house; and he had not (the least little) party to help him against Allah, nor could he defend himself.'" (28:76-81).

Viewing the problem from the other side, we find that, according to the Holy Qur'ān, spending freely in the service of fellow-beings² forms a sure guarantee for the prosperity of the individual as well as of the community. We are told:

Arabic text

"The parable of those who spend their substance in the Way of Allah is that of a grain of corn: it grows seven ears, and each ear has a hundred grains. Allah gives manifold increase to whom He pleases: for Allah cares for all, and He knows all things." (2:261).

Arabic text

“Lo! those who believe and do good works and establish worship and pay the poor-due, their reward is with their Lord and there shall no fear come upon them, neither shall they grieve.” (2:277).

2. DUTIES:

The Holy Qur’ān does not, however, confine itself to mere exhortation, but lays down economic duties of the individual towards the Muslim Society in concrete terms.

In this respect, there are:

- a. Duties of Commission; and
- b. Duties of Omission;

We may now take up these duties.

(a) Duties of Commission:

(1) An annual Welfare Tax, called al-Zakāh (Zakāt)³, enjoined:

The Holy Qur’ān says:

Arabic text

“And establish (regular) Prayer and pay al-Zakāh (i.e., the obligatory annual poor-rate, or, welfare tax).⁴ And whatever good you send forth for your souls before you, you will find it with Allah. Lo! Allah is the Seer of all that you do.” (2:110).⁵

Note 1:—There is another annual welfare tax also, which is very much like *al-Zakāh*, i.e., the *Ṣadaqah al-Fiṭr*. It becomes due every year at the end of the fasting month, i.e., *Ramaḍān*, and is to be compulsorily paid, for the benefit of the poor, by every Muslim of means, on his behalf as well as on behalf of everyone of his dependants. Its rate has been fixed in terms of four pounds of wheat flour per head, and payment can be made according to its market-price. It has been expressly prescribed by the Holy Prophet (peace be on him)⁶ and not by the Holy Qur'ān. It is however, directly covered by the following Qur'ānic injunction:

Arabic text

“And render to the kindred their due rights, as (also) to those in want ...” (17:26).

Note 2:—There is still another tax prescribed by the Holy Qur'ān in 6:141. It is called '*Ushr* in Islamic Law, and is levied as 1/20th of the agricultural produce on artificially-irrigated land, and 1/10th of agricultural produce on land benefiting from rain or natural spring only. It gives the appearance of being a tax like *al-Zakāh*,⁷ but it has been regarded in Islamic Law as land-revenue, pure and simple.

(2) *Paying honestly and cheerfully any other taxes imposed by the Islamic State on the wealthy—for the welfare of the people and defence of the state, enjoined:*

When we study the scheme of taxation given by the Holy Qur'ān, it is revealed to us that its outlook in that respect is rational and aimed at taxing the common man as lightly as possible. Indeed, that cruel

type of heavy taxation which sucks the blood out of the common man is absolutely foreign to the spirit and the letter of the holy book.

The economic ideal of the Holy Qur'ān being, however, the eradication of poverty and of the multi-faced evils to which the possession of excessive wealth by individuals leads, spending of wealth by the wealthy freely⁸ and at the highest level⁹ for the benefit of their unfortunate fellow-beings has been proclaimed as the characteristic and unavoidable virtue of every wealthy Muslim.¹⁰ Indeed, the holy book regards it as the duty of a Muslim to spend all that he can save from his basic needs for the welfare of others:

Arabic text

“They ask you how much they are to spend (for the welfare of others). Say: ‘What is beyond your needs’. Thus does Allah make clear to you His Signs: in order that you may consider ...” (2:219).

This is so, because a Muslim is only a trustee of the wealth that he possesses, and not its “owner” in the sense of having the right to do with it whatever he likes:

Arabic text

“Allah has purchased of the Believers their persons and their goods; for theirs (in return) is the Garden (of Paradise): ...” (9:111).

Moreover, the Holy Qur'ān has emphasized that the have-nots have an inalienable right in the wealth of those who possess beyond their needs:

Arabic text

“And render to the kindred their due *rights* as (also) to *those in want*, and to the wayfarer: ...” (17:26).

This Qur'ānic right of the economically-distressed has led eminent exponents of Islam, like Caliph 'Ali, 'Abdullah ibn 'Umar, Mujahid, Taoos, Ibn Hazm, etc., to lay down the rule that there are economic *duties* on the wealthy Muslims, in respect of those who may be in economic distress, beyond the payment of the welfare taxes prescribed by the Holy Qur'ān,¹¹ and that the Islamic state¹² has the right—nay, it is its duty, to impose further taxes on the wealthy, if it finds that with its normal scheme of taxation it is unable to meet the challenge of expenditure on the welfare of the people and the state.¹³

(3) *Voluntary economic assistance to others, subject to one's ability, enjoined:*

The Holy Qur'ān has exhorted the Muslims at numerous places and in different ways and contexts to render voluntary economic assistance to their fellow-beings.¹⁴ The following verse, however, proclaims that virtue in the form of command:

Arabic text

“... And establish regular Prayer and give regular Charity; and loan to Allah a Beautiful Loan. And whatever good you send

forth for your souls, you shall find it in Allah's Presence, as something better and greater in Reward. And seek the Grace of Allah: for Allah is Oft-Forgiving, Most Merciful." (73:20).

Now, voluntary economic assistance to others can assume the following forms:

1. Casual assistance:
 - a. Casual Gifts and Donations;
 - b. Repayable interest-free monetary loans;
 - c. Returnable rent-free loans of things.
2. Permanent assistance:
 - a. Bequests for individuals or for welfare projects (orphanages, homes of the destitute, hospitals, hostels, educational institutions, etc.).
 - b. Donating funds and creating charitable Trusts for the above purposes in one's own life-time.

All the above forms are comprehended by the above verse and have found their due place in the Holy Prophet's exposition of the Qur'ānic teaching. They have been included in the Islamic Law under the names, respectively, of: *Hibah*; *Qard al-Hasanah*, *ʿĀriyah* and *Waqf*; and rules and regulations relating to them have been laid down in full-fledged form.¹⁵

- (4) *Research in agricultural production and cattle-breeding with a view to proper utilization and advancement in those fields and for promoting the welfare of mankind, advocated; hence a duty:*

The Holy Qur'ān says:

Arabic text

“Behold! In the constitution of the heavens and the earth; in the alternation of the Day and the Night; in the sailing of the ships through the Ocean for the profit of mankind; in the rain which Allah sends down from the skies, and *the life which it gives to an earth that is dead: in the beasts of all kinds that He scatters through the earth*; in the change of the winds, and the clouds which they trail like their slaves between the sky and the earth;—here indeed are Signs for (study, observation and research by) those who employ reason.” (2:164).

Arabic text

“And cattle He has created for you (O mankind): from them you derive warmth, and numerous benefits, and of their meat you eat. And you have a sense of pride and beauty in them as you drive them home in the evening, and as you lead them forth to pasture in the morning. And they carry your heavy loads to lands that you could not otherwise reach except with souls distressed: for your Lord is indeed Most Kind, Most Merciful. And (He has created) horses, mules, and donkeys, for you to ride and as an adornment; and He will create (in future, other

vehicles, through the ingenuity of Man) of which you have no knowledge.” (16:5-8).

Arabic text

“It is He Who sends down rain from the sky: from it you drink, and out of it grows the vegetation on which you, feed your cattle. With it He produces for you corn, olives, date-palms, grapes, and every kind of fruit: verily in this is a Sign for (observation, study and research by) those who reflect (on the nature, constitution and functions of things).” (16:10-11).

Arabic text

“And verily in the cattle will you find an instructive Sign. From what is within their bodies, between excretions and blood, We produce, for your drink, milk, pure and agreeable to those who drink it. And from the fruit of the date-palm and the vine, you get out wholesome drink and food: behold! in this also is a Sign for those who employ reason. And your Lord taught the Bee to build its cells in the hills, on trees and in (Men’s) habitations; then to eat of all the produce (of the earth), and find with skill the spacious Paths of its Lord: there issues from within their bodies a drink of varying colors, wherein is healing for men: verily in this is a Sign for (observation, study and research by) those who reflect (on the nature, constitution and function of things).” (16:66-69).

Arabic text

“(he said:)... ‘He Who has made for you the earth as a bed, and has enabled you to go about therein by roads (and channels); and has sent down water from the sky’. With it have We produced divers pairs of plants, each separate from the others. Eat (for yourselves) and pasture your cattle; verily in this are Signs for (observation, study and research by) the intellectuals.” (20:53-54).

- (5) *Pursuit and promotion of commerce in general and international commerce in particular, advocated: hence a duty:*

The Holy Qur’ān says:

(a) legalizing commerce:

Arabic text

“... and Allah has permitted (i.e., has made lawful) trade ...” (2:275).

(b) defining the basis of commercial morality:¹⁶

Arabic text

“... let there be amongst you traffic and trade by mutual goodwill ...” (4:29).

(c) referring to the benefits of inland commerce:

Arabic text

“And there are other advantages in them (i.e., the cattle) for you; that you may through them attain to any need in your hearts (in respect of the provision of transport for human

necessities); and on them and in the boats you are carried (to distant places for the fulfillment of your needs).” (40:80).

(d) advocating advancement in commerce through technological advance based on the pursuit of physical sciences, and referring to international trade in terms of Divine Bounty:

Arabic text

“It is Allah Who has subjected the sea to you, that ships may sail through it by His Command, that you may seek of His Bounty, and that you may show gratefulness (to God by developing those bounties further through the conquest of Nature spoken of in the following verse).”

“And He has subjected to you, as from Him, all that is in the heavens and on the earth: behold! in that indeed are Signs for those who reflect (on the nature, constitution and utility of things).” (45:12-13).

(6) Pursuit and promotion of industrial technology based on steel industry prescribed as the basic material means of maintaining and advancing the mission of the Holy Qur’ān, hence a duty:

The Holy Qur’ān refers to ship-building by the Holy Prophet Noah (Peace be on him)¹⁷ and the steel industry pursued by the Holy Prophet David (Peace be on him),¹⁸ thus placing industrial technology among holy pursuits and making its acquisition and cultivation one of the sacred duties of a Muslim.

The holy book does not stop at that, however. It emphasizes the importance of iron and steel industry directly—an industry whose development led to the Industrial Revolution and which forms the foundation of power and prosperity of the advanced nations of today—and projects it as the deciding factor in respect of the dominance of Islam in the industrial age as a world-force. The Qur'ānic statement has already proved prophetic to the core. The verse reads:

Arabic text

“We verily sent Our Messengers (to different communities of the world) with clear proofs, and revealed with them the Scripture and the Balance that mankind may observe right measure (in all their affairs); and We sent down Iron,¹⁹ wherein is (material for) mighty war, as well as many (industrial) benefits for mankind, that Allah may test who it is that will help (the Religion of) Him and His Messengers though unseen.²⁰ Lo! Allah is full of Strength, Exalted in Might (and able to make Muslims triumphant against all odds; and promises to do so if they follow His Guidance honestly).” (57:25).

It may be emphasized with regard to (4), (5) and (6) above that a categorical command is explicitly contained in the following verse in respect thereof:

Arabic text

“Against them (i.e., your enemies) make ready your Power to the utmost of your capacity, including steeds of war, to strike

terror into (the hearts of) the enemies of Allah and your enemies, and others (i.e., enemies of the future) besides, whom you know not, but whom Allah does know.” (8:60).

Mark how clearly God had warned the followers of Islam of those formidable enemies who rose against them after the Industrial Revolution and whose might the Muslims were, and have been so far, unable to counteract mainly because of their backwardness in respect of physical sciences and technology.

(b) Duties of Omission:

(1) Wasting money in luxuries and unproductive pursuits, prohibited:

The Holy Qur’ān says:

Arabic text

“And act not wastefully (i.e., unproductively). Lo! He approves not the wasters.” (6:141).

Arabic text

“... and squander not (your wealth) in wantonness. Lo! the squanderers were ever brothers of the devil, and the devil was ever an ingrate to his Lord.” (17:26-27).

(2) Withholding money from expenditure in doing good to others and in productive pursuits, prohibited:

Arabic text

“And let not your hand be chained to the neck (in respect of wealth) ...” (17:29).

(3) Hoarding wealth and withholding it from circulation and expenditure in good causes, most vehemently condemned: hence abstinence from the same is duty:

The Holy Qur'ān says:

Arabic text

“... And there are those who bury gold and silver and spend it not in the Way of Allah: announce unto them a most grievous penalty—” (9:34).

(4) Economic exploitation of others condemned; hence abstinence from it is duty:

The Holy Qur'ān says, condemning the Jews of those days:

Arabic text

“And you shall see many of them hastening toward sin and transgression and their devouring of ill-gotten wealth (obtained through the exploitation of others). Vile indeed is that which they have been doing.” (5:62).

(5) All types and forms of interest totally banned and abstinence from interest-bearing transactions enjoined:

Arabic text

“Those who devour *ribā* (usury and interest) will not stand except as stands one whom the *satan* has confounded with his

touch. That is because they say: ‘Trade is like *ribā*’. But Allah has permitted trade and has forbidden *ribā* ...” (2:275-276).

Arabic text

“O you who believe! Devour not usury, doubling and quadrupling (the sum lent). Observe your duty to Allah that you may be successful.” (3:130).

Two important points are worthy of being noted here:

(a) While banning *ribā*, the Holy Qur’ān has forbidden not only usury but also interest in other forms. Because, according to the best authorities,²¹ the word *ribā*, which means literally ‘an excess or addition’, denotes as a term of economics ‘any addition, however slight, over and above the principal sum lent’; and, as such, *ribā* includes both ‘usury’ and ‘interest’.

(b) Because *ribā* is generally translated as usury, and because in modern parlance ‘usury’ signifies only an ‘exorbitant rate of interest’, some people have fallen into the error that what the Holy Qur’ān has really forbidden is an excessive rate of interest. In truth, it is only a misinterpretation of the term *ribā* and a perversion of the Qur’ānic teaching. That the holy book does not distinguish between ‘exorbitant’ and ‘reasonable’ rates of interest is clear from the following:

Arabic text

“Oh you who believe! Fear Allah, and give up what remains of your demand for *ribā*, if you are indeed believers. If you do it not, take notice of war from Allah and His Messenger: But if

you turn back (from charging interest), you shall have your capital sums: deal not unjustly, and you shall not be dealt with unjustly. If the debtor is in a difficulty, grant him time till it is easy for him to repay (the capital sum). But if you remit it by way of charity, that is best for you if you only know.” (2:278-280).

Mark the words in verse 279: “you shall have your capital sums”. The Holy Qur’ān does not say: “You shall have your capital sums plus interest at a reasonable rate.”

(6) Creation of monopolies in trade and industry prohibited:

When the Holy Qur’ān lays down the basic principle concerning wealth that “it may not (merely) make a circuit between the wealthy among you”²² (59:7), it negates the legality of all those means and methods whereby wealth becomes concentrated in the hands of a few, making the rich richer. The aim of the creation of monopoly being nothing else than the concentration of wealth in the hands of the bigger business magnates and industrial barons, who either buy out the lesser fry or create mergers and trusts or enter into private agreements—all with a view to charging higher prices for their goods and thus exploiting and fleecing the consumers, its prohibition is directly contained in that verse.

Islam stands for the common man and not for the privileged few. It is thus that the Holy Prophet (Peace be on him) condemned the monopolist trader and forbade the hoarding of grain and its withholding from sale in times of scarcity;²³ and, in Islamic Law, the

Hanafi jurists have explicitly ruled against the monopoly in food-stuffs.²⁴

(7) Speculative deals classed as gambling are prohibited:

Speculative deals in trade are actually a form of gambling, and about gambling the Holy Qur'ān says:

Arabic text

“Oh you who believe! Intoxicants and gambling ... are an abomination,—of Satan’s handiwork: eschew such (abomination), that you may prosper.” (5:93).

Expounding this detail of the Qur’ānic teaching, the Holy Prophet (Peace be on him) has laid down positive injunctions. For instance:

“It is related by Ibn ‘Umar that the Messenger of Allah (Peace be on him) prohibited the sale of commodity not in stock with another commodity also not in stock.”²⁵

“It is related on the authority of Hakim ibn Hizam, who said: ‘The Messenger of Allah (Peace be on him) prohibited me bargaining about anything which I did not possess’. In another account, he (is reported to have) said, ‘I said, O Messenger of Allah, a person comes to me and wishes me to bargain about a thing which I do not possess. May I purchase for him from the market? The Prophet replied-, ‘Bargain not about that which is not with you’.”²⁶

“It is related on the authority of Anas (may Allah be pleased with him!) that the Prophet (Peace be on him) prohibited dealings in fruits,

as long as they were not ripe. It was asked: 'How to know their ripeness?' He said, 'Until they grow red'. Then he said, 'Do you think that any one of you would be able to take the property of his brother if Allah were to stop fruit from ripening?' In the account given by Ibn 'Umar, it is stated that the Prophet (Peace be on him) prohibited the purchase and sale of date trees until the dates ripened, and from dealings in ears of corn until they grew (ripe and) white, or they were safe from calamities. He prohibited both the seller and the purchaser from such transactions."²⁷

The speculation market has unfortunately become a part and parcel of the present-day commerce. It is, however, nothing better than a gambling den. An economist says:

"In the speculation market, the person who gains most is the broker. His role is that of the managing committee of a race course or the keeper of a gambling den. The operators buy and sell through him and he goes on charging his brokerage on each purchase and sale, just as the punters or the card players gain or lose among themselves and the race committee or the den keeper go on deducting their commission at the finish of each event. Money that ought to have been invested in industry or commerce finds its way into the speculative market, where it is feeding disguised and parasitical workers like brokers and shrewd operators. In a world clamoring for capital formation in, and capital diversion into, the under-developed countries, a futures market is a regressive step."

(8) Betting in races prohibited:

In the Qur'ānic verse quoted above in respect of speculative deals, the word used for 'gambling' is *maisir*, which means 'getting something too easily': hence getting a profit without proper labor. In its wider acceptance, it means any game of hazard, or play or stakes, or wagers'.²⁸

As 'game of hazard', it refers to speculative deals.

As 'play of stakes or wagers', it refers to forms of gambling like betting in races—an evil which is quite old but which has assumed devastating proportions in the present age in the form of the Derby horse-race in England and of the Preakness and the Kentucky Derby races in the United States.

(9) Lottery or Raffle, prohibited:

Let us refer to verse 5:90 again. Commenting on this verse Abdullah Yusuf Ali says:

“The form most familiar to the Arabs was gambling by casting lots by means of arrows, on the principle of a lottery: the arrows were marked, and served the same purpose as a modern lottery ticket. Something, e.g., the carcass of a slaughtered animal, was divided into unequal parts. The marked arrows were drawn from a bag. Some were blank and those who drew them got nothing. Others indicated prizes, which were big or small. Whether you got a big share or a small share, or nothing, depended on pure luck, unless there was fraud also on the part of some persons concerned. The principle on which the objection is based is: that, even if there is no fraud, you gain what you have not

earned, or lose on a mere chance. Dice and wagering are rightly held to be within the definition of gambling ...” (*op. cit.*, n. 241).



3. DUTIES RELATING TO ACTIVE STRUGGLE FOR ENSURING AND PROMOTING THE POLITICAL STABILITY OF THE MUSLIM SOCIETY

(a) Duties of Commission

(1) Collective discipline enjoined:

The Holy Qur'ān says:

Arabic text

“... and strengthen you one another ...” (3:200).

Arabic text

“And obey Allah and His Messenger; and dispute not one with another, lest you lose heart and your power depart; and be patient and persevering: for Allah is with those who patiently persevere.” (8:46).

(2) Disciplined obedience to the Leader, in so far as he leads according to, and in the best interests of Islam, enjoined:

Arabic text

“So keep your duty to Allah as best as you can, and listen (obediently to the Divine Call that comes through the Leader), and spend (in the Way of Allah) for the benefit of your own souls. And those saved from the covetousness of their own souls (i.e., those who rise above personal interests)—they are the ones that attain felicity.” (64:16).

Arabic text

“O you who believe! obey Allah and obey the Messenger (Muhammad) and owners of authority from amongst you (as leaders and administrators or as leaders only);²⁹ then if you differ in anything, refer it to Allah and His Messenger, if you do believe in Allah and the Last Day. That is best, and most suitable for final determination.” (4:59).

(3) Constant effort for the consolidation of Muslim Brotherhood, enjoined:

Arabic text

“And hold fast, all together, by the Rope which Allah (stretches out for you) ...” (3:103).

(4) Active, profound, ceaseless and balanced struggle for making the Muslim community immune from all internal and external evils in order to promote piety, progress and peace, enjoined:

Arabic text

“... If any one slew a person—unless it be for murder or for spreading mischief in the land—it would be as if he slew the

whole people: and if any one saved a life, it would be as if he saved the life of the whole people ..." (5:36).

Arabic text

"And strive in His cause as you ought to strive (with sincerity and under discipline). He has chosen you, and has imposed no difficulties on you in religion; it is the Faith of your father Abraham. It is He Who has named you Muslims, both before and in this (Revelation); that the Messenger may be a witness for you, and you be witnesses for mankind! So establish regular Prayer, give regular charity, and hold fast to Allah! He is your Protector—the best to protect and the best to help!" (22:78).

Arabic text

"O you who believe! shall I lead you to a bargain that will save you from a grievous penalty?—that you believe in Allah and His Messenger, and that you strive (your utmost) in the Cause of Allah with your property and your persons: that will be best for you, if you but knew! He will forgive you your sins, and admit you to a Garden beneath which rivers flow, and to beautiful Mansions in Gardens of Eternity: that is indeed the supreme Achievement. And another (favor will He bestow), which you do love,—help from Allah and a speedy victory. So give the Glad Tidings to the Believers." (61:10-13).

(5) Fighting against the enemies of Islam in defence of truth, justice and righteousness and for making Islam and Muslims safe against all aggression, enjoined:

Arabic text

“Fight in the Cause of Allah those who fight you, but do not transgress limits; for Allah loves not transgressors.” (2:190).

Arabic text

“And fight them on until there is no more tumult or oppression, and there prevail justice and faith in Allah; but if they cease, let there be no hostility except to those who practice oppression.” (2:193).

Arabic text

“To those against whom war is made, permission is given (to fight), because they are wronged:—and verily, Allah is Most Powerful for their aid: ...” (22:39).

(6) Migrating from such places where Islam is persecuted and suppressed, thus saving one's own faith and strengthening the Cause of Islam and the Muslim community elsewhere, even though it involves losses from the material point of view, enjoined:

Arabic text

“When angels take the souls of those who die in sin against their souls, they say: ‘In what (fight) were you? They reply: ‘Weak and oppressed were we in the earth.’ They say: ‘Was not the earth of Allah spacious enough for you to move yourselves away (from evil)?’ Such men will find their abode in Hell,—what an evil refuge!—Except those who are (really) weak and

oppressed—men, women, and children—who have no means in their power, nor a guide-post to direct their way. For these, there is hope that Allah will forgive: for Allah does blot out (sins) and forgive again and again. He who forsakes his home in the Cause of Allah, finds in the earth many a refuge, wide and spacious: should he die as a refugee from home for Allah and His Messenger, his reward becomes due and sure with Allah: and Allah is Oft-Forgiving, Most Merciful.” (4:97-100).

(b) Duties of Omission:

(1) Doing anything which might create disruption and disunity among the Muslim community, prohibited:

Arabic text

“... and be not divided among yourselves; and remember with gratitude Allah’s favor on you; for you were enemies and He joined your hearts in love, so that by His Grace you became brethren; and yet you were on the brink of the Pit of Fire, and He saved you from it. Thus does He make His Signs clear to you: that you may be guided.” (3:103).

Arabic text

“... and dispute not one with another ...” (8:46).

(2) Creating religious sects and thus dividing the Muslim community into hostile sections, prohibited:

Arabic text

“Be not like those who are divided among themselves and fall into disputations after receiving Clear Signs: for them is a dreadful Penalty ...” (3:185).

Arabic text

“Turn you back in repentance to Him, and fear Him: establish regular prayers, and be not you among those who join gods with Allah,—those who split up their Religion, and become (mere) Sects,—each party rejoicing in that which is with itself!” (30: 31-32).

(3) Tyrannizing over other Muslims prohibited:

Arabic text

“Say: ‘My Lord forbids only indecencies, such of them as are apparent and such as are within, and sin and *wrongful oppression*, and that you associate with Allah that for which no warrant has been revealed, and that you tell concerning Allah that which you know not.’” (7:33).

(4) Creation of and participation in secret societies whose object is destruction of truth and justice, prohibited:

Arabic text

“O you who believe! When you conspire together, conspire not together for crime and wrongdoing and disobedience toward the Messenger ...” (58:9).

THE QUR'ĀNIC FOUNDATIONS & STRUCTURE OF MUSLIM SOCIETY
VOLUME TWO



PART 2: DUTIES OF MUSLIM SOCIETY TOWARDS THE INDIVIDUAL

END:

Collective effort by the Muslim society (*Millat*) for:

- a. Moral perfection of the individual;
- b. Happiness of the individual.

1. FUNDAMENTAL PRINCIPLES GOVERNING THE MUSLIM SOCIETY AND THE ISLAMIC STATE.

2. DUTIES:

1. Duty of ensuring the spiritual welfare of the people.
2. Duty of ensuring the moral welfare of the people.
3. Duty relating to the intellectual development of the people.
4. Duties relating to the political and social welfare of the people.
5. Duties relating to the economic welfare of the people.



Chapter 1

FUNDAMENTAL PRINCIPLES
GOVERNING THE MUSLIM SOCIETY
AND THE ISLAMIC STATE

1. INDIVIDUAL VIS-A-VIS THE SOCIETY

(1) As we have already seen in the foregoing,³⁰ the Holy Qur'ān has emphasized the importance of social life and its demands. Here we may emphasize that simultaneously *it recognizes the worth of the individual and the development of individual personality*. The holy book says:

Arabic text

“... whosoever kills a human being for other than manslaughter or corruption in the earth, it shall be as if he had killed all mankind ...” (5:32).

Again, it says:

Arabic text

“... Their affairs are by mutual Consultation.” (42:38).

Mark that in this verse the principle of consultation is founded on the concept of the importance of the individual.

(2) *The Holy Qur'ān makes it the obligation of the Millat to look after and promote the spiritual, moral and general welfare of*

the individual. Collective effort for establishing what is right and eradicating what is wrong for the individual, and the creation of conditions wherein truth, perseverance in truth and mutual compassion and well-doing prevail for the benefit of the individual, has been directly affirmed and emphasized.

The holy book says:

Arabic text

“... you enjoin what is right and forbid what is wrong ...” (3:110).

Arabic text

“... and exhort one another to compassion.” (90:17).

Arabic text

“... Save those who believe and do good works, and exhort one another to truth and exhort one another to endurance (in the cause of truth) ...” (103:3).

(3) Side by side with that, *the concept of collectivism is the very warp and woof of Islam*, and it has to be cultivated in Muslim society to the extent that even in his prescribed prayers a Muslim has to pray using the plural “we”.³¹



2. OBLIGATION OF ORGANISING COLLECTIVE WELFARE OF MUSLIMS EVEN WHERE THEY ARE A SMALL GROUP ONLY

This necessitates the establishment of the Islamic state. That does not mean, however, that Muslim minorities living in non-Muslim states have no obligation with respect to their collective life. Because *Islam insists on collective duties to such an extent as to make it imperative for the Muslims, even when they do not possess a state of their own, to organize themselves into a well-knit community which should function under one leader.* That leader should be elected by the Muslims on the basis of his piety, knowledge and other merits of leadership; and, united under him, they should employ every means and strive in every way to build up their lives, individually as well as collectively, in a manner whereby they may be able to imbibe and assimilate the spiritual, moral and social blessings of Islam in as wide a range and on as high a level as possible.

All this is borne out by the organisation of the Muslim community under the direction of, and according to the instructions given in, the Holy Qur'ān, during the Makkan period of the Holy Prophet's career. In addition to that, the following among several verses, have a direct bearing on the above-mentioned obligation:

Arabic text

“Oh you who believe! Enter into Islam (i.e., its comprehensive discipline) all you together ...” (2:208).

Arabic text

“And hold fast, all together, by the Rope which Allah (stretches out for you) and be not divided among yourselves ...” (3:103).

Arabic text

“Oh you who believe! obey Allah, and obey the Messenger, and those charged with authority among you ...” (4:59).



3. OBLIGATION OF ESTABLISHING THE ISLAMIC STATE

The collective effort of the *Millat* for the moral perfection and happiness of the individual cannot, however, gain its ends truly and comprehensively unless it transforms itself into a free theo-democratic state, whose function should be to enforce the Islamic Way of Life in its totality and to act as a condition for the natural flowering of the ideals of Islam. Hence *the establishment of the Islamic State, whenever and wherever possible, forms, according to the Holy Qur'ān, the duty of the Millat, not only towards Islam but also towards the individual.*

That it is an unavoidable duty, in case of ability, is borne out by the fact that the Holy Prophet (Peace be on him) established the state at Medina at the very first opportunity.

Further, this duty is contained and emphasized in the following verse:

Arabic text

“He it is Who has sent His Messenger with the Guidance and the Religion of Truth, that He may cause it to prevail over all religion, however much the idolaters may be averse.” (9:33).

It should be noted that the domination of Islam as a Way of Life is not possible without the establishment of the Islamic State. Hence it is the collective duty of the Muslims to strive for it with might and main.

Again, the Muslims have been commanded:

Arabic text

“Against them (i.e., your enemies) make ready your Power to the utmost ...” (8:60).

This injunction makes it an obligation to establish the Islamic State, because without that it is impossible to carry it out truly and comprehensively.



4. THE CONSTITUTION OF THE ISLAMIC STATE

The Qur'ānic Constitution of the State rests on the following principles:

(1) Sovereignty:

Sovereignty belongs to God:

Arabic text

“....Authority and control belong to Allah only.³² He has commanded that you serve none save Him: that is the right religion, but most human beings understand not.” (12:40).

Arabic text

“Is not His the Command? And He is the Swiftest in taking account.” (6:62).

Arabic text

“To Him belongs the kingdom of the heavens and the earth.” (43:85).

Arabic text

“He does not share His Command with any person whatsoever.” (18:26).

Besides the above verses, the following Excellent Names also bear reference to Divine Sovereignty:

Arabic text

Lord of the worlds (1:2).

Arabic text

Lord of the Throne (of Glory)
Supreme (9:129);

Arabic text

Lord of Power and Rule (3:26);

Arabic text

Ruler of rulers, or, Greatest of rulers
(11:45);

Arabic text

the Sovereign (59:23);

Arabic text

the King (i.e., Ruler and Legislator)
of mankind (114:2).

(2) The right to legislate:

(a) The right to legislate belongs basically to God:

In the Holy Qur'ān we read:

Arabic text

“Lo! We (God) have revealed unto you (O Muhammad) the Scripture with truth, that you may judge between mankind by that (Law) which Allah has shown (i.e., has revealed unto) you.” (4:105).

Arabic text

“We (God) sent aforetime Our Messengers with clear Signs and sent down with them the Book and the Balance, that human-beings may conduct themselves with equity.” (57:25).

These verses affirm direct Divine legislation.

(b) However, the laws given by the Holy Prophet Muhammad (Peace be on him), in addition to the Qur'ānic Laws, also fall under the category of what “Allah has revealed”, because:

Arabic text

“Nor does he (i.e., Muhammad) say (aught) of (his own) Desire. It is not less than Inspiration sent down to him.” (53:3-4).

Hence: it has been commanded:

Arabic text

“And whatever the Messenger (Muhammad) gives you, accept it, and from whatever he forbids you, keep back.” (59:7).

(c) Having been given the Divine Law *it is not permitted to the Muslims to adopt, when they have their own State, any law which is repugnant to it.* The following verses emphasize this fact very vehemently:

Arabic text

“If any do fail to judge and command by (the light of) what Allah has revealed, they are Unbelievers.” (5:47).

Arabic text

“If any do fail to judge and command by (the light of) what Allah has revealed, they are committers of severe wrong.” (5:48).

Arabic text

“If any do fail to judge and command by (the light of) what Allah has revealed, they are the transgressors.” (5:50).

(d) It should be noted that the Holy Qur’ān prohibits only the violation of “what Allah has revealed”. But, it does not lay down, either in the verses just quoted or anywhere else, that Muslims are forbidden from following any laws which Allah has not revealed, thus leaving it open to frame new Laws for

meeting the exigencies of new situations. Of course, all such laws should be in conformity with the Divine Guidance, as the holy book says:

Arabic text

“Seek they then the judgment of Paganism? And who is better in judgment than Allah unto a people whose faith is assured?” (5:53).

Thus, a controlled and limited, but positive, freedom has been given to the Muslims in respect of legislation.

(3) Status of Governmental Authority:

Human beings are vicegerents of God: Hence, governmental authority can be held by them only as a delegated function and as a trust under the sovereignty of God:

The Holy Qur'ān says:

Arabic text

“Behold, your Lord said to the angels: ‘verily I am going to place a vicegerent on the earth’.” (2:30).

(4) Objectives of the Islamic State:

The objectives of the Islamic State are:

(a) To maintain internal order and ward off external aggression:

In respect of maintenance of internal order, the Holy Qur'ān says:

Arabic text

“... And if Allah had not repelled some men by others, the earth would have been filled with mischief. But Allah is Lord of kindness to (His) creatures.” (2:251).

Commenting on this verse, a learned commentator of the Holy Qur'ān remarks: “This verse emphasizes the importance of the State and establishes the fact that but for the existence of organized government, human society would have been destroyed. On *truth is based the maxim that Religion and State are twins.*” (*Rūḥ al-Ma'ānī*, vol. 2, p. 173).

As regards warding off external aggression, we are told:

Arabic text

“To those against whom war is made, permission is given (to fight), because they are wronged;—and verily, Allah is Most Powerful for their aid.” (22:39).

(b) To establish absolute justice for all citizens:

The Holy Qur'ān says:

Arabic text

“Allah does command you to render back your Trusts to those to whom they are due; and when you judge between man and man (whether Muslims or non-Muslims), that you judge with

justice: Lo! comely is the teaching which He gives you! Lo! Allah is He Who hears and sees all things.” (4:58).

Arabic text

“Oh you who believe! stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor: For Allah can best protect both. Follow not the lusts of your hearts, lest you swerve, and if you distort (justice) or decline to do justice, verily Allah is well-acquainted with all that you do.” (4:135).

(c) To do all that lies in its power and to employ all means and media, including tablīgh,³³ for the establishment of “all that is right” (al-ma‘rūf) and the elimination of “all that is wrong” (al-munkar);

(d) To organize institutions for spiritual and social welfare:

In respect of (c) and (d) above, the Holy Qur’ān says:

Arabic text

“(Muslims are) those who, if we bestow on them (authority) in the land, establish regular prayer (—pursue spiritual welfare) and give regular charity (—pursue economic welfare), enjoin (all) that which is right and forbid (all) that which is wrong (—pursue moral and political welfare). And unto Allah is the end of (all) affairs.” (22:41).

Again:

Arabic text

“In most of their secret conferences there is no good: but if one commands a deed of economic well-doing or justice or *‘islāh* (i.e., establishment of peace, happiness and order) among human beings: to him who does this, seeking the good pleasure of Allah, We shall soon give a reward of the highest value.” (4:114).

Moreover, from the social and economic point of view, the function of the Islamic State is to transform the Muslim community into a community of middle-roaders—of the middle-class standard—with the elimination of the evils of poverty, on the one hand, and the evils of riches, on the other, as the Holy Qur’ān proclaims:

Arabic text

“Thus We have appointed you (O Muslims) a middle nation (or, a nation conforming to the just mean),³⁴ that you may be witnesses against mankind, and that the Messenger (Muhammad) may be in regard to you a witness.” (2:143).

Islam steers the middle course between Capitalism and Communism and bears witness to the evil of their extremism—an evil from which they themselves are trying to recede gradually, thus proving the truth of Islam. The famous philosopher of history, Prof. Arnold Toynbee admits: “If Russia has moved to ‘the right’ her neighbors have moved to ‘the left’ ... the apparently irresistible encroachment of planning on the once unregimented economies of the democratic countries suggests that the social structure of all countries

in the near future is likely to be both national and socialist. Not only do the Capitalist and Communist regimes seem likely to continue side by side; it may well be that Capitalism and Communism ... are becoming different names for very much the same things.”³⁵

(e) To actively endeavor for making Islam the supreme ideological force on the world-front:

Arabic text

“It is He Who has sent His Messenger with Guidance and the Religion of Truth, that He may proclaim it (as the supreme ideological force) over all religion (namely, over all systems of belief and action), even though the Pagans may detest (it).” (61:9).

Again:

Arabic text

“Against them (i.e., your enemies) make ready your Power to the utmost ...” (8:60).

(5) Democratic Rights of the People:

People are to be free and in possession of democratic rights:

People in the Islamic State are to be free from subjection to any human being, because their government is the government of Law and they are subjects of God alone.

We have been told:

Arabic text

“The authority and control belong to Allah only. He has commanded that you serve none save Him. That is the right religion but most human beings understand not.” (12:40).

Then, the Holy Qur’ān lays down the following principle in respect of the collective life of Muslims:

Arabic text

“... Who (conduct) their affairs (or, government) by mutual consultation ...” (42:38).

It is evident that the administration of the State on the basis of mutual consultation is impossible and unthinkable without the citizens enjoying freedom and full democratic rights.

Moreover, it is the essential condition and consequence of the establishment of absolute justice enjoined vehemently by the Holy Qur’ān³⁶ that the people should be in possession of freedom and equality of opportunity—in other words, full democratic rights: and this has actually been realized in the Islamic State.

(6) Qualifications, status and functions of the Head of the Islamic State (Amīr al-Mu’minīn):

1. *He must be a Muslim, endowed with a high standard of piety, knowledge, wisdom and physical qualities, including bravery:*

That he must be a Muslim is borne out by the words “from amongst you” in the following Qur’ānic verse:

Arabic text

“O you who believe! obey Allah and obey the Messenger and those who wield authority from amongst you ...” (4:59).

Even from the purely rational point of view, the head of an ideological state can reasonably be only he who believes in and represents that ideology.

As regards the high standard of piety, the Holy Qur’ān lays down the law:

Arabic text

“... Verily, the most honored of you with Allah is (he who is) the most pious of you ...” (49:13).

Knowledge, wisdom and physical merits have been affirmed in the following verses:

Arabic text

“Their Prophet said to them: ‘Allah has appointed Talut as king over you’. They said: ‘How can he exercise authority over us when we are better fitted than he to exercise authority, and he is not even gifted with wealth in abundance? He said: ‘Allah has chosen him above you, and has gifted him abundantly with knowledge and physique (i.e., physical merits): Allah bestows

His power on whom He pleases. Allah cares for all, and He knows all things’.” (2:247).

Arabic text

“And David slew Goliath; and Allah gave him power and wisdom and taught him whatever (else) He willed.” (2:251).

Arabic text

2. *His status is that of: (a) the Vicegerent of God; (b) the Successor to the Holy Prophet Muhammad (Peace be on him) (c) the Representative of the People who delegate their Authority to him:*

(a) He is the vicegerent of God: as it has been said about David (Peace be on him):

Arabic text

“O David, We did indeed make you a vicegerent on earth ...” (38:27).

(This is his cosmic status, or status in relation to God).

(b) He is the successor to the Holy Prophet Muhammad (Peace be on him):

The Holy Prophet being the founder and the first head of the Islamic State, every other head of the Islamic State who comes after him is naturally his successor.

(This is his historical status, or status in relation to the Holy Prophet, Peace be on him).

(c) *He is the representative of the people*, who, as vicegerents of God, delegate their authority, out of organizational and administrative necessity, to him.

The administration of the Islamic State being based on “mutual consultation”, as seen in the foregoing,³⁷ no one can impose himself as a despotic ruler on the Muslims. Rather, he is to be elected by them; and, as such, he is to be their representative.

(This is his political status, or status in relation to the people).

3. *His functions are:*

- a. As vicegerent of God, his natural function is *to live for God*, to carry out Divine commands and to surrender his ego completely to Divine Pleasure.
- b. As Successor to the Holy Prophet (Peace be on him), his natural function is *to imitate the Holy Prophet* as a Muslim and as head of the state, as best as he can.
- c. As representative of the people, his natural function is *to be the servant of the people* and not their master.

Hence *he should lead a life of austerity and self-negation*. It has been said about good Muslims that they sacrifice their own interests and comforts for the sake of other Muslim.³⁸ The head of the Islamic State is, therefore, duty-bound, more than any other Muslim, to base his life on self-sacrifice.

Thus, his life must be exemplary for the people in respect of the Islamic Way of Life.

4. His relationship with his people:

(a) Parliament:

He *should rule the State in consultation with the people*. Thus, there should be a parliament.

According to the Holy Qur'ān, the Holy Prophet (Peace be on him) was commanded by God, in spite of his unique position as God's Messenger, to administer the State in consultation with the people, who were his followers. The command reads:

Arabic text

“... And consult with them upon the conduct of affairs.”
(3:159).

Thus, as Successor to the Holy Prophet (Peace be on him), the head of the Islamic State cannot assume the position of an autocrat or a dictator and cannot disturb the democratic rights of the people.

(b) People's Right to differ:

The citizens of the Islamic State have the right to differ with the head of the State; and when such a situation arises, the dispute is to be referred to the Holy Qur'ān and the Prophetic Guidance (*Sunnah*) for arbitration.

The right to differ is directly contained in the right to give opinion,³⁹ while the principle for settlement of differences has been given in the following verse:

Arabic text

“If you differ in anything among yourselves, refer it to Allah and His Messenger, if you do believe in Allah and the Last Day: That is best, and most suitable for final determination.” (4:59).

(c) Supremacy of the Law:

The above brings out that the head of the Islamic State is not above Law, his function being not to administer the State arbitrarily and at will but positively on the basis of Truth and Justice as given in the Divine Law, as the following verse establishes:

Arabic text

“... So judge between mankind with truth, and follow not caprice and lust of the heart, lest it cause you to err from the path of Allah (i.e., do not subordinate the welfare of the people to your personal inclinations and interests, because that would lead you away from absolute obedience to the Divine Law and from upholding it as supreme).” (38:26).

However, as long as he administers in conformity with the Guidance given by God and His Messenger Muhammad (Peace be on him), he should be implicitly obeyed by all, as it has been commanded:

Arabic text

“Oh you who believe! Obey Allah, and obey the Messenger and those charged with authority among you.” (4:59).

(7) Separation of the Executive and the Judiciary:

If as we have noted, the head of the Islamic State is subordinate to the Law given by God and His Messenger (Peace be on him), *the principle of the Supremacy of Law is established. Now, the only way to ensure the Supremacy of Law is the keeping of the judiciary independent of the executive and the total avoidance by the head of the State of tampering with the functioning of the judiciary.*

(8) Qualifications of State's Functionaries:

Functionaries of the State are to be appointed on no other consideration but genuine merits like knowledge, practical wisdom, efficiency, honesty and integrity.

The Holy Qur'ān says:

Arabic text

“Verily Allah does command you to make over Trusts to those to whom they are due (or to those who are worthy of them).” (4:58).

We have already seen that those in authority hold the State and all that it stands for as a trust from God. All the offices of the State, from the highest to the lowest, are thus trusts; and one of the

implications of above command, according to orthodox authoritative thought, is that which relates to the appointments to governmental services only of persons who are worthy of those jobs.⁴⁰

(9) Obedience in People's own interest:

Obedience to the head of the state has been imposed as a duty upon the citizens for:

- a. the coordination of their democratic rights;
- b. the establishment and maintenance of collective discipline;
- c. the establishment and maintenance of a unitary policy for the State.

These three principles are contained in “enjoining what is right”, which is one of the functions of the Islamic State, and, among other verses, in the following verse which lays down the command:

Arabic text

“Establish happiness, peace and order among yourselves.”
(8:1).



“Enjoining what is right and forbidding what is wrong”⁴¹ assumes, as instrument of the state, the form of:

- a. the actual establishment of conditions and requirements which preserve and promote human good;
- b. the active obliteration of such conditions as destroy human good.

Now, *Good*, being a comprehensive term, includes all *goods*, namely, spiritual, moral, intellectual, political and economic.

In other words, the function of the Islamic State should be the spiritual, moral, intellectual, physical and social preservation and development of the individuals, with a view to the establishment of a righteous society, i.e., a society which is healthy in all respects.

In this connection, besides those duties which shall be shortly mentioned, *a basic duty of the Islamic State is the education and training of the experts of Islam*⁴² *belonging to all the required levels of learning*. The following verses bear reference to this duty:

Arabic text

“Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity.” (3:104).

Arabic text

“... If a contingent from every expedition remained behind, they could devote themselves to studies in religion, and admonish the people when they return to them,—that thus they (may learn) to guard themselves (against evil).” (9:122).



(1) DUTY OF ENSURING THE SPIRITUAL WELFARE OF THE PEOPLE

The Holy Qur'ān proclaims “exhortation to Truth” as one of the essential conditions of human success (103:3). Hence, it is the duty of the Islamic State as the vicegerent of God, Successor to the Holy Prophet (God’s blessings be on him), and representative of the people, to uphold, propagate and ensure the functioning of Truth, and consequently, the spiritual values—which form the basic content of Truth in the lives of the Muslims.

The Holy Qur'ān says:

Arabic text

“(Muslims are) those who, if We establish them (in authority and power) in the land, establish regular prayer and give regular

charity, enjoin the right and forbid the wrong: With Allah rests the end (and decision) of (all) affairs.” (22:41).

As a duty of the Islamic State, “establishment of regular prayer” and “enjoining what is right and forbidding what is wrong” in spiritual affairs, mean:—

- a. the construction and maintenance of masjids;
- b. appointment and maintenance of the requisite staff for the proper functioning of the masjids;
- c. organisation of spiritual education at the highest level as well as at the level of the general masses, and making it compulsory for every Muslim citizen of the state to acquire that education;
- d. enforcement of laws whereby the above is ensured;
- e. curbing and eliminating all those forces, customs and institutions which are opposed to, or are capable of hindering, the proper functioning of the Islamic spiritual values.



(2) DUTY OF ENSURING THE MORAL WELFARE OF THE PEOPLE

Taking up the verse just quoted (i.e., 22:41), it lays down “enjoining what is right and forbidding what is wrong” as one of the functions of the Islamic State. Viewing this function in the perspective

of morals, the fact stands out as self-evident that *it is the duty of the Islamic State:*

- 1. to organize and institute the moral education of the people, and to do in that behalf all that is necessary;*
- 2. to take all positive steps, including the enactment and enforcement of laws, for ensuring the proper practice of Islamic morals with a view to preserve and promote moral welfare;*
- 3. to adopt all measures necessary, including the enactment and enforcement of laws, for combating all tendencies, acts and forces that are detrimental to the cause of moral welfare, and for punishing the actual offenders.*

In fact, the Holy Qur'ān demands severe punishments for those who promote what is detrimental to the maintenance of the proper moral tone of society:

Arabic text

“Verily those who love that immorality is propagated among the Believers, for them is a grievous penalty in this life⁴³ and in the Hereafter: and Allah knows (its far reaching evil effects) and you know (or discern) not.”⁴⁴ (24:19).



(3) DUTY RELATING TO THE INTELLECTUAL DEVELOPMENT OF THE PEOPLE

When we study the attitude of the Holy Qur'ān regarding the intellectual development of human beings, we find that:

1. it classifies humanity distinctly into two groups: the possessors of knowledge and the ignorant, and emphasizes clearly the superiority of the former over the latter:

Arabic text

“Are the possessors of knowledge equal with those who possess not knowledge? It is the possessors of understanding that are mindful.” (39:9).

2. Nay, it goes beyond that. Because, while emphasizing most vehemently the importance of intellectual development in human life, it makes the quest of knowledge a duty of paramount importance for an individual. We have noticed that in detail already in Book 1, chapter on “Duties to Self” (section: ‘Duties as Rational Being’).

The problem with which we are concerned here is: Has the Islamic State any duty towards the citizens in respect of their intellectual development? The plain answer is: Yes, as the following observations bear out:

1. According to the Holy Qur'ān, God educated Adam, the progenitor of the human race:

Arabic text

“And He imparted to Adam the knowledge of the nature of all things.”⁴⁵ (2:31).

Then, the Holy Qur’ān lays down the law that Divine Blessings are meant to be transmitted to others:

Arabic text

“... and do good (to others) as Allah has been good to you...” (28:77).

Thus, the knowledge imparted by God to Adam was meant to be transmitted to mankind, generation after generation, and to be developed further and further by them.

Now: who can organize this difficult and great pursuit better than the possessor of the powers of collective vicegerency of God?

Thus, it is the duty of the Islamic State to organise universal education for the intellectual development of its citizens.

2. The Holy Qur’ān has taught the prayer:

Arabic text

“... O my Lord! advance me in knowledge.” (20:114).

This shows that it is God who advances the human beings in knowledge. He does so, however, through human beings, of which the institution of prophethood is the proof.

All the prophets, from Adam to Muhammad (Allah bless them all) were the vicegerents of God par excellence and, as such, the teachers of mankind.

Every State is also the vicegerent of God, the Islamic State being supremely so, because besides its status as “State”, it is also the inheritor of the blessings conferred on mankind by God through His Messengers.

This vicegerency makes it incumbent on the Islamic State to undertake the development of knowledge to higher and higher levels and to organize and enforce the education of all its citizens with a view to their intellectual advancement, with all the resources at its command.

3. The Holy Qur’ān refers to the establishment of justice and balanced life among human beings as the objective of Divine Guidance and, consequently, as the objective of the Islamic State:

Arabic text

“We sent aforetime Our Messengers with Clear Signs and sent down with them the Book and the Balance (of Right and Wrong), that men may stand forth in justice ...” (57:25).

This objective cannot, however, be achieved without a universal dissemination among the people of the knowledge of Islamic Way of Life, as a compulsory measure.

The Islamic Way of Life is, in its turn, built upon Divine Guidance, which is the highest knowledge, and as such necessitates the acquisition of all knowledge for its proper understanding.

Thus free, compulsory and universal education, based on Divine Guidance, having the promotion of the Islamic Way of Life as its objective, and being widest in its scope, stands out as one of the foremost duties of the Islamic State.

4. The Holy Qur'ān commands the Muslims to build up their power to the utmost and in all respects (8:60).⁴⁶ That objective is only achievable, among other things,⁴⁷ through:
 - a. universal and basic religious and general⁴⁸ education of the people, and
 - b. the highest theological, philosophical, scientific and technological education of those who possess the proper aptitude;

Thereby building up a community of intellectuals which should endeavor ceaselessly to attain the highest level in every field of knowledge.

All that education should, of course, be inspired by the ideal of making Truth and Justice reign supreme in the world, whereby alone the mission of Islam is fulfilled.⁴⁹

The crux of the above discussion is that:—

In respect of intellectual development, it is the duty of the Islamic State:

- a. to organize, establish and enforce free compulsory basic universal education;*
- b. to devise ways and means whereby all branches of knowledge are cultivated at the highest level; and*
- c. to harness all intellectual endeavor in the cause of the advancement of Truth and Justice.*



(4) DUTIES RELATING TO THE POLITICAL AND SOCIAL WELFARE OF THE PEOPLE

- (1) Establishment of happiness, peace and order for ensuring healthy existence and development of the individuals, enjoined:*

The Holy Qur’ān says:

Arabic text

“... So fear Allah and pursue *islāḥ* (i.e., happiness, peace and order) between yourselves ...” (8:1).

- (2) Administering justice without discrimination and without any extraneous consideration, for the preservation of life, honor and property of the individuals, enjoined:*

The Holy Qur'ān says:

Arabic text

“Oh you who believe! stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor; for Allah can best protect both. Follow not the lusts of your hearts, lest you swerve, and if you distort (justice) or decline to do justice, verily Allah is well-acquainted with all that you do.” (4:135).

Again:

Arabic text

“Oh you who believe! be maintainers of your pact with Allah, 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 nearest to Piety: and fear Allah. For Allah is well-acquainted with all that you do.” (5:9).

(3) Ensuring the democratic rights of the people, enjoined:

Arabic text

“Allah does command you to render back your Trusts (i.e., all obligations towards God and fellow-beings)⁵⁰ to those to whom they are due ...” (4:58).

(4) Honoring all human beings as human beings: Hence no law, whereby the human dignity of any citizen is jeopardized unjustly, is to be adopted:

The Holy Qur'ān says:

Arabic text

“We have honored the children of Adam.” (17:70).

(5) Punishing the violators of law and those who endanger the security of the State made a function of the State: Hence State's duty;

The Holy Qur'ān says:

Arabic text

“(Muslims are) those who, if We establish them (in authority and power) in the land, establish regular prayer and give regular charity, enjoin the right and forbid what is wrong ...” (22:41).

In this verse, “forbidding (or, restraining from) what is wrong” relates to the function of the Islamic State with regard to the punishment of offenders against Law.

Also: punishing the criminals⁵¹ is a positive demand of justice; and the Holy Qur'ān enjoins:

Arabic text

“... And that when you judge between human beings (whether Muslims or non-Muslims), you judge with justice.” (4:58).

(6) Defence of Islam and Muslims against internal disruption:

In this connection, it should be noted that:

- a. *Damaging Islam through the creation of mutually hostile religious groups has been condemned and prohibited by the Holy Qur'ān:*

Arabic text

“... And be not among those who join gods with Allah,—those who split up their Religion, and become (mere) Sects, each party rejoicing in that which is with itself.” (30:31-32).

It is, therefore, the duty of the Islamic State as the defender of Islam, to foster religious unity among Muslims and to put down all attempts at religious disruption and disputes with an iron hand, leaving no place for religious adventurers.

- b. *Damaging Muslim unity and solidarity socially and politically, through the formation of mutually hostile political, tribal, regional or racial⁵² groups, has been condemned, and the duty of punishing those who are guilty of such offence, and enforcing unity with justice, has been enjoined by the Holy Qur'ān:*

Arabic text

“If two parties among the Believers fight (against one another), make you peace between them: but if one of them transgresses beyond bounds against the other, then fight you (all) against the one that transgresses until it complies with the command of Allah: but if it complies, then make peace between them with justice and be fair: for Allah loves those who are fair (and just).

The Believers are but a single Brotherhood: so make peace and reconciliation between your two (contending) brothers; and fear Allah, that you may receive Mercy.” (49:9-10).

It is, therefore, the duty of the Islamic State to combat and eliminate all such tendencies in the community on the basis of truth and justice.

(7) Defence of Islam and Muslims against external aggression, enjoined:

Arabic text

“To those against whom war is made, permission is given (to fight) because they are wronged ...” (22:39).

Again:

Arabic text

“Against them (i.e., your enemies) make ready your Power to the utmost of your capacity, including steeds of war, to strike terror into (the hearts of) the enemies of Allah and your enemies, and others besides, whom you know not, but whom Allah does know. Whatever you shall spend in the Cause of Allah, shall be repaid unto you, and you shall not be treated unjustly.” (8:60).



(5) DUTIES RELATING TO THE ECONOMIC WELFARE OF THE PEOPLE

1. Harmonizing different interests to end exploitation and the creation of a classless society, enjoined:

In this respect:

1. The Holy Qur'ān establishes the Brotherhood of Muslims:

Arabic text

“The Believers are but a single Brotherhood. Therefore, establish happiness, peace and order among two (contending) members of your Brotherhood, and observe your duty to Allah that haply you may obtain mercy.” (49:10).

It should be noted that:

- a. the concept of the Brotherhood of Believers is outright the concept of a classless society;
- b. the establishment of happiness, peace and order in that Brotherhood refers to the preservation of the Brotherhood as a classless society through the requisite principles and laws: social, political and economic;
- c. the establishment of happiness, peace and order is truly possible only for the state which controls the life of the people comprehensively and with coercive authority. Hence, this verse relates primarily and essentially to the duties of the Islamic State.

2. The Holy Qur'ān *lays down the law for ending exploitation at all levels and in all respects:*

Arabic text

“You shall neither wrong, nor be wronged.” (2:279).

Again:

Arabic text

“The blame is only against those who oppress men with wrongdoing and insolently transgress beyond bounds through the land, denying right and justice: For such there will be a penalty grievous.” (42:42).

3. *The Holy Qur'ān enjoins active steps, through coercive authority, for ending exploitation:*

Arabic text

“If two parties among the Believers fall into a quarrel, make you peace between them: but if one of them transgresses beyond bounds against the other then fight you (all) against the one that transgresses until it complies with the command of Allah ...” (49:9).

The first implication of this verse is that which has been given in the previous section.

In its general bearing, it provides also the principle that if a group of Muslims tries to exploit another group, it is the duty of the Islamic State to restrain the exploiters by force.

Prohibition of usury and interest,⁵³ whereby the rich exploit the poor, is a part of Qur'ānic legislation in this regard.

2. *Ensuring the economic characteristics of the Muslim society in terms of its being the “balanced community”⁵⁴ by eliminating the evils of poverty as well as the evils of riches,⁵⁵ enjoined:*

The means which the Holy Qur'ān prescribes, for adoption by the Islamic State, are:

1. *It propounds the principle that all human beings have equal right to the means of sustenance found on earth,—and that, consequently, the citizens of the Islamic State have equal right to the means of sustenance found in the State:*

Arabic text

“He (Allah) it is Who created for you (i.e., for the benefit of all of you, O mankind!) all that is on the earth.” (2:29).

Mark that, according to this verse, no human being has originally any exclusive and absolute right to anything found on the earth.

Again:

Arabic text

“And We have provided therein (i.e., in the earth) means of subsistence,—for you and for those for whom you provide not.” (15:20).

Still again:

Arabic text

“... and (Allah) ordained in due proportion therein (i.e., in the earth) the sustenance thereof (for the purpose of fulfilling the requirements of its inhabitants) in four Days: equal for those who seek (to fulfill their needs).” (41:10).

2. *It lays down the law that value lies in labor:*

Arabic text

“That man can have nothing but what he strives for (through labor).” (53:39).

3. *It teaches that God rewards man’s labor in full. Hence, it is the duty of the Islamic State, as the vicegerent of God, to establish an economic order wherein the labor of every citizen is fully rewarded:*

Arabic text

“And that his (man’s) effort will be seen; then he will be repaid for it with fullest payment.” (53:40-41).

4. *It sets forth the principle that all human beings are equally honorable in respect of their humanity: It has been proclaimed:*

Arabic text

“Verily We have honored the children of Adam.” (17:70).

Hence, it is the duty of the Islamic State, as God’s vicegerent, to organize, ensure and promote honorable living and livelihood for all of its citizens.

5. *It approves⁵⁶ the right to private property:*

Arabic text

“From what is left by parents and those nearest related there is a share for men (to own) and there is a share for women (to own), whether the property be small or large,—a determinate share.” (4:7).

Again:

Arabic text

“... To men the benefit of what they earn and to women the benefit of what they earn ...” (4:32).

6. *It protects the rights of the owner of private property against violations by others:*

Arabic text

“... and wrong not mankind in their goods (i.e., possessions)⁵⁷ ...” (7:85).

7. *It does not, however, permit the institution of private property to promote the evil of concentration of wealth. Rather, among*

other measures to which references have been made in the foregoing, it lays down the principle for the division of property among inheritors on a wide scale, by taking into consideration all the male and female categories of near relatives and permitting bequest of one-third property for the welfare of the non-inheritors, so that the Muslim community may remain essentially a community of middle-roaders from the economic point of view.

(See 4:11-12, etc., where the shares of the different beneficiaries in a Muslim's property have been given).⁵⁸

The foregoing makes it evident that the Qur'ānic point of view steers clear of both: free economy (capitalist) and controlled economy (communist), and prescribes a partially-free and partially-controlled economy.

In that respect:—

- a. it sanctions the right of private ownership:
- b. its principle that value lies in labor envisages peasant-proprietorship of agricultural land and forms a condemnation of absentee land-lordship;
- c. it advocates wages for the laborer commensurate with honorable living;
- d. its emphasis on the gifts of nature being meant for all human beings, the right to own mines, water, perennial forests, etc., should belong only to people as a whole, namely, to the State.

- e. its emphasis on the principle that wealth should not be permitted to become concentrated in a few hands makes it incumbent that the economic order should be such as to have no room for monopolists of wealth—the industrial barons and the business lords.

Besides these principles, however:

8. *It emphasizes the Brotherhood of Muslims, as already noted.*

This makes the provision of social security a duty, because a Brotherhood without social security for its members is hardly worth the name.

Provision of social security will have no meaning, however, if the Islamic State does not, side by side with eliminating exploitation in all its forms,⁵⁹ ensure:

- a. the right to work and employment;
- b. the right to free choice of profession;
- c. the right to decent wages for labor, and the consequent decent living.

These rights are directly traceable in the Holy Prophet's practice in respect of Qur'ānic Guidance.⁶⁰

9. *It:*

- a. *ensures economic assistance to those who, for any reason, are incapable of earning their livelihood, through the Welfare Taxes which we have discussed already.*⁶¹
- b. *It lays down the principle of spending profusely*⁶² *for public good, thereby creating, in the case of the Islamic State, public works,—thus warding off unemployment.*

3. *Provision of basic necessities of life to all the citizens, enjoined:*

This problem has been covered indirectly and in different details in the foregoing. It is a problem of such vital importance, however, that the statement of its positive and direct affirmation by the Holy Qur'ān is necessary.

In this connection, we have to consider:

- a. the Qur'ānic concept of God;
- b. the Qur'ānic description of the life of Adam and Eve—the parents of humanity—in the Heavenly Garden;
- c. the Qur'ānic promise, given by God, after the Repentance by Adam and Eve, concerning the elimination of fear and sorrow from the lives of human beings, during their sojourn on earth, and the condition thereof.

As to (a), the Holy Qur'ān says:

Arabic text

“Praise to Allah, the Cherisher and Sustainer of the Worlds.”
(1:2).

Thus God is the Cherisher and Sustainer of all human beings.

Indeed, He has taken upon Himself the obligation of providing the livelihood, or, basic necessities of life, to all living beings:

Arabic text

“There is no moving creature on earth but upon Allah is the livelihood thereof.” (11:6).

As to (b), the Holy Qur’ān refers to the basic necessities, provided by God to Adam and Eve in their heavenly Abode, as: food, clothing, health, shelter and education. The holy book says:

Arabic text

“And We said: ‘Oh Adam! dwell you and your wife in the Garden (in health and happiness); and eat of the bountiful things therein (in healthy enjoyment) as you wish.” (2:35).

Again:

Arabic text

“Then We said: ‘O Adam! verily, this is an enemy to you and your wife: so let him not get you both out of the Garden, so that you are landed in misery (in many ways, including the problem of suffering in respect of health). There is therein (enough provision) for you not to go hungry (—food) nor to go naked

(—clothing) nor to suffer from thirst (—drink) nor from the sun's heat (—shelter)." (20:117-119).

Still again:

Arabic text

"And He imparted to Adam the knowledge of all things." (2:31).

As to (c), God says:

Arabic text

"We said: 'Get you down all together; and if, as is sure, there comes to you Guidance from Me, whosoever follows My Guidance, on them shall be no fear, nor shall they grieve!'" (2:38).

This verse denotes that proper enforcement of Divine Guidance, which is possible only through State Authority, ensures, to the limit possible under the conditions obtaining on earth, freedom from all fears and sorrows, including the economic fear and sorrow.

This whole discussion brings out that:

The Islamic State, as functioning under the Sovereignty of God, and in the capacity of His vicegerent, and as governed by the Divine Law, is duty-bound to arrange and organize the economics of the state in such a way ⁶³ that every citizen obtains the basic necessities of life—those necessities being: food, clothing, health, shelter, and

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education, thereby obtaining all possible immunity from economic fear and sorrow.



PART 3. THE PENAL CODE

There are certain offences against the honor, property and life of the citizens, and against the security of the state, with respect to which the Holy Qur'ān has ordained punishments ⁶⁴ that are to be executed by the government of the Islamic State.

The punishments specifically mentioned in the Holy Qur'ān are:

1. Punishments pertaining to the interests of the Individuals:

(1) *Punishments relating to Honor*—in respect of:

- (a) Slandering of chaste women;
- (b) Fornication and adultery;
- (c) Homosexuality.

(2) *Punishments relating to Property*—in respect of:

- (a) Theft;
- (b) Robbery.

(3) *Punishments relating to Life*—in respect of:

- (a) Murder;
- (b) Mutilation.

2. Punishments pertaining to the interests of the State:

Treason.



Chapter 1.

PUNISHMENTS PERTAINING TO THE INTERESTS OF THE INDIVIDUAL

1. PUNISHMENTS RELATING TO HONOUR

(a) In Respect of Slandering of Chaste Women:

The Holy Qur'ān says:

Arabic text

“And those who accuse chaste women (of unchastity), and produce not four witnesses (to support their allegations), flog them with eighty stripes; and reject their evidence ever after; for such men are wicked transgressors;—unless they repent thereafter and mend (their conduct); for Allah is Oft-Forgiving, Most Merciful.” (24:4-5).

Thus, the punishment prescribed is that of:

1. flogging the offender with eighty stripes;
2. deprivation of the civic right of giving evidence—appearing as witness—in a court of law.

As for the effects of repentance, “Abu Hanifa (the Imam of Hanafi school of Law) considers that neither the stripes nor the

incompetence for giving further evidence is cancelled by repentance, but only the spiritual stigma of being ‘wicked transgressor’. This of course is the more serious punishment, though it cannot be enforced in the Courts.” (A. Yusuf Ali, *op. cit.*, n. 2959).

In case the accusation of unchastity is brought by the husband against his wife, the Holy Qur’ān lays down the following procedure to be observed in a court of law;

Arabic text

“And for those who launch a charge (of unchastity) against their spouses, and have (in support) no evidence but their own, their solitary evidence (can be received) if they bear witness four times (with an oath) by Allah that they are solemnly telling the truth; and the fifth (oath) should be that they solemnly invoke the curse of Allah on themselves if they tell a lie. But it would avert the punishment from the wife, if she bears witness four times (with an oath) by Allah, that (her husband) is telling a lie; and the fifth (oath) should be that she solemnly invokes the wrath of Allah on herself if (her accuser) is telling the truth.” (24:6-9).

Commenting on this Qur’ānic ordinance, A. Yusuf Ali says: “The case of married persons is different from that of outsiders. If one of them accuses the other of unchastity, the accusation partly reflects on the accuser as well. Moreover, the link which unites married people, even where differences supervene, is sure to act as a steadying influence against the concoction of false charges of unchastity,

particularly where divorce is allowed (as in Islam) for reasons other than unchastity. Suppose a husband catches a wife in adultery. In the nature of things four witnesses—or even one outside witness—would be impossible. Yet after such an experience it is against human nature that he can live a normal married life. The matter is then left to the honor of the two spouses. If the husband can solemnly swear four times to the fact, and in addition invoke a curse on himself if he lies, that is *prima facie* evidence of the wife's guilt. But if the wife swears similarly four times and similarly invokes a curse on herself, she is in law acquitted of the guilt. If she does not take this step, the charge is held proved and the punishment follows. In either case the marriage is dissolved, as it is against human nature that the parties can live together happily after such an incident.” (*op. cit.*, n.2960).

(b) In Respect of Adultery and Fornication:

As for illicit sexual relations between man and woman, i.e., adultery and fornication, which are very wide-spread and devastating evils of the Western civilization, the Holy Qur'ān ordains:

Arabic text

“The woman and the man guilty of adultery or fornication, flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if you believe in Allah and the Last Day: and let a party of the Believers witness their punishment. Let no man guilty of adultery or fornication marry any but a woman similarly guilty, or an Unbeliever; nor let any but such a man or an Unbeliever marry

such a woman; to the Believers such a thing is forbidden.”
(24:2-3).⁶⁵

Thus, the punishment prescribed for adultery and fornication is public flogging of the offenders with a hundred stripes.

Verse 3 speaks of further punishment of debarring those guilty of sexual immorality from establishing the marriage-tie in the circle of the chaste.

(c) In Respect of Homosexuality:⁶⁶

The Holy Qur’ān says:

Arabic text

“If any of your women are guilty of lewdness, take the evidence of four (reliable) witnesses from amongst you against them; and if they testify, confine them to houses until death do claim them, or Allah ordains for them some (other) way. If two men among you are guilty of lewdness, punish them both. If they repent and amend, leave them alone; for Allah is Oft-returning, Most Merciful.” (4:15-16).

Commenting on verse 15, A. Yusuf Ali says: “Most commentators understand this to refer to adultery or fornication; in that case they consider that the punishment was altered to 100 stripes by the later verse 24:2. But I think it refers to unnatural crime between women, analogous to unnatural crime between men in verse 16 below; because: (1) no punishment is specified here for the man, as would be the case where a man was involved in the crime; (2) the word *al-lāti*,

the purely feminine form of *al-lati*, is used for the parties to the crime; (3) the punishment is indefinite ... If we understand the crime to be unnatural crime, we might presume, in the absence of any definite order (“some other way”) that the punishment would be similar to that for men in the next verse. That is itself indefinite, and perhaps intentionally so, as the crime is most shameful, and should be unknown in a well-regulated society. The maximum punishment would of course be imprisonment for life.” (*op. cit.*, nn. 523, 525).



2. PUNISHMENTS RELATING TO PROPERTY

(a) In Respect of Theft:

The Holy Qur'ān says:

Arabic text

“As to the thief, male or female, cut off (O men of authority) his or her hands,⁶⁷ a meed for that which they have earned,—an exemplary punishment from Allah; and Allah is Mighty, Wise. Then whosoever repents after his wrongdoing (i.e., returns the stolen goods to, or is forgiven by the owner) and amends (his criminal attitude of stealing), verily Allah shall relent towards him. Verily Allah is Forgiving, Merciful.” (5:38-39).⁶⁸

(b) In Respect of Robbery and Bloodshed:

The Holy Qur'ān says:

Arabic text

“The punishment of those who wage war against Allah and His Messenger (by violating public security for the establishment of which the Divine law has come) and go about in the land causing corruption (in terms of robbery and bloodshed) is execution (in case they are guilty of murder), or crucifixion (in case they commit murder and robbery both), or the cutting off of hands and feet from opposite sides (if they commit robbery only), or exile from the land (if the murder or robbery has not yet been committed, but the persons concerned are arrested while on the point of doing so). That is their disgrace in this world, and a heavy punishment awaits them in the Hereafter; except for those who repent before they fall into your power (i.e., prior to their arrest); in that case, know that Allah is Oft-Forgiving, Most Merciful. (He will condone their guilt in respect of the punishment which is to be received in the Hereafter).” (5:36-37).

Thus, the punishments are:

1. Slaying the offenders, in case murder only has been committed and no robbery has taken place.
2. Cutting off of the opposite hand and foot of the offender, in case robbery alone has been committed,
3. Crucifying the offenders, in case both robbery and murder have been committed.

4. Exiling the offenders, in case they are arrested in the situation of crime before the actual commission.



3. PUNISHMENTS RELATING TO LIFE

(a) In Respect of Murder:

The Holy Qur'ān says:

Arabic text

“O you who believe! The Law of Equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman.⁶⁹ But if any remission is made⁷⁰ by the brother (i.e., the heirs of the murdered person), then grant any reasonable demand, and compensate him (in the form of blood-money) with handsome gratitude. This is a concession⁷¹ and a Mercy⁷² from your Lord. After this, whoever exceeds the limits shall be in grave penalty. In the Law of Equality there is (saving of) Life to you (as it cuts the roots of endless blood-feuds) oh you men of understanding, that you may restrain yourselves.” (2:178-179).

There are two points contained in these verses:

- a. Punishment for murder is the taking of the murderer's life.

- b. If, however, the heirs of the murdered person agree without any compulsion, the law of mercy can be allowed to operate on the basis of reasonable monetary compensation to the heirs,—that with a view to ward off worse evils; —and the government will allow it.

(b) In Respect of Mutilation:

The Holy Qur’ān says:

Arabic text

“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 Allah has revealed, they are (no better than) wrongdoers.” (5:48).⁷³

This verse prescribes the Law of Equality in connection with murder as well as in respect to loss of, or damage to, the limbs of the human body caused by one person to another.

However, as in the case of murder, the permission of foregoing, in the interest of moral excellence, the right of demanding the enforcement of the Law of Equality has been given to the aggrieved party.



Chapter 2

PUNISHMENTS PERTAINING TO THE INTERESTS OF THE STATE

TREASON

Concerning the crime of treason, the Holy Qur’ān says:

Arabic text

“The punishment of those who wage war against Allah and His Messenger (in respect of endangering the security of the State established under the Divine Law) and strive with might and main for mischief through the land, is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter; except for those who repent before they fall into your power: in that case, know that Allah is Oft-Forgiving, Most Merciful.” (5:36-37).

A. Yusuf Ali comments on this verse thus: “For the double crime of treason against the State, combined with treason against Allah, as shown by overt crimes, four alternative punishments are mentioned, any one of which is to be applied according to circumstances: viz., execution (cutting off of the head), crucifixion, maiming, or exile. These were features of the Criminal Law then and for centuries afterwards, except that tortures such as ‘hanging, drawing, and quartering’ in English Law, and piercing of eyes and leaving the

unfortunate victim exposed to a tropical sun, which was practised in Arabia, and all such tortures, were abolished. In any case sincere repentance before it was too late was recognized as a ground of mercy.”⁷⁴ (*op. cit.*, n. 738).



ENDNOTES

¹ All those duties which relate to economic matters and which have been listed in the previous sections are also directly related here.

² Exhortations to this effect have been repeatedly and emphatically made in the Holy Qur’ān, both in the form of injunctions and otherwise, and have been quoted in detail on pp.234-236.

³ According to Islamic Law, *al-Zakāh* is leviable annually on all Muslims of means, at the rate of 2½% on all un-invested wealth like silver, gold, jewellery (in the view of Hanafī Law), cash, commercial goods and debts receivable. It is not imposed on the value of built-up houses, tools of the artisan—including industrial machinery, and agricultural implements. (For detailed laws concerning this tax, reference may be made to *Fatḥ al-Bārī*, the Commentary on Bukhārī’s *Ṣaḥīḥ*, vol. 4 in *Ḥadīth* literature, and to *Hedāya* in Hanafī law: chapters on *al-Zakāh*).

It may be noted here that the institution of *al-Zakāh*, as it exists today, is in urgent need of recasting and re-evaluation.

⁴ That *al-Zakāh* is a welfare-tax is borne out explicitly by verse 9:60, quoted elsewhere.

The Holy Qur’ān further mentions the aim of this tax in terms of the “eradication of economic fear and sorrow.” It says:

Arabic text

“Lo! those who believe and do deeds of righteousness and establish (regular) Prayer and pay *al-Zakāh*, their reward is with their Lord. On them (as a community) shall be no fear, nor shall they grieve (i.e., they shall not suffer from fear and sorrow, either in respect of their Salvation in the Hereafter as individuals, or in respect of their collective economic life on the earth).” (2:277).

⁵ Other verses on *al-Zakāh*, where the command has been repeated, are: 22:78; 24:56; 33:33; 73:20.

That this has been God’s Law since all time, and forms one of the bases of economic welfare, has been affirmed in the following verses: 2:43; 2:83; 19:13; 19:31; 19:55; 21:73; 98:5.

⁶ See: *Fath al-Bārī*, vol. 4, p.117.

⁷ See: Bukhārī’s *Ṣaḥīḥ*, Bāb al-Zakāh.

⁸ Cf:

Arabic text

“Those who spend (freely), whether in prosperity, or in adversity;”
(3:133)

⁹ Cf:

Arabic text

“By no means shall you attain righteousness unless you give (freely) of that which you love; ...” (3:92).

¹⁰ **Arabic text**

“... but it is (true) righteousness ... to spend of your wealth, out of love for Him ... Such are they who are sincere (in their Faith); such are the God-fearing.” (2:177).

¹¹ For references, see: Ibn Hazm’s *al-Moḥallā*, vol. 6, p. 156.

¹² It should be clearly noted that an ‘Islamic State’ is only that state which is dedicated to the mission of Islam and is governed solely and comprehensively by the Islamic norms, principles and laws.

¹³ Ibn Hazm: *al-Moḥallā*, vol. 6, p. 158.

¹⁴ Such verses have been already quoted. See pp. **234-236**; etc.

¹⁵ For the *Hadīth*, refer to: Tirmizi, *Sunan*, vol. 2, p. 345; Bukhārī: *Ṣaḥīḥ*, vol. 2, pp. 243, 541; Abū Dā’ūd: *Sunan*, vol. 2, p. 501 . For Islamic Law, refer to such books as *al-Hedāya*, vol. 2, p. 289, etc.

¹⁶ It may also be noted that the Holy Qur’ān lays down the law of commercial morality in 2:282.

¹⁷ 11:38.

¹⁸ 21:80; 34:10.

¹⁹ “Sending down” of iron may have reference to the meteoric origin of this metal in ages gone by.

²⁰ God is unseen. But the Messengers of God also having been referred to as “unseen”, the verse seems to refer to the present industrial age which began after the last Messenger (Muhammad) had departed and had become “unseen”, and which saw the enemies of Islam in such power through industrialization that industrialization and technological advancement on a higher scale alone could have saved the Muslims from the defeat and decline which they suffered during the nineteenth and the early twentieth centuries and which has been the source of the ruin of Islam and Muslims up to this day. Indeed, if the Muslims had maintained their lead in physical sciences and technology as wise followers of the Holy Qur’ān, they would never have fallen on evil days and would have continued to maintain their international supremacy. Their failure, however, spelled their destruction as a world-power and led ultimately to those servile conditions which have progressively assisted in the de-Islamisation of the rising generations of Muslims, until non-Islamic and even anti-Islamic ideologies are now being foisted on free Muslim countries.

²¹ *Mufradāt al-Qur’ān* by Imām Rāghib; *Tāj al-‘Ārus*; Lane’s *Arabic-English Lexicon*.

²² **Arabic text**

²³ Muslim: *Ṣaḥīḥ*, vol. 2, p. 31.

²⁴ *Hedāya*, vol. 4, p. 47.

²⁵ *Mishkāt al-Maṣābīḥ*, vol. 1., pp. 247, 248.

²⁶ *Ibid.*, vol. 1., p. 248.

²⁷ *Ibid.*, vol. 1., p. 247.

²⁸ Lane’s *Arabic-English Lexicon*.

²⁹ According to Lane’s *Lexicon*:

“In general, those who are termed *Ulu al-Amr* of the Muslims, are those who superintend the affairs of such with respect of religion, and everything conducing to the right disposal of their affairs.”

³⁰ See pages 305-307.

³¹ See *Sura al-Fātiḥah* (Chapter 1) and other prayers taught by the Holy Qur’ān.

³² Cf. 6:57, 12:67; etc.

³³ i.e., dissemination and propagation of the teachings of Islam, from the pulpit and the platform and through the press, the radio and the television, with a view to persuading and inspiring the people in respect of the Islamic Way of Life.

³⁴ Lane’s *Lexicon*.

³⁵ Arnold Toynbee: *A Study of History*, Abridgement of Volumes I-VI by D.C Somervell, ed., 1946, p. 400.

³⁶ See (4) (b), as also other references on this topic.

³⁷ See p. 352.

³⁸ 59:9.

³⁹ 42:38, quoted on p. 352.

⁴⁰ “The concept of ‘trusts’ covers the principle that offices should go only to the really deserving.” (*Ruḥ al-Ma’ānī*, vol. 5, p. 64).

⁴¹ 3:110; 22:41.

⁴² Basic education in Islam shall have to be provided to every Muslim citizen of the State, as we shall see shortly.

⁴³ This refers to the punishment of the offenders by the Islamic State.

⁴⁴ The punishments prescribed by the Holy Qur’ān for different offences have been given in Part 3.

⁴⁵ The Arabic word is *asma’*, plural of “*ism*”. The commentators of the Holy Qur’ān explain this word to mean: “the attributes of things and their descriptions and their characteristics, the attributes of a thing being indicative of its nature”. (See: Saiyid Qutb’s Commentary named *Fī-Zilāl il-Qur’ān*, p. 126).

⁴⁶ Already quoted on p. 351.

⁴⁷ The eminent *Muḥaddith* Daw'oodi has deduced the necessity of the development of agriculture from the verse under reference (See: '*Ainī*: Commentary on Bukhārī's *Ṣaḥīḥ* vol. 5, p. 712).

⁴⁸ It may be emphasized here that Islam being the religion of Unity, it does not recognize any distinction between the "religious" and the "secular". The distinction made here is purely nominal, and not functional.

⁴⁹ It maybe remarked here that the present-day Islamic theological education is unbalanced, defective and narrow in conception; while the secular education that is being imparted in the Muslim countries is breeding, because of its wrong orientation, aimlessness and even un-Islamic and anti-Islamic bias. (For a detailed discussion, see the author's: *The Present Crisis in Islam and Our Future Educational Programme*).

⁵⁰ Ref: comments on this verse in *Ruḥ al-Ma'ānī*, vol. 1. It should also be noted that every government which wields authority as a delegated privilege, is, in the very nature of the case, a trustee of the democratic rights of the people.

⁵¹ Punishments shall be stated shortly. See pp. 381-394.

⁵² The Holy Qur'ān recognizes no tribal, racial, linguistic or regional distinctions as a basis for political divisions. (49:13).

⁵³ See pp. 327-328.

⁵⁴ Qur'ān 2:143, quoted on p. 350.

⁵⁵ That this is a necessary condition for every social order for being healthy and strong has been referred to in the following verse which emphasizes that deviation of the economic order of a community from the "just mean" leads to disaster as regards the very existence of that community. God says:

Arabic text

"And how many populations We destroyed, whose way of life and livelihood became reckless (leading to corruption) ..." (28:58).

⁵⁶ Let it be noted that the Holy Qur'ān does not make ownership of *private property an obligation*.

⁵⁷ Cf. Prescription of punishments for theft, robbery, etc. (pp 387- 388).

⁵⁸ Speaking of the Qur’ānic law of inheritance, Macknaughten observes in the ‘Preliminary Remarks’ to his *“Principles and Precedents of Mohammedan Law”*; “... indeed it is difficult to conceive any system containing rules more strictly just and equitable.”

⁵⁹ Reference has been made to this duty on p. 372.

⁶⁰ See: Bukhārī: *Ṣaḥīḥ*, vol. 1, p. 275; *Mishkāt al-Maṣābīḥ* vol. 1., pp. 242, 290,

⁶¹ See: pp. 314, *et foll.*

⁶² See: 2:274.

⁶³ The provision of basic necessities to every citizen forms such an important part of the Qur’ānic teaching that even the right of the individual to private ownership of wealth and of private enterprise can be curtailed by the State Authority in case there is no other way to meet that objective, as the eminent jurist Ibn Hazm affirms. (See: *al-Moḥallā*, vol. 6, p. 156).

⁶⁴ Punishments for other offences. prescribed by the Islamic Code of Law, are traceable to the *Ḥadīth* or to the deductions of the Muslim Jurists. (See: *al-Tāj al-Jāme‘ li al-Uṣūl*).

⁶⁵ The Holy Qur’ān takes a very strong view of fornication and adultery, because they seriously damage the social health and because the Qur’ānic Guidance has already provided such conditions of life as totally nullify the normal incentives to commit such crimes.

⁶⁶ Mark the severe condemnation of sodomy in 7:81-84, 29:28, etc.

⁶⁷ “The Canon Law jurists are not unanimous as to the value of the property stolen, which would involve the penalty of the cutting off of the hand. The majority hold that petty thefts are exempt from this punishment. The general opinion is that only one hand should be cut off for the first theft, on the principle that ‘if your hand or your foot offend you, cut them off, and cast them from you’ (Matt. 18:8). Apparently in the age of Jesus thieves were crucified (Matt. 27:38).” (A. Yusuf Ali, *op. cit.*, n. 742).

According to Hanafi school of Islamic Law: a thief’s hand shall not be cut off if the value of the thing stolen is less than one dinar, and if two male witnesses of good character are not available for testimony. (*Hedaya al-awwalain*, p. 539). Also it “shall not be cut off for the theft of what cannot be

guarded, or is not worth guarding, being found in the land in great quantity, such as dry wood, hay grass, reeds, game, fish, lime, etc.; also such articles of food as are quickly perishable, as milk, meat, fresh fruit, etc ... Finally, a thief's hand shall not be cut off if the thing stolen has no conventional value, even though it be otherwise regarded as of great worth." (Roberts: *Social Laws of the Qur'ān*. p. 93).

⁶⁸ We might compare this Qur'ānic ordinance with the Biblical law. There we find that: "If a thief be found breaking up, and be smitten that he die, there shall no blood be shed for him." (*Exodus*, 22:2). "If a man be found stealing any of his brethren of the children of Israel, and makes merchandise of him, or sells him; then that thief shall die." (*Deuteronomy*, 24:7).

In the Hammurabi, the Greek and the Roman codes, as also in the common law of England until recently, theft has been classed as a capital crime of grave nature. (See: *Encyclopedia Britannica*, 13, p. 721).

It should be noted that the deterrent effect of this mode of punishment has been very remarkable in all the Muslim lands where it has been enforced, e.g., in Arabia.

It should also be noted that this severe punishment has been prescribed for the members of a society which ensures the provision of the basic human needs to every individual.

⁶⁹ "Our law of equality only takes account of three conditions of civil society: free for free, slave for slave, woman for woman. Among free men or women, all are equal: you cannot ask that because a wealthy, or high-born, or influential man is killed, his life is equal to two or three lives among the poor or the lowly. Nor, in cases of murder, can you go into the value or abilities of a slave. A woman is mentioned separately because her position as a mother or an economic worker is different. She does not form a third class but a division of the other two classes. One life having been lost, do not waste many lives in retaliation: at most, let the Law take one life under strictly prescribed conditions, and shut the door to private vengeance or tribal retaliation. But if the aggrieved party consents (and this condition of consent is laid down to prevent worse evils), forgiveness and brotherly love is better, and the door of Mercy is kept open." (Abdullah Yusuf Ali, *op. cit.*, n. 182).

"According to the Hanafis", says Abdur Rahim, "the life of a slave stands on equal footing with that of a free-man, of woman with that of a man, of a non-

Muslim subject with that of a Muslim.” (*Muhammadian Jurisprudence*, p. 359).

⁷⁰ “Islam while recognizing retaliation as the basic principle of remedial right, favors compensation as being a principle which is most consistent with the peace and progress of society, and lays down rules for the purpose of confining retaliation within the narrowest possible limit.” (Abdur Rahim, *op. cit.*, p. 359).

⁷¹ “Retaliation being the right of the person injured or of his heirs, they can compound with the offender for money, or, if they choose, pardon him. Wherever retaliation for murder or hurt is compounded, the money payable as consideration can be realized only from the offender himself. So also when compensation is ordered in cases where there is a doubt as to the willful nature of the homicide. Similarly when the hurt caused has not resulted in death, the wrong-doer alone can be called upon to pay compensation. But when death has been caused by negligence or mistake, the offender’s Akilas, that is his tribe or regiment, or the inhabitants of the town to which he belongs, are to pay the blood-money to the heirs of the deceased. The reason is that it is the duty of a person’s Akilas to watch over his conduct and the law presumes that the wrong-doer would not have acted in the way he did unless they neglected their duty.” (Abdur Rahim, *op. cit.*, p. 359).

⁷² “The law, though it recognizes retaliation in theory, discourages this form of remedy in every possible way. For example, if there be the least doubt as to the willful character of the offence or the proof, retaliation will not be ordered.” (Abdur Rahim, *op. cit.*, p. 359).

⁷³ We may note with advantage the comments of A. Yusuf Ali on this verse. He says: “The retaliation is prescribed in three places in the *Pentateuch*, viz., *Exodus*, 21:23-25; *Leviticus* 24:8-21, and *Deuteronomy*, 19:21. The wording in the three quotations is different, but in none of them is found the additional rider for mercy, as here. Note that in Matthew, 5:38, Jesus quotes the Old Law ‘eye for eye’, etc., and modifies it in the direction of forgiveness, but the Qur’ānic injunction is more practical. This appeal for Mercy is as between man and man in the spiritual world. Even where the injured one forgives, the State or Ruler is competent to take such action as is necessary for the preservation of law and order in Society. For crime has a bearing that goes beyond the interests of the person injured: the Community is affected (See Qur’ān, 5:35),” (*op. cit.*, n. 754).

⁷⁴ It may be noted that the law of treason must, in the very nature of the case, be of a severe type. As to 'drawing and quartering', prescribed in the English Criminal Code of the past and mentioned by A. Yusuf Ali, such punishment was "inflicted on those found guilty of high treason touching the king's person or government. The person committed was usually drawn on a sledge to the place of execution: there he was hung by the neck from a scaffold, being cut down and disemboweled, while still alive: his head then was cut from his body and his corpse divided into four quarters ... In the reign of Henry III and Edward I there is abundant evidence that death was the common punishment for felony; and this continued to be the law of the land as to treason and as to all felonies, except petty larceny, down to the year 1826." (Stephen: *History of the Criminal Law of England*, vol 1, p. 458).