

The Series of Human Rights in Islam: Book No.2

Human Rights in Islam and Their Applications in the Kingdom of Saudi Arabia

حقوق الإنسان في الإسلام وتطبيقاتها
في المملكة العربية السعودية (باللغة الانجليزية)

By

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Professor of Education

Imam Mohammad Bin Saud Islamic Univesity

First Edition
1422 H. - 2001 G.

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In the Name of Allah

The Compassionate, the Merciful

Preface

Thanks be to Allah, Lord of the universe and peace and blessings be upon the messenger of Allah, Prophet Mohammad and his family, and all his companions.

It gives me pleasure to present to the reader this book, whose main aim is to state the facts about the inquires, criticisms, and suspicions raised against the Kingdom of Saudi Arabia due to its application of the Islamic Sharee'ah provisions.

The Kingdom of Saudi Arabia is subjected to unjust campaigns by some organizations and by different agencies of the media, alleging that the Kingdom's application of Islamic Sharee'ah entails a violation of human rights of general freedoms and personal liberties; moreover, that the aids and humanitarian relief by the Kingdom to alleviate the whole of Mankind from their sufferings are meant to support extremism and terrorism.

In actual fact, these allegations are directed against the provisions and stipulations of Islamic Sharee'ah rather than the political system of the Kingdom of Saudi Arabia.

The Kingdom of Saudi Arabia is an Islamic state and the Islamic Sharee'ah exerts sovereignty over all spheres of its life. As is well-known, the main function of an Islamic State is to apply the teachings and laws of Islam, and thus the basic system of government in an Islamic State has to abide by the Islamic Sharee'ah provisions: it cannot abolish any one provision, nor can it take a decision that opposes any stipulation of Islamic Sharee'ah, or legislation which is based upon it. Islam does not allow a ruler to impede the application of Islamic Sharee'ah according to his own wishes, nor does it allow the nation ('Ummah) to cancel a certain rule of Islamic Sharee'ah ordained in the Holy Qur'an and the Prophetic Sunnah under the pretext that the people are the source of authority.

If an Islamic nation (i.e. 'Ummah) exempts itself from the obligation of applying Islamic Sharee'ah principles, it will commit a serious violation of Sharee'ah, opening the doors to chaos, thereby subjecting the

community and its public life to disorder, instability, with severe ramifications throughout society.

To clarify matters in this respect, I have written this book, which consists of ten chapters. To have a succinct introduction, I shall not give a full presentation of the main points of each chapter, but I'll refer to certain matters discussed in each as examples of my attempt to refute the unjust allegations against the Kingdom's application of Islamic Sharee'ah.

The first chapter, entitled: **“A General Definition of Islam: The Religion of the Kingdom of Saudi Arabia and the Application of Islamic Sharee'ah (Law)”**, is devoted to the following issues:

1. Islam, which is the religion of the Kingdom of Saudi Arabia, means the total submission to everything revealed to all messengers, from the first to the last, and that Islam is suitable for all times, and in all places.
2. That the Holy Qur'an is the constitution of the Kingdom of Saudi Arabia and the primary source of Islamic Sharee'ah; its commandments for divine guidance meet the needs of all of Mankind at all times in all places.
3. That one of Islam's main goals is the formation of a righteous human being, a righteous family, and a righteous society.
4. To clarify the truth about the allegations and criticisms raised against the Kingdom's application of Islamic Sharee'ah and its suitability for all times and all places.
5. To highlight the merits of Islam and the advantages and benefits of Islamic Sharee'ah, which fulfill the needs of all humanity more fully than any other legislative system can.
6. To illustrate the meaning of Islamic Sharee'ah sovereignty in an Islamic State.

The second Chapter, entitled: **“A Brief Historical Overview About the Kingdom of Saudi Arabia and the Fundamental Bases of its System of Government”**, is meant to establish the following:

1. The Saudi State that emerged in the 12th Hijri century (the 18th Gregorian century) in the context of monotheism (Tawheed) on the basis of the historic agreement between the initiator and founder of the Islamic reform movement Shaikh Mohammad Bin Abd Al-wahab and 'Imam Mohammad Bin Saud, the Amir of Ad-Dir'iyya, for the exalting

of the oneness of the One and only God (Tawheed) and the enjoining of good and forbidding evil.

2. To illustrate the foundations upon which the Kingdom of Saudi Arabia was built, and its aims, goals and its internal and external policies by asserting that the main feature of its domestic policy is the development of the Saudi citizen, while that of its foreign policy is non-interference in the internal affairs of others. By the same token, Saudi Arabia rejects interference in its own internal affairs, in accordance with the principle of national sovereignty and the principles of international law. Furthermore, the Kingdom distances itself from policies of polarization, or alliances into geopolitical blocks, and adopts instead open-door policies to the whole world, with confidence in the Kingdom's vital role in establishing justice, peace, and security in the international arena.
3. To illustrate the fundamental rules of the basic system of government in the Kingdom of Saudi Arabia. These are represented by the application of Islamic law constituents: justice, Shura and equality. In this section, the Kingdom's characteristics are highlighted through the principles upon which it was established.

Chapter three, entitled: **“The Truth about Shaikh Mohammad Bin Abd Al-wahab Reformist Movement (i.e. Da’wah) and the Response to the Suspicions Raised Against it”**, is meant to clarify the following matters:

1. That Shaikh Mohammad Bin Abd Al-wahab's Da'wah is not a new school of thought in Islam and that the essence of his Da'wah is the purification of monotheism from the heresies and superstitions that grew up around it.
2. That Shaikh Mohammad Bin Abd Al-wahab never denounced the Moslems of his day as disbelievers.
3. To illustrate the real aims behind labeling the Shaikh's Da'wah the “Wahhabi” movement by its opponents, and the falsification of its history.
4. To illustrate the principles upon which the Shaikh's Da'wah was established; to prove that this Da'wah was far from being fanatical or extremist.
5. To illustrate the general aims of the Shaikh's Da'wah and the peaceful means or approach adopted for its implementation, as expressed though

education, preaching in congregations and the writing of messages and responses to those who wrote to him.

6. To state the facts about the suspicions raised against the Da'wah.
7. To present the views of some impartial and fair-minded thinkers on the sound principles of the "Salafi" Da'wah, its noble aims and its positive impact not in Najd alone, but in most states of the Islamic World.

Chapter four, entitled: **"The Growth of the Judicial System in the Kingdom of Saudi Arabia: its Autonomy and Role in Preserving Human Rights"**, is meant to establish the following fact:

The autonomy of the Judicial System of the Kingdom of Saudi Arabia, its integrity, impartiality, aims and goals, its foundations, its role in protecting and preserving human rights and the guarantees and assurances enjoyed by defendants before the Judicial System, thereby guaranteeing a fair trial.

Chapter five, entitled: **"Enjoining Good and Forbidding Evil in the Light of the Holy Qur'an and the Prophetic Sunnah and its Application in the Kingdom of Saudi Arabia"**, is intended to illustrate that enjoining good and forbidding evil is a principle regulated in the Islamic Sharee'ah for enjoining what Allah has commanded and forbidding what Allah has forbidden. Moreover, that the wisdom behind its requirement in the Islamic Sharee'ah is to create an atmosphere conducive to the growth of good and codes of moral conduct whereby vices and evil disappear, giving way to the growth of chastity and alertness in the hearts and minds of Moslems so that evil shall cease to exist, let alone survive and grow. Thus, enjoining good and forbidding evil is the guardian of virtue in Islamic societies and it is not an unjustified interference in other peoples' lives, as is construed by those who are ignorant of the true nature of this principle.

Chapter six, entitled: **"Human Rights in Islam and its Position on Freedom in General and Freedom of Opinion and of Self-Expression in Particular, and Their Applications in the Kingdom of Saudi Arabia"**, is intended to clarify the following:

1. Islam recognized and enshrined human rights fourteen hundred years ago; these rights in their entirety are not the innovations of modern times, nor are they the innovations of the West. Islam has the precedence in calling for recognition of human rights and for their protection and preservation. To Islam, the individual, society and the State are the guardians of human rights and their preservation is

guaranteed since there are Islamic Sharee'ah precepts according to which whoever protects human rights is rewarded, and whoever disregards them is punished.

2. Human rights as stipulated in Islam are permanent, and not amenable to cancellation, adaptations, or nullification as they are the rights legislated by Allah to his worshippers; no one, no matter who he is, can nullify or tamper with them.
3. Human rights in Islam are Allah's gift to Man. That is why they enjoy a great deal of respect, are held in high esteem, are sacrosanct, and are secured against any violation. The confiscation of these rights by individuals or rulers is considered a transgression of the bounds of Islamic Sharee'ah; this strips the ruler of the continuity of his authority. This chapter is intended, also, to assert the fact that Man cannot enjoy the same level of dignity and happiness in all other systems as he does in Islam.

Chapter seven, entitled: "Enforcement of Punishments Prescribed by Islamic Sharee'ah in the Kingdom of Saudi Arabia for the Protection and Preservation of Basic Human Rights", is intended to clarify certain important matters:

1. The application of prescribed punishment in the Kingdom of Saudi Arabia is in accordance with the tenets of its constitution (i.e. the Holy Qur'an). Each and every one is on the basis of a divine decree from the Holy Qur'an or the Prophetic Sunnah. Thus, the application of these prescribed punishments in the Kingdom of Saudi Arabia is a constitutional matter; the Kingdom of Saudi Arabia shall not accept any criticism regarding it, and the criticism directed against the Kingdom concerning this matter is taken as a blatant interference in its internal affairs which is unacceptable by the Kingdom of Saudi Arabia and is disallowed according to the statutes of international law.
2. The enforcement of the prescribed punishments is considered the most important means of guaranteeing respect and preservation of Islamic human rights which are: the right to religion, the right to the sanctity of the soul, the mind, honor, and wealth.
3. The response to the suspicions raised against the application of prescribed punishment by Islamic Sharee'ah.
4. The mechanism by which an accused person is guaranteed a fair trial.

5. The aims of enforcing prescribed punishment and the benefits that accrue therefrom.

Chapter eight, entitled: **“The Status and Rights of Women in Islam and Their Applications in the Kingdom of Saudi Arabia”**, is devoted to illustrating the following:

1. That women in Islam are held in high esteem and enjoy the usual human rights of a Moslem woman, as woman in Islam is charged with the obligations of worship and general Islamic religious rites.
2. The response to the suspicions raised about the status of woman and her rights in Islam, especially with regard to those concerning the alleged unequal rights of women in inheritance, divorce, polygamy, and the issue of women’s veil in Islam. This section also deals with Islam’s position on the mingling between the sexes, and the unlawful right of a man to be alone with a woman.
3. To highlight the special status given to women in Islam and the rights they enjoy. These include protection of a woman’s femininity, the status she enjoys from her authority over home affairs, and the grand status given to her role as a mother attending to the upbringing of the children, performing all the household chores. This role is so highly valued as to merit the status of worship. Islam opposes any sect or system that interferes with a Moslem woman’s performance of these duties.

Based on the above, Islam opposes any sect or system that tries to depose woman from her own “kingdom”, her home, under the pretext of freedom, work or art. This is totally unacceptable in the Kingdom of Saudi Arabia, no matter what justifications are given.

Chapter nine, entitled: **“Islam’s Stance on Extremism and Terrorism and its Application in the Kingdom of Saudi Arabia”**, is intended to clarify the following matters:

1. To illustrate Islam’s rejection of extremism and its opposition to it by all available means, as Islam is the religion of tolerance and moderation.
2. To illustrate the wisdom behind Islam’s forbidding of extremism, and cautioning against it.
3. To illustrate Islam’s approach in combating terrorism through the call to a “middle-way” whose application emphasizes ease and the removal of embarrassment and undue hardship.

4. To reaffirm that Islam opposes terrorism by rejecting it, condemning every act that may contribute to it and all other acts of planning for or concealing it.
5. To illustrate Islam's approach to preventing terrorism and its methods of dealing with it.
6. To illustrate the Kingdom's firm opposition to terrorism domestically and abroad. As to the internal situation, the authority of senior Moslem scholars in the Kingdom issued a resolution which details the penalties for terrorist acts; the penalty is the execution of whoever is found guilty of acts of terrorism. At the external level, the Kingdom of Saudi Arabia works in cooperation with other States to combat terrorism by all sorts of legal means.
7. To reaffirm that the Kingdom's moral support and humanitarian financial aid are carried out in an Islamic humane cause.

Chapter ten, entitled: **“A Comparison Between the Shura in Islam (i.e. Consultation) and Western Democracy”**, is intended to establish the following:

1. That “Shura” is one fundamental pillar of Islam which aims to regulate the relationship between the governor and the governed, and that the system of government in Islam is a system of Islamic Shura.
2. That the idea of Shura in Islam has a specific implication. Shura in Islam has been, from the very beginning, linked to the concept of the Islamic creed which is centered around the total devotion to the worship of the one and only God, Allah, Lord of the universe. This conception of the Islamic creed of monotheism has ascribed to Shura a specific and definite sense which other nations, past and present, never experienced.
3. That Islam's endorsement of the principle of Shura means that Islam has directly dismissed the principle of autocracy from Islamic life. In addition, Islam must have dismissed the theocratic system of government which gives those who represent it the qualities of Godship. By implementing Shura, Islam dismissed all sorts of systems of government which disregard the peoples' interest.
4. That Shura in Islam is a kind of venue for open debate. This sort of dialogue is the best method for illuminating public opinion and the enhancement of trust and compassion between the ruler and the people. It is the best system of government for eradicating suspicion, disillusion,

and the spread of rumors that exist in the contexts of oppressive and tyrannical regimes.

5. The basic difference between Shura and Western democracy lies in that the latter is not bound by a divine legislative system, whereas Shura is bound by the divine text of the Islamic Sharee'ah. There is no consultation in matters that have been covered in explicit provisions from the Holy Qur'an and the Prophetic Sunnah. Shura is for those matters that are not explicitly covered in Islamic Sharee'ah.
6. The Westerners' satisfaction with the status and suitability of democracy in their secular societies does not mean that this approach has to be adopted by other nations, as each has its own unique culture and values that stem from its own creed and conception of Man, the universe, and life.

These are the facts and issues for which the book has been written. It is intended to state the facts about the criticism and suspicions raised against the Kingdom of Saudi Arabia due to its application of the Islamic Sharee'ah. I would like to point out that the book is meant to address:

1. Each Moslem, in order to enhance his own confidence in the Islamic Sharee'ah, and to enhance his cultural awareness so as to clarify the confusion caused by the suspicions raised against the Kingdom for its application of the Islamic Sharee'ah provisions.
2. Those who are not well-acquainted with Islam and its teachings, but who are not opponents, and who seek the truth about what has been raised against the Kingdom of Saudi Arabia, thereby enhancing and consolidating their knowledge of Islam and its noble teachings.
3. The opponents of Islam, by responding in a scientific manner to their allegations in order to convince them that the Kingdom of Saudi Arabia will never be concerned about those who criticize it for its application of Islamic Sharee'ah.

I hope that by presenting this work I will have contributed to the service of truth, corrected misconceptions, and responded to the objections raised against the application of Islamic Sharee'ah in the Kingdom of Saudi Arabia.

Chapter One

A General Definition of Islam: the Religion of the Kingdom of Saudi Arabia, and the Application of Islamic Sharee'ah (Law)

Introduction

The Kingdom of Saudi Arabia is an Islamic state with a political system rooted in Islam's cherished traditions and rich culture. Its rules and regulations are governed by the Islamic faith, whose primary sources are the Holy Qur'an and the Sunnah (teachings and sayings of the Prophet Mohammed). The Kingdom of Saudi Arabia applies the Islamic Sharee'ah as its basic system of government in all spheres of life.

Due to the Kingdom's sincere application of Islamic Sharee'ah, especially with regard to prescribed punishments of those who transgress the bounds set by Allah, it has been subjected to unscrupulous allegations of violating human rights. These criticisms and allegations are, in reality, (directed) against the teachings of Islam per se' rather than the political system of the Kingdom. They are instigated by objection to the Kingdom's strict application of Islamic Sharee'ah as the sole sovereign faith, whereby what Islam commands is implemented, and what it forbids is forbidden.

The criticisms and suspicions have always arisen either out of sheer ignorance of Islam and its teachings, or out of sheer malice to defame the pure reputation of Islam and its people.

To put things in perspective, I will present a general definition of Islam at the beginning of this chapter. I will highlight its aims and noble message, its comprehensibility and generality which respond to the matters of life and religion serving both the needs of the individual and the group at all times and in all places. Thus, I will demonstrate Islam's sovereignty and superiority over secular laws. I will also respond to the above-mentioned allegations and suspicions against the application of Islamic Sharee'ah (law) by highlighting its merits and advantages, and its suitability for all times and all places. Finally, I will conclude the chapter with an interpretation of the denotation of Islamic sovereignty in the Kingdom of Saudi Arabia as an Islamic State.

First: A General Definition of Islam

The term "Islam" means to submit to the one and only God, Allah, to associate no other with Him as He is the sole Lord of the universe, and to

commit absolute obedience to Him. Accordingly, a person can only be a Moslem if and only if she/he fulfills the following requirements.¹

1. To believe in the one and only God, Allah, to associate no other with Him and with His divinity, and to testify there is no God but Allah.
2. To submit full and sincere obedience to Allah, *Glory Be To Him*, to believe in the sayings and teachings of Allah's Messenger, Prophet Mohammad (*may peace and blessings be upon him*), to obey them and sincerely implement what he has ordained and avoid what he has forbidden.
3. To purge both mind and heart from all forms and types of associations with Allah. To be a Moslem, a person must accept the following five pillars of Islam:

1st. To believe in the profession of faith, "Al-Shihadah", which is performed by saying: "I swear that there is no God but Allah and Mohammed is His Messenger." This must be done by the tongue accompanied with total belief from the heart.

2nd. To offer the five daily prayers.

3rd. To give alms, "Zakat."

4th. To fast in the month of Ramadan.

5th. To perform pilgrimage, "Haj."

Islam, as stipulated in the Holy Qur'an, means true belief in and obedience to all the prophets. Allah, the Exalted, says about Prophet Noah (*may peace and blessings be upon him*):

*"And recite to them the news of Noah. When he said to his people: "O my people, if my stay with you, and my reminding you of the Ayat (proofs, evidences) of Allah is hard on you, then I put my trust in Allah.""*²

Allah also says in respect to the Prophet Abraham (*may peace and blessings be upon him*):

¹ Mohammad Bin Ali-Arfaj, *Ma Labudda min mar'ifatibi 'anil Islam* (What Should Be Known about Islam), Riyadh, Dar Al-Sumeimi for Publications. 1999G., P.22-

²Yunus 10:71-72

“And this (submission to Allah, Islam) was enjoined by Abraham upon his sons and by Ya’qub sayings:” O my sons! Allah has chosen for you the true religion, then die not except in the Faith of Islam.”³

Regarding Jesus’ followers, Allah says:

“Then when Jesus came to know of their disbelief, he said: “Who will be my helpers in Allah’s cause?” Al –Hawariun (the disciples) said: “We are the helpers of Allah; we believe in Allah, and bear witness that we are Muslims (i.e. we submit to Allah).”⁴

And about all prophets, Allah says:

“Verily, We did send down the Taurat(Torah) to Musa , therein was guidance and light, by which the Prophets, who submitted themselves to Allah’s Will, judged the Jews. And the rabbis and the priests [too judged the Jews be the Torah after those Prophets] for to them was entrusted the protection of Allah’s Book, and they were witnesses thereto. Therefore fear not men but fear Me and sell not My Verses for a miserable price. And whosoever does not judge by what Allah has revealed, such are the Kafirun, i.e. disbelievers – of a lesser degree as they do not act on Allah’s laws.”⁵

Allah says about the Islamic ‘Ummah (community):

“This day, I have perfected your religion for you, completed My favour upon you, and have chosen for you Islam as your religion.”⁶

As “Islam” means the total surrender and submission to Allah by all His creatures, one can safely say that the nations of the universe must believe in the surrender to Allah as “Islam” is inclusive of all the prophets’ messages and the Holy Books, and at the same time it is the message for which Prophet Mohammad was sent as the last Prophet and Messenger. Islam is the message for `Iman (faith), the message of peace and security. Based on the preceding, Islam has two meanings: a general and a specific one. In its general sense, Islam means the overarching framework within which sacred messages of preceding faiths are integrated into one unified faith. Allah says:

³Al-Baqarah [The Cow] 1:132

⁴Al-Imran [The Family of Imaran] 3:52

⁵Al-Ma’idah [The Repast] 5:44

⁶Al-Ma’idah [The Repast] 5:3

*"O you messengers! Eat of the Tayyibat [all kinds of Halal (legal) foods] which Allah has made legal (i.e. meat of slaughtered eatable animals, milk products, fats, vegetables, fruits, etc.), and do righteous deeds, Verily! I am Well-Acquainted with what you do,. And Verily! This your religion (of Islamic Monotheism) is one religion, and I am your Lord, so keep your duty to Me."*⁷

Islam in the specific sense denotes the message of Prophet Mohammad (*may peace and blessings be upon him*), whose primary sources are the Holy Qur'an and the sanctified Sunnah (the teachings and sayings of Prophet Mohammad), the faith for the whole of mankind and the sole code of moral and divine guidance to the right path. Allah sent His Messenger, Prophet Mohammad to call His people to Islam, a true mercy bestowed by Allah, Glory to Him, upon the nations of the universe.

"And We have sent you (o Muhammad) not but as a mercy for the `Alamin (mankind, jinns and all that exists)." ⁸

Allah's Messenger has been sent to the whole of Mankind to guide them to righteousness, to protect them for their own susceptibility to evil, and thus, by the light of Allah's divine guidance, lead them from the veils of darkness, ignorance, oppression, and injustices to righteousness, dignity and justice.

Prior to the epoch of Islam, the Arabian Peninsula was in absolute chaos, whereby the powerful oppressed the impoverished and vice prevailed. Neighboring Arab States also suffered from tyranny and oppression and they followed the wrong path without any sense of direction towards righteousness.

In what has preceded, we have characterized and defined Islam as a faith in its broad and specific denotations. Islam, the faith in Allah's oneness, the sole sovereign Lord of the universe. In essence, it is no different from all such monotheistic religions as Judaism, and Christianity, which share with Islam the direct spiritual lineage of the Prophet Abraham. Islam affirms the divinely ordained missions of the Prophet Moses, of the Prophet Jesus and of all other Prophets and Messengers, namely Izzak, Ya`qub. It is the stable sustained faith, which doesn't allow for perversions of will or variations. It is all encompassing integrating into one unified faith all communities from the distant past with those that follow.

⁷Al-Mu`minun [The Believers] 23:51-52

⁸Al-Anbiya` [The Prophets] 21:107

Second: The Objectives of Islam

Having defined Islam, a word about the noble aims of Islam is in order. The aims of Islam can be summed up as follows: the development of a righteous individual, of a good and pious family and of a good community based on piety and religious devotion. Islam aims to shape both individuals' lives as well as society as a whole in ways that will ensure that the Kingdom of Allah may really be established on earth and that peace, contentment and well-being may fill the world.

A. The Preparation of a Righteous Individual⁹

The "individual" is the building block of the whole society's structure. In Islam, he/she is considered to be the corner stone of the family and the community at large. For this reason, Islam gives special attention to the individual in all the stages of his/her development. Islamic Sharee'ah has abundant rules and regulations for Man's divine guidance, moral conduct ,and his overall well-being.

Islam, as stipulated in its primary source, the Holy Qur'an, sets forth four pre-requisites for an individual to stay on the right path of piety and thus save himself/herself from the loss and destruction in this life and the hereafter.

Allah says in surat Al-'Asr (the verse of the afternoon),

*"By Al-'Asr, verily! Man is in loss, except those who believe in Islamic Monotheism and do righteous good deeds, and recommend one another to the truth (i.e. order one another to perform all kinds of good deeds which Allah has ordained and abstain from all kinds of sins and evil deeds which Allah has forbidden), and recommend one another to patience for the sufferings, harms, and injuries which one may encounter in Allah's Cause during preaching His religion of Islamic Monotheism or Jihad, etc."*¹⁰

The first requirement is a firm belief in 'Iman (reposing in Allah's Faith), which is the most fundamental component of Man's approach to life, and a peculiar concept of his place in universe. This includes first and foremost his relationship with His creator, Lord of the universe, his relationship with others and the community at large. If an individual fails to

⁹Yousif 'Al-Qaradawi, 'Al-Khasa'is 'Al-'Amma Lil-'Islam (the Main Characteristics of Islam), Cairo, Maktabat Wahba, 1989, p.184

¹⁰Al-'Asr [The Afternoon] 103

have this conception of self, his Creator, life and Mankind, all his deeds and conduct will subsequently go wrong and his morals will be corrupted. On the other hand, having the right conception will guide Man to a proper understanding of his place in the universe and of his true purpose in this life; thus, he will be guided to stay on the right path by believing in Allah's sovereignty over the whole universe and His creatures, which will enable him to gain Allah's pleasure and the rewards of striving to be a righteous individual.

The second requirement is the inward and outward commitment as a sincere expression of his own outward appearance and behavior, and of his faith in Allah's absolute goodness. The Holy Qur'an does not confine the range and scope of good deeds; rather, the Holy Qur'an recognizes good deeds as those that promote welfare of the individual and society at the spiritual, physical, and psychological dimensions in all spheres of life. Islam recognizes as good those deeds that make life morally, spiritually, and physically good.

The third requirement is the individual's commitment to recommending righteous guidance to others and accepting it from them. Thus, it is inconceivable that a person can be truly righteous if he fails to participate in this organized effort of recommending righteous guidance to others and willingly accepting it. Islam calls on Moslems to face up to the injustices against their Moslem brethren, to stand against oppression, assaults and injuries to their creed. This is the duty known as enjoining good and forbidding evil, which will be discussed later.

The fourth requirement, which is contingent on the preceding, one and actually a concomitant of it, is commending one another to patience and steadfastness in the face of suffering, harm, and injuries which a truly righteous person usually encounters in Allah's cause.

B. The Preparation of a Righteous Family

One main objective of Islamic faith is the formation of a righteous and happy family enjoying the peace of mind, tranquility and stability which the Holy Qur'an sets forth as the fruits of married life. Exalted be Allah, says,

“And among His Signs is this, that He created for you wives from among yourselves, that you may find repose in them, and He has put

between you affection and mercy; Verily, in that are indeed things for a people who reflect."¹¹

In Islam, the establishment of a righteous family depends upon the following:

1. The consent of the two parties to the marriage with no pressure, compulsion, or misrepresentation of one party to the other.
2. The reciprocal designation of rights and duties by the married couples in absolute kindness.
3. Honorable and kind treatment of each other, especially in times when the couple may have mutual feelings of dislike. Exalted be Allah says:

*"O you who believe! You are forbidden to inherit women against their will, and you should not treat them with harshness, that you may take away part of the Mahr you have given them, unless they commit open illegal sexual intercourse. And live with them honorably. If you dislike them, it may be that you dislike a thing and Allah brings through it a great deal of good."*¹²

4. The husband's management and supervision of the family.
5. The wife's attention to the internal matters of her home.
6. The obligation of both parents to take care of the children's upbringing, and to treat them equally.
7. The couple's commitment to good and gracious treatment of their parents, especially their mothers.

C. The Preparation of a Righteous Community

Islam aims to establish a God-conscious, righteous society by having a righteous individual as the cornerstone of a righteous family, which in turn is the building block in the construction of a righteous society.

A righteous society is the one in which the individuals and the family members abide by the noble Islamic faith and its ideals and is guided by it as the central driving force in all its activities.

¹¹ArRum [The Roman Empire] 30:21

¹²An-Nisa` [The women] 4:19

The chief Islamic values in this respect are:¹³

1. The gathering together in the true belief in the Islamic creed because an Islamic society is not built on principles of nationalism or on considerations of geographical and ethnic origin. It is a community of conviction and creed. Its creed is the Islamic faith, and it is distinguished by being a community of believers in Allah's truth and oneness, and the truth of His Books, Angels, Prophets and Messengers.

The belief in Islamic faith is not based on mottos, slogans, or discrimination towards others; it is a conviction of reposing in Allah's faith taken deeply to heart and manifested by moral conduct and the doing of good deeds.

2. The respect for righteous deeds. Islam commands a commitment to a whole code of moral conduct by performing good deeds such as the rites of prayer, fasting, zakat, pilgrimage and 'Umrah (the visit to the holy shrine) and those of a mundane nature such as one's own pursuit for making a living, the cultivation and reclamation of land, charity and benevolence to others. Of course, Allah's rites of worship and the performance of the five duties – the profession of faith, prayer, zakat, fasting, pilgrimage – are the primary and obligatory deeds of righteousness. All of these five pillars of Islam are centered around the most essential component of Islamic faith, the most righteous deed: the total surrender to Allah as the only creator of the universe and its sole sovereign, with full devotion to His worship and gratitude for His graces and blessings.
3. Enjoining good and forbidding evil is one of the distinct fundamentals of Islamic faith. Islam stipulates commending one another to divine guidance. Islam does not recognize righteousness without the individual's involvement in an organized effort at fostering good and eradicating evil.
4. Another fundamental stipulation of Islam is the establishment of a higher system of morality by virtue of which mankind can realize its greatest potential. Islam induces feelings of moral responsibility and fosters the capacity for self-control. Islam generates kindness, generosity, mercy, sympathy, peace, disinterested goodwill, patience at times of harm and injury, benevolence, abstinence from harmful deeds and gossip, truthfulness towards all creation in all situations. It purifies

¹³ Al-Khasa'is 'Al-'Amma Lil-Islam (The Main Characteristics of Islam), Ibid, p.87.

the soul from self-seeking egoism, tyranny, wantonness, hypocrisy, malice, and indiscipline.

5. Combating vices and eradicating evil and all forms of perverted behavior such as malice, envy, gambling, cheating, oppression, bribery, brutality, telling lies, idleness, boasting and haughtiness, disclosing secrets, greed, dubiousness and deception, etc.

The above-mentioned are part and parcel of Islam's noble aims and objectives to save the whole of Mankind from the darkness of ignorance and to guide it to the light of divine guidance and the right path of piety and righteousness. Exalted be Allah says,

*"This is a Book which We have revealed unto you (O Muhammad) in order that you might lead mankind out of darkness (of disbelief and polytheism) into light (of belief in the Oneness of Allah and Islamic Monotheism) by their Lord's Leave to the Path of the All-Mighty, the Owner of all Praise."*¹⁴

One can safely conclude from what has been established earlier, that the preparation of a righteous individual in accordance with the basic principles and postulates of Islamic faith, can make of him an individual who realizes his duties towards His creator, Allah and towards all of Mankind.

Third: Islamic Sharee'ah Fulfillment of Mankind's needs for All Times and All Places

Islamic Sharee'ah responds to the matters of life and religion which serve the need of the individual and the group for all times and all places. The term Islamic Sharee'ah (law) means the rules and regulations set forth by Allah for the whole of Mankind in all spheres of life. The Islamic faith is the last and final of all the sacred messages for which Prophet Mohammad, the last Messenger, was sent.

¹⁴Ibrahim 14:1

A. The Uniqueness of Islamic Sharee'ah and its Distinct Characteristics

Islamic Sharee'ah has its own unique private concept which distinguishes it in various ways from all other doctrines, be they heavenly or secular.¹⁵

1. Islamic Sharee'ah is distinguished from other messages by its righteousness, generality, flexibility and facility. Islamic Sharee'ah is a message for Mankind on the principles of piety, equality and justice, with no discrimination on the basis of race, color or nationality. The other preceding messages were addressed only to their own nations and the messenger of each faith was sent to a specific nation to the exclusion of the rest of humanity. That is manifested in each faith's messenger's call to Allah's worship initiated by the phrase, "O my Nation..." whereas the message of Prophet Mohammad was always initiated with "O Mankind..., sons of Adam."

2. Islamic Sharee'ah appeals to the logic of and reasons of Man's faculties through Allah's words in the Holy Qur'an and the Messenger's sayings. Islamic Sharee'ah addresses the mind and appeals to it on the basis of Allah's words cited in the Holy Qur'an. Wherever Man existed, Allah's words addressed Man and persuaded him by logic through one of His messengers.

3. The Book of this Sharee'ah, the Holy Qur'an, is convincing to every human being on this earth whom the call for Islam reached. To follow and abide by the rules, regulations and moral system of this Islamic Sharee'ah is the sole path to a kind and decent life both in this world and the afterlife.

On the other hand, whoever transgresses Allah's bounds will have a life of hardship and will go astray in the life and the hereafter.

Allah said, *"Get you down (from the Paradise to the earth), both of you, together, some of you are enemy to some others. Then if there comes to you guidance from Me, then whoever follows My Guidance shall neither go astray, nor fall into distress and misery. But whosoever turns away from My Reminder (i.e. neither believes in this Qur'an nor acts on its orders, etc) verily, for him is a life of hardship, and We shall raise him up blind on*

¹⁵Imam M. Bin Saud Islamic University, '**Al-Ghazw Al-Fikri wa At-tayyarat Al-Mu'adiyah Lil-Islam** (Intellectual Invasion and the Current Opposing Currents to Islam), 1404H., pp.393-943.

*the Day of Resurrection. He will say "O my Lord! Why have you raise me up blind, while I had sight before." Allah will say: "Like this, Our Ayat (proofs, evidences, verses, lessons, signs, revelations, etc.) came unto you, but you disregarded them (i.e. you left them, did not think deeply in them, and you turned away from them), and so this Day, you will be neglected (in the Hell-fire, away from Allah's Mercy)." And thus do We requite him who transgresses beyond bounds [i.e. commits the great sins and disobeys his Lord (Allah) and believes not in His Messengers, and His revealed Books, like this Qur'an etc.], and believes not in the Ayat (proofs, evidences, verses, lessons, signs, revelations, etc.) of his Lord, and the torment of the Hereafter is far more severe and more lasting."*¹⁶

Thus, Islamic Sharee'ah, as both a religion and a code of morality, organizes the community's life and disciplines the individuals' modes of conduct and behavior in their relation to their creator, Allah, and to one another on the basis of performing their religious duties such as prayer, fasting, the commending one another to the right path and the truth.

It becomes quite clear from what has been established earlier that Islamic Sharee'ah is distinguished on the grounds of being thorough and comprehensive, encompassing the whole scheme of life. It stipulates for man a system of life which is based on all good and is free from evil. It invokes the people not only to practice virtue, but also to establish virtue and eradicate vice, to bid good and to forbid wrong. Thus, Islamic Sharee'ah presents us with a fully integrated and comprehensive way of life. It pinpoints in detail the merits which we should uphold and develop, and the evil which we should eradicate, the bounds that we should not transgress, and the paths and ways we should follow in order not only to gain the rewards we aspire to, but also to eliminate evil deeds.

B. Some Noble Aspects of the Holy Qur'an's Divine Guidance for the Service of Man's Needs at all Times and all Places.

The Holy Qur'an is the primary source of Islamic Law (Sharee'ah), which is based on complete divine guidance. These rules and regulations once followed and implemented will respond to all Man's needs at all times in all places. They can never be realized in any other legislative law. This

¹⁶Taha 20:123-127

becomes self-evident through the upcoming review of some of the Holy Qur'an's objectives for guidance and enlightenment.¹⁷

1. To effect religious conviction guiding people to the one and only truth: the firm belief in Allah, his Angels, His Books, His Messengers and the Day of Judgment.
2. To correct religious practice, guiding Mankind to what purges and nourishes the soul, purifies the self, strengthens the will, and benefits both individual and community.
3. To correct modes of behavior by convincing Mankind of the virtues of good conduct and the repulsing of evil. All this should be achieved by moderate and proportional measures without reaching excessive limits. However, regressing to negligence at the other extreme should also be avoided.
4. To enhance the community through guiding its members to unite in one united front, eliminate sectionalism and tribalism, and thus remove the barriers separating them. This can be achieved by making them feel they are one and of the same origin and belong to one family whose father is Adam and mother is Eve, and that no one has supremacy over the others; the only supremacy one can have must be on grounds of piety and righteousness. Otherwise, all men and women are equal before Allah, His doctrine and laws. All have equal rights and duties with no exceptions or discrimination. Society's members should be guided towards understanding that Islam is a contract of brotherhood among people and that it is a stronger bond than kinship and tribal fanaticism; that their language is the language of the Islamic religion and of its Book and that they are one community gathered together in one faith, and that regional and geographical, political and secular barriers do not exist among themselves.
5. To strengthen the political system through the establishment of justice and equality among people and the serious consideration of virtuous values in all transactions and regulations such as being just, fair, faithful, keeping one's promise, compassion, mercy, solidarity, love and the avoidance of the evils of tyranny, betrayal, deception, breaking one's promise, lying, cheating, adultery, taking others' money unjustly,

¹⁷Mohammad Abd-'Al-'theim 'Az-zarqani, *Manahil 'Al-Irfan fee 'ulum 'al-Qur'an* (Sources of Knowledge in Qur'anic Sciences), Vol.3, Beirut, Dar 'Ihya' At-turath 'Al-'Arabi, pp.247-257

as in bribery, “Riba”, taking money for working with magicians and superstitions.

6. To regularize financial transactions through moderation in expenditure, protecting one’s possessions and property from damage or loss, spending money and using one’s possession in the cause of Allah, giving due private and public rights and seeking decent and legal means for making a living.
7. To improve the conditions of women’s lives through the implementation of women’s rights for protection, respect, freedom, and to give women all their civil and religious rights.
8. To regulate the organization of defense and military matters by regulating wars and battles on the basis of Islamic principles, for the well-being of all humans; by directing the aims and objectives of war to the service of Mankind. And to the commitment to having mercy instead of brutality. This is to be accompanied by a commitment to abide by the terms of accords and treaties, and to give preference to peace over war.
9. To liberate the minds and hearts of mankind from the evils of hatred, bitterness, compulsion, oppression, arrogance, and the love of domination.

The Holy Qur’an mandates for all of the above-mentioned laws governing the call to divine guidance for righteousness through its persuasive and prudent strategies of logic and absolute convictions.

The Holy Qur’an, being Allah’s Book, presents the above-stated principles and guidelines for Mankind’s righteousness and piety in a very appealing and lucid style; it uses all sorts of persuasive strategies and mechanisms for a sure guidance of all human beings for all times and all places. These strategies and mechanisms can be summed up as follows:

1. Addressing the minds and intellects of mankind, Allah endowed man with the faculties of thought and understanding and has given him the power to distinguish right from wrong. The Holy Qur’an calls for using one’s intellect to reason, contemplate, and probe the nature of man, things, environment and other creatures. The Holy Qur’an orders people to use their minds and talents for the sake of finding the truth of the oneness of Allah and monotheism; the Holy Qur’an abhors the negation of the role of the mind, and rebukes those who blindly follow others and passively sink to a state of mental indolence. Allah says,

“Verily! The worst of (moving) living creatures with Allah are the deaf and the dumb, those who understand not, i.e. the disbelievers.”¹⁸

The Holy Qur’an has given directives for Man to use his brains as a token of the significant status bestowed on him. The Holy Qur’an is full of references to Man’s important status for being able to use his faculties, to come to grips with the absolute truth of his mission on earth, the belief in Allah’s sovereignty and to follow divine guidance which will guide Man to achieve peace, security, a clear conscience as regards his faith and the discharge of his religious rites.

2. It appeals to and impacts on the human psyche by taming Man’s instinctive tendencies through the hard core evidence of the true faith and its powerful reasoning. In addition to legal safeguards, the Holy Qur’an also provides a very effective moral system to save Man from his instinctive tendency to blindly imitate the wicked, the ignorant, and the wanton. The Holy Qur’an urges the individual to look up to the exemplary figures blessed by Allah: the Prophets, their companions, followers, martyrs and the righteous. Allah, Glory to Him says:

“Indeed in the Messenger of Allah (Mohammad) you have a good example to follow for him who hopes in (the Meeting with) Allah and the Last Day and remembers Allah much.”¹⁹

The instinct for survival and the tendency to look down on others have been denounced by the Holy Book. The Holy Qur’an calls for abolition of oppression and tyranny; instead the Holy Qur’an calls on Man to protect himself from harm inflicted by others, to defend his religion, Allah’s faith, his honor and homeland. Thus, the Holy Qur’an, with its code of divine guidance calls for the worship of Allah and doing right. Allah promised Man another life after death and immortality whereby Allah blesses the righteous with the rewards from His boundless Kingdom of Heaven. Indeed, the Holy Qur’an was revealed to the Prophet to redeem fallible Mankind from going astray in the path of evil under the influence of their basic desires and instincts. The Holy Qur’an commends what is good for man and forbids what is evil. Allah says:

“Whosoever does righteous good deed it is for (the benefit of) his ownself, and whosoever does evil, it is against his ownself, and your Lord is not at all unjust to (His) slaves.”²⁰

¹⁸ Al-Anfal 8:22

¹⁹ Al-Ahzab [The Confederates) 33:21

3. The gradation and classification of Islamic Sharee'ah commandments and prohibitions into categories. The Islamic Sharee'ah has embraced in its scheme all the factors that encourage the growth of good, and has recommended steps for the removal of impediments that might prevent it. The Sharee'ah commandments apply to all Mankind with their varied capabilities, talents, dispositions, and powers of understanding. The process of classifying the religious commandments into categories gives rise to a subsidiary series of "Ma'ruf"²¹, consisting of the causes and means initiating and nurturing the good, and yet another set of "Ma'ruf" consisting of prohibitory commands in relation to those things which act as impediments to good. Similarly, there is a subsidiary list of "Munkarat" which might initiate or allow growth of evil. Accordingly, there are those commands for 'Iman (the reposing in Allah's Faith), those of the pillars of Islam; there are duties that are obligatory, others that are optional. The orders of prohibition are also classified into those concerning polytheism, those for atheism, others for "great sins" and still others for trivial sins. However, there is a third class of these commandments which are called the permissibles, which refer to matters left up to the individual to decide for himself.

This neat and comprehensive classification of orders, prohibitions and permissibles appeals to all humans of different types and ranks, capabilities and qualities, and thus attracts people to apply them and abide by them.

4. The Holy Qur'an's commandments respond to the needs of both soul and body, and the Qur'an stipulates for a fine balance between them. Hence, the Islamic Nation ('Ummah) has always maintained a balance between those who are more inclined towards materialistic needs and those who are more spiritually-oriented. Thus, it has maintained a balance between the body and the soul, and has fulfilled equally the needs of both.
5. The Holy Qur'an stipulates for life on earth and in the hereafter. By abiding by the stipulations of the Holy Qur'an one can lead a very productive life while at the same time working towards Allah's pleasure to gain the rewards in the hereafter. This is done by renouncing idleness, superstitions, dependent thinking, and indolence.
6. The Holy Qur'an calls for facility in the performance of duties, and alleviation of embarrassments or hardship.

²⁰ Fussilat 41:46

²¹ Manahel 'Al-Irfan fee 'Ulum 'Al-Qur'an (Sources of Knowledge in Qur'anic Sciences), Vol.2, p.260

“The month of Ramadan in which was revealed the Qur’an, a guidance for mankind and clear proofs for the guidance and the criterion (between right and wrong). So whoever of you sights (the crescent on the first night of) the month (of Ramadan i.e. present at his home), he must observe Saum (fasts) that month, and whoever is ill or on a journey, the same number [of days which one did not observe Saum (fasts) must be made up] from other days. Allah intends for you ease, and He does not want to make things difficult for you. (He wants that you) must complete the same number of days, and that you must magnify [i.e. to say Takbir: Allahu Akbar, Allah is the Most Great, on seeing the crescent of the months of Ramadan and Shawwal] for having guided you so that you may be grateful to Him.”²²

In brief, the Holy Qur’an is the prime source of Islamic Law through which Allah Almighty stipulated the rules and regulations which apply to all humanity in all spheres of life. These laws regulate Man’s relations with other men, Man’s relationship to His creator, Allah, Lord of the universe, Man’s relationship with his family and community at large. Further, Islamic Law organizes the relationship between the governor and the governed and the ruler’s relationship with the Nation “‘Ummah.” The Holy Qur’an also regulates the relationship of each Islamic Nation with others in times of peace, and war, and during the exchange of benefits within the bounds set by Islamic law. It further stipulates for the economic, political, and social affairs whereby it orders the ‘Ummah’s rulers to obey Allah’s orders and stay away from wrong deeds. The Holy Qur’an also commands people to offer advice to those in authority but also to show respect for them as long as they perform their duties according to Islamic teachings.

C. The Difference Between Islamic Sharee’ah (Law) and Secular Laws

In terms of its objectives, rules and regulations, Islamic Sharee’ah is different from all secular laws, the main differences being.²³

1. Islamic law is the law of Allah, Glory Be to Him, while the secular laws are man-made. Each law reflects and accurately represents the nature of the law maker. Islamic Sharee’ah comes from Allah, and thus represents His infallibility, His complete Greatness, superior knowledge of all things and of every being.

²²Al-Baqara [The Cow] 1:185

²³Imam Mohammad Bin Saud Islamic University, **Wujoob Tatbeeq Ash-Sharee’ah Al-‘Islamiyya** (The Duty of Applying Islamic Sharee’ah), 1401H., p.146.

2. A secular law is temporarily set by a group of people to regulate their lives and meet their needs. Thus, secular laws lag behind human needs and are temporary. The Islamic Sharee'ah on the other hand is permanent and suitable for all times in all places as they are the laws made by Allah, the omniscient, the capable.
3. The main objective of Islamic Sharee'ah (law) is the organization and regulation of the community, and the preparation of its righteous individuals, all of which will result in the establishment of a perfect state and, consequently, of a perfect world.

A secular law is designed primarily to organize a group of people rather than guiding it to the right path. Hence, its establishment comes after the group's existence and is usually undeveloped and inadequate.

Because of these differences, Islamic law has the following advantages and merits over the secular law:

1. Islamic Sharee'ah has the advantage of being comprehensive and universal as it responds to individual needs and society's needs so that Man can achieve Allah's pleasure in both this world and the hereafter.
2. Islamic Sharee'ah's principles and rules are usually more advanced than those of secular societies. Thus, Sharee'ah will always be elevated and will always be held in high esteem and its standards will be higher than those of human beings, no matter how advanced they might be.
3. Islamic Sharee'ah has the advantage of constancy and continuity over secular rules. Its text and scriptures are not subjected to change or modification in any age or situation.

These are the main differences between Islamic Sharee'ah and secular laws, and the distinctive merits and advantages of the one over the other.

Fourth: Response to the Suspicions and Allegations Raised Against the Application of Islamic Sharee'ah

The enemies of Islam try to stain its pure image by every means. They misrepresent it to those who don't know the reality of Islam or its Sharee'ah, its rules and regulations. They attempt to do so by stirring suspicious about the application of Islamic Sharee'ah. To this end, they claim that Islamic Sharee'ah, whose provisions and stipulations were revealed to fourteen centuries ago, violate basic human rights. They allege that its laws are rigid, old-fashioned, unamenable to development modifications or change, and unable to adapt to the ever-growing needs and

interests of Mankind. To refute these allegations, I say to those who make the allegations that:

They have overlooked the fact that Islam is a religion for secular and spiritual life and for life on earth and the after-life. As it pays special attention to the individual's relationship with His creator, Allah: it also regulates the relationship between one individual and another, and between the individual and society and the community, 'Ummah.

The commandments and stipulations of Islamic Sharee'ah can be grouped into two sets:

The first set of provisions and stipulations is concerned with the individual, his relationship to God in terms of his beliefs, creed, religious rites. These stipulations are unchangable, constant for all times and at all places. Hence, these stipulations have been elaborately specified and detailed, leaving no room for "Ijtihad (interpretation). These are the provisions of worship rites.

The second set of Islamic provisions and stipulations is concerned with transactions among people. These can be developed and adapted to suit different times and situations of the Islamic societies. Hence, these provisions are presented in their most generic form to allow those in charge of the Islamic community's affairs to adapt them to meet the changing conditions and requirements of each stage of the Islamic community ('Ummah). For instance, Islamic Sharee'ah commands the resort to Shura (consultation) for the establishment of justice and equality. However, this concept of Shura was not specified by the Islamic Law, so that it will be adapted in accordance with the common interest of each Islamic community respectively. This flexibility of the Islamic Sharee'ah attests to its great suitability and appropriateness for all times and at all places. To shed light on the suitability and applicability of Islamic Law for all times and at all places, I shall point out the merits and qualities of Islamic Sharee'ah in general. Then I'll mention the main benefits and rewards of its application. Finally, I will illustrate the meaning of Islamic Sharee'ah's sovereignty in Islamic states.

A. The Main Merits of Islam and the Advantages of Applying its Sharee'ah

1. The superiority of the Creator, Allah²⁴:

This means that the provisions of Islamic Sharee'ah, its systems and principles, are not the work of humans, who have their own limitations and who are tossed around by the tides of change in different times and in different places and cultures. This Islamic Sharee'ah has been set forth by the Creator and Commander of this universe, the Lord of all its inhabitants.

2. The universal message of Islamic Sharee'ah:

The Islamic Sharee'ah with all its constituent components-commandments, stipulations, and codes of moral conduct, is universal. Islamic Sharee'ah has a universal human dimension as it is for the whole of Mankind. It is the direction to righteousness for all the inhabitants of the globe. It is not a body of legislation for one race or one region or one group of people. It is for Man and it addresses Man irrespective of race, geographical origin, color, gender or language. Thus, there is no place at all for racial discrimination, class discrimination, nor tribal fanaticism. All persons are equal; no one is superior to anyone else. Piety and righteousness are the only criteria for nobility among people.

3. Comprehensibility and universality (the comprehensive nature) of Islamic Sharee'ah:

Islamic Sharee'ah as a system of guidance to righteousness, is distinguished for being thorough and comprehensive in that it deals with all aspects of life in Moslem society or community. This quality of comprehensibility of Islamic Sharee'ah includes all spheres of life whether they be matters of creed, belief, religious rites and rituals, or the code of moral conduct. It includes also matters of a mundane secular nature such as incrimination, private and personal affairs, the social system and international relations or matters pertaining to legislation about political and economic systems. All these provisions, stipulations and principles of Islamic Sharee'ah form a complete scheme of life and all-embracing social

²⁴For more information on this issues, see the following:

- Yousif Al-Qaradawi, **Al-Khasa'is 'Al-'Amma Lil-Islam** (General Merits of Islam), Irbid, pp.7-30
- Omar S. Al-Ashqar, **Khasa'is Ash-Sharee'ah 'Al-'Islamiyya** (Islamic Sharee'ah Features), Kuwait, Al-Falah Library, 1991 G., pp.35-42
- Abdullah Alwan, **'Al-Islam Sharee'ahat Az-Zaman wa 'Al-makan** (Islamic Sharee'ah for all Times and Places), Cairo, 1989, pp.10-20

order. There is nothing superfluous, nothing lacking. They have the qualities of constancy as they are the legislation set by the Lord and Sole Master of the universe.

4. The qualities of suitability for all times in all places, with a reasonable scope for innovations:

Islamic Sharee'ah meets the need of humanity and fulfills Man's aspirations and responds to the changing and increasing demands of modern life. It enables Man to keep abreast of the advancements and developments of all civilizations at all times, as it has an all-embracing system of directions for the regulation of social and economic affairs, transactions, administrative and constitutional matters and international relations. Take for example, the rule of justice. Allah says,

*"O you who believe! Stand out firmly for Allah and be just witnesses and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety, and fear Allah. Verily, Allah is Well-Acquainted with what you do."*²⁵

Allah also says,

*"Verily! Allah commands that you should render back the trusts to those, to whom they are due: and that when you judge between men, you judge with justice. Verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is Ever AllHearer, Allseer."*²⁶

The rule of justice, as has been cited in the preceding holy verses, is a systematic constant rule that is not susceptible to change or modifications as it is applicable for all times, at all places. However, the means and mechanisms of applying this rule allow for modifications and adaptations should the need arise due to the demands of modern times. Thus, the application of the rule of justice at one court or another is a matter left for those who have the power to decide on the basis of their changing needs. The Islamic Sharee'ah first and foremost calls for the application of the rule, but the mechanism and the methods of applying that same rule are up to those concerned as long as the Islamic courts acknowledge and abide by the rule itself.

The same goes for the provisions for Shura (consultations) which have been cited in the Holy Qur'an explicitly:

²⁵Al-ma'ida [The Repast] 5:8

²⁶An-Nisa' [The Women] 4:58

“And by the Mercy of Allah, you dealt with them gently. And had you been severe and harshhearted, they would have broken away from about you; so pass over their faults and ask Allah’s Forgiveness for them; and consult them in the affairs. Then when you have taken a decision, put your trust in Allah, certainly, Allah loves those who put their trust in Him.”²⁷

“And those who answer the Call of their Lord [i.e. to believe that He is the only One Lord (Allah), and to worship none but Him Alone], and perform As-Salat, and who conduct their affairs by mutual consultation, and who spend of what We have bestowed on them.”²⁸

The rule for Shura is a complete and constant rule irreplaceable and immutable. The rule should be applied for all times at all places, but the mechanism for its application is a matter that is adaptable according to the requirements of different times. Thus, to apply Shura in a small ministerial council consisting of a think tank, or to opt for a local council for each district or country or, to form several Shura councils, is a matter to be decided upon by the parties concerned at a particular time. Again, Islamic Sharee’ah aims to apply its provisions and regulations of Shura (consultation), but the method of implementation can be by whichever means are most suitable as long as they are practiced in accordance with the teachings of Islam.

5. Maintaining a balance between the spiritual and the material:

One of the merits of Islam is that it does not recognize a conflict or even a significant separation between the spiritual and material aspects of life. It does not confine itself merely to purifying the spiritual and the moral life of Man in the limited sense of the word. Its domain extends to the entire gamut of life as a complete whole. It properly delineates Man’s place on earth and his relationship to His Creator, Allah, his duties and rights towards himself, his family and others as well as his place in his community.

Islam as a complete legislation and a perfect code of conduct does not recognize self-imposed poverty or self abasement as virtues, nor does it recommend monastic or hermitical seclusion.

At the same time, it does not allow Man to indulge in the materialistic side of life to the point where he becomes heedless of His Lord and the life-

²⁷Al-‘Imran [The Family of Imran] 3:159

²⁸Ash-Shura [The Consultation] 42:38

hereafter. Islam urges man to maintain a balance between the spiritual and the practical spheres of life.

6. Paying equal attention to the individual's interest and society's interest:

One remarkable merit of Islamic Sharee'ah is that it allows for coordination and harmony between the interest of the individual and that of the whole community. It regulates the individual's place in the scheme of life, i.e., his relationship with his community. Islam stipulates the individual's rights as well as the community's in a well-balanced and impartial manner. It sets the proper bounds of each and establishes strong ties between them. In cases of conflict of interest, Islam gives priority to the community's interests.

7. Performance of duties without overtaxing abilities:

A remarkable feature of Islamic Sharee'ah is its provisions for performing one's duties at ease and without strain or embarrassment. Exalted Be Allah, says,

*"And strive hard in Allah's Cause as you ought to strive (with sincerity and with all your efforts that His Name should be superior). He has chosen you (to convey His Message of Islamic Monotheism to mankind by inviting them to His religion, Islam), and has not laid upon you in religion any hardship, it is the religion of your father Ibrahim. It is He (Allah) Who has named you Muslims both before and in this (the Qur'an), that the Messenger Muhammad may be a witness over you and you be witnesses over mankind. So perform AsSalat, give Zakat and hold fast to Allah [i.e. have confidence in Allah, and depend upon Him in all your affairs] He is your Maula (patron, Lord, etc.), what an Excellent Maula and what an Excellent Helper!."*²⁹

These verses from the Holy Qur'an assert that Islam does not require any man to do what he lacks the capacity nor ability for. Islam does not enforce rites or rituals that are beyond Man's ordinary capabilities. Rather, all the requirements of the Islamic faith enter within the category of Man's capability to perform them, so that Man will have no excuses for not carrying out duties and religious rites.

²⁹ Al-Hajj [The Pilgrimage] 22:78

8. Islamic Sharee'ah as the final and complete faith:

Islamic Sharee'ah is the final revelation, the consummation of all the preceding heavenly faiths and messages, which it came to compliment and conclude. It encompasses all the Prophets' and Messengers' calls, and combines them in an all-embracing code of divine guidance. The Holy Qur'an states on more than one occasion that Allah (*Glory Be to Him*) commands the belief and acceptance of all the preceding Prophets and messengers, their books and, their messages. Allah says,

*"Say (O Muhammad): "We believe in Allah and in what has been sent down to us, and what was sent down to Ibrahim, Ismai'l, Ishaque, Ya'qub, and Al-Asbat [the twelve sons of Ya'qub] and what was given to Musa, `Iesa and the Prophets from their Lord, We make no distinction between one another among them and to Him (Allah) we have submitted."*³⁰

The Prophet and Messenger, Mohammad (*may peace and blessings be upon him*) pointed out that he was sent to perfect the divine code of morals, and that his message was the last that would complete the preceding messages. The Prophet (*May peace and blessings be upon him*) says:

*(I and all other Prophets before me are like a person who built a house which was perfect albeit for the corner stone. People started roaming around enjoying its beauty, said: are you going to finalize the construction of this house by placing its final brick? I am like that final brick which completes the house. I am the final and last Prophet who was sent to perfect the preceding sacred faiths).*³¹

It is a well-known fact that the Prophets' messages all agree upon the following:

- a. All stipulate the call to monotheism and forbid making associations with the Only God, Allah.
- b. All stipulate the calls for "Iman" (reposing faith in Allah), His angels, books, messengers and the Day of Judgment.
- c. All agree on the call for morality, virtuous behavior, and all-embracing code of moral conduct.

³⁰Al-'Imran [The Family of Imran] 3:84

³¹Narrated by Moslem

- d. All call for the worship of Allah, the sovereign, Lord of the universe, the Glorious, and for the redemption of Man from the serious sin of associating others with Allah's worship.
- e. All stipulate for the establishment of the basis for peace, love, kindness and enjoining in God and forbidding evil among the peoples and nations of the world.

The Holy Qur'an makes reference to all of these denotations of all the heavenly messages. Allah says,

*"Say (O Mohammad): "O people of the scripture (Jews and Christians): come to a word that is just between us and you, that we worship none but Allah, and that we associate no partners with Him, and that none of us shall take others as lords besides Allah. Then, if they turn away, say: "Bear witness that we are Muslims.""*³²

9. Originality and permanence of Islamic Sharee'ah:

By making divine revelations the primary source of knowledge, it gives permanence and stability to moral standards, while affording reasonable scope for genuine adjustments, adaptations and innovations, though not for perversions, ill variations or moral fluidity.

The Holy Qur'an, which is the primary source of Islamic Sharee'ah, will be preserved and sustained forever, as it is Allah's will to keep it preserved to be studied and memorized. Allah says,

*"Verily We: it is We Who have sent down the Dhikr (i.e. the Qur'an) and surely, We will guard it from corruption.""*³³

The Holy Qur'an has been in existence for more than fourteen centuries and is still the Qur'an for all humanity in letter, word, sentence, meaning, interpretation and recital.

The originality and authenticity of the Holy Qur'an has been acknowledged by some western intellectuals such as Professor (Reynold Nickloman) who in his book "The Literary History of the Arabs" says: "the Holy Qur'an is a splendid doctrine for humanity which shows precisely the true meanings of Mohammad's (*may peace and blessings be upon him*) conducts and deeds throughout all his life. We even find in it (the Holy

³²Al-'Imran [The Family of Imran] 3:64

³³Al-Hijr 15:9

Qur'an) a rich and unique treatise which is beyond suspicion and impossible to counter argue and through which we can trace the "Sira" history of Islam since its beginning and emergence in early history. We can never find anything comparable to it in Christianity, Budhism or in any ancient religion."³⁴

10. One of the main characteristics of Islam is the principle of human brotherhood:

Islam defined the relationship between Man and his brethren according to the principles of equality and justice; piety and righteousness are the only real criteria for nobility. Based on these principles, Islam calls for the protection of Moslems' honor, blood, dignity, possessions, mind, and money. Islamic Sharee'ah's chief objective is all Mankind's interests and not the interest of one class of people, or one race or one nation to the exclusion of others. Islamic Sharee'ah does not aim at the worldly benefits of Moslems while disregarding their moral and spiritual interests, or their condition in the hereafter. It is inconceivable that all these matters and considerations could be included in a secular man-made ideology. But as a code of divine guidance, (the Islamic Sharee'ah), all of these objectives and interests can be realized. This is a solid confirmation that the Islamic Sharee'ah was sent for the welfare of all humanity, for the realization of equality and justice on earth, and for salvation in this life and the hereafter. This is a distinct characteristic of the Islamic Sharee'ah's call for a universal and absolute justice.

B. The Community's ('Ummah's) Benefits from Applying the Islamic Sharee'ah and Preserving its Aims

The benefits of applying Islamic Sharee'ah and preserving its objectives are numerous for both individual and the community. These are:

1. The application of Islamic Sharee'ah presents to us a code of moral conduct in the social, political, economic, and educational spheres of life. This code of moral conduct is unique and inimitable as it stipulates the promotion of the standard of life to its most noble and lofty human level. This is only achieved if and only if Man submits and commits himself to the first postulate of Islam "Iman" (the reposing in Allah's faith) whereby all Man's deeds must be performed for the purpose of gaining Allah's pleasure and approval. Allah's pleasure must be the focal point of all Man's endeavors, intentions and deeds. Accordingly,

³⁴'Al 'Islam Sharee'ahat Az-Zaman wa 'Al-Makan (Islam, the Sharee'ah for all times at all places). Ibid., p.55

Moslems have ruled one another on the basis of justice. Economic transactions should be governed by the Islamic principles of social equality and solidarity. There should be no “riba” (gaining interest on money loans) nor should there be monopolies. Property must be sanctified by the Islamic laws.³⁵

2. The application of Islamic Sharee’ah keeps the nation (‘Ummah) united and protects it from disintegration and divisiveness, whereby people battle each other. It makes the nation united, integrated, cohesive, within the bounds Allah set forth by the Islamic Sharee’ah as stipulated in the Holy Qur’an, and the Sunnah and the Prophets’ saying.
3. The application of Islamic Sharee’ah (law) sets the main criteria for differentiating between good and evil.
4. The application of Islamic Sharee’ah qualifies the Islamic nation (‘Ummah) to play a historic role in contributing to the civilization of all Mankind by providing and disseminating its rich spiritual and moral values to other societies, which suffer from the total absence of a spiritual dimension to their existence.
5. The application of Islamic Sharee’ah is the only effective safeguard which prevents humanity from indulging in evil, perverted behavior, vice, and great sins.

C. What Does the Sovereignty of Islamic Sharee’ah in an Islamic State Mean?

Islam is not just a religion that calls for belief in the Islamic creed and its principles; it is a religion for the State and a creed that has its Sharee’ah, laws and principles for organizing and regulating the whole of Mankind’s existence on earth and the hereafter. Men of jurisprudence and impartial scholars point out that an Islamic State is by definition a State whose basic system of government is governed by Islamic Sharee’ah and that an Islamic community (society) is that where Islamic Sharee’ah has full sovereignty over all spheres of life. This means that the government of that State must respect and abide by all of the Sharee’ah texts and commandments in all aspects of its existence. That also means that whatever decisions the government takes must be based on the rules and regulations of the Islamic Sharee’ah and that it should never violate any single rule of that Sharee’ah. Exalted Be Allah says:

³⁵Wujoob Tatbeeq ‘Ash-Sharee’ah ‘Al-‘Islamiyya (The Duty of Applying Islamic Sharee’ah), Ibid, p.161

"It is not for a believer, man or woman, when Allah and His Messenger have decreed a matter that they should have any option in their decision. And whoever disobeys Allah and His Messenger, he has indeed strayed in a plain error."³⁶

Allah also says,

"O you who believe! Obey Allah and obey the Messenger (Mohammad), and those of you who are in authority. And if you differ in anything amongst yourselves, refer to Allah and His Messenger, if you believe in Allah and in the Last Day. That is better and more suitable for final determination."³⁷

The Provisions of the Sharee'ah and the stipulations of the Holy Qur'an and Prophet Mohammad's (*may peace and blessings be upon him*) Sunnah (His sayings and teachings) are obligatory and compelling for the Islamic State. That is why Islam does not permit a ruler to rule in contradiction with the Islamic laws. Islam, further, does not permit a nation to cancel or disregard any of the Sharee'ah's rules and regulations on the grounds that the people are the source of authority.

The principle of full sovereignty of Islamic Sharee'ah is the sole guarantor of all public and private rights for the nation, society and of course, the individual, as the latter can find refuge in Sharee'ah from all types of violations of his/her rights irrespective of the source of that violation. However, once the ruling authority of the state exempts itself from adherence to the laws of Sharee'ah it will have committed a grave offense in Islamic Sharee'ah. This will open the doors widely to chaos and confusion, and will expose the society and its public life to all currents of influence from internal and foreign powers. Such a society will go astray and find itself helpless due to its deviation from the right path for dignity, power, and immunity.³⁸

On the basis of what has preceded, we can say that the sovereignty of Islamic Sharee'ah in an Islamic State means that the State is committed to the strict and full application of Islamic Sharee'ah and to the preservation of its noble implications expressed through the protection of the religion, the self, the honor, the mind and the money of the Moslem and of the

³⁶Al-Ahzab [The Confederates] 33:36

³⁷An-Nisa' [The Women] 4:59

³⁸Ash-Shura Bain 'Al-'Asala wal Mu'asara (Shura Between Originality and Modernity), p.10.

Islamic community. It further means that no one and under no circumstances whatsoever, be he a ruler or a citizen, shall tamper with the State's efforts to apply the Sharee'ah law, to modify or adapt it. On the basis of this conviction, the Kingdom of Saudi Arabia, as an Islamic State, has committed itself to the strict and full application of the Islamic Sharee'ah, whose provisions and stipulations are being implemented in absolute sincerity and with adequate accuracy, thus complying with Allah's orders in seeking fulfillment of its peoples interests.

If it so happens that some human rights organizations criticize the Kingdom of Saudi Arabia for applying the Islamic Sharee'ah, this will become a problem for those who are ignorant of Islam and its teachings; it can not be a problem attributable to the Kingdom itself. Had it been the case that those who criticize the Kingdom were well-aware of the true nature of Islam and its stipulations for human rights, they would have realized Islamic Sharee'ah as the sole guarantor of human rights and that their calls to transgress the bounds set by Allah are in fact in direct violation of human rights.

Allah, the Exalted, Glory to Him, orders us to apply and implement Islamic Sharee'ah. He is the Creator of all; He is the only one who can know what is good for the whole of Mankind and what is bad for them, what is moral and good for their mode of life and what leads to corruption.

That is why Allah, Glory to Him, sent His Messenger to preach and teach the commandments of His Sharee'ah and its strict and full application, as it is the sole law suitable for all times in all places for all humanity.

Chapter Two

A Short Historical Overview About the Kingdom of Saudi Arabia and the Fundamental Bases of Its System of Government

A Brief Overview of the Kingdom of Saudi Arabia

In compliance with the main aim of this book, which is to state facts regarding the allegations and criticisms directed at the Kingdom of Saudi Arabia for its implementation of Islamic Sharee'ah, I shall not talk about the geography of the Kingdom, its history, nor its achievements. These topics require another study in their own right. I shall, however, address in this short overview the issues that contribute directly to the realization of the book's main objective. These are:

First: The Rise of the Saudi State

Second: The Establishment of the Kingdom of Saudi Arabia (the bases of its establishment), its domestic and foreign policy.

Third: The Basic Principles of the Kingdom's System of Government

1. The Application of Islamic Sharee'ah
2. Justice
3. Shura (consultation)
4. Equality

Fourth: The Characteristics of the Kingdom of Saudi Arabia as enshrined in its basic principles, aims and objectives, and the basic rules of its system of government.

First: The Rise of the Saudi State

In any serious and objective discussion about the Kingdom of Saudi Arabia, it is imperative for any impartial scholar to refer to the historic agreement between 'Imam Mohammad Bin Abd-'Alwahab, the Islamic reformer who called for the restoration of Islamic "Da'wah" in the twelfth Higran century (corresponding to the 18th century G.) and 'Imam Mohammad Bin Saud, the initiator and the founder of 'Imama in the House of Saud.

The beginning of this era is the starting point of what is known as the Pure Salafi approach to Islam, which came in the aftermath of deviation from and perversions in the right path of Islam, whereby the Arabian Peninsula became the focus for all sorts of burglary, theft, invasions, violence, and oppression.

The beginning of Mohammad Bin Saud's era signals the initiation of what is referred to nowadays as the "Salafi Islamicist Approach" (the movement to restore Islamic Faith to its most pristine form, which came to be known as the Wahhabi movement). This movement was initiated by Mohammad Bin Abd Al-wahab as a reaction to what was witnessed as a perversion of and deviation from the original purity of the Islamic Faith. The Arabian Peninsula at the time witnessed all sorts of vice, such as looting, tribal raiding, theft, violence, etc.

Impartial historians describe that historic agreement as the most significant act of indoctrination -- whereby theory has been put into practice -- resulting in changed conduct accompanied by military events, both extending over the whole of the Arabian Peninsula and beyond to the various parts of the Islamic World. The outstanding success of that historic event reaffirms that the strong bonds among all nations of the Islamic 'Ummah goes much deeper than the apparent and external forms of connectedness. This is so despite the fact that the means of communication and of intellectual connectedness lagged far behind those of modern times.

In this respect suffice it to say that a mere reference to the content of this great agreement will make us recognize a very significant matter: that the outcome of the agreement between the 'Imam and Ash-Shaikh, continues to permeate across time and generations as if it were concluded anew with its terms, conditions and goals kept intact. When Ash-Shaikh Mohammad Bin Abd Al-wahab left his town, 'Al-'uyayna, and moved to Ad-dir'iyya in search of a political power to shelter him and consolidate his efforts for his "Da'wah", he met with the then governor of 'Ad-Dir'iyya, 'Imam Mohammad Bin Saud, who cordially received him, and treated him with kindness and respect. The Shaikh said: 'you have honored me with your kind hospitality and generosity and I herald to you the good news of high esteem and the consolidation of power and I hereby call for the belief in Allah's faith that there is no God but Allah and that whoever firmly believes in it and behaves accordingly and fights for it shall have the control over the country and the people. This is the call for tawheed (Monotheism) and it is the call that all Messengers, first and last, came with"¹. 'Imam Mohammad Bin Saud replied: "O Shaikh, this is Allah's religion and His Messenger's religion which is beyond doubt, and I in return herald to you the good news, pledging support to the triumph of your Da'wah for Allah's oneness and undertaking to fight whoever disobeys it."

¹ **Jareedat 'Al-Madeena** (Al-Madeena Newspaper), No.6382 on 28/12/1414H.

The two figures, Shaikh Mohammad Bin Abd-Al-wahab and 'Imam Mohammad Bin Saud, concluded their historic meeting with the pledge to fight against the backsliding Muslims of the Peninsula, and to strive to preach the sovereignty of Allah's oneness, the call for the unity of Allah (Tawheed) and the superiority of the Islamic Faith enjoining good and forbidding evil. The Emir of Dir'iyah took Ash-Shaikh to his own residence to stay with him. The people of Dir'iyah used to go there in groups to take from him the correct principles of the pure and correct Islam, the true Islam purified of the perversions, and distorting innovations of extremists and fanatics. Thus, the arrival of Shaikh Mohammad Bin Abd-Al-wahab to Dir'iyah, culminating in the historic agreements with 'Imam Mohammad Bin Saud Bin Migrin (the founder of the Saudi state), truly marks the beginning of the rise of the Saudi State and the day of its emergence in history.¹

History books indicate that at the inception of the Wahabi Da'wah, there was no central government to take care of the people's interest or security, nor was there any apparatus for the application of Islamic Sharee'ah. The chieftains of the tribes, 'Umara (princes) of the cities and districts were the only dominant powers, and played havoc with people's lives through their absolute and arbitrary powers. The common people of Najd got sick and tired of that chaotic situation, so they had no reason to hesitate in accepting Shaikh Mohammad Bin Abd Al-wahab as a refuge. Hence, they rushed to back up his teachings and volunteered to carry arms in their defence under the leadership of Al-Saud.

Through the alliance between Shaikh Mohammad Bin Abd Al-wahab and 'Imam Mohammad Bin Saud, a state was established at the heart of the Arabian Peninsula a thousand years ago or more after the end of the Rashidi Khaleefa's epoch. This state came in to govern and administer the nation's affairs in total compliance with the Holy Qur'an's teachings, the Prophet Mohammad's Sunnah (sayings and teaching of the Prophet) and in imitation of his righteous companions' good deeds. The movement called for enjoining good and forbidding evil through the restoration of the good righteous conduct prevalent at the times of the Prophet Mohammad and the Rashidi Khaleefas. This state was bent on restoring order and discipline to the region which had been long enough without any code of moral guidance, and in which disintegration, subdividedness, lack of security, and corruption prevailed.

Politics and religion were nicely moulded into one coherent pattern within this newly emerging political entity at the middle of the twelfth Hijrian Century

'Ahamiyyat Da'what Ash-Shaikh Mohammad Bin Abd Al-wahab wa Bayan Haqeeqataha war rad 'ala Ash-shubuhat Hawlah (The Significance of the Shaikh Mohammad Bin Abd Al-wahab reformist movement and its role in refuting the criticism against it), a whole chapter is devoted for this Da'wah

(the mid-eighteenth century G.). Thus, at the center of the Arabian Peninsula a community emerged, refined and purged by the teaching of the Islamic faith in all spheres of life. People came to realize right from wrong; their behavior and conduct were rectified under the influence of the code of moral and divine guidance of the Islamic faith. Everyone became righteous, and recognized his own duties, obligations, and rights in his dealings with his relatives, family, others. This marked the first time since the Rashidi Khaleefas that the rules and regulations of Islam were restored, put into practice and, in consequence prevailed.

Under the leadership of the new political entity, Ad-Dir'iyya became the capital of a state instead of being a mere province for one tribe. Thus, Ad-Dir'iyya got out of the shadow into the light, and moved out of the shadows of an ambiguous and undefined history to become one of the most prominent centers of the Arabian Peninsula associated with the name of Al-Saud.

Historians have unanimously viewed the history of the Saudi State as falling into three periods that follow the fortunes of the Al Saud.

The First Period

The first begins with the alliance between Mohammad Ibn Saud (the leader of Ad-Dir'iyya) and Mohammad Bin Abd Al-wahab starting from the year 1157H. (1744 G.). The alliance was a traditional Muslim oath in which they promised to work together to establish a state run according to Islamic principles and fully supported by the Wahabi movement in combating all forms of practices that were considered blatant deviations from the essence of the true Islamic Faith. This was the first Saudi State which ruled for about 75 years. The rulers of that era were four of the chief founders of the Saudi State:

1. 'Imam Mohammad Bin Saud, whose reign was from 1139-1179 H. (1726-1765 G.)
2. 'Imam Abd 'Al-Aziz Bin Mohammad Bin Saud, from 1179-1218 H. (1765-1802 G.)
3. 'Imam Saud Bin Abd 'Al-Aziz, from 1218-1229 H. (1803-1817 G.)
4. 'Imam Abd 'Allah Bin Saud, from 1229-1233 H. (1813-1817 G.)

This state ended in 1233 H. (1817 G.) when the Ottoman Empire sent its third military campaign led by Ibrahim Pasha into the Arabian Peninsula.

The second period:

This period begins in 1240 H. (1824 G.) and lasted for about 75 years during which nine Saudi Princes (Emirs) ruled:

1. Mishari Bin Saud 'Al-Kabeer, from 1235-1235 H. (1819-1819 G.)
2. Emir Turki Bin Abd-Allah (for the first time), from 1235-1236 H. (1819-1820 G.)
3. Emir Turki Bin Abd-Allah (for the second time), from 1240-1249H. (1833G.)
4. Emir Faisal Bin Turki (for the first time), form 1250-1254 H. (1834-1838 G.)
5. Emir Khalid Bin Saud, from 1254-1257 H. (1838-1841 G.)
6. Emir Abd-Allah Bin Thnayyan, from 1257-1259 H. (1841-1843 G.)
7. 'Imam Faisal Bin Turki (for the second time), form 1259-1282 H. (1843-1865 G.)
8. Emir Abd-Allah Bin Faisal, from 1282-1286 H. (1865-1869 G.)
9. Emir Abder-rahman 'Al-Faisal, from 1307-1309 H. (1889-1891 G.)

The reign of Prince Abder-rahman 'Al-Faisal lasted for only a year and a half as it was ended when Mohammad Bin Abd-Allah Bin Rahseed, the Emir of Ha'il took over Riyadh and annexed it to his Imara. Emir Abder-rahman Bin Faisal and his family departed to Kuwait. That is how the second period of the history of the Saudi state concluded.

The third period

This phase started with the year 1319 H. (1902 G.). This is the year when King Abd 'El-Aziz took over Riyadh and made it the base from which he set out on his mission of uniting the whole region under the banner of Tawheed, the Muslim unitarian principle that there is only one God, and that God does not share His power with anyone, not Imams, and certainly not trees or rocks. Abd-'El-Aziz's efforts in this respect culminated in complete success, and after a long and painful strife he was able to rebuild the modern Saudi State on the same principles around which the early Saudi State had been established.

Having accomplished security, discipline, order, and the consolidation of his authority, on the basis of a unified system of the principles of Islamic faith, King Abd 'El-Aziz issued a royal decree in 1351 H. (1922 G.) stipulating the

unification of the country under the name of Kingdom of Saudi Arabia. Abd 'El-Aziz then embarked on his policy of reform for the whole country. He laid down the fundamentals of the administrative, political, economic and social dimensions of the state. He continued these efforts until his death, may God Bless His Soul, In 1373 H. (1953 G.). As a result, the Kingdom of Saudi Arabia continued its steady march to prosperity and advancement through the leadership of Abd 'El-Aziz's sons. So far four of his sons have succeeded him in ruling the country consecutively:

1. King Saud Bin Abd 'El-Aziz, from 1373-1384 H. (1953-1964 G.)
2. King Faisal Bin Abd 'El-Aziz, from 1384-1395 H. (1964-1975 G.)
3. King Khalid Bin Abd 'El-Aziz, from 1395-1402 H. (1975-1982 G.)
4. The Custodian of the Two Holy Mosques King Fahad Bin Abd 'El-Aziz, from 1402 H. till the present time.

Second: The Establishment of the Kingdom of Saudi Arabia¹

Introduction:

In the aftermath of the fall of the second Saudi State and the taking over of Riyadh by Mohammad Bin Abd-Allah Bin Rasheed, Arabia became fragmented into discrete cantons overwhelmed by chaos. This state of restlessness and chaos continued until Allah, *Glory Be to Him*, designated one of the country's blessed sons King Abd 'El-Aziz Bin Abder-rahman Al Saud to save it from the prevailing conditions of chaos, restlessness, disturbances, and to lead it to the havens of security, and stability. He laid down the foundations for the state's entity on solid ground for the realization of a noble message, the realization of the lofty goals and principles of Islam. These are the basic principles upon which the Kingdom of Saudi Arabia was established:

¹ The Kingdom of Saudi Arabia is located in the South West of the continent of Asia. It represents about 80% of the lands of the Arabian Peninsula i.e. the equivalent of 2,250,000 square kilometers. This location is about ¼ of the U.S. and about nine times that of the U.K. To its North lies Kuwait, Iraq and Jordan, to the South lies Yemen, Oman, and to the East lies the United Arab Emirates, Qatar and the Arabian Gulf and to the West is the Red Sea. Its population is 16,929,294 according to the 1992 census, 12,304835 of which are Saudi citizens and 4,624459 are foreign residents.

A- The Fundamental Principles of the Establishment of the Kingdom of Saudi Arabia

In three phases in general, and during the reign of King Abd 'El-Aziz in particular, the Saudi political system was developed along the lines of political thought rooted in the Islamic faith as an ideology and a way of life.

The first Saudi State in 1157 H. (1744 G.) had arisen out of a historic covenant between Shaikh Mohammad Bin Abd Al-wahab and 'Imam Mohammad Bin Saud as a pledge for the elevation of Tawheed, the sincere call for the oneness of Allah with no associations with Him, and enjoining people to do good and forbid evil.

The second Saudi State was established on the same guidelines and principles of the Islamic creed as propagated by Shaikh Mohammad Bin Abd Al-wahab and the political ideology of 'Imam Mohammad Bin Saud.

The third Saudi State was established by the founder, King Abd 'El-Aziz, on the principles and commandments of the pure Islamic Sharee'ah (law) as well as the political thought and reform principles whose groundwork was established during the first Saudi State.

King Abd 'El-Aziz made his state a continuation and a natural extension of the first Saudi State by upholding the basic principles of the Wahhabi reformist movement of Islamic ideology through adherence to the moderate approval of Islamic principles and the systematic call for Tawheed, the unitary call for Allah's sovereignty and the spreading of the Islamic religion. King Abd 'El-Aziz was devoted to strict adherence to these constants of his political system and never ceased addressing them on each and every occasion.¹

In a speech on an occasion honoring him in Mecca, in 1348 H. (1930G.) King Abd 'El-Aziz said, *"We are proud that we call for the Tawheed, the unitarian's call for Allah's oneness and the propagation of His faith. The most cherished and the closest deed to our hearts is the devotion to Allah's cause in its pristine form with no perversions or innovations attached to it."*² On another occasion honoring pilgrimage dignitaries, King Abd 'El-Aziz in 1353 H. (1935 G.) said: *"Our sole and only goal is the call for the oneness of Allah, and the elevation of Allah's word, His sovereignty and superiority, I hereby pledge to Allah and swear before you to do that and only that, that we shall never drift*

¹ See: The Foreign Policy of the Kingdom of Saudi Arabia in 100 years, Ministry of Foreign Affairs, 1419H. (1999G.), p.260

² Mohyiddin Al-Qabisi, *As-Saif wal-Mushaf* (The Qur'an and the Sowrd), Riyadh, Dar An-Nasir Lil-Tiba'a wan-Nashr, p.62

*from the right path and straight path of Islam, as that is the faith that unites us all and makes us gather together into one community "Umma" in the belief in monotheism, and the obedience to Allah's faith and His Prophet's message."*¹

Since then his sons who succeeded him have followed in his steps by applying the Islamic Sharee'ah and the moderate approach to Tawheed and the spread of Islam. While addressing Saudi people, on the occasion of the issuance of the basic system of government and the basic statute of the Shura and the System of Districts, King Fahad Bin Abd 'El-Aziz delivered a speech, in which he pointed out that the Saudi State was founded on a well-defined approach to its basic system of government, politics, and Da'wah (the spread of Islamic teachings and principles). This is the conception of Islam as a creed and as a Sharee'ah (law) As the fundamental bases for the rise of this state were the Islamic faith and its Sharee'ah, then the application of Islamic Sharee'ah and its doctrine for divine guidance to piety and righteousness as well as its code of moral conducts have been strictly adhered to and accurately executed in all spheres of life by enjoining good and forbidding evil in applying the true faith and its sound teachings and principles in our judicial system, including the relationship between the governor and the governed. Thus, the Saudi State in its application of Islamic Sharee'ah has set an exemplary and optimal model as a basic system of government in modern political history.²

King Abd 'El-Aziz and his sons after him spared no efforts in applying the doctrine of Islamic Sharee'ah in their basic system of government in all activities and aspects of their nation's life. The principles that underlie the establishment and development of the Kingdom of Saudi Arabia are as follows:³

1. The Tawheed ideology, (that is the call to the oneness of God, Allah) according to which the whole of mankind devote all their worship to the only God, Allah, the sovereign of the universe without associations with His powers. By abiding by this creed, humanity will live in dignity.
2. The Islamic Sharee'ah, which organizes and regulates Man's relation to Allah, to one another and the relationship between the ruler and the citizen by protecting people's rights. The Sharee'ah provides equality, justice and security for the individual, the family and the community ('Ummah) and also provides public security. Hence people's lives are protected by the laws of Islam.

¹ Ibid. p.64

² 'Umm 'Al-Qura, No. 33397, issued on 2/9/1412H. (6/3/1992G.), pp.1-5

³ Ibid.

3. The call for propagating the Islamic religion and spreading it through prudent preaching and wise advice. The call to Allah's faith is one of the most significant duties of an Islamic State.
4. Working toward a sound healthy Islamic environment free from evils, vices and perversions. Creating a healthy Islamic environment, free from perversions, vices and prohibited wrong-doings, and thus maintaining people's up-righteousness and piety, is the duty assigned to the authority of enjoining good and forbidding evil.
5. Achieving the unity of the faith, which is the basis for the political, social, and geographic unity of the country.
6. Providing the necessary conditions and requirements of progress, growth and prosperity in the light of Islamic divine guidance and its set standards.
7. Applying Shura (consultation) which Islam commands for true believers.
8. To keep the two Holy Shrines sanctified for whoever seeks them, and to protect them from any misconduct that may interfere with the performance of Hajj and 'Umra duties. The Kingdom of Saudi Arabia has to perform this divine duty in the service of Allah's cause, and as a service to the Islamic 'Ummah (nation).
9. Defending the religion, the sanctuaries, the homeland, and its citizens.

These are the major sources upon which the establishment of the Kingdom of Saudi Arabia has drawn. To lend support to this premise, it is important to point out that the three basic systems developed by the Custodian of the Two Holy Mosques, King Fahad Bin Abd 'El-Aziz, the system of government, the Shura Statute and the districts system, were all based on the basic principles of Islamic Sharee'ah and on all of its commandments and stipulations.¹

The Islamic Sharee'ah is the primary source of all the legislative principles of the basic system of government in the Kingdom. The first article of the basic system of government of the Kingdom of Saudi Arabia stipulates: "that the Kingdom of Saudi Arabia is a sovereign Arab and Islamic State. Its religion is Islam and its constitution is the Holy Qur'an and the Sunnah of Prophet Mohammad, Allah's Messenger (*may peace and blessings be upon him*)..."

¹ Muncer Abd Al-Hameed Haroon, *Ash-Sharee'ah Al-'Islamiyya Tahkum* (Islamic Sharee'ah Rules), AL-'Isra' Lil-Khadamat Al-'Islamiyya (Al-'Isra' for Information Services), 1993G., p195

The second article of the basic system of the government stipulates: “The government of the Kingdom of Saudi Arabia derives its authority from the Holy Qur’an and the Prophet’s Sunnah which are the two sources governing this system of government and all the state’s other rules and regulations.” This provision is a true embodiment of article number one which stipulates that the Kingdom of Saudi Arabia is a sovereign Arab Sate. Its religion is Islam and its rules and regulations are governed by the Holy Qur’an and the Sunnah. The rest of the basic system of the government is based on this first and fundamental rule. For example, Article (55) stipulates: “the King rules the whole country on the basis of the provisions of Islamic Sharee’ah; he shall abide by and supervise the application of Islamic Sharee’ah, the state political system and the defense and protection of that system.”

Article (57), clause (B) stipulates: “The deputies of the Prime Minister and the Ministers who are the members of the Ministers’ Cabinet shall be responsible before the King in support of the application of Islamic Sharee’ah and general rules and regulations and public policy of the state.”

Article (67) indicates that the laws of Islamic Sharee’ah form the sole source of the by-laws and systems issued in the state. It stipulates: “the organizing authority shall be concerned with the task of laying down the by-laws and regulations for realizing what is in the state’s interest or weeding out corruption in state affairs in accordance with the Islamic Sharee’ah, and shall fulfil its duties in accordance with this system and the system of the Ministers’ Council and the system of the Shura Council.”

B- The Goals and Objectives of the Kingdom’s Domestic and Foreign Policies

The code of the Kingdom’s existence and the essence of its foundation are based on a comprehensive ideology, on a complete understanding of its role in this universe, and on a code of conduct that encompasses the legislative system, the moral system, and social relations. This ideology is the faith of Islam.

The Kingdom of Saudi Arabia protects its Islamic faith for its masses and works towards the preparation of new generations accordingly and protects it from currents of dissident ideas and ideologies.

Abroad, the Kingdom works on ‘Da’wah”, the call to Islam, by sending the Du’aaah (the callers to Islam) abroad to address people in the best possible way, through wise advice and prudent preaching. The crux of this Da’wah is to call Man and guide him to the surrender and total submission to Allah, the sole creator of the universe.

All of the Kingdom's systems, rules and regulations concerning internal policy throughout all of its institutions are governed by this Islamic creed. So is its foreign policy and international relations.

The noblest goal of all goals for the Kingdom of Saudi Arabia is true and full devotion to Allah's worship, Glory To Him. This is the corner stone of all the noble aims of the Kingdom in all spheres of life, education, economy, development, and planning. In all of these the Kingdom seeks to realize the complete development, growth and self-actualization in the physical, mental, spiritual, social, and emotive domains of a Saudi individual's personality. As a stepping stone to serving the community ("Ummah) and the establishment of peace, security, justice in the international arena and the peaceful co-existence of all nations of the globe, come within the framework of Islamic ideology.

I. The Following is a Specification of the Goals and Characteristics of the Kingdom's Domestic Policy

The domestic policy of the Kingdom seeks the overall welfare and happiness of Saudi nationals in the light of the teachings of the Islamic religion. The main objectives of this domestic policy can be summed up as follows:¹

1. The preservation of Islam's values and the application of its Sharee'ah, its consolidation, and its overall spread.
2. To defend the religion, the homeland, and the maintenance of security, and stability in the country.
3. The formation and preparation of a good citizen by providing the ways and means of achieving goodness; in addition, the creation of jobs and the specification of financial rewards in accordance with the designated jobs.
4. The development of Saudi manpower and emphasis on upgrading its expertise and skills in all sectors of the economy.
5. To upgrade the intellectual life to be commensurate with the developments taking place in the Kingdom.
6. To minimize the dependence on the production and export of crude oil as a major source of national income.
7. The continuation of the trend towards inducing real changes in the economic infrastructure by concentrating on diversification of national production by emphasizing the national indigenous industries.

¹ Wazarat 'At-takhteet: Khittat At-tanmiya 'Ar-rabi'a fil Mamlaka (Ministry of Planning: The 4th Development Plan in the Kingdom of Saudi Arabia), p75

8. The development and exploration of mineral resources.
9. The emphasis on qualitative development through the improved performance of the application of developmental plans.
10. The completion of the basic groundwork for participatory development.
11. The realization of economic and social integration among the G.C.C. Arab States.

II. The Goals and Characteristics of the Kingdom's Foreign Policy

The late King Abd 'EL-Aziz and his sons who followed his steps consistently worked towards realizing and establishing friendly relations with all the neighboring countries on the basis of one fundamental principle: non-intervention in the affairs of other countries, while at the same time resisting any state's attempt to intervene in the internal affairs of the Kingdom regardless of motive, as this is in compliance with the principle of national sovereignty and of international laws.

The main goals of the Kingdom's foreign policy can be specified as follows:¹

1. Non-intervention in the affairs of other countries and resisting any intervention in the internal affairs of the Kingdom regardless of motive, as this is in compliance with the principle of national sovereignty and of international laws.
2. To focus on domestic development and to utilize the element of internal stability in support of the Saudi role in the world.
3. To avoid all forms of coalitions, blocs and alliances which may hurt Arab and Islamic interests.
4. To utilize the Kingdom's good reputation and its international status in the service of all Arab and Islamic causes.
5. To emphasize the Kingdom's independent role in the international arena.
6. To emphasize the principle of international responsibility, to participate in the economic, political, social, and cultural relations of the world.

¹ Abdullah Saud 'Al-Gabba', *As-Siyasa As-sa'udiyya 'Al-kharijiyya* (The Saudi Foreign Policy), 1407, p.90

7. To uphold the motto of Islamic solidarity in the face of opposing ideological currents.
8. To highlight the Kingdom's unique role in leading the Islamic world. This role is the result of the Kingdom having been entrusted by Allah with the protection of Islamic Holy sites, their custody and supervision, and on the whole of the Islamic world acknowledging this important status.
9. To adopt open-door policies towards the world based on self-assurance and the Kingdom's important role in international affairs.
10. To work in coordination with the Arab States of the Gulf Cooperation Council for realizing regional security and stability, and increased co-operation among the member states.
11. To emphasize the significance of a solution to the Palestinian cause that fulfils the aspirations and hopes of the Palestinian people and secures the realization of the legitimate rights of the Palestinians in compliance with U.N resolutions.
12. To combat all ideas, currents, and ideologies that contradict the Islamic creed.
13. To adopt a moderate policy in the oil industry that takes into consideration the interests of both consumer and producer.
14. To handle international problems in a more assertive and interactive manner.

The Kingdom of Saudi Arabia is no more a mere observer of current events; it has assumed the role of a mediator and now it assumes the role of a leader.

The Custodian of the Two Holy Mosques, King Fahd Bin Abd 'El-Aziz has outlined the domestic and foreign policies of the Kingdom by stating that: "The main goals and policy of the Kingdom of Saudi Arabia is to establish the principles of Allah's faith on solid grounds and to apply Islamic Sharee'ah in all our affairs, and to utilize all our resources, bestowed upon us by Allah and do the utmost in the area of comprehensive and participatory development. Fortunately, the policies of the Kingdom of Saudi Arabia have been established on solid grounds. I can never think of any occasion on any day when the Kingdom caused any problem to anyone or any country. On the contrary, the Kingdom has always done what it could to offer help and aid to all the friendly

countries, and it has always done this in good will and without any pretension. By the same token we shall never allow anyone to interfere in our own affairs.”¹

Third: The Foundation of the Basic System of Government in the Kingdom of Saudi Arabia

1. Islamic Sharee’ah

The Kingdom’s system of government has its roots in the rules and regulations of Islamic Sharee’ah. Indeed, Islamic Sharee’ah constitutes the whole set of parameters and components of the Kingdom’s system of government. These are represented by adherence to the Islamic creed and doctrine, its jurisprudence, and its law of enjoining good and forbidding evil as a component of the judicial system governing the relationship between the governors and governed.

Since we have talked about Islamic Sharee’ah in the first chapter, we shall point to one substantial fact here – that King Abd ‘El-Aziz relied on principles of Islamic Sharee’ah in all his efforts at uniting the Kingdom of Saudi Arabia, and achieving its security, stability and prosperity. Furthermore, he applied the Islamic Sharee’ah in all spheres of life – in political, economic, social, and cultural affairs. His sons have followed his steps in maintaining the application of Sharee’ah.

Three basic principles for the system of government in the Kingdom of Saudi Arabia were derived out of the Islamic Sharee’ah: Justice, Shura and Equality. Article eight of the basic system of government in the Kingdom stipulates that: “the system of government of the Kingdom of Saudi Arabia is based on the principles of Justice, Shura and Equality in accordance with the Islamic Sharee’ah.” In the following section, these principles will be discussed in detail:

2. Justice

Justice is one fundamental component of the basic system of government in the Kingdom of Saudi Arabia. The denotation of “justice” in Islam is comprehensive enough to cover the relationship between the individual and his creator, Allah, the relation between the ruler and the citizen, the relation between the individual and other Moslems, between Moslems and the rest of the mankind.

¹ Ibid. ,p.169

The importance of justice is emphasized in the Holy Qur'an as is mentioned (28) times and its synonym "Al-Qist" (26) times. To urge his worshippers to be just to one another, Allah says,

*"Verily, Allah enjoins Al-Adl (i.e. justice and worshipping none but Allah Alone - Islamic Monotheism) and Al-Ihsan [i.e. to be patient in performing your duties to Allah, totally for Allah's sake and in accordance with the Sunnah (legal ways) of the Prophet SAW in a perfect manner], and giving (help) to kith and kin (i.e. all that Allah has ordered you to give them e.g., wealth, visiting, looking after them, or any other kind of help, etc.."*¹

Allah also says,

*"And if two parties or groups among the believers fall to fighting, then make peace between them both, but if one of them rebels against the other, then fight you (all) against the one that which rebels till it complies with the Command of Allâh; then if it complies, then make reconciliation between them justly, and be equitable. Verily! Allâh loves those who are equitable."*²

Allah commands the governors to be just to the governed. Allah says,

*"Verily! Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice."*³

*"And whenever you give your word (i.e. judge between men or give evidence, etc.), say the truth even if a near relative is concerned, and fulfill the Covenant of Allah, This He commands you, that you may remember."*⁴

In the Sunnah, the Prophet's hadeeths make frequent reference to justice and encourage it. The Prophet (*may peace and blessings be upon him*) says,

*"Verily, those who enforce justice are placed on a platform of divine enlightenment – those who judge in justice others, their families and those whom they are in charge of."*⁵

The system of government of the Kingdom of Saudi Arabia has been based on this fundamental principle of the Islamic Sharee'ah: the principle of justice. Whoever studies carefully the basic system of government issued by the

¹ Al-Nahl [The Bee] 16:90

² Al-Hujurat [The Inner Apartments] 49:9

³ An-Nisa [The Women] 4:58

⁴ Al-An'am [The Cattle] 6:152

⁵ Narrated by Moslem

custodian of the Two Holy Mosques will realize the great emphasis placed by the Saudi leadership on the principle of justice and on enhancing it as a fundamental cornerstone of the basic system of government.

Article eight of the basic system of government stipulates that: “ the basic system of government of the Kingdom of Saudi Arabia is based on the principle of Islamic Sharee’ah: Justice, Shura and Equality.”

In addition to this obligatory provision of the value of justice as the backbone of all items of the system of government that governs relations between the ruler and citizen, and the balanced distribution of duties and rights among the individual, the family and society and in economic matters, Article (22) stipulates: “that the achievements of economic and social development can only be done on the basis of an objective and just plan.” “Justice” in this context refers to economic justice among individuals, the various districts of the country, and the varied socioeconomic classes or social groups within the society irrespective of their gender, age, social class, etc.

Article (20) stipulates: “taxes and fees shall only be imposed in times of compelling need by the government on the basis of absolute justice. Their imposition, modification, cancellation, and exemption shall be executed only by a set of stipulations.” “Justice” in this context refers to justice among all tax payers without any discrimination and in a strictly fair and just manner that considers the interests of both individuals and society.

As for the Judicial System, article (46) stipulates: “the judicial power is an independent authority, and the only authority that takes precedence over the judge’s power is that of Islamic Sharee’ah.” Accordingly, the judicial authority has its independence that enables it to rule with justice in accordance with the principles and provisions of the Islamic Sharee’ah without being subjected to the influence of any other authority.¹

In fact, justice in the Kingdom of Saudi Arabia, which is an Islamic state whose constitution is based on the rules and regulations of the Islamic Sharee’ah, is required of whoever possesses any type of authority whatever it might be. King Abd ‘El-Aziz set the best example of Islamic justice and made it the foundation of his system of government and the approach to be followed by his successors, his sons. ‘Ameen Rayhaani says the following about King Abd ‘El-Aziz’s system of justice, “Justice for him is the basis of his authority: some aspects of his justice makes one admire him, but others cause one to fear and dread him. I witnessed these two aspects of justice in Najd, but I couldn’t see

¹ Ash-Sharee’ah ‘Al-‘Islamiyyah Tahkum (Islamic Sharee’ah Rules), Ibid., p202

them in the other Arab countries. Indeed, outside of Najd I could see no traces of such wisdom.”

Justice as the basis of authority in both aspects, the admirable and the dreaded, is the true justice enforced over all land and sea from Najd to ‘al-Ihasa’ to Tihama, from the empty Quarter to Jowf, a term that is repeatedly uttered in witness to Bin Saud’s wisdom by travelers. Bin Saud’s justice is the justice of Islamic Sharee’ah, nothing but the justice called for by the Prophet (*may peace and blessings be upon him*).¹

King Abd ‘El-Aziz, in speaking about justice says: “it is the leader’s duty to be honest and loyal to his people; he has to protect them from oppression, caution them against the consequences of tyranny and aggression, and it is the people’s duty to inform their ruler of all forms of tyrannical practices and not to allow princes and employees to accept bribes. These are sources of corruption for the ruler and the nation.”²

One example of King Abd ‘El-Aziz’s justice and compassion is the following story: “a complaint was submitted to the Shura Council by a group of people imprisoned unjustly by a judge. Having studied the matter carefully, the Shura Council sentenced that judge to imprisonment for a period equal to the period of those who were unjustly jailed.”³

The implementation of a just and fair system of government in the Kingdom of Saudi Arabia has achieved security, peace, stability, progress and prosperity and, above all, the outstanding mutual trust and cohesion of the leadership and the people. Justice is always the way of all successful rulers. A story about justice of Omar Bin Al-Khattab is in order here.

A Roman emperor once sent a messenger to the Khaleefa, Omar Bin Al-Khattab, to examine the conditions of Omar’s system of leadership. When the messenger asked the people about their “King”, referring to Omar, they all answered that they didn’t have a King, but an Ameer, and when the Roman messenger asked about his abode they told him that Omar had gone out somewhere around the city. The messenger went out to find Omar asleep in the outskirts of the city on the sand with his head resting on a log of wood (a short stick that Omar always carried to use to ward off evil). The messenger of the Roman Empire, seeing the Khaleefa, Omar Bin Al-Khattab, leading this very

¹ Abd Al-Mun’im Al-Gulami, Al-Maliku ‘Ar-Rashed: **Jalalatul Malik Al Maghfour lahu Abdel Aziz Al Saud** (The Wise King: The Late King Abdel Aziz Al-Saud), Riyadh, Dar Al-Liwa’, 1980G., p347

² Ibid. ,p.347

³ Ibid. ,p.350

humble and simple life, became very respectful of Omar's system of government. He said: 'This is the man whose solemnity and dignity are dreaded by all kings of the globe. And here he is leading this incredibly humble mode of life. O! Omar! You have ruled with justice so you slept in peace. Meanwhile our King, who rules in tyranny, stays up all night in total fear and restlessness.' Indeed, justice is the source of peace, security, tranquility and prosperity. This is the situation enjoyed by the Kingdom of Saudi Arabia.

3. *Shura*

The Shura is the third and basic principle of the system of government in the Kingdom of Saudi Arabia.

Shura has more than one meaning in political terminology. However, all of its varied denotations and connotations revolve around one central meaning: consultation and pursuit of others' advice.

One researcher in the area of Islamic law of government defines "Shura" as: "Consultation with those who have the experience and expertise to arrive at the decision closest to the religious truth"¹. Another researcher defines it as: "the consultation with the people, with whoever represents them in matters related to the nation."²

The significance of Shura and the duty of its application has been stipulated in the Holy Qur'an and the noble Sunnah; Allah, *Glory Be To Him*, says,

*"So pass over (their faults), and ask Allah's forgiveness for them, and consult them in the affairs."*³

Allah says,

*"And who conduct their affairs by mutual consultation, and who spend of what We have bestowed on them."*⁴

Abu Huraira, Allah's pleasure be upon him, said: "Nobody ever practiced Shura with his companions as much as the Prophet (*may peace and blessings be upon him*) did."

¹ Ash-Shura Fee Thil Nizam Al-Hukm 'Al-Islami (Hura within the Framework of Islamic System), Kuwait, 'Ad-Dar 'Ash-Salafiyya, 1975G., p.14

² Abdel-Hameed 'Al-Ansari, *Shura wa 'Atharuha fi ad-democratiyya* (Shura and Its Impact on Democracy). Cairo, Al-Matba'a As-Salafiyya (Salaphi Press), 1980G., p.40

³ Al-'Imran [The Family of Imran] 3:159

⁴ Ash-Shura [The Consultation] 42:38

These are the definitions of Shura in Islam and its legal status. However, we shall not present a full discussion of the topic here as there will be a complete chapter on the comparison and contrast of Islamic Shura and democracy in the West. Thus, in this chapter we characterize the basic principles of Shura in Islam, followed by a brief presentation of its establishment and development in the Kingdom of Saudi Arabia, including the stipulation pertaining to it in the basic system of government and in the basic statute of the Shura Council and the basic system of districts.

1. The Basic Principles that Characterize Shura in Islam

The utterance “Shura” in Islam does not refer to a specific apparatus that takes care of Shura; its meaning is not restricted to what some people think of as being a synonym for democracy in the Western political sense. Shura in Islam denotes a general political doctrine which places political and social practices within the context of Islamic society; it is not associated or affiliated with any establishment or apparatus, etc. as it has a wider range of implications than democracy as expressed through the multiplicity of opinion forming the basis of political decision making. Furthermore, the concept of Shura in the Holy Qur’an extends beyond the political dimension to encompass the individual’s and the nation’s affairs and the state policies.

The basic principles of Shura can be summed up as follows:

- (a) Shura is one basic pillar for the building up of an Islamic state.
- (b) Islam does not set a certain formula or approach to the application and practices of Shura.
- (c) Shura applies to all aspects of life which have not been explicitly included in the stipulations and provisions of the Holy Qur’an or the Sunnah.
- (d) Shura seeks a positive contribution to and a sharing of responsibilities in the country’s interests.
- (e) There is no specific number for the Shura members. This is specified by the Moslem ruler and those in charge of the Islamic nation.

As for the application of Shura law in the Kingdom of Saudi Arabia, King Abd ‘El-Aziz took Shura to be the basic system in establishing the Kingdom. The first step he took was to establish an official body for Shura as this was

publicly announced in the speech he delivered when he entered Mecca. "We shall make Shura the basis of our system of government in this holy land."¹

In 1345 H. King Abd 'El-Aziz issued his directives for establishing a Shura Council in Mecca, consisting of a representative, his aides, and six members appointed by the King.² In 1346 H. this Shura Council was reformulated for the purpose of overseeing the drafting of rules and regulations, proposing the budget for the respective government circles and endorsing economic projects, the stripping of real estate possession and issuing of employment contracts with foreign employees. In 1347 H. the Shura Council was modified again,³ and without doubt the early formations of Shura Councils played a major role in their respective specialties for more than 25 years prior to their most recent development in 1412 H. (1992 G.).

The significant role of the Shura Council in the days of King Abd 'El-Aziz has been expressed in his address to the members of the council: "I have commanded that no law or regulation be legislated and implemented before it is presented to your council before the general secretariat to be studied in an atmosphere of maximum freedom of opinion in a manner that is conducive to the welfare of the country...you in this council are free to legislate every law and to endorse each act that you deem in line with the country's interest, provided that it does not violate the Islamic Sharee'ah."⁴

The activities and duties performed by that Shura council are evidence of its significant role. Almost all the laws issued at that time were the work of that council; the rules and regulations totaled approximately 170, some of which are still in effect up until now.⁵ The council performed many tasks, such as appointing employees, proposing budgets for the government departments, proposing laws, regulations, and making decisions regarding appointments and the approval of various projects. All of these were executed by the Shura Council.

¹ Hafiz Wahba, *Jazeeraatul 'Arab fil-Qarn 'Al-'Ishreen* (Arabia in the 20th Century), Cairo, Publication Committee Press., 1375H., p.266.

² *Jareedat 'Umm 'Al-Qura* ('Umm Al-Qura Newspaper), No. 90, 1345H.

³ For more information, see: Abdul-Rahman Ash-Shalhoob, '*An-Nizam 'Ad-dustoori fee 'Al Mamlaka Al-'Arabiyya As-Saudiyya* (The Constitution of The K.S.A.), p.233-248

⁴ Eid 'Al-Juhani, *Majlis Al-Wuzara' Fil-Mamlaka* (The Council of Ministers in the Kingdom of Saudi Arabia), Riyadh, Matabi' Al-Majd (Majd Press), 1984G., p.80

⁵ Ahmad Dahlan, *Dirasa Fis-Siyasa Ad-Dakhiliyya Lil-Mamlaka* (A Study of the Domestic Policy of the Kingdom of Saudi Arabia), Jeddah, Dar As-Shurooq, 1985G., p.168

After the establishment of the Council of Ministers, many functions and duties of the Shura Council were transferred to the domain of the Council of Ministers; thus, the Shura Council was weakened¹ and remained thus until the custodian of the Two Holy Mosques issued a decree for a newly-constituted Shura Council in 1412 H. (1992 G.). In fact, the establishment of a new Shura Council was actually an extension of what was in existence during the time of the early Shura Councils and was an attempt to come to grips with the reality of modern times.

King Fahad confirmed this fact in his speech delivered on the occasion of the opening ceremony of the new Shura Council, when he clarified that the Saudi State had known and witnessed the existence of Shura Councils for a long time, and that the new statute of the Shura Council is only a modernization of what existed before, the only difference being that it is much more responsive to the needs of modern life.

The Islamic orientation of the Shura Council Statute is quite clear in terms of its form and contents. The Shura Council Statute consists of 30 articles testifying to the Kingdom's Islamic approach. The council's title also testifies to its Islamic identity. The first article of the basic system of the Shura Council stipulates that the establishment of a Shura Council is an implementation of Allah's commands:

“And by the mercy of Allah, you dealt with them gently. And had you been severe and harshhearted, they would have broken away from about you; so pass over (their faults), and ask Allah's forgiveness for them, and consult them in the affairs. Then when you have taken a decision, put your trust in Allah, certainly, Allah loves those who put their trust in Him.”²

Allah says,

“And those who answer the Call of their Lord [i.e. to believe that He is the only One Lord (Allah), and to worship none but Him Alone], and perform As-Salat, and who conduct their affairs by mutual consultation, and who spend of what We have bestowed on them.”³

The first article further stipulates that the establishment of a Shura Council is an act of sincere compliance with Allah's messenger's (*may peace and blessings be upon him*) consultations with his companions and the appeal to the nation to resort to Shura.

¹ Ibid., p.168

² Al-'Imran [The Family of Imran] 3:159

³ Ash-Shura [The Consultation] 42:38

In accordance with article one, which is the stipulations for the Council's establishment, the council shall perform the duties assigned to it in the light of its basic statute and the basic system of government in accordance with the provisions of the Holy Qur'an and the Sunnah of the Prophet (*may peace and blessings be upon him*).

In addition, article number 2 of the Shura Statute stipulates that the Council has to adapt to the Islamic Sharee'ah law. It stipulates: "that the Shura Council shall abide by the teachings of Islamic Sharee'ah and shall serve the common interests of the community, protect its unity and the state's entity and its interests."

The Shura Council consists of the head and ninety members. A member of the Council should:

1. Be of Saudi nationality in origin and upbringing.
2. Be one who is known for his righteousness and competence.
3. Be over 30 years old.

The Council's head and its members have to take the following oath before the King:

"I swear by Allah Almighty to be sincere and faithful to my religion, to the King and to my country, and shall never disclose any of the state's secrets. I shall protect its interests and its systems and laws, and shall perform my duties honestly, faithfully, with devotion and justice."

Each session of the Shura Council runs for four Hijrian years.

This is only a brief note about the development of the Shura Council in the Kingdom of Saudi Arabia. Whoever examines closely the three systems issued by the Custodian of the Two Holy Mosques, King Fahad in 1412 H. (1992 G.), the basic system of government, the Shura Council Statute and the Districts System, will realize that the three systems are based on Shura. Indeed, these three systems include a set of basic rules that reflect the features of the Kingdom's applications of Shura such as: the first reference to Shura in the basic system of government was included in article 8, which specified the basic principles of the system of government; it stipulates: "that the system of government of the Kingdom of Saudi Arabia is based on Shura, Justice and Equality." The second reference to Shura in the basic system of government is included in article 43 which stipulates: "that the King's Council and that of His Crown Prince are both open to each and every citizen and to every person with a

complaint or some kind of grievance, and it is the right of any individual to address the general authorities in all his concerns and affairs.”

This provision is an actual application of the Shura principle in Islam as it grants the individual the freedom of expression concerning any issue, and it grants him the right to address directly all his concerns to the general authority at the level of the King’s Council and the Crown Prince’s Council.

Article 69 stipulates: “that the King has the right to call the Shura Council and the Ministers’ Council for a joint meeting and that he has the right to invite whomever he wishes to attend these meetings.” This article reaffirms the fact that practicing Shura is not restricted to Shura Council members, but exceeds that to include any one whom the ruler sees fit to enrich the deliberations with their own opinions.

Other articles of the Shura Council Statute reaffirmed that the King and the Council can consult with other non-members of the council in various ways. Article 20 stipulates: “that the Shura Council committees have the right to seek the help of non-members of the council after the Council head’s approval has been secured.”

Article 15 specified some topics for the council, and chose to leave the rest open so that all institutions of the government and of the state’s apparatus will consult the Shura Council, and will be referred to the Council through the Ministers’ Council. The stipulation of this matter came out as follows:¹

“The Shura Council gives its opinion on those general policies of the state referred to it by the Ministers’ Council”

Article 17 stipulates: “that the Shura Council resolutions are submitted to the head of the Ministers’ Council (i.e. Prime Minister), who in turn will refer them to the Ministers’ Council for considerations, so that once the two councils’ opinions are in conformity with each other, the resolutions will be issued after the King’s endorsement, but if the two councils were to disagree on a specific issue, the King will take the decision.” This article consists of two components:

First: that the Shura Council’s opinion can not be executed automatically as resolutions, but they have to be discussed in coordination with the Ministers’ Council to be endorsed later by the King. In case of a dispute in opinion between the two Councils, the King will have the final say.

Second: The basic system of government places emphasis on respecting the Shura’s opinion and its further revision by prolonged deliberations at the

¹ Ash-Sharee’ah ‘Al-‘Islamiyya Tahkum (Islamic Sharee’ah Rules), Ibid., p.207

Minister's Council level, the highest level of representation before the Prime Minister, the King. This means that the basic system of government in the Kingdom draws on a higher level of Shura application through the coordination of consultation between the Shura Council and the Ministers' Council. If the two councils are in agreement, then their resolutions will be issued once the King's approval is granted.

In addition to the stipulations of the Shura Council and those of the basic system of government for the application of Islamic Sharee'ah law, the stipulations of the Districts' System were instituted to consolidate and enhance the application of the Islamic Sharee'ah principle: "that Shura in Islam is not restricted to consultation between the ruler and others, but also includes the involvement of the whole Moslem society at all levels in expressing their opinion and participating in the consultation process. Hence, the basic System of Districts stipulates the establishment of a council for each district (Article 15). Each council is part of a national organization parallel to the Shura Council, and its function is to study all possibilities for raising the standards of each district and reporting accordingly to the Minister of the Interior."

Article 29 gives the right to the District Council to consult those who have appropriate experience and knowledge and to invite them to attend the council's meetings to give their opinion or advice but without having the right to vote.

In order to appreciate the wide scope of Shura practice in the Kingdom of Saudi Arabia, one has to consider:

- The Shura is practiced by the King and the members of the Ministers' Council.
- There is a full-time council devoted to Shura on all topics referred to it by the Ministers' Council.
- Shura is practiced between the Shura Council, the Ministers' Council and the King altogether.
- Shura is practiced in the King's Council, the Crown Prince's Council and other Princes' Councils.
- Participation in Shura is open for people other than the Shura Council members within the Shura Council itself.
- There are councils in each district which consist of the Ameer, heads of departments, and of ten persons from the area.

These are only a few of the basic principles that illustrate the Saudi application of Shura in Islam.

4. Equality

Equality is the fourth component of the basic system of government in the Kingdom of Saudi Arabia as an Islamic State whose rules and regulations are governed by Islamic law in all spheres of life. Islam grants every individual member of society the absolute right to practice all human rights without discrimination on the bases of race, color, social class, etc.

Allah says,

“It is He Who has created you from a single person (Adam), and (then) He has created from him his wife [Hawwa (Eve)], in order that he might enjoy the pleasure of living with her.”¹

Allah also says,

“O mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allah is that (believer) who has At-Taqwa. Verily, Allah is All-Knowing, All-Aware.”²

In his last speech, the Prophet (*may peace and blessings be upon him*) called for equality saying:

“O Ye Mankind! Verily your Lord is one. He created you from a single pair, your father is Adam, you all belong to Adam. Adam is made of soil clay. The most honorable of you with Allah is that believer who has At-Taqwa”³

The premise that the whole of mankind has one origin, and that there is no difference between man and man, is the essence of equality in all rights. The right of possession as well as the right of the freedom of expression and the right for justice and litigation are granted for every human being without any discrimination on bases of color, race, gender, social class, etc.

Article eight of the basic system of government of the Kingdom of Saudi Arabia stipulates that equality is one component of the Kingdom’s system of government. The Custodian of the Two Holy Mosques emphasized the principle of equality as one of the fundamental components of the basic system of government in the Kingdom in a speech delivered on the occasion of introducing

¹ Al-‘Araf 7:189

² Al-Hujurat [The Inner Apartments] 49:13

³ Narrated by Moslem

the system of government, the Shura System and System of Districts in 1412 H. (1992 G.). He said, “The relationship between the citizens and the rulers of this country is based on solid grounds of love, justice, compassion, equality, mutual respect and loyalty that is rooted in the collective conscience of the people of this country, and their successive generations; there is no difference between the ruler and the citizens; all are equal in sharing the responsibilities of protecting this homeland, its security, stability, unity and prosperity. The ruler has his own rights and duties and the relationship between the ruler and the citizen is governed by the principles of Islamic faith represented by the Holy Qur’an and the Prophet’s Sunnah. The rules and regulations of the basic system of government reflect the existence of equality among all citizens of the country; all the citizens are equal before the Islamic Sharee’ah law; they all abide by its stipulations and provisions, be they rich or poor, young or old, with no discrimination whatsoever on bases of social rank, or professional status.”

Article (47) refers to the equal rights for litigation by both citizens and residents of the Kingdom of Saudi Arabia. This discussion of equality as one primary component of the basic system of government in the Kingdom, should suffice for the time being as we shall talk about it in detail when we discuss the judicial system and its development in the Kingdom of Saudi Arabia.

Fourth: Characteristics of the Kingdom of Saudi Arabia

From what has been said concerning the principles and pillars of the rise of the Kingdom of Saudi Arabia, including its goals, objectives and aspirations, and the fundamentals of its basic system of government, we can say that the main merits and specific features of the Kingdom of Saudi Arabia are:

1. The Kingdom of Saudi Arabia is a state whose system is ideologically-oriented; its formation is based on a particular vision and ideological conception of Mankind existence. This is the ideology of Islamic creed. The Kingdom of Saudi Arabia as an Islamic State bears the responsibility of the call to Islam. The upbringing of its citizens and of succeeding generations is based on the teachings of Islam. The Kingdom transmits the call to Islam abroad through the establishment of Da’wah centers, sending Du’ah abroad for the call to Islam and its spread on the basis of the prudent and polite teachings of Islam.

The Internal policy of the Kingdom of Saudi Arabia, with all of its regulations, legislation, directives and policies of international relations are all grounded in the Islamic creed.

The essence of Islamic Da’wah, “call to Islam” is the call for Man’s total surrender to the one and only God, Allah, the sole creator of the universe.

And on the basis of this conviction, all values of Man's existence should be ordered and subsumed under the all-encompassing framework of Islam's code of moral conduct.¹

2. As the Kingdom of Saudi Arabia is an Islamic State, it is totally unacceptable to identify it as either a religious state or a secular one in the Western European sense. A religious state, according to the historic or Western conception, refers to a state governed directly or indirectly by a group of religious men who appoint the King in accordance with special religious rituals and who in general enjoy a set of privileges. They also are officially appointed to their respective positions through special forms of rituals.

There is nothing like this in the Kingdom of Saudi Arabia. There is no privileged class of religious men. The people of the Kingdom of Saudi Arabia are Moslems; their system is governed by the Islamic principles of enjoining good and forbidding evil. The pledge of allegiance "Bay'ah" to the King is done by representatives of the people who are known for their piety, awareness and prudence. The state's conception of its policies and legislation is derived from the Islamic faith; the only driving force behind its policies is the firm belief in the Islamic creed and the practice of its teachings; furthermore, the state has to have within its system the call to Islam. All citizens are on equal footing with each other; they are required to enjoin good and forbid evil. The state should have its own religious scholars, and it should encourage whoever has the inclination to become a specialist in Islamic jurisprudence to the highest order. These will be permitted to give their opinions on issues related to interpretation "Ijtihad" as long as they do that within the set bounds of Islamic Sharee'ah. The path towards achieving this highly-specialized stage of Islamic scholarship is open for everybody without any religious rituals as in Western European tradition.

The main guidelines for the ruling system of the Kingdom of Saudi Arabia are very clearly defined within the framework of Islamic faith. The scope for interpretation in matters of administration and government policies is wide, but does not extend beyond the confines of those well-defined Islamic guidelines.

As to rejecting the Kingdom's identification as a secular state, the justification lies in the separation between the state and religion as in secular states in the Western tradition. Such a situation is unacceptable in the Kingdom of Saudi Arabia as it is in charge of applying Islamic Sharee'ah in all spheres of its activities, internally and abroad. The Kingdom is a state

¹ Mohammad Al-Mubarak, *Nizam 'Al-'Islam (The Islamic System)*, Dar Al-Fikr, 1981G., p.137

whose rules and regulations are governed by the Islamic faith; its system of morals is based on the Islamic code of moral conduct, and its legislation is based on the Islamic Sharee'ah law.

3. The Kingdom of Saudi Arabia is a state built on a system of moral conduct and humane principles. The main goal of the Kingdom of Saudi Arabia is the realization the pure worship of Allah, *Glory Be To Him*. This Islamic goal is given the priority over political, economic, and military aims. Thus, the Kingdom of Saudi Arabia is different from other states whose goals are based on realizing power, influence, and dominance over others. The Kingdom in its great endeavors for economic development through the various projects of building bridges, irrigation systems, dams, giving loans to its citizens to promote agricultural and industrial advancement, sees these only as a means rather than ends in themselves. These are all efforts made on the basis of the Islamic moral system. It can not utilize agricultural produce, grapes for instance as a source of producing liquor. It does not condone the increase or enhancement of its wealth through the Islamically-forbidden means of economic growth, such as growing tobacco for cigarettes, as they are harmful. All such practices are forbidden because they are condemned by Islamic Sharee'ah. In Islam, it is the code of moral conduct that organizes and governs all practices of economic growth and other means of development. Islam also calls for scientific advancement for the benefit of mankind, and to empower it to utilize the rich resources of the earth bestowed upon them by Allah to enhance the state's stability and its moralistic and ideological system of belief.
4. The Kingdom of Saudi Arabia is a civilized state. Its duties have gone beyond the achievement of domestic stability, security and defense to encompass other more noble objectives such as guiding its citizens in the fields of economics, the natural sciences and other spheres of the citizen's life. It has done all of that within the guidance of Islam. Thus, it has achieved a unique type of civilization – one which combines the materialistic and spiritual dimensions of Man's life. Further, it has managed to put theory into practice in the various fields of knowledge. Its civilization is ideal or optimal as all of its components are governed by the moral system of Islamic faith, first and foremost of which is the pure devotion to the worship of Allah, the sole Creator and sovereign of the universe for whom the whole of Mankind shall be answerable in the afterlife.

On the basis of what has preceded, we can conclude that the Kingdom of Saudi Arabia is a state whose ideology is derived from the Islamic faith, and is governed by the core of Islamic creed – the belief in Allah's oneness and the full devotion to His worship. Thus, its basic system of government is based on this creed. It is a humanitarian type of political system as it is governed by the

Islamic code of moral conduct. It is a civilized state as it combines the materialistic and spiritual aspects of life in one mould. Consequently, it is different from other Western European theocratic systems of government; nor is it a secular or a marxist socialist system. It is a unique system with its own merits.

Chapter Three

The Truth About Shaikh Mohammad Bin Abd Al-wahab's Da'wah And Starting the Facts About The Suspicions And Allegations Raised Against it

Introduction

In our review of the history of the rise of the Saudi state, reference was made to the historic agreement between the representative of the reform movement in Islam, Shaikh Mohammad Bin Abd Al-wahab in the 12th Hijri century (18th century G.) and 'Imam Mohammad Ibn Saud, the founder of 'Imama in the House of Al-Saud. Historians refer to this time as the starting point for the pure and uncompromising religious movements known as "Al-Salafi" approach in our contemporary world. We shall only emphasize here that the agreement between the two men is considered the most significant and historic process of intellectual and social transformation in the Arabian Peninsula. That agreement was a true blend of the vigorous pristine Islamic doctrine and the strong will of a leader who was also a believer; this led to one of the brightest scenes in the history of Islam.

Shaikh Mohammad Bin Abd Al-wahab's (Da'wah) reform movement in Islam was a true revivalist movement for the Moslems of the Arabian Peninsula and other Moslems of Asia, Africa, and the far away Indian sub-continent. His struggle against the contemporary rituals of perversions, wrong practices, superstitions and all forms of moral degradations attest to the 'Imam's superior mental and psychological faculties. His Da'wah transcended all previous traditional Da'wah as typified by their impractical hortatory speeches in the abstract. Shaikh Mohammad Bin Abd-wahab was not calling for reforms in Islam from the ivory tower of his office. Instead¹, he had his own approach and methodology, applied in the sessions and councils for preaching the pure doctrine of Islam and debating its implications, accompanied by the call to enjoining good and forbidding evil. His Da'wah included the systematic call to Allah's worship through prudent and polite preaching; in addition, the Shaikh's reform movement included sending polite messages to leaders and scholars of other parts of the world.

¹Abdel-Rahman Bin Suleiman 'Ar-rweishid, *Al-Wahabiyya* (Wahhabism), Cairo, Dar Al-'Uloom, 1978G., p.8

To clarify the truth of Shaikh Mohammad Bin Abd Al-wahab's Da'wah (reformist movement), we shall talk about it as follows:¹

First: to clarify the true reasons for calling the Da'wah of Mohammad Bin Abd Al-wahab, "Wahhabism" or the Wahhabi movement by its opponents, and to highlight injustices done to the movement by ascribing this label to it.

Second: to illustrate the foundations upon which the Da'wah of Mohammad Bin Abd Al-wahab was built.

Third: to specify the main goals of the Shaikh's Da'wah.

Fourth: to illustrate the truthfulness of the Da'wah in the face of the suspicions and allegations directed against it.

Fifth: to offer the opinions and views of some impartial scholars on Shaikh Mohammad Bin Abd Al-wahab's Da'wah (reform movement).

First: The True Reasons Behind Calling Shaikh Mohammad Bin Abd Al-wahab Da'wah "Wahhabism" by Opponents to the Da'wah, and the Injustice Arising from the Use of this Term

The term "Wahhabism" was never chosen by the followers of Shaikh Mohammad Bin Abd Al-wahab; it was ascribed to the Da'wah by their opponents with the intention of turning the people away from the Shaikh's Da'wah, and insinuating that he and his followers came with a new school, namely the fifth over and above the well-known four basic Islamic schools. The correct label for the Shaikh's Da'wah is the "Salafi" Da'wah, the pure and uncompromising approach to Islamic reform.

Dr. Abdullah 'Al-'Uthaimen says, "It is a well-known fact that the sole purpose of the opponents' creation of that label is to turn people away from the Shaikh's Da'wah, which is in other words an accusation against the Shaikh that he is calling for a new religion, or a new school. Although the majority of Moslems in the Eastern or the Western spheres of the globe know the facts about the Shaikh's Da'wah, this trait that his opponents internationally attributed to him and to his successors remained in use by many writers from various countries."² Furthermore, even a few of his disciples do not refrain from using the label "Wahhabism" in our times in their writings. These people seem to

¹For more information, see: **Hayat Ash-Shaikh Mohammad Bin Abd Al-wahab wa Haqeeqat Da'watuh** (Life of Shaikh Mohammad Bin Abd Al-Wahab and the Truth About His Call "Da'wah") by the author of this book, Riyadh, Technology Press, 1999G.

²Abdullah Al-Uthaimen, **Mohammad Bin Abd Al-wahab: Hayatu wa Fikru** (Mohammad Bin Abd Al-wahab: His Life and Intellect), Riyadh, Dar Al-'Uloom, 1412H., p.114

believe that what the Shaikh and his supporters called for is now correctly understood without any misinterpretations, and that the negative implications and denotations of that label have disappeared now and are not anymore represented in many people's collective intellect.

Shaikh Abd Al-Aziz Bin Mohammad Bin Ibrahim Al-'Ash-Shaikh says, "The word "Al-Wahhabiyya" does not present us with any problems in our modern times in this age of innovations leading to speedy telecommunications. The distances are narrowed down so much and people nowadays have easy access to what was inaccessible in the past and are able to see for themselves what used to be transferred to them in all forms of perversions and distortions in the past; now they can find out the truth and verify by themselves the misrepresentations and distortions from the past. Now, people have come to realize that "Wahhabism" is nothing but a group of people taking a strong hold of their predecessors' true and correct creed, defending it by all means through the strict application of Islamic Sharee'ah which is ordained in the Holy Qur'an and the Prophet's Sunnah. They take it as the constitution for their Islamic state; their ruler takes pride in referring to himself as "the Custodian of the Two Holy Mosques" as an honorable title for himself as a devoted servant for the holy sanctuaries. What an honorable duty indeed! The services delivered in maintaining the sanctity of the two sanctuaries and all other holy sites and the services for the pilgrims bear witness to an Islamic era unprecedented in other eras of Islamic history. These outstanding deeds and many others have been done in the service of Islam and Moslems all over the globe; these deeds done for the service of the "Salafi" creed (the predecessors' pure faith) have been the deeds of those who have been maliciously referred to as "Wahhabis" by a group of opponents. Yet, this term is nowadays taken to mean those who adhere strictly to the pristine mode of their predecessors' creed, those who were bent on the faithful implementation of the correct Islamic teachings. Hence, there is no harm whatsoever in using or spreading that term irrespective of our wishes and the wishes of other writers, researchers, and historians."¹

The Falsification of the Facts of History Through the Use of the Term "Wahhabism"²

The negative consequences of using this term "Wahhabism" in reference to Mohammad Bin Abd Al-wahab's Da'wah is not any less harmful to the facts of reality than to the history of the Da'wah. This is due to the fact that many historians were misled into producing distorted or erroneous reports. For

¹ Abd Al-Aziz Bin Mohammad Bin Ibrahim Al-Ash-Sahikh, 'Al-Mukhtar Min Majjalat Al-Manar (The Selection from Al-Manar Journal), Vol.2, 1412H., pp.4-5

²For more information, see: Al Saud (The Family of Saud) by Ahmad Bin Ali, p.106

instance, the Da'wah was related to by some of those historians to the father of the representative of this reform movement. The European tourist, Bergis was the first to commit this mistake, as Professor Mas'oud Annadawi pointed out. The European tourist claimed that Shaikh Hussein is the grandson of Shaikh Mohammad Bin Abd Al-wahab, while in fact Hussein is his son. The explorer Bergardt made a similar mistake when he stated, "The representative of the reformist movement, Da'wah, has a son whose name is Mohammad." The French historian Seedio stated in his book General History of the Arabs when referring to Wahhabism, "that the source of this authority is Abd Al-wahab 'Al-tamimi." Furthermore, the authors of an American Encyclopedia entitled, The Book of the World made the same mistake, even though they all were Ph. D. holders in History, Literature, and Philosophy.

Second: The Foundation of Shaikh Mohammad Bin Abd Al-wahab's Reform Movement (Da'wah for Reform)

Shaikh Mohammad Bin Abd Al-wahab's reform movement was based on the following:

1. The call to "Tawheed", (the firm belief in the oneness of Allah), is the core of Shaikh Mohammad Bin Abd Al-wahab's reform movement. To him, "Tawheed" is the firm belief in Allah, *Glory be to Him*, as the sole sovereign of the universe, and the full dedication of the whole of Man's activities for the worship of Allah; this is the religion for which the messengers were sent by Allah to propagate to the people of His own creation.¹

The cause of Tawheed is the main cause that the Shaikh and his followers worked towards. Shaikh Mohammad strove to purify the Islamic creed from all forms of polytheism attached to Islam due to ignorance. In brief, the Shaikh's reform movement aimed at setting the Moslems back on the right path of Tawheed, the belief in the one and only God, Allah, as ordained in the Holy Qur'an and the Prophet's Sunnah with no perversions, distortions, or misinterpretations. Shaikh Mohammad Bin Abd Al-wahab's great interest in his reform movement revealed itself through the long strides he took in his corrective measures, ranging from tracing all tracks of reformation to fighting against all forms of polytheism throughout his speeches, writings, messages and travels. The Islamic creed's principles were the core of his teaching and preaching. Everything he did by way of calling to Islamic reform stemmed from the pristine Islamic faith.

¹Mohammed Bin Abd Al-wahab: **Kashf Ash-Shubuhah Dimna Majmoo'at At-tawheed An-Najdiyya** (Mohammad Bin Abd Al-wahab: The Uncovering of Suspicions within the Najdi Group for Monotheism), p.69

In conclusion, Shaikh Mohammad Bin Abd Al-wahab's sole concern and prime driving force was the call to the unitary belief in Allah, the Creator of the universe and the sole sovereign of it. Throughout his letters and books to others, the Shaikh placed the utmost emphasis on the belief in the one and only God, Allah: that there is no God but Allah and Mohammad is His last messenger. This was the cornerstone of his mission to implant this belief and stabilize it in the minds of the Moslems of his time and all times.

2. To combat invented heresies and superstitions¹

Fighting all forms of invented heresies and superstitions is the second basic principle of Shaikh Mohammad Bin Abd Al-wahab's reform movement. This principle is a by-product of the first guideline, and emanates from it.

Shaikh Mohammad Bin Abd Al-wahab was appalled to witness all sorts of spurious accretions to Islam. He took it upon himself to embark on a mission of purifying Islam from practices such as the veneration of saints, and ostentation in worship by building domes on top of tombs and placing green turbans on top of them, etc. All of these acts of polytheistic practices were denounced by the Shaikh as they directly contradict the pure principles of the Islamic creed. Hence, his fierce fight against all such heresies and perversions is the second guiding principle for his Da'wah, the reform movement in Islam.

3. Reviving the duty of enjoining good and forbidding evil

Another pillar of Shaikh Mohammad Bin Abd Al-wahab's Da'wah is the revival and revitalization of the Islamic duty of enjoining good and forbidding evil. We all know the vital importance of enjoining good and forbidding evil in Islam. Moreover, we all know that performing this duty has ascribed a quality to the Islamic nation, "Ummah" which makes it the best nation on earth before Allah and before other people. Hence, scholars examine this concept and pinpointed its highly-valued status in Islam.

Indeed, the benefits of performing this duty have been largely enjoyed by Moslems throughout the three periods of the rise of the Saudi State. This has been possible as a grace by Allah to us, and through the sincere efforts of Shaikh Mohammad Bin Abd Al-wahab and the Saudi leadership. The Saudi leadership provided all the possible ways and means for the true application of the duty of enjoining good and forbidding evil. The establishment of the General Presidency of the Authorities of Enjoining Good and Forbidding Evil in the Kingdom of Saudi Arabia is without doubt a sincere application of the Islamic faith as

¹Jami'at 'Al-'Imam Mohammad Bin Saud Al-'Islamiyya: **Buhooth 'Usboo' Ash-shaik Mohammad Bin Abd Al-wahab** ('Imam Mohammad Bin Saud Islamic University: Research Week on Mohammad Bin Abd Al-wahab), Vol.2. p.313

stipulated in the Holy Qur'an and the Sunnah of Allah's Prophet and Messenger (*may peace and blessings be upon him*).

4. The imperative of basing the system of government on the teachings of the Holy Qur'an and the Prophet's Sunnah

One of the principles governing the Shaikh's reform movement is the strict obedience and adherence to the guidelines of Allah's Book and His Prophet's Sunnah in running the affairs of the Islamic 'Ummah, nation, hence, the emphasis on the obligatory duty of basing the system of government on the provisions of Islamic Sharee'ah (law) as ordained in the Holy Qur'an and the Prophet's Sunnah. In this Da'wah, Shaikh Mohammad Bin Abd Al-wahab reaffirmed that in all cases of disputes, reference to the Holy Qur'an and the Prophet's Sunnah is obligatory.¹ To judge in terms of any other frame of reference is strictly prohibited.

5. The Da'wah draws heavily on two sources: the Holy Qur'an and the Sunnah²

One of the most distinctive features of Shaikh Mohammad Bin Abd Al-wahab Da'wah is its profound embeddedness in Allah's Book and His Messenger's Sunnah. The Shaikh did not come up with a new school of thought. He only sought the true Islamic faith and its Sharee'ah represented by its two primary sources: the Holy Qur'an and the sanctified Sunnah.

6. Opening the door for Ijtihad (Interpretation)

Shaikh Mohammad Bin Abd Al-wahab's Da'wah was built on the fundamental principle of opening the door for interpretation whenever the means and evidence are available to the scholars, while at the same time renouncing fanaticism.

Third: A Classification of Shaikh Mohammad Bin Abd Al-wahab's Da'wah Main Goals and Aspirations

The main premise of the Shaikh's Da'wah can be summed up as the realization of the purest form of worship, totally devoted to the one and only God, Allah, *Glory be to Him*, and as a fight against all forms of polytheism or making associations with Allah's oneness.

¹**Harakat At-tajdeed wal-'Islah fee Najd Fil-'asril Hadeeth** (The Reformation Movement in the Najd of Today), Ibid., p.69

²**Buhooth 'Usboo' Ash-shaik Mohammad Bin Abd Al-wahab** ('Imam Mohammad Bin Saud Islamic University: Research Week on Mohammad Bin Abd Al-wahab), Vol. 1, pp.218-219

Shaikh Mohammad Bin Abd Al-wahab's methodology for realizing his set objectives were manifested in preaching in religious sessions and symposia, his writings, and in letters responding to others, giving answers to their inquiries about the various matters in Islam from the different parts of the Arabian Peninsula. In all his activities, the Shaikh emphasized the most fundamental concept of Islam, the call to the unitary worship of the creator, Allah. All men have devoted their sincere worship to Allah with no associations with his sovereignty over all of Mankind and the universe. This fundamental principle of the Da'wah was the cornerstone for the other objectives which can be summed up as:¹

1. To fight against all kinds of innovated heresies, distortions, and superstitions in an effort to turn people away from them.
2. To purge the belief from all sorts of perversions from the pre-Islamic era, the era of ignorance "Al-Jahiliyya."
3. To purify the Islamic conceptions from all distortions and ambiguities attached to them.
4. To perform the Islamic duties and apply Islamic Sharee'ah in all spheres of life.
5. To distinguish what is permitted from the what is prohibited, and distinguish between optional and obligatory duties across all religious rites, transactions, personal affairs and matters, family relations, family feuds, etc.
6. To distinguish between "Haram", i.e. those things which have been prohibited absolutely and "Halal", i.e. those which have not been expressly prohibited by the Islamic Sharee'ah, including the premissibles category.
7. To redeem people from the darkness of their ignorance and provide them with the proper insights into their faith.

Shaikh Mohammad Bin Abd Al-wahab says, "I am not, thanks be to Allah, calling for a school in mysticism nor am I a religious scholar of jurisprudence nor a speaker nor an 'Imam like the great 'Imams I look up to such as Ibin 'Al-Qayyim and 'Al-thahabi, and Ibin Katheer and others. I only call to the worship of Allah, the one and only God with no associations with Him and to the Sunnah of Allah's Last Prophet and Messenger (*Peace be upon him*), the message commanded by Allah and accepted by the first nation to embrace Islam and the last. I hope that I shall never reject right whenever it is presented to me, and I shall testify before Allah, His Angels and all the

¹Ar-Rasa'il Ash-Shakhsiyyah, Risala 17 (Personal Letter, Letter no.17). Ibid., p.111

people that I shall accept your opinion that stems from the true faith of Islam and shall discard whatever ideas and utterances which contradict with my 'Imams, with the exception of the sayings of my Prophet, Allah's Messenger, for he says and tells the truth and nothing but the truth."¹

In a letter to 'As-suweidi, an Iraqi scholar, clarifying the false conceptions and suspicions alleged against him, he says, "I hereby inform you that, thanks be to Allah, I am not an innovator, but a subservient follower of my religion and its conviction. I abide by the Islamic religion and follow the Sunnah followed by the four scholars till doomsday. My role is to clarify to people the devotion to Allah's worship and I commanded them to renounce their customary veneration of saints, dead or alive, and called for the forbidding of associating anyone or anything with Allah, such as offering sacrifices for saints or non-human objects, offering their prayers and supplications to them or seeking help from them. All rites of worship must be devoted to the sincere worship of Allah without making associations with Him such as a King or a prophet. This is what all Messengers called for, starting with the first to the last, who is followed by the "Ahl As-Sunnah."²

8. To establish the religious practices among the Moslems on the basis of applying the set of punishments for those who transgress the bounds set by Allah, in accordance with the provisions of the Islamic Sharee'ah.
9. To promote the status of "Jihad", the fight in Allah's cause.
10. To establish a fully-integrated Islamic society that believes in Islam as its sole creed, religion of the rites of worship, Sharee'ah (system of legislation), and its way of life.
11. To establish the system of 'Imama, whereby an 'Imam (a well-versed scholar of Islamic jurisprudence) will be charged with the responsibility of attending to people's common and personal affairs according to Islamic Sharee'ah.

Shaikh Mohammad Bin Abd Al-wahab, may Allah bless his soul, called all Moslems to assume the duty of the call to Islam 'Ad-Da'wah" by establishing a positive movement of Islamic reform by a group of Islamic scholars (i.e. 'Imams) to undertake the duty of the revitalization of such Islamic 'Imama. He deplored the state of passivity, deterioration and reclusion of the Moslems, thus, declaring that each and every Moslem is

¹Ar-Rasa'il Ash-Shakhsiyyah, Risala 37 (Personal Letter, Letter no.37). Ibid., p.252

²Husein Bin Ghannam: Tareekh Najd (History of Najd), Revised by Nasir Ed-Deen 'Al-Asad, p.359

responsible before Allah for participating in establishing ‘Imama and striving for the cause of Tawheed, Allah’s oneness with no associations with Him, as the sole sovereign, all- powerful and master of all.

Fourth: The Suspicions and Allegations Ascribed to Shaikh Mohammad Bin Abd Al-wahab’s Da’wah: A Clarification of the Truthfulness of His Da’wah

I have clarified earlier that Shaikh Mohammad Bin Abd Al-wahab’s Da’wah is not a call to a new school (Mathhab), but an invitation to return to the right path of Islam, to Islam in its pristine doctrine, with all of its principles and provisions purged of the impurities of polytheism, paganism and heresies. I have also established that the core foundation of this “Salafi” Da’wah (i.e. Predecessors’ Da’wah) is the realization of Tawheed, the uncompromising belief in pure monotheism (i.e. Allah is one and unique). Indeed, the main goal of this Da’wah was pure devotion to the worship of Allah, the one and only God, Exalted Be Him.

Yet, despite the clarity and transparency of this Da’wah and the legitimacy of its guidelines, it has been subjected to suspicions, calumny and foul accusations. The motivations and driving force behind the opposition to Shaikh Mohammad Bin Abd Al-wahab’s reform movement have been discussed by many Moslem scholars. His Eminence, Shaikh Abd Al-Aziz Bin Baz, may Allah have mercy on him, points out that the opponents of the Da’wah can be classified into three categories:¹

Those perverted scholars who see right as wrong and wrong as right; they considered building domes over graves of saints and offering their prayers there while seeking the help of Allah through those saints to be part and parcel of religion. They go further to announce that whoever shows any feelings of enmity or lack of reverence to those ‘Awliya’ (i.e. Allah’s beloved servants) should be brutally punished.

The second category of those opponents comes from those who are ignorant of the true doctrine of Shaikh Mohammad Bin Abd Al-wahab and his honest intentions. These blindly believed in the false accusations and allegations against the Da’wah and the Shaikh from a group which accused Shaikh Mohammad Bin Abd Al-wahab of degrading the status of prophets, ‘Awliya’; thus, they calumniated his Da’wah, denounced it, and rejected his principles.

¹Samahat As-Shaik Abdel Aziz Bin Baz, ‘Imam Mohammad Bin Abd Al-wahab: Da’watuh wa Seeratuh (Imam Mohammad Bin Abd Al-wahab: His Da’wah and Biography), 1403H., pp.27-28

The third category of opponents comes from those who were concerned about their affluence, positions and rank. These opposed the Shaikh's Da'wah and fought against him, lest his sincere disciples threaten their unjustified privileges and affluence as being in breach of the doctrine of Islamic faith. His Eminence, Shaikh Abd Al-Aziz Bin Baz further cites the reasons for the discord and enmity aimed at Shaikh Mohammad Bin Abd Al-wahab stating: "the three reasons for the dispute between Shaikh Mohammad Bin Abd Al-wahab and his opponents are:

First: His renunciation of polytheism and strict insistence on the belief in Allah's oneness, Tawheed.

Second: His renunciation of heresies such as building domes over the graves to be used as mosques and other distorted rituals that came out of Sufiism.

Third: His call for enjoining good and forbidding evil that should be enacted by force in accordance with the stipulations of Islamic Sharee'ah.¹

Thus, whoever opposes Allah's commands to do righteous deeds shall be punished and forced to do them; and whoever neglects them unintentionally shall be subjected to discretionary punishment. Furthermore, Shaikh Mohammad Bin Abd Al-wahab used to forbid evil and call for punishing those who transgress the bounds set by Allah.

Naturally, all of those opposed the Shaikh's Da'wah and fought against it as it differed from their customary practices of polytheism and belief in innovated heresies.

In addition, opposition to this Da'wah came from those who claimed that Shaikh Mohammad Bin Abd Al-wahab had aspirations and ambitions for prophethood and that he came with a new sect, the fifth sect. Furthermore, they alleged that his Da'wah's disciples are from the Khawarij group (i.e. those who considered themselves outside the realm and bounds of Islam), and that the representative of the Da'wah had claims to prophethood and did not show enough veneration for Prophet Mohammad (*may peace and blessings be upon him*).

The forces of opposition to the Da'wah took advantage of these allegations and continued to wage their campaigns against it as has been stated by different scholars and researchers. Moheb 'Ad-deen Al-Khateeb says, "Mohammad Abdo, the teacher, used to seek Allah's protection from the evils of politics and politicians as he believed that politicians can distort the facts and replace them

¹Ibid., pp.35-36

by all kinds of lies if need be to meet their own personal needs. In politics, people can create all reasons to achieve their own interests at the expense of the truth. They can ally themselves with those who seek their own personal gains and they usually, even though only temporarily, upset the truth and replace it by lies to meet their needs. One case in point is the falsification and distortions associated with Mohammad Bin Abd Al-wahab's Da'wah by its opponents, who successfully managed to reach out to the common people of Egypt, Eastern Arabia, Iraq and the rest of the Near Eastern countries, for the last 100 years after the inception of the reformer's Da'wah, (Shaikh Mohammad Bin Abd Al-wahab, may Allah bless him with mercy) and labeled it as "Wahhabism," with the insinuation that it is a new sect, the fifth sect.

Another reason for the opposition to the Da'wah has to do with the opponents' own vulnerable convictions represented by the heresies, superstitions, and polytheism such as the veneration of saints, ostentation in worship and other accretions to Islam. These perversions manifested themselves in the building of domes over the graves of 'Awliya' (i.e. those religious and pious figures held in high esteem) and in using them as mosques to seek the 'Awliya' help, etc. This climate was conducive to the Sufi sect's transmitting its poisonous convictions amongst the Islamic societies.

When the Islamic reform movement, the Da'wah, was launched and began clarifying the truth, fighting against all the customary wrong practices, the leaders of the opposition felt their false convictions threatened to the point of complete annihilation. Thus, it was only natural for them to monopolize and launch a series of attacks, allegations and suspicions against the Shaikh's Da'wah. The Sufi sect, for instance, as a reaction started boasting about its ideology and defending Sufi rituals and practices.¹

At another level, the opposition to Shaikh Mohammad Bin Abd Al-wahab's Da'wah came out of the colonialist forces of the time represented by France, Britain, Holland, and Italy. The colonialist powers' interests in the Da'wah had to do with the successes of the Da'wah throughout the Arabian Peninsula and its subsequent spread to other Islamic countries outside the Arabian Peninsula and other countries with Islamic minorities. The Moslems influenced by the Da'wah embarked on a mission of resisting those colonialist powers. Hence, the latter launched their campaigns of opposing and castigating the Da'wah's reputation and its message.

The afore-mentioned are the reasons that led to campaigns of resistance and opposition to Shaikh Mohammad Bin Abd Al-wahab's Da'wah. As to the

¹**Da'awah 'Al-munawi'een Li-Da'wat Ash-Shaikh Mohammad Bin Abd Al-wahab** (Opponents Claims Against Shaikh Mohammed Bin Abd Al-wahab's Call), Ibid., pp.74-75

suspensions raised against it, by its opponents, they were counteracted successfully by the Shaikh's persuasive and assertive arguments.

As a matter of fact, all those suspicions raised against the Shaikh's Da'wah have been nullified completely as a result of the convincing arguments of the Shaikh and his disciples. There is only one suspicion that is still looming large in the minds of some people; that is the allegation that Shaikh Mohammad Bin Abd Al-wahab and his followers declared that the Moslems of his time were disbelievers. In this respect, it behooves us to point out that this is a highly significant and rather alarming issue with regard to the various domains of the creed. Thus, Shaikh Mohammad Bin Abd Al-wahab and his followers were vigilant enough to give their utmost attention to this matter. This was manifested by their consistent, persistent and tireless efforts to prove its fallacy and the ulterior motives of its proponents.¹

The accusation of "takfeer" (i.e. declaring Moslems to be disbelievers) made against Shaikh Mohammad Bin Abd Al-wahab and his followers was circulated despite his incessant negation and denials of such allegations. Indeed, this false claim is still in existence up until now. I shall refer to some examples of the false accusations and lies spread so widely by his opponents, and then follow that up by presenting Shaikh Mohammad Bin Abd Al-wahab's reply and the responses by other scholars from the Salafi Da'wah.

Ibn 'Afuliq is considered as one of the first group of opponents who accused Shaikh Mohammad Bin Abd Al-wahab of declaring Moslems of his time to be disbelievers. He said the following about the Shaikh in a reply to Bin Mu'ammr: "This man declared the nation as disbelievers, and, by Allah, he also disbelieved in the Prophets' message and judged them and their nations as polytheists."²

Ahamad Zeini Dahlan says, "They have publicly announced that for 600 years the "Ummah", nation, has been in disbelief, and the first to announce that is Shaikh Mohammad Bin Abd Al-wahab and his followers. He used to tell whoever accepted his Da'wah and had performed Haj, pilgrimage, "You have to

¹For more information, see: **Da'awah 'Al-munawi'een Li-Da'wat Ash-Shaikh Mohammad Bin Abd Al-wahab** (Opponents Claims Against Shaikh Mohammed Bin Abd Al-wahab's Call), p.158 and see: **Bohooth 'Usboo' Ash-Shaikh M. B. Al-wahab** (The Research Week on Shaikh Mohammad Bin Abd Al-wahab), Vol. 2, p.66, see also: **M. B. Al-wahab: Mosleh Mathloom wa Muftara 'Alaih** (Mohammad Bin Abd Al-wahab: A Reformist Being Unfairly Judged), p.174

²Mohammad Bin Abel-Rahaman Al-'Ihasa'I, **Jawab Bin 'Afuliq 'Ala Rad Ibin Mu'ammr (Makhtuta fi Maktabat Ad-dawla fee Barleen)** Naglan 'an Abdel Aziz Bin Abdel-Lateef: **Da'awah 'Al-munawi'een Li-Da'wat Ash-Shaikh Mohammad Bin Abd Al-wahab**, p.58

perform Haj again as your first was unacceptable because you did it when you were a disbeliever.”¹

These are two examples of the accusations and allegations directed against Shaikh Mohammad Bin Abd Al-wahab and his followers, accusing them of declaring the Moslems of his times to be disbelievers. Unfortunately, these allegations spread all over the Islamic world like fire in a forest. However, the Shaikh was quick to reject such accusations and on many occasions he proved to everybody his innocence. His followers also did their best to clarify the matter to all Moslems. Here are the Shaikh’s replies to such accusations:

In a letter sent to Riyadh and Manfooha people, Shaikh Mohammad Bin Abd Al-wahab says, “You say that we claimed Moslems to be disbelievers...how dare you say such things against me... I have never accused Moslems of disbelief...never...never. But we declared only polytheists to be disbelievers.”²

In another letter he sent to the people of Tharmada’: “As to what the enemies have said about me...that I declare people to be disbelievers without having proof of that, or on the basis of loyalty or disloyalty to me, and that I consider the ignorant common man a disbeliever due to his being inferior - all of these statements are mere calumnies and groundless accusations directed against me to turn people away from the religion of Allah and His Messenger.”³

In his letter to the people of Al-Qaseem, he mentions the recalcitrant opponent, Ibn Subaim, while denying the accusations and announcing his innocence: “Allah knows that the man accused me of many things I never said which never crossed my mind, such as the accusation that I say that for the last 600 years the people have not believed in anything, and that I consider those who appeal to the “Saliheen”, (the pious and beloved servants of God), disbelievers, and that I consider Al-Bousiri a disbeliever...My response to all of these matters is this: Glory to Thee, My Lord! What they are saying is indeed a great felony and complete falsehood!”⁴

At another level, and in a letter sent to the Shareef of Mecca, in which Shaikh Mohammad Bin Abd Al-wahab responds to an inquiry put forward by the Shareef concerning the Shaikh’s denial of his opponents’ accusations, he says, “As to the lies and utter falsehood ascribed to me, such as that I consider

¹Ahamad Zeini, *Ad-Durar As-Sunniyya Fir-rad Alal Wahhabiyya* (The Sunni Pearls in Response to “Wahhabism”), Cairo, ‘Al-Halabi Library, 1400H., p.5

²*Majmoo’at Mu’allafat Ash-Shaikh* (Collection of the Shaikh’s Writings), 5/189

³*Ibid.*, 5/25

⁴*Ibid.*, 5/11,12, and a letter to Abdullah S.Bin Saheem Mutawwi’, Friday 5/62

Moslems disbelievers in general, and demand that Moslems join us in our movement in sheer denial and betrayal of their religion, and that we accuse anyone of being a disbeliever even if they did not commit any act of disbelief and consider all those who never fought with us as disbelievers...and such and such allegations and more and more... I hereby declare that these allegations are meant to turn people away from the true worship of Allah and the compliance with His commands and His Messenger's teachings and sayings."¹

His son, Abdullah Bin Mohammad Bin Abd Al-wahab refutes these accusations, saying, "As to the false allegations against us, used as a cover to the truth and a camouflage to the people - that we consider all people of our times disbelievers in general and even those after them for the next 600 years, and that we exclude only those who believe in what we are doing, and that as a result we shall not accept the 'bay'at" (i.e. the oath allegatiance) from anyone until he has been reported as a polytheist earlier, and that his parents died as polytheists... we hereby affirm that having examined each one of these cases of false accusations categorically denied by us, our only response was always the following: oh! Our Lord, Glory be to Thee. We appeal to Thee against all those felonies. Whoever ascribed these qualities to us must be a true liar." Shaikh Abd Al-Lateef in asserting his grandfather's, the 'Imam, reticence from accusing Moslems of disbelief, says, "Shaikh Mohammad Bin Abd Al-wahab, may Allah bless his soul, was most cautious and reticent to declare anyone a disbeliever; he went even further in his restraint to the extent whereby he could never dare judge ignorant people's practices of seeking help from dead saints and others instead of Allah, and who could not get the proper divine advice from others, as sheer acts of disbelief."²

Furthermore, Shaikh Abd Al-Lateef explains Shaikh Mohammad Bin Abd Al-wahab's conviction on this matter of disbelief, saying: "He never judged anyone a disbeliever until and only until such a decision is taken unanimously by the majority of true Moslems that the said person has been proven to be a polytheist or committed an act of disregard to the word of Allah and His messengers' teachings such as the acts of worshiping the 'Awliya' (i.e. Allah's most beloved servants) and ranking them on equal parity with Allah, the sole sovereign of the universe, the All-Powerful, Master of the universe, the only one worthy of peoples' worship."³

¹Majmoo'at Mu'allafat Ash-Shaikh (Collection of the Shaikh's Writings), 3/11

²Abdul-Lateef Bin Abdel-Rahman Bin Hasa 'Al-'Ash-Shaik, **Minhaj At-ta'sces wat-taqdees Fee Kashf Shubuhah Dawood Bin Jarjees** (The System of the Foundatinos and Sanctification of the Creed Exposing Da'wood Bin Jarjees's Suspicions), Bombay, 1309H., pp.56-66

³Majmoo'at 'Ar-rasa'il (Collection of Letters), 3/5

Shaikh Abd Al-Lateef emphasizes that whoever is familiar with the biography of Shaikh Mohammad Bin Abd Al-wahab will unequivocally exonerate him and recognize his true innocence. In this regard, he says, “Anyone with his full senses who knows the history of Shaikh Mohammad Bin Abd Al-wahab, may Allah bless his soul, will realize that he was the most respectful of all religious scholars, and that he was the most adamant at abstaining from accusing people of being disbelievers or pinpointing the pitfalls of their faith; instead, he was consistently in support of holding them in high esteem and defending what they called for and bidding people to follow their behavior. The Shaikh never judged anyone a disbeliever unless the whole Moslem community attested to his disbelief in Allah’s faith and His Messenger such as those who made their saints and pious figures Allah’s partners.”¹

As-Sahsawani rejects the accusations alleged by Dahlan against the Shaikh saying: “The Shaikh and his followers did not judge Moslems as disbelievers; they never thought of themselves as the only Moslems and that whoever differed with them is a polytheist; they did not approve of killing of Sunnah people (‘Ahl-‘Assuna) and taking their women as captives. I have met more than one scholar of the Shaikh’s followers and read many of their books and couldn’t find any traces of these matters; indeed all of those accusations were sheer falsehood and felonies.”²

Rahseed Rida confirms what Al-Sahsawani denied, saying, “But in these books we find the opposite of what was said about the Shaikh and against him. In these books we find that the Shaikh and his followers declare one a disbeliever only if the whole Moslem community declared him unanimously a disbeliever.”³

The Shaikh’s and his followers’ responses to the allegations and suspicions raised against his Da’wah, with regard to the issues of ‘takfeer’ (i.e. declaring one a disbeliever) testify to the truthfulness of his Da’wah, its validity and that the Shaikh’s conviction is a conviction of the righteous predecessors’s faith, and that he could never declare anyone a disbeliever until he had enough evidence to support his judgement from the Holy Qur’an and the honorable Sunnah.

So far I have given a complete presentation of Shaikh Mohammad Bin Abd Al-wahab’s Da’wah (reform movement), its basic principles and noble aims, the

¹Ibid., 3/449

²Ibid., 3/449

³Mohammad Basheer As-Sahsawani, *Siyanatul ‘Insan Min Wasawis Dahlan* (Protecting Man from the Suspicions of Dahlan), Riyadh, Najd Press, 1395H., p.485

allegations and suspicions raised against it, and the falsehood of such allegations.

Fifth: The Views of Some Impartial Scholars About Shaikh Mohammad Bin Abd Al-wahab's Da'wah

Some Moslem scholars, known for impartiality and objectivity, have studied the Shaikh's Da'wah and expressed their respect and appreciation of what it called for and what it meant.... Here are some of their views in this regard.

1. Mohammad Kurd's opinion

The scholarly figure from the Eastern Arabian Peninsula "Ash-sham", Mohammad Ali Kurd conducted a research study and wrote a paper entitled "The Origin of Wahhabism" in which he states in his conclusion, "Mohammad Bin Abd Al-wahab is but a religion reformer who led his people to divine guidance, to the blessings of the Islamic faith. The resistance he was faced with is the by-product of the harsh desert living; we have not met any other Moslem nation with such piety, devotion and purity. We have tested the common man and the privileged among them for years and found them consistently devoted to their Islamic faith...etc."¹

2. Taha Hussein's opinion

Taha Hussein in his description of Shaikh Mohammad Bin Abd Al-wahab's Da'wah says, "This sect is new and old at the same time. It is new for the contemporaries of the Shaikh's times and it is old because it is a strong call to the belief in the pure Islamic faith redeemed from all the impurities of polytheism and paganism. It is the call to Islam which was propagated by the Prophet Mohammad (*may peace and blessings be upon him*), calling for the complete devotion to Allah's worship without any intermediaries in between the individual and Allah."

3. 'Al-'Aqqad's opinion

Abbas 'Al-'Aqqad studied the reform movement and wrote a book entitled Islam in the 20th Century. He says about the Shaikh's Da'wah, "It is obvious from the biography of Shaikh Mohammad Bin Abd Al-wahab that he was met with stiff resistance to his Da'wah; this opposition was typical of those who oppose ideas out of their ignorance whereby they used to appeal to the saints in their graves, and they believed in rituals which came out of magicians, superstitions. So, it was only logical that the righteous men of the

¹'Al-Qadeem wal-Hadeeth Li-Mohammad Ali Kurd (The Old and the New), p.120

call to Islam guide those people to the right path of Islam by advising them to get rid of those polytheistic practices and innovated heresies.”

4. Studard’s opinion

Western orientalist studied the reform movement as well. Lothrop Studard in his book *The Current Situation of the Islamic World* says, “The Islamic world came to its worst in the 12th Hijri century. It was in its worst and it degraded to the lowest point of deterioration; the darkness of ignorance dominated everything; it lapsed into a complete lull, and while it was in that deplorable situation, a strong voice out of the Arabian Peninsula echoed all over the Peninsula, the cradle of Islam, awakening people, calling them to get back to the right track, the right path of piety, righteousness, the upright creed of Islam. That was the voice of Shaikh Mohammad Bin Abd Al-wahab who lit the flames of Wahhabism, calling on Moslems to cleanse themselves of the vices of polytheism and paganism in order to regain the glorious past of Islam.”¹

5. Prokleman’s opinion

Prokleman, the orientalist, said, “When Mohammad Bin Abd Al-wahab went back to his original homeland, he called for the belief in the pure Islamic creed in its pristine essence.”²

6. Gold Zaiher’s opinion

Zaiher in his book *Creed and Sharee’ah* says, “It is the duty of whoever claims to be a judge on Islamic events to think of Wahhabies as the allies and supporters of Islamic religion as it was propagated by the Prophet, his companions. The aim of the Wahhabies was to revive Islam as it was originally propagated by the Prophet through its main sources, the Holy Qur’an and the Sunnah.”

¹Hadir ‘Al-‘Alam ‘al-‘Islami (The Islamic World at Present). Vol. 1.

²Tareekh ‘Ash-Shu’oob ‘al-‘Islamiyya (History of the Islamic Peoples), translated by Dr. Nabeeh Amin & Mouni Ba’lbaki.

Chapter Four

The Development of the Kingdom's Judicial System: Its Autonomy and Role in Protecting Human Rights

Introduction

The Kingdom of Saudi Arabia has established a legal system that is drawn from Allah's Holy Book and the Sunnah of His Messenger (*may peace and blessings be upon him*). The Kingdom worked towards the autonomy of the legal system, and entrusted the system to carefully-selected judges, thus, securing the right of litigation for all citizens, on a larger scale than the legal systems of other countries usually allow. The legal system of the Kingdom has also secured the right of each citizen to sue even governmental authorities in cases of injustices inflicted on him. This is the venue known as the Grievances Bureau "**Deewan 'Al-Mathalem.**" Yet, despite the transparency of the legal system of the Kingdom and its clear fairness, objectivity, autonomy and efficiency in deciding on each case quickly, there are some people who are ignorant of the facts about the legal system, or else they choose to ignore them.

To clarify the soundness of the Kingdom's Judicial System, its autonomy and its role in protecting basic human rights, I will discuss the importance and goals of the Islamic Judicial System in general, and an introduction to the Judicial System of the Kingdom of Saudi Arabia in particular, since the Judicial System of the Kingdom has the same goals and functions of the Judicial System in Islam. This is because the Kingdom of Saudi Arabia is committed to strict compliance with Islamic faith and to the application of Islamic Sharee'ah (law) in all its affairs in all spheres of life. After that, I'll discuss the development of the Judicial System in the Kingdom, and the foundations upon which it was established; its autonomy and its role in protecting basic human rights and the guarantees for defending the defendant before the Judicial System which ensures a fair and just trial for the defendant.

First: The Importance of the Judicial System in Islam and Its Goals

Islam has placed the Judicial System among its most important constituents. It ranks the Judicial System as the second pillar of its system of governance; that is, it is next to the great "Imama" which is the equivalent to "Presidency" of a country in modern terminology. Indeed, it is one of the signposts attesting to the Islamization of a particular state, and of its system of government in terms of its degree of linkage to Islam. In other words, the Judicial System of a particular state testifies to its system of government as to

whether it is rooted in Islamic law or not through its adherence to the Islamic faith's commandments and to their application in considering the cases submitted, and in taking decisions and issuing sentences for the sake of establishing justice and equality and eradicating evil. The texts of Islamic Sharee'ah explicitly stipulate for the establishment of justice. Allah, the Exalted says,

"Verily, Allah enjoins Al-Adl (i.e. justice and worshipping none but Allah Alone - Islamic Monotheism) and Al-Ihsan [i.e. to be patient in performing your duties to Allah, totally for Allah's sake and in accordance with the Sunnah (legal ways) of the Prophet SAW in a perfect manner], and giving (help) to kith and kin¹ (i.e. all that Allah has ordered you to give them e.g., wealth, visiting, looking after them, or any other kind of help, etc. "¹

He further says,

"Verily, Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice. "²

In fact, the main goal of the Judicial System in Islam is the establishment of justice and the protection of rights, of the self, the money, and the honor of the Moslems, and to settle the disputes among Moslems in accordance with Islamic Sharee'ah provisions. Ibn Taymiya, may Allah bless his soul, says in this regard, "the main purpose of the Judicial System is to guarantee that the people get their own rights and to settle their disputes, because delivering rights to their owners means working in the common interest, and settling disputes means the eradication of evil. To deliver the rights to those who deserve them is the kind of justice upon which life on earth and in the hereafter are based. The elimination of disputes is an elimination of tyranny and damage, both of which can sustain evil and vices."³

Understanding and operating the Judicial System according to the aforementioned principles is one of the requirements for a constructive life and for all societies. No state, no prosperity, no security in life will be realized without the stability achieved by a just system of litigation.

If a just system of litigation is lost in any country or any society, chaos will prevail, and all activities of life will be shaken, and instability, oppression, and tyranny will subsequently prevail. Thus, the life of the whole of Mankind in such societies will be characterized by severe hardships, wickedness, and

¹An-Nahl [The Bee] 12:90

²An-Nisa [The Women] 4:85

³Majmoo'at 'Al-Fatawa, Vol.35, p.355

equilibrium between the powerful and the weak, between the oppressor and the oppressed, will be totally demolished.

High esteem for the Judicial System has been reflected in the practices of all the prophets. For instance, Allah's Messenger David (Dawood), and his son Sulaiman, the Prophet Shu'ayb and the final and last Prophet Mohammad Bin Abdullah (*may peace and blessings be upon him*) and his successors – the Khaleefas- companions and those who followed them across all Islamic ages, were known for their integrity, fair and just judgement, prudence and wit.¹

Second: The Development of the Judicial System in the Kingdom of Saudi Arabia

King Abdul Aziz, may Allah bless his soul, showed great interest in the Judicial System from the very beginning of the Kingdom's establishment. He gave his orders to establish Judicial Systems for the whole country and ordered the formation of bureaucracies for guaranteeing the sovereignty of Allah's law. In 1346 H., a royal decree was issued for the establishment of Islamic courts in the honorable Mecca and Madeena and in Jeddah. Accordingly, several administrative regulations were issued for the enhancement of the Judicial System, the preparation of judges and for upgrading their standards in the scholarly and materialistic domains. The cadre of judges was instituted by royal decree no. 64M in 1395 H. (1974 G.), and article 26 of that decree stipulated: "that Islamic courts settle all disputes and crimes except those cases which have been exempted by a special regulation." The Judicial System is answerable to the Ministry of Justice in the Kingdom, while maintaining its own autonomy. The main authorities of the Judicial System at present are:

1. The Islamic Sharee'ah Courts

The Islamic Courts deal with all disputes and all cases of criminal acts, and settle them according to Islamic Sharee'ah law. These courts consist of the following:

a- The Supreme Judicial Council.

This Council consists of eleven scholars. Its main specializations are:

1. To look into matters which the Minister of Justice deems necessary to require the establishment of special Sharee'ah laws.

¹Abdel 'Aziz Bin Abdallah Bin Hasan Al-Ash-Shaikh, **Lamahat Hawlel Qada' Fil Mamlaka Al-'Arabiyya As-Sa'udiyya** (Glimpses of the Judicial System in the Kingdom of Saudi Arabia), Riyadh, Dar An-Neil Press, 1411H., pp.16-18

2. To consider all matters referred to it by the person in charge of the nation's leadership.
3. To revise and verify the accuracy of the provisions for the death sentence, the amputation sentence, and the "Rajm" sentence (i.e., stoning someone to death)
4. To consider any case that the Minister of Justice deems necessary to require study by the Council.

b- The Court of Appeals

This court has a chief and a number of judges. Its main duty is to look into the appeals contesting the verdicts of other Islamic courts. The court of appeal comprises several departments, and in order to avoid contradictions among its respective departments, a general commission of the Appeal Court has been established, whose members come from all the respective departments of the Appeal Court to ascertain standardization of the principles governing its operation.¹

c- General Courts

These courts consist of one or more judges according to the size of the population of each city, town, or village. These courts are established by the Minister of Justice's decisions on the basis of a proposal from the higher Judiciary Council. These courts deal with cases of disputes and crimes within their own vicinity.

d- Summer Courts

These Summer Courts consist of just one judge or more. They deal with urgent lawsuits.

2. Dispute Settlements Authorities

There are a number of authorities and legal committees that are for specific legal matters. These are:

1. The Commercial Disputes Authority.
2. The Special Authority for the application of penalties in the trade agencies system.
3. The Financial and Disputes Settlement Committee.

¹Ibid., p.53.

4. The Standardization and Specification Authorized Committee.
5. The Catering Judiciary Committee.
6. The Committee of Trade Malpractice and Fraud.
7. Trade Bonds Committee.

In 1401 H., the Ministers' Council issued decision no. 176 on 14/9/1401 H., which provides for the establishment of courts specializing in cases of commercial, traffic and labor issues in accordance with the regulations and instructions in this respect provided that they do not conflict with the Islamic Sharee'ah.

Grievances Bureau

In addition to the afore-mentioned state's judicial units, the state has established the Grievance Bureau, which looks into complaints by individuals against certain government agencies and against the establishments affiliated with the state. This was established for the sole objective of ensuring justice and the preventing of power abuse by some people in those institutions. The first text concerning the Grievances Bureau came out in 1373H. In it, article (17) of the early system of the Ministers' Council stated that the Council should consist of four branches for grievances, and in 1374H., a royal decree was issued creating the grievances 'Deewan' (Bureau) and autonomous authority. The main specializations for the Grievances Bureau are:¹

1. Cases that involve rights already entrenched in the civil service system. These include matters concerning retirement rights of government employees and those relating to bureaucratic departments dealing with prestigious personalities.
2. Cases appealing against administrative decisions irrespective of their origin, whether taken by unspecialized agencies, or arising from flaws in formulations, violation of bylaws, errors in implementation or interpretation, or abuse of power. By administrative decision, in this regard we mean the unwillingness of the authority to take required action in accordance with the bylaws and regulations.
3. Lawsuits submitted by specialized agencies to the government and prominent personalities.

¹Nizam Deewan 'Al-Mathlim Wa Muthakkiratuhu 'Al-'Idahiyya (System of Grievances Bureau and Its Illustrative Memorandum), by a Royal Decree no. M/51 on 17/7/1402H., pp.8-9.

4. Lawsuits concerning disputes over contracts with the government or with prestigious personalities.
5. Lawsuits in matters of general conduct submitted by the Interrogation and Supervision Authority.
6. Criminal lawsuits against those suspected of forgery, covered by the crimes of forgery system supported by royal decree no. 43 on 29/11/1377 H. and the crimes covered by the system of public finances established by royal decree no. 77 on 23/10/1395 H. If the Prime Minister so orders, the Grievances Bureau also deals with general violations and crimes covered by bylaws.
7. Requests for the implementation of foreign provisions.
8. Lawsuits within the jurisdiction of the Deewan, the Bureau, in accordance with specialized texts of the Judicial System.

Third: The Foundation of the Judicial System of the Kingdom of Saudi Arabia

The Judicial System of the Kingdom of Saudi Arabia is based on the following principles:

1. The Islamic Sharee'ah is the Frame of Reference for all Lawsuits and Disputes

In the Kingdom of Saudi Arabia there is no authority above the authority of the Judicial System and its representatives (i.e. judges). The only authority over them is that of the pure Islamic Sharee'ah (law). This was stipulated in the first article of the Judicial System, and also in articles 52 and 82.

This principle originally comes from the fundamental approach adopted by the Kingdom of Saudi Arabia that is rooted in the Islamic Sharee'ah and its permanent provisions.

The endorsement and application of this main principle by the Judicial System of the Kingdom of Saudi Arabia is a true merit and advantage which distinguishes the Kingdom's Judicial System from others.¹ The Judicial System of the Kingdom is thus distinguished for its uniqueness and superiority.

¹Wazarat 'Al-'Adel Fil Mammlaka, Al-Qada' Fil mamlaka Al-'Arabiyya As-Sau'diyya (Ministry of Justice, Kingdom of Saudi Arabia, the Judicial System), 1419 H., pp.193-194.

2. The Autonomy and Impartiality of the Judicial System of the Kingdom of Saudi Arabia

The autonomy of the Judicial System is the prime prerequisite for its impartiality and independent decision-making machinery. This principle of autonomy and impartiality of the Judicial System is the most prominent principle of the history of Islamic jurisprudence. Islamic jurisprudence sources have abundant texts emphasizing the autonomy of the Judicial System.

Islamic history is full of episodes of the just judicial procedures enacted by the men in charge of Islamic nations' affairs. The very beginning of this grand history of a just and impartial Judicial System is marked by the honorable sayings, decisions of Allah's Messengers and by the just decisions by those in charge, namely the Khaleefas and those who followed them.

The emphasis on the autonomy of the Judicial System in Islam preceded by one thousand years contemporary legal systems. The autonomy of the Judicial Authorities from the General Authorities of the State came into existence during the 17th century through the efforts of (John Locke) and (Montesque).¹

Article (46) of the basic system of government in the Kingdom of Saudi Arabia stipulates, "that the Judiciary Authority is an autonomous one and that the only authority over it is the authority of Islamic Sharee'ah (law)."² This Article came in as an enforcement of the Judicial System and to provide it with all sorts of immunities through the set of provisions in the first chapter of the Judicial System.

Article (1) of the Judicial System stipulates that, "Judges enjoy full autonomy and that the only authority over their jurisdiction is the authority of Islamic Sharee'ah so that no one, no authority other than Islamic Sharee'ah can interfere with their decisions." This article affirms two principles regarding the Judicial System:

First: The non-interference in the Judicial System's decisions as they follow strictly the Islamic Sharee'ah principles and provisions.

Second: The Judicial System's autonomy and independence from the other authority of the state so that no one, no ordinary individual or a man of high rank, or an institution shall interfere with this Judicial System.

¹Mounir Haroon, *Ash-Sharee'ah Al'Islamiyya Tahkum (Islamic Sharee'ah Rules)*, Al-'Isra' for Information Services, 1414 H., p.44.

² 'An-Nizam 'Al-'Asasi Lil-Hukm (The Basic System of Government), Article (46).

Thus, the Judicial System of the Kingdom of Saudi Arabia has endowed the litigation process with a set of provisions to secure its autonomy and independence.

To this end of maintaining the autonomy of the Judicial System and its litigation procedures, the selection of its representatives, the judges, and the organization and supervision of their duties, have all been kept exclusively within the domain of the Judicial System itself (i.e. the Judicial High Council), (the High Sharee'ah Court). The Judges of the High Sharee'ah Court are immune from relocations, termination of services or opposition with the exception of specific cases predetermined by the Judicial System. These privileges for the judges' autonomy are necessary prerequisites for the judges' integrity and protection. A judge whose job is to render decisions on settlements of disputes among individuals and between individuals and the respective governmental authorities, should be provided with this kind of protection to enable him to make decisions and issue sentences and verdicts without being subjected to any form of intimidation, blame or retaliatory reactions from those who are influential or in power.¹

In addition, the various texts of the various legal systems stipulate clearly and directly for non-interference in the judicial procedures. The system of Ministers' trial, for instance, stipulates that "a Minister's interference in the judiciary affairs is a crime whose sentence is three to five years in jail."²

3. Equality Between the Two Opponents

This is the most important principle of the Judicial System of the Kingdom of Saudi Arabia, which is based on the teachings of Islam. This principle is applied in the following sphere of activities:

- a- Equality between the two parties to the dispute irrespective of their ranks and status. This equality is a fundamental component of the Islamic creed.
- b- No lawsuit is given precedence over the other. According to the current practices of the Sharee'ah Courts of the Kingdom of Saudi Arabia, each case is considered in its due time, in accordance with its consecutive sequence to secure the maximum equality and objectivity between the two opponents.

¹Abd Ar-Rahman Abdul-Aziz 'Ash-Shalhoub, 'An-Nizam Ad-Dustoori Fil Mamlaka 'Al-'Arabiyya As-Sau'udiyya Bain Ash-Sharee'ah 'Al-'Islamiyya Wal-Qanoon 'al-Muqaran (The Constituion of the Kingdom of Saudi Arabia between Islamic Sharee'ah and Comparative Law), Riyadh, Al-Farazdaq Press. 1419H., p.298.

²'Al-Mamlaka 'Al-'Arabiyya 'As-Sa'udiyya, Nizam Muhakamatil Wuzara' (The Kingdom of Saudi Arabia, the System of Ministers' Trial), Riyadh, the Government Security Press, 1401H., Article (5), Clause (w).

This is a matter that cannot be bypassed. There is only one exception and that is the case of an alien resident. In this particular case, the judge may give this case the priority in order not to postpone his return to his homeland. This exception is made for the sake of justice and mercy towards those alien residents.

- c- Equal treatment of the two opponents in their session before the judge; no one is allowed to be seated while the other remains standing or allowing one to be within close proximity while the other is not.
- d- Equal treatment of the two opponents during the trial session before the judge. They should be treated on equal footing with each other. The judge shall not smile before the one and not before the other. The judge shall not treat one with respect and the other with disdain.
- e- The judge shall not give his verdict until he has listened to the two opponents' statements and claims. According to Islam, a judge in the Kingdom of Saudi Arabia shall never make a judgment after listening to only one of the two opponents. The teachings of Islam dictate that the judge should give enough and equal opportunity for the two opponents to present their cases and the relevant documents.
- f- The judge's impartiality

In compliance with the teaching of Islam, a judge in the Kingdom of Saudi Arabia shall refrain from offering any hints or assistance to one of the opponents in presenting his case against the other.

These are the main features of the Judicial System and of the judges' paramount concern for the principle of equality before the Sharee'ah Courts of the Kingdom of Saudi Arabia as an Islamic State. These features guarantee judges' impartiality in dealing with all cases.

4. The Rationale Behind the Judicial Provisions: Evidence and Proof From Their Sources

One fundamental principle of the Judicial System of the Kingdom of Saudi Arabia is the rationale behind the provisions and the evidence and proof of these provisions from their sources of origin. Article 35 of the Judicial System stipulates that "the Judicial provisions should include the justification for them and the source from which they have been drawn." In the judicial Sharee'ah system article 23 demands that the Provisions Revision Authority should state the source of each provision in cases of rejecting some provisions and decisions taken earlier concerning the lawsuits referred to it. This authority should refer to the text and instructions on whose bases the provisions have been issued. In the

bylaws for provisions recognition issued in 1386H., there is a provision for stating the evidence and the source, especially in cases of rejecting some verdicts according to articles 15 and 16.

The preceding presentation clearly shows the special attention given by the Judicial System in the Kingdom of Saudi Arabia to the principle of the rationalization of the judges' verdicts and the sources from which they are drawn. This attests, to all impartial researchers, to the reliability, and objectivity of the verdicts and decisions taken by the Sharee'ah Court judges and the care given to their documentation and origins.¹

The endorsement and enforcement of this principle has resulted in the security and comfort of the parties involved in disputes, and those concerned, as a result of the sound verdicts taken and the justice realized by referring to the source of that respective verdict.

Fourth: Human Rights Before the Judicial System of the Kingdom of Saudi Arabia and Their Protection

Human rights, to the judges of the Kingdom of Saudi Arabia, are the same human rights as those in Islam, as the Kingdom of Saudi Arabia is an Islamic State whose basic system of government is governed by the Islamic Sharee'ah (law).

Human rights from an Islamic Sharee'ah perspective as is the case in the Kingdom of Saudi Arabia can be summed up as:

a- The Right of Justice:

Every Moslem has the right to settle his disputes at a Sharee'ah Court, and to take others to an Islamic Court in compliance with Allah's words:

*"O you who believe! Obey Allah and obey the Messenger Mohammad, and those of you Moslems who are in authority. And if you differ in anything amongst yourselves, refer it to Allah and His Messenger, if you believe in Allah and in the Last Day. That is better and more suitable for final determination."*²

¹Bitasarruf Minal Qada' Fil-Mamlaka 'Al 'Arabiyya As-Sa'udiyya (Taken with some liberty from the Judicial System of the Kingdom of Saudi Arabia) Ibid., p.200.

²An-Nisa' [The Women] 4:59

And Allah's other words:

*"And so judge (you O Mohammad) between them by what Allah has revealed and follow not their vain desires, but beware of them lest they turn you (O Mohammad) far away from some of that which Allah has sent down to you."*¹

A defendant has the right to defend himself by telling his side of the story to the judge. This right is basic and it is guaranteed before the judiciary of the Kingdom of Saudi Arabia. It is considered one important feature of the Judicial System of the Kingdom. This is so because first of all the judge asks the defendant to prove the validity of his claim, and to convince the court of the truthfulness of his case. If the judge is convinced of the validity and reliability of the plaintiff's claim, he summons the defendant and asks him to defend himself. He gives him the opportunity to respond and defend himself. The judge may defer consideration of the case until the defendant has ample time to examine the claims against him, to refer to his sources and prepare his defence.²

It is inconceivable under any circumstances to deprive the individual of the right to self-defence in the Judicial System of the Kingdom of Saudi Arabia.

b- The Right to a Fair Trial:

The second right of an individual within the Judicial System of the Kingdom of Saudi Arabia is the right to a fair and just trial. In accordance with the current practices of the Judicial System in this respect, it is:

1. No act of incrimination without reference to a Sharee'ah text. A Moslem is not exempted from punishment on grounds of ignorance of what is already known to all in the Islamic faith; however, his ignorance of religious teachings, once established, can be looked at as an exoneration that exempts him from the application of the prescribed punishments of the set bounds in Islam.
2. No ruling or indictment can be made until enough incontrovertible evidence is found.

¹Al-Ma'idah [The Repast] 5:49

² 'Al-Mamlaka 'Al-'Arabiyya 'As-Sa'udiyya, Tantheem Al-'A'mal 'Al-'Idariyya Fid-dawa'ir Ash-Shari'yya (The Kingdom of Saudi Arabia. The Organization of Administrative Matters in Islamic Legal Departments), Riyadh, Government Press, 1398H., articles 18,19. See also: 'An-Nitham 'Ad-dustoori Fil Mamlaka (The Constitutional System of the Kingdom of Saudi Arabia), Ibid., p.195

3. The judge can not bypass the punishments prescribed by the Islamic Sharee'ah, Allah says,

“These are the limits ordained by Allah, so do not transgress them. And whoever transgresses the limits ordained by Allah, then such are the Za’limoon (wrong-doers, etc.).”¹

It is a basic principle of the Islamic Sharee'ah to take into consideration the circumstances surrounding the criminal act in order to protect the individual from the error of unjustly applying the prescribed punishment.

4. In Islamic law, it is only the person who commits a crime who is punishable; the punishment can not be extended to apply to his immediate relatives. Allah says,

“ And no bearer of burdens shall bear another's burden.”²

Out of these two fundamental rights, other subsidiary rights have been derived. I will mention only a few for the sake of brevity:

1. The Right to Defense:

Since the mandate of a judge in Islam is to guarantee that rights be granted to well-deserved individuals, and since the Kingdom of Saudi Arabia is an Islamic State, a judge has to listen to the defendant patiently without showing boredom, anger or restlessness etc. The right to defend oneself is fundamental in Islam; it is granted to the individual from the very moment of his being subjected to an accusation by someone else. The rationale behind this right is to enable the defendant to tell his side of the story to the best of his knowledge, so that he either proves that the accusation against him is groundless or that there is solid evidence for his indictments.

An individual's task of defending himself is facilitated through the following:

- a- A person has the right to a representative, if he deems it in his interest to have one who is more capable of proving whether he is guilty or not.
- b- A defendant has the right to have an interpreter if he does not have good command of Arabic.
- c- All court proceedings are conducted in the open and publicly. These open sessions also add to the assurances concerning the right for self-defense

¹Al-Baqarah [The Cow] 2:229

²Fatir 35:18

before the judge in the Kingdom of Saudi Arabia as an Islamic State. There are, however specific cases where the trial proceedings have to be closed sessions as they have to do with sensitive moral issues.¹

d- All trial verdicts are documented and recorded in a special file including all trial transactions, the verdict, the date of issuing the verdict etc. This is also done to secure the maximum protection for the defendant's rights to a fair and just trial.

e- The right to appeal

Added to the maximum assurance for the defendant's right to defend himself before the judge is his right to reject the verdict or the sentence against him and appeal to higher Islamic courts. The defendant can appeal to the Court of Cassation "at-tamyeez" to negate or nullify the verdict issued by the judge in the first trial. If the judge in the higher court is convinced that the verdict is not based on solid and reliable evidence, then he will call for a reconsideration of the case; if the first judge agrees with his demand, he will endorse the request for reconsideration. If he insists that his verdict was based on hard core evidence and drawn from suitable sources, then the case will be transferred to a third judge to consider it.

f- It is the right of each defendant to be satisfied that the judge has made all the necessary inquiries and verification prior to issuing his verdict. This is what is currently happening in the Judicial System of the Kingdom of Saudi Arabia as an Islamic State. Thus, the judge does not give any surprises to the defendant as he is required to listen to all the defendant's self-defense or to his representative to make sure that his decision will be based on adequate evidence supporting indictment or innocence. This prolonged process of investigation eliminates all possibilities of false witnesses.

In concluding this chapter, I must point out that those represent the Judicial System in the Kingdom of Saudi Arabia are very well-versed in Islamic jurisprudence, are known for their piety and knowledge of all specific aspects of Islamic Sharee'ah.

Religious scholars in Saudi Arabia are not like the religious figures in the West. The Saudi scholars form the main foundations of the application of Islamic Sharee'ah. They are the scholars who propagate Islamic teachings to people, guide them to righteousness, and enjoin good and forbid evil in compliance with the Holy Qur'an and the Sunnah.

¹Tantheem Al-'A'mal 'Al-'Idariyya Fid-dawa'ir Ash-Shari'yya (Organization of Administrative Matters in Islamic Legal Departments), Ibid., Article (70).

The religious scholars are held in high esteem in the Kingdom of Saudi Arabia; they work for the common interest of the Islamic ('Ummah) nation. Their prestigious status is reflected in the formation of an authority of senior religious scholars in 1391H. (1970G.). Its main duties are:¹

1. To give their opinion on all matters referred to them by the ruler.
2. To give their recommendations for the endorsement of general rules and regulations to be the ruler's guidelines in his leadership.

The religious scholars in the Kingdom of Saudi Arabia play the role of social and religious leaders but they also are partners in the decision-making policy regarding the nation's interest and welfare. Such a status is not enjoyed by other scholars in other countries.

¹Wazartul Kharijiyya bil-Mamlaka 'Al-'Arabiyya 'As-Sa'udiyya, 'As-Siyasal Kharijiya Lil-Mamlaka Fee Mi'at 'Am, (Ministry of Foreign Affairs, K.S.A, Foreign Policy in 100 years), 1319H., p.435.

Chapter Five

Enjoining Good and Forbidding Evil in the Light of the Holy Qur'an and the Sunnah: Its Application in the Kingdom of Saudi Arabia

Introduction

Enjoining good and forbidding evil is a principle regulated by all the sacred messages calling for enjoining what Allah commands and avoiding what Allah has forbidden. All the sacred messages classified and clarified what is good and to be followed and what is evil and to be forbidden.

Allah, *Glory Be To Him*, sent his Prophets and Messengers and charged them with the responsibilities of commanding good and forbidding evil. Allah, the Exalted in wise words told by Loqman to his son, says,

*"O my son! Aqim-is-Salat (perform As-Salat), enjoin (people) for Al-Ma'ruf (Islamic Monotheism and all that is good), and forbid (people) from Al-Munkar (i.e. disbelief in the Oneness of Allah, polytheism of all kinds and all that is evil and bad), and bear with patience whatever befall you. Verily! These are some of the important commandments ordered by Allah with no exemption."*¹

So, enjoining good and forbidding evil were required of all preceding nations.

As Islam is the final and last message and its Prophet is the final and last Messenger of all, the reaffirmation of this Godly principle came in its most comprehensive and specific form which makes it suitable for all times in all places. The responsibility of its application has been charged to the whole of the Islamic nation ('Ummah) since the very beginning of Prophet Mohammad's days till doomsday. Allah, the Exalted, says,

*"You [true believers in Islamic Monotheism, and real followers of Prophet Muhammad SAW and his Sunnah (legal ways, etc.)] are the best of peoples ever raised up for Mankind; you enjoin Al-Ma'ruf (i.e. Islamic Monotheism and all that Islam has ordained) and forbid Al-Munkar (polytheism, disbelief and all that Islam has forbidden), and you believe in Allah."*²

¹Loqman 31:17

²Al-'Imran [The Family of Imran] 3:110

He further says,

“Let there arise out of you a group of people inviting to all that is good (Islam), enjoining Al-Ma'ruf (i.e. Islamic Monotheism and all that Islam orders one to do) and forbidding Al-Munkar (polytheism and disbelief and all that Islam has forbidden). And it is they who are the successful.”¹

Thus, the Islamic nation has been addressed by Allah to be in charge of applying this principle. This is a responsibility charged by Allah to the Islamic nation since its early days, and this responsibility is transferred from one Islamic generation to another till doomsday.²

The Kingdom of Saudi Arabia as an Islamic state is very assiduous in the sincere application of this Islamic duty, the duty of enjoining good and forbidding evil. It applies this principle in compliance with the Sharee'ah provisions stipulated in the Holy Qur'an and the Sunnah of the Prophet. This has been the case since the very beginning of the first Saudi state in the 12th century H. (18th C. G.) till the present.

The application of this duty of enjoining good and forbidding evil is a divine command by Allah, and the main objective of performing this divine command is the formation of an enlightened fully-aware and comprehensive framework of Islamic ideology which inevitably protects the code of moral conduct of the Islamic nation, protects its virtues, its honor and its rights. Furthermore, the application of this principle secures the integrity, and influence of the nation, and provides it with the power of Islamic faith which is more powerful than all secular rules and regulations. However, despite all of the advantages and benefits of applying this Islamic principle in the Kingdom of Saudi Arabia, despite all that, we are faced with campaigns of criticism directed against us here in the Kingdom under the pretext that our application of the principle of enjoining good and forbidding evil entails violation of the basic human rights of the individual's personal freedom and interference with people's own affairs.

To illustrate the significance of the principle of enjoining good and forbidding evil and its application in the Kingdom of Saudi Arabia, I will deal with the following issues:

First: An identification of the principle of enjoining good and forbidding evil, the justification for its requirement as a duty, the wisdom and virtues of abiding by it and the rationale for its requirement by Islamic Sharee'ah.

¹Al-'Imran (2:104)

²Tami Bin Hudeif Al-Bogmi, At-tatbeeqat 'Al-'Amaliyya Lil-Hisba Fil Mamlaka (Practical Applications of 'Hisba' in the K.S.A from 1351-1408H.),1414H., p.35.

Second: The foundations of enjoining good and forbidding evil.

Third: The qualities and manners of those who are in charge of the Da'wah (i.e. voluntary guardians of enjoining good and forbidding evil).

Fourth: The applications of enjoining good and forbidding evil in the Kingdom of Saudi Arabia in the light of the Holy Qur'an and the honorable Sunnah.

First: Definition of the Principle of Enjoining Good and Forbidding Evil and the Wisdom Behind its Requirement as a Duty in Islamic Sharee'ah

1. Definition of "Ma'ruf" (Good Deeds):

"Ma'ruf" is a term that is inclusive of all the senses of obedience to Allah. It includes the individual's endeavors to seek Allah's pleasure, his modest and benevolent behavior towards others and everything else that the Sharee'ah commands and forbids.¹ The highlight of Ma'ruf falls within the acts of obedience while grave acts of disobedience and grave sins fall within what is called "Munkar", the acts forbidden by Sharee'ah.² The initial Ma'ruf is the total obedience to Allah while the highest degree of Munkar is disbelief.³

In brief, Ma'ruf refers to what has been commanded by Allah, and His Messenger, while Munkar refers to everything that was prohibited by Allah and His Messenger. The principle of "enjoining good" means calling for good deeds, and encouraging people to do good on the basis of the virtues and rewards for doing good so that good may flourish and the welfare of society may be achieved.

Forbidding evil means the following: abstinence from doing evil, driving people away from it, by obviating the causes of its appearance and growth, and by striving to close the inlets through which it creeps into a society and by adopting deterrent measures to block its occurrence.

The great virtues of enjoining good and forbidding evil can be explained by the fact that enjoining good and forbidding evil is ranked the highest form of human integrity; this can be explained on the grounds that Man is classified in this life into the following types:⁴

¹Ibn Al-'Atheer, *An-nihaya fi ghareeb 'Al-Hadeeth* (The End in the Strangest of Traditions), part 3, p.216

²Ibid., Vol. 5, p.115.

³Mahmood 'Al-'Aloosi, *Rooh 'Al-Ma'ani* (The Essence of Meanings), Part. 4, p.28

⁴Abdel Aziz Abedl Sattar, *'Al-'Amr Bil Ma'ruf wal Nahyi 'Anil Munkar* (Enjoining Good and Forbidding Evil), pp.13-15

- a- A type who is completely astray and is no good at all, and in fact is true evil to others.
- b- A type of man who is neither good nor evil.
- c- A type of man who is good in himself, but not good for others.
- d- A type of man who is good in himself and good for others.

Without doubt, the most perfect of all types is the one who is good to himself and good for others. This is the category of the guardians of enjoining good and forbidding evil, those who enjoin good and forbid evil. They voluntarily do good, recommend it to others and abstain from evil, fight it and encourage others to fight against it. Allah, Almighty says in His Book:

“And who is better in speech than he who says, “My Lord is Allah (believes in His Oneness),” and then stands straight (act upon His Order), and invites men to Allah’s Islamic Monotheism, and does righteous deeds, and says, “I am one of the Moslems.””¹

2. The Rationale Behind Making Enjoining Good and Forbidding Evil a Duty

The Islamic Sharee’ah, by requiring enjoining good and forbidding evil, aims at realizing the happiness of all humanity in this life and the hereafter. The objectives are:

1. To prepare an atmosphere full of good, free from evil, an atmosphere conducive to good morals and good conduct in which people with a pure faith and good conscience will be raised and whereby evil shall not be allowed to grow.
2. To establish a Moslem nation whose members are fully-aware of the teachings and principles of their faith, who will protect and defend the virtues and the moral system of the nation, its rights, its identity and will enhance its power. This will be done by virtue of the inward deeply-rooted faith and its principles rather than by the coercion of rules and regulations set by the state.
3. To revive and enhance the common ties of feelings of brotherhood, integration and cooperation for doing good among and by all Moslems. This bond will provide feelings of security and assurances on the individuals’ rights and their inviolability; this will protect the nation on

¹Fussilat 41:33

the basis of brotherhood, love, trust and the spirit of the one nation in the hearts of such believers.

4. To remove all forms and causes of evil from the Islamic nation's life and to combat each act of evil the moment it is encountered.
5. To establish all manifestations of good and the welfare of the Islamic nation.
6. To protect Islam from innovated heresies and suspensions.

Second: The Principles and Foundations of Enjoining Good and Forbidding Evil

Enjoining good and forbidding evil is based on a number of principles. These are:

1. The Islamic Sharee'ah is the Prime Source of Enjoining Good and Forbidding Evil

The primary origin of enjoining good and forbidding evil comes from the Holy Qur'an and the honorable Sunnah. That is, whatever the Sharee'ah approves and commands is good, but whatever the Sharee'ah disapproves, and forbids should be forbidden. If, however, our minds approved a certain idea which is also liked by many people, it will not be considered 'Ma'ruf' good unless it so happens that it is approved by the Holy Qur'an or the honorable Sunnah. By the same token, if we disapprove of an idea and it is disliked and disapproved of by the majority of our people, it will not be considered an evil as long as the Sharee'ah does not say so. It might very well be that an idea which is approved by us is forbidden and considered evil in Islamic Sharee'ah. On the other hand, we may see a certain deed as evil while the Sharee'ah informs us that it is good.

The truth of the matter is that the terms "Munkar" (evil deed) and "Ma'ruf" (good deed) are not to be judged by Man in his own way; these two terms refer to Allah's pleasure and Allah's rage. That is why it is not in anyone's capacity to determine what is good and what is evil. It is only Allah's Sharee'ah that guides us to what is good and what is evil.

Indeed, whoever claims that he can determine what is good and what is evil is violating or transgressing Allah's set limits and His Sharee'ah laws.¹

¹As-Sayyid Jalaluddeen Al'Amry, 'Al-'Amr Bil Ma'ruf wan-Nahyi 'Anil Munkar (Enjoining Good and Forbidding Evil), p.104.

2. Knowledge

One basic rule that governs the performance of the duty of enjoining good and forbidding evil is the rule of knowledge - knowledge of the facts about the duty of enjoining good and forbidding evil. It is inconceivable to base the performance of this duty on ignorance. ‘Imam Ibn Taymiyya in this respect, while talking about enjoining good and forbidding evil, says, “The deed of a person calling for enjoining good and forbidding evil shall not be a righteous deed unless it is based on true and accurate knowledge of Islamic Jurisprudence. Otherwise, any deed of this nature will be an act of ignorance leading people to the path of apostasy as it is based on a person’s unilluminated vision. This is between those who are called “Ahl-Al-Jahiliyya” (i.e. the people of the era of ignorance) and the “Ahl ‘Al-Islam (i.e. the people of the Islamic Sharee’ah). The latter performed the duty of enjoining good and forbidding evil on the basis of those enlightened Islamic scholars of Islamic jurisprudence. They followed the commands and prohibitions of the Islamic Sharee’ah.”¹

3. The Prevention of Evil is Given Priority Over its Prospective Benefits

Performance of the obligation of enjoining good and forbidding evil is governed by the principle of giving priority to prevention of evil actions over the prospective benefits brought about by such actions. The callers to this Da’wah should clarify to people that if any action that might bring benefits to them is considered evil, then preventing that evil action from happening is to be given priority over the benefits that might accrue therefrom. The justification for this principle is as follows:

1. If the benefit expected is much more than the harm that may occur, then a Da’wah caller has to enjoin good and forbid evil.
2. If the benefit is much less than the harm that might be inflicted, then that action should be prohibited.
3. If the benefit is equal to the harm or the good is equivalent to the evil, then priority goes to the prevention of evil.
4. In cases where good “Ma’ruf” may be confused with ‘Munkar, then a clear-cut definition is made of each.

Ibn Taymiyya clarified this rule by pointing out, “All of these cases are subsumed under the general rule stating that in case of conflict between benefits

¹Ibn Taymiyya, ‘Al -‘Amr Bil Ma’ruf wan-Nahyi ‘Anil Munkar (Enjoining Good and Forbidding Evil), Revised by Mohammad As-Sayyed Al-Juleind, Jeddah, Dar ‘Al-Mojtama’, 1407H., p.39.

and vices or good and bad deeds or in case of confusing good deeds with bad deeds; all of these cases are governed by the general rule of giving priority to prevention of evil over the benefits expected from some actions.”

Enjoining good and forbidding evil is based on the principle of measuring the harm or evil in relation to the benefits expected from a certain deed. If the harm is expected to be in larger proportion or even equal to the benefit, then the action to be performed is considered a prohibited one.

4. Enjoining Good and Forbidding Evil Is Performed on the Basis of Priorities

Priorities are given to the most significant first, and then to the secondary ones; preference is given to the major aspects rather than the secondary aspects of this obligation.

The principle of enjoining good and forbidding evil follows a certain gradation from the most important to the important, to the least important acts. This is so because it is an effort involving hard work and that is why this huge undertaking should be directed to the most important and then to the least important; to the origins of grave evil and the major issues. It should not be spent on secondary matters or trivialities while ignoring major issues. However, this should not be understood to mean that enjoining good and forbidding evil neglects the simple and small matters. As it is the case that worship is devoted to Allah, then everything matters, including the major and the minor events. But there are priorities for enjoining good and forbidding evil and these are classified and arranged into a ladder of priorities in Islamic Sharee’ah. These are organized according to their significance, first and foremost of which is the belief in the Islamic faith and its teachings. Then comes the category of religious duties, and the abstinence from prohibition, and then the optional duties and the repulsion of disliked permissibles.

5. Eavesdropping and Breaking into Peoples’ Homes Are Not Permissible

According to the rules of enjoining good and forbidding evil, it is illegal to eavesdrop or to break into peoples’ homes.

One of the provisions stipulates, “The suspicious caller to the Da’wah has no right to suspect any act unless it is manifested as a prohibited deed; if enough evidence in its unseen existence is established by some clear manifestations of its existence, then there could be one of two possibilities: the first is when an evil can be stopped before it happens, such as the case of someone trustworthy informing the caller to Da’wah in absolute privacy of someone else’s intention of murder. In such a case it is permissible for the caller to Da’wah to seek the truth in the hope of preventing the evil before it happens. The second type is

when the caller to Da'wah has no evidence, no manifestation of any prohibited act. In such case, he has no right to pursue it nor to reveal anything about it.”¹

6. How to Perform the Duty of Enjoining Good and its Methods

This duty has its own methods of realizing its objectives. Allah, the Exalted, illustrates the methods of performing this Da'wah in His Holy Book and in His Messenger's Sunnah. This methodology is based on wise, kind and prudent advice and polite argumentation. Allah, the Exalted, says,

*“ Invite (Mankind, O Muhammad SAW) to the Way of your Lord (i.e. Islam) with wisdom (i.e. with the Divine Inspiration and the Qur'an) and fair preaching, and argue with them in a way that is better. ”*²

7. The Steps for Changing Munkar “Evil”

There are gradual steps that have to be followed in dealing with Munkar (evil). These are graded steps and they are graded according to the Moslem's own capabilities. The first step is performed by the use of the hand, but if a Moslem is incapable of using this direct method, then he has to follow the second step – to change evil through the use of the tongue by explaining evil, condemning it, and advising others to stay away from it, If, however, a Moslem is incapable of using this technique, then he has to employ the least direct of all, and that is by heart just by condemning evil by heart and announcing that one is incapable of doing anything else. Consequently, no one is exempt from performing the duty of changing evil. The Prophet (*may peace and blessings be upon him*) says, “If anyone of you sees something objectionable, he should change it with his hand, but if he cannot, he should change it with his tongue, and if he cannot he should do it in his heart, that being the weakest form of faith.”³

¹Al-'Ahkam As-sultaniyya by 'Al-Maroodi (Sultanite Provisions by al-Maroodi), p.252 & Al-'Ahkam As-sultaniyya by Abi Ya'li (Sultanite Provisions by Abi Y'ali) p.296.

²An-Nahl [The Bee] 16:125

³Narrated by Moslem.

Third: The Qualities and Polite Manners of a Man of Da'wah (i.e. the Caller to Enjoining Good and Forbidding Evil)

Enjoining good and forbidding evil is one of the most important righteous deeds performed by a Moslem. It means performing Allah's commands regarding the honor and sacrosanctities of Moslems. Thus the caller in charge of this duty has to have the following qualities and personality traits:

1. He has to be kind and courteous with whomever he commands and advises to forbid evil.

One great morally-good trait of a caller to enjoining good is his down-to-earth manners, prudent behavior, and kind and courteous conduct towards those whom he recommends to do good and forbid evil. The refined manners and gracious behavior and pleasant talk to others are the distinctive qualities of those who undertake the duty of enjoining good and forbidding evil. The Prophet (*may peace and blessings be upon him*) says, "Kindness and Grace have always beautified the deed while bluntness and toughness have always spoiled matters."¹

The Prophet also says, "Allah is Gracious. He likes kindness and courtesy in everything we do. He rewards kindness but does not reward violence."²

Kindness according to Islamic Sharee'ah also dictates protecting peoples' honor, family secrets and not hurting their feelings by publicly disclosing their own personal and private affairs. A caller to the Da'wah has to command the people and advise in absolute kindness and true graciousness. 'Imam Shafi'i in this regard says, "Whoever advised his brother in Islam secretly succeeds in his duty of commanding good and forbidding evil. Whoever commands others in public will hurt them and scandalize them."³

Yet, there is an exception to this rule. This is the case of those who transgress the limits of Allah in public; these are the ones who deserve to be commanded publicly and secretly.

There are great advantages to the prudent and courteous way of calling for enjoining good and forbidding evil. This usually gains the trust of opponents and, thus, Da'wah is disseminated easily and attracts others to accept its teaching and support it. Allah, Glory to Him says,

¹Narrated by Moslem, See "Saheeh Moslem explained by 'An-nawawi", part16, p.146.

²Narrated by Bukhari & Moslem, see Saheeh Al-Bukhari Ma' Fath Al-Bari, part.10, p.319.

³Sharh 'An-nawawi 'Ala Saheeh Moslem (An-nawawi's Explanation on Authority of Saheeh Moslem), part.2, p.24.

“And by the Mercy of Allah, you dealt with them gently. And had you been severe and harshhearted, they would have broken away from about you.”¹

2. Sincerity

Sincerity is an essential quality of those who call for the Da’wah of enjoining good and forbidding evil. This is a Da’wah for Allah’s cause. Whoever is interested in fame or recognition of his criticism of evil actions should not take part in this work. The sole purpose of enjoining good and forbidding evil is the pursuit of making Allah’s religion the sovereign religion in this world, to spread the teachings of the Islamic faith and help them prevail. Thus, the caller to this Daw’ah has to devote all his efforts to the cause of Allah, to keep Allah’s religion and His words in reverence and elevation. The total surrender to Allah’s obedience is the sole objective of a caller to this Da’wah.² Thus, the caller to this Da’wah has to free himself from any personal egoism, ambitions, or aspiration.³ His whole mission is to call to the firm belief in Allah’s oneness, without association of anyone or anything with Him. Allah, Glory and Grace to Him, says through His Messenger’s words: “I am the only one who needs no partner. He who does any deed whereby he associates partners with me has no place in my universe.”⁴

3. Patience

Patience is another requirement for the success of enjoining good and forbidding evil. This virtue has been emphasized in the Holy Qur’an to the point where it is mentioned in 130 locations. Patience is a trait of those strong-willed Prophets. Allah, the Exalted says,

“And verily, whosoever shows patience and forgives that would truly be from the things recommended by Allah.”⁵

A caller to the Da’wah of enjoining good and forbidding evil has to be patient so that his endeavors will lead to the targeted aims; otherwise, his impatience may culminate in deterioration instead of positive changing of evil deeds. Hence, Loqman recommends his son to be patient. Allah says,

¹Al-‘Imran [The Family of Imran] 3:159

²Al-Jihad: Mayadeenuh wa ‘Asaleebuh (Strife: Domains and Methods), Ibid., p.184.

³Sharh ‘An-nawawi ‘Ala Saheeh Moslem (An-nawawi’s Explanation on authority of Saheeh Moslem), part.18, p.115.

⁴‘Al-Hisbah le Ibn Taymiyya (The Hisba “Islamic Law”), Ibid., pp.71-72.

⁵Ash-Shura [The Consultation] 42:43

*“O my son! Aqim-is-Salat (perform As-Salat), enjoin (people) for Al-Ma'ruf (Islamic Monotheism and all that is good), and forbid (people) from Al-Munkar (i.e. disbelief in the Oneness of Allah, polytheism of all kinds and all that is evil and bad), and bear with patience whatever befall you. Verily! These are some of the important commandments ordered by Allah with no exemption.”*¹

4. Modesty or Humility

Humility is another major trait necessary for the success of enjoining good and forbidding evil. Humility for a caller to this Da'wah means knowledge of the self, avoidance of haughtiness, avoidance of making reference to one's virtues, and avoidance of boasting in terms of money or family lineage.

5. Knowledge of When to Enjoin Good Publicly and When to Do It Secretly

A prerequisite for successfully performing the duty of enjoining good and forbidding evil is the knowledge of when to perform it publicly and when to do so discreetly. The caller undertaking this duty should be knowledgeable about what matters should be reprimanded or prohibited publicly, and which discreetly, as this knowledge protects the one to be advised or commanded from unnecessary embarrassment or intrusion into his private life and that of his family. However, in the case of a person involved in any act of Munkar (i.e. prohibited deed) committed publicly, then he can be reprimanded or advised in public.

6. Verification and Ascertainment of Occurrence of Evil

To perform the duty of enjoining good and forbidding evil successfully, the caller to this duty must ascertain and verify the true occurrence of such bad deeds. He has to verify by means of solid evidence and full proof that the act done is an act of “Munkar,” an evil deed. This verification process has to be based on evidence drawn from the provisions and stipulations of the Holy Qur'an and the honorable Sunnah. Some people may perceive a certain deed as prohibited while, in fact, in accordance with Islamic Sharee'ah provisions, it is not seen as such, or may be the reverse. Therefore, a caller to this Da'wah must be sure that a Munkar, a prohibited deed, has been committed. He should not rush into reprimanding or advising anybody or any group of people on grounds of mere suspicion without adequate proof or evidence. Sometimes, people are torn between the inclination to do good and the propensity to commit evil deeds. A person may think about committing a sin but he may decide not to do so later. Hence, it is imperative not to perform the duty of enjoining good and forbidding evil on mere suspicion without solid evidence attesting to a prohibited act.

¹Loqman 31:17

The caller to the duty of enjoining good and forbidding evil has to verify whatever news or stories are relayed to him by another person, as the latter might have the wrong motivation. His objective in relaying the story, or the message of the existence of a prohibitory deed, may not be the changing of evil; he could be one of those hypocrites, disbelievers, or gossipers who want to create corruption and vices on earth.

Informants within this category of people do not often aim to change or eradicate evil; but they aim to defame the reputation of those on whom they inform. Thus, the caller to the duty of enjoining good and forbidding evil should not take any information for granted. He must verify its truthfulness and accuracy before he considers reprimanding or charging the accused to refrain from wrongdoing. Otherwise, he could command someone to do good which he never failed to neglect, or he could be forbidding someone from doing evil which he never did.

7. Knowledge of the Circumstances of People

It is very important for the caller to the duty of enjoining good and forbidding evil to be well-informed about the conditions of the people and the society at large, as well as the characteristics of the era to which they belong. This knowledge qualifies the caller to this Da'wah to use the appropriate strategies in communicating with those people. He has to know how to address an illiterate and a literate person, and he has to have a way with all sorts of people, ranging from a reasonable person, to an intelligent one down to a vulgar one.

8. Being an Exemplary Figure in all His Commands and Prohibitions

The caller to the Da'wah of enjoining good and forbidding evil has to be an exemplary figure by applying whatever he calls for or whatever he advocates by himself first. He should perform all the duties for doing good and refrain from all forms of wrongdoing. A caller to Allah's cause can –without doubt- appeal to his audience and have an impact on them only if he himself has exemplified everything he calls for through his inward belief and outward behavior. This responsibility towards the self is more demanding than the responsibility towards others. The non-compliance with and inconsistency on the part of the caller to the Da'wah in applying what he advocates has more serious bearings on the Da'wah than the non-compliance of the whole society. The callers to the cause of Allah must set a good example to others in their belief and their manifest behavior; they should embody all aspects of their Da'wah in their own behavior and activities throughout their lives.

9. Demolishing Barriers Between the Callers to Enjoining Good and Forbidding Evil and the People.

The caller to this Da'wah should reach out to all wrongdoers, disobedient and rebellious persons by contacting them directly through the use of persuasive strategies and prudent approaches. He can sometimes appeal to the use of threats in the case of courtesy and prudence failing to work. Unfortunately, some callers "Du'ah" avoid mingling with wrong doers, disobedient and rebellious people against Allah's religion on grounds of hatred of evil deeds. This is not the right approach. How can those disbelievers be guided to the divine path if no one goes to them to advise them and show them the way? How can all those rebellious figures be guided or advised to change and learn to be obedient to Allah's religion if the men of Islamic Da'wah, those callers to the cause of Allah do not approach them?

To stay away from those errant people, and to refrain from contacting the rebellious and disobedient can only be acceptable after the caller to Da'wah has done his best to guide backsliders to the right path and they have failed to respond. Only in such a case will staying away from them be acceptable as disassociating oneself from those disbelievers will be taken as forbidding evil in the heart.

10. Flexibility in Dealing with Differences in Opinion

The flexibility and tolerance of others' opposing views is another pre-condition for a successful performance of the duty or enjoining good and forbidding evil. Differences in opinion should be accommodated by the caller to Islamic Da'wah as long as they are within the category of permissible differences. Differences of opinion are a part of human nature. Allah, the Most High, says,

*"But they will not cease to disagree, Except him on whom your Lord has bestowed His Mercy (the follower of truth - Islamic Monotheism) and for that did He create them."*¹

The under dispute matters, however, are usually of a more subsidiary nature; they have to do with issues that are secondary to the main origin of the faith. This has been a grace from Allah to make it easy for people to handle their own differences.

¹Hood 11:118-119

Fourth: Application of the Duty of Enjoining Good and Forbidding Evil in the Kingdom of Saudi Arabia

The job of “Al-Hisba” (i.e. the serious revision and evaluation of one’s own deeds in reference to Islamic Sharee’ah) was considered as the main mandate for the duty of enjoining good and forbidding evil. During the First Saudi State and the Second Saudi State, this job was practiced on a voluntary bases by Shaikhs from the Al-Ash-Shaikh family prior to King Abdul Aziz’s reclaiming Riyadh in 1902 G.

After the expansion of King Abdul Aziz’s authority over other territories, the duty of enjoining good and forbidding evil was expanded to cover other areas. It was also changed from voluntary effort to an official duty. King Abdul Aziz assigned to Shaikh Abdul Aziz Bin Abdul Lateef Al Ash-Shaikh the duty of the call to enjoining good and forbidding evil, and provided him with a team of aides. Prior to this authorization, these Shaikhs used to call to “Hisba,” enjoining good and forbidding evil, on a voluntary basis and in an individual capacity. After the death of Shaikh Abdul Aziz Bin Abdul Lateef Al Ash-Shaikh, King Abdul Aziz appointed Shaikh Omar Bin Hasah Al Ash-Shaikh to bear the responsibility of the Hisba. From then he became the head of the authority of enjoining good and forbidding evil for the whole of the central region, to which the Eastern region and the Northern borders were annexed later. As for Hijaz (i.e. the Western Province nowadays) it has had its own independent authority since 1926 G.

The development of the Authority of Enjoining Good and Forbidding Evil went through several stages. In order not to exceed the limits of this discussion, I will refer to the current phase of the authority of enjoining good and forbidding evil.

The General Presidency of the Authority of Enjoining Good and Forbidding Evil: Its Main Duties

The system of the Authority of Enjoining Good and Forbidding Evil, established by royal decree no. m/37 on 26/10/1400H. (1980 G.), states that the General Presidency of the Authority of Enjoining Good and Forbidding Evil is an independent bureaucracy, answerable directly to the head of the Ministers’ Council.

Accordingly, the General President of the Authority has the rank of a Minister; he is the final arbiter of the authority, and he has two deputies who are appointed at grade fifteen of the civil service scale.

The system further stipulates that a branch of the Authority be established in each area of the Kingdom. This decision was taken by the General President

of the Authority and includes the appointment of a Supervisor General and an assistant... . In addition, there must be a branch in each village and center of population in the Kingdom.

The system also calls for the formation of Sharee'ah interrogation committees, and the Authority's members shall consider all cases of violations and prohibitory acts...including the cases of immoral conduct, and other offenses.... They in turn determine the appropriate punishments, which range from the offender's signing of a pledge not to do so anymore, to the punishment of being reprimanded or disciplined, or being sent to one of the Sharee'ah courts.

The selection of the presidents, members, and assistants of the Authorities is based on good academic qualifications, a good reputation, and a good record of moral conduct. A member of the Authority can never be a person who has been indicted or accused of committing a crime which defamed his reputation, or someone whose reputation has been in question. In the case of an Authority member being found guilty of any of these, his services will be terminated immediately.

The system points out that the main functions of the respective Authorities are to guide people to the right path, and the correct performance of religious duties and obligations specified and stipulated in the provisions of Islamic Sharee'ah. This also includes the forbidding of evil, which prevents the occurrence of vices, of wrong doings and prohibited deeds or the propensity to adopt bad habits, heresies and superstitions. The Authority in this respect has the right to take its own measures against all of these perversions and deviations from the right path of Islamic Sharee'ah. The Authority has the right to monitor all prohibited deeds violating public moral conduct. The branches of the Authority should transfer whoever they find involved in any offense of this nature to the headquarters of the main Authority.¹

Article one of the executive bylaw of the Authority of Enjoining Good and Forbidding Evil stipulates,

“That the Authority’s members have to perform the duties specified in article (9) of the system of the Authority of Enjoining Good and Forbidding Evil endorsed

¹For further information on the duties of the Authority of Enjoining Good and Forbidding Evil, see the following:

- **Lamahat ‘anir-ri’asa al’-‘amma Lil-Hiya’(Glimpses from the Authority, issued by the Authority of Enjoining Good and Forbidding Evil),**
Riyadh, Al-‘Obeikan Library, p.69,431.
- **‘At-tatbeeqat ‘Al-‘Amaliyya Lil-Hisba Fil-Mamlaka (Application of Al-Hisba in the K.S.A),** Ibid., pp. 131-144.

by Royal Decree no. m/37 on 26/10/1400H. The main duties include guidance to the divine faith, offering advice as to performing the religious rites stipulated in Islamic Sharee'ah, forbidding evil and renouncing involved heresies and bad customs." This scheme of enjoining good and forbidding evil can be achieved through the following steps:

First: By urging people to abide by and perform the five pillars of Islamic faith: the profession of faith (i.e. 'Ash-Shahadatain), the five prayers, fasting, the almscharity (Zakat), pilgrimage (Haj) and the proper moral conduct of a Moslem. This also includes guiding people to the good deeds of helping others, honesty, piety, keeping one's promises, and reminding people of the hereafter and doomsday, and that "he who does good will benefit himself while he who does evil will bear the consequences."

Second: Since prayer is the backbone of religion, the Authority members should observe the prayer time, and make sure that it is offered punctually in mosques. They should urge people to respond to the call to prayer by closing their shops, stopping their business transactions, and proceeding to mosques in order to offer their prayers.

Third: To monitor the public markets, main roads, public parks, and all other places in an effort to impede the possible occurrence of the following prohibited behavior:

1. The mixing between males and females and the wanton display of beauty, which are both prohibited in Islamic Sharee'ah.
2. The resemblance of males to females, or the reverse.
3. Sexual harassment of women by men, either verbally or physically.
4. The public use of taboo words or utterances.
5. Annoyance to people in congregation at mosques caused by turning on radios, TV sets or tape-recorders in close proximity to the mosques.
6. The visibility of non-Moslems' behavior and their apparent disregard for Islamic Sharee'ah's rites and provisions.
7. Display of books, photos and other audio-visual materials that violate Islamic codes of moral conduct, and Islamic Sharee'ah in general.
8. Display of statues in wanton postures or displays of the slogans of non-Moslems... etc.

9. The preparation and production of alcoholic beverage, their promotion and consumption. This duty is discharged in conjunction with the relevant agencies.
10. The prevention of all that nurtures evil deeds, such as “adultery, premarital sex, homosexuality and gambling,” and the administering of brothels and other places for evil deeds.
11. The prevention of heretical deeds such as holding some locations or monuments in veneration, especially ones that are not covered by Islamic Sharee’ah provisions. This also includes the celebration and observance of non-Islamic occasions.
12. Deeds by magicians, actions arising from superstition, and the tricks of fortune-tellers to appropriate people’s money.
13. Malpractice in business transactions such as altering the correct measures and units in transactions of buying and selling.
14. The supervision of slaughter-houses to make sure slaughter is done in accordance with Islamic Sharee’ah.
15. The monitoring of clothing stores and beauty saloons for women.

The aforementioned are the most important duties of the Authority of Enjoining Good and Forbidding Evil. These duties are meant to achieve the following objectives:

1. To guide people and advise them to apply the religious obligations specified in Islamic Sharee’ah provisions.
2. To forbid “Munkar,” evil deeds in a way that impedes the occurrence of prohibited actions, and to prevent people from acquiring or imitating bad customs and heresies.
3. To arrest wrong-doers or those suspected of evil deeds and those showing indifference to Sharee’ah obligations, and to interrogate them.
4. To monitor all sorts of prohibited matters in coordination with the relevant agencies.
5. To take the required measures and to inflict the penalties covered by the system of the Authority of Enjoining Good and Forbidding Evil. This should be done in conformity with the Authority’s main duties.

Now, and in the light of the preceding information on the duties and specializations enshrined in the system of the Authority of Enjoining Good and Forbidding Evil, how could anybody with an adequate level of impartiality say that these practices entail any violation of the rights to personal freedom and an interference in the affairs of others?

Chapter Six

Human Rights In Islam: And It's Position on Freedom In General And Freedom of Self-expression Opinion In Particular: Their Applications In The Kingdom of Saudi Arabia

A- Human Rights in Islam: Their Applications in the Kingdom of Saudi Arabia

Islam has given Man a very special and noble status. This premise is based on the Islamic conviction that Man, irrespective of origin, gender, race, color, parental lineage, social status, property or money, is a dignified being which Allah Almighty endowed with faculties and powers which enable him to undertake the role of God's vicegerent on earth.

In this chapter, I'll talk about how Islam has endorsed human rights for more than fourteen hundred years. I'll explain Man's status in Islam, the general characteristics of Islam's humane message, the meaning and quality of human rights, and the most significant assurances of human rights represented by the application of the prescribed punishments on transgressors of the limits set by Islamic Sharee'ah.

First: Islam Has Enshrined Human Rights for More than Fourteen Centuries

Human rights in their entirety have never been a byproduct of modern life nor an innovation of the West. Islam has the precedence in calling for human rights, their protection, and the conception of the individual, society, and the state as the guardians of human rights in the sense that human rights are essentially religious duties. Whoever performs these duties is rewarded and whoever neglects them gets punished.¹

Whilst the whole world was drowned in the darkness of ignorance, there was no justice nor rights; it was the rule of the jungle. Islam conceives of Man as a dignified being, endowed with the faculties of understanding and intellect and, thus, Islam provided Men with rules and regulations to organize their relation to their Creator, Allah, and their relationship with one another. Islam provides a whole scheme of life whereby it endorsed Man's political, social,

¹Yousef Al-Qaradawi, 'Ath-qafa 'Al-'Arabiyya 'Al-'Islamiyya Bain 'Al-'asala wal Mu'asara (Arab-Islamic Culture between Authenticity and Modernity), Cairo, Wahba Library, 1994, p.155

economic, cultural and civil rights. In this Islam came to honor Man by granting him the right to freedom of opinion and expression, the right to religious and political freedom. The rights endorsed by Islam have never endorsed by other systems of the 20th century. The rights granted to Man by Islam are still purer, more integral and brilliant than all other systems developed by all of humanity in its most developed stages.

If Man makes an assessment of the Islamic conception and statement of human rights and tries to match them with other human agencies for human rights, he will easily find out that the human rights endorsed by Islam are more just and proper. Moreover, human rights in Islam have been given more attention than those in any other system. Shaikh Mohammad Al-Ghazali in this respect says, “The most developed conception of human dignity and Man’s respect achieved by humanity has been the most basic system of human rights in Islam. The UN declaration of human rights is in fact an imitation of what the most noble human being, the Prophet came for.”¹

The higher Islamic Council in this regard states, “Islam provided legislation on human rights fourteen centuries ago, and provided all assurances for protecting those human rights for the whole scheme of life”. The provisions and principles guaranteeing the rights of humans were explicitly and thoroughly stipulated in the Holy Qur’an and the honorable Sunnah fourteen hundred years prior to their declaration by any secular system.

The Messenger of the divine guidance, Prophet Mohammad (*may peace and blessings be upon him*) made his declaration for human rights in his farewell address during his last pilgrimage saying, “*O people! All of us belong to one God, one father and one religion, you are all the sons of one father, Adam, and Adam was created from dust; you will all be buried under the earth soil. No Arab is superior to a non-Arab, nor is a non-Arab superior to an Arab, except by having a greater degree of God consciousness.*” This Prophet’s declaration of human rights was made before the American and the French revolutions made their declarations of human rights in 1776 G. In this great address, the Prophet and Messenger for the whole of humanity explains the principles of human rights. He declares that all human beings are equal; they are all equal like the teeth on the one hair comb; no one is nobler than others except by having a greater degree of piety and of God consciousness, and on the basis of the good deeds that a person performs in the worship of Allah, and the welfare of his Moslem brethren and his Ummah, community. In this way Islam has succeeded

¹Mohammad Al-Ghazali, Huqooq ‘Al-insan fee Al-Islam bayn Ta’aleem Al-Islam wa ‘Ilan ‘Al’Umum ‘Al-Mutaheda (Human Rights in Islam between the Teachings of Islam and the UN Declaration), 1984, p.9

in eradicating all forms and means of divisiveness, class and race discrimination or discrimination on the basis of parental lineage,¹ Allah Almighty says,

“O Mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allah is that (believer) who has At-Taḳwa [i.e. one of the Muttaḳeen). Verily, Allah is All-Knowing, All-Aware.”²

Islam established the unity of Man’s origin, and by preaching the unity of human origin and emphasizing that people are all the descendents of Adam and Eve, Islam managed to get Man out of the narrow-minded entanglement with the sense of belonging to his tribe, his own family, or race, color and ethnicity; these differences should not be the bases of disputes and divisiveness. This diversity of ethnic origin, geographical origin, race, color, tribe, etc. was meant to bring people together on the idea of unity of Man’s origin and on the idea of unity of the worship of the one and only God, their Creator. During the era of the Prophet Mohammad, these basic Islamic principles of the unity of Man’s origin were fully implemented. The eras of the wise Khaleefas and the eras that followed also witnessed a complete and accurate implementation of the teachings of Islam relating to these matters.

Second: The Status of Man in Islam: the General Characteristics of Islam’s Humane Message

Islam describes Man as a dignified, privileged being, endowed with faculties and powers which enable him to undertake the role of God’s vicegerent on earth. Allah Almighty says,

“And remember when your Lord said to the angels: “Verily, I am going to place (Mankind) generations after generations on earth.” They said, “Will You place therein those who will make mischief therein and shed blood, while we glorify you with praises and thanks (Exalted be You above all that they associate with You as partners) and sanctify You.” He (Allah) said, “I know that which you do not know.”³

In addition to endowing Man with an intellect with which he could acquire knowledge of all the things around him or learn from divine revelation, Allah

¹Mohammad Abdullah Al-Khateeb, *Min Fawqa Jabal ‘Arafat Taḳarrarat Huqooḳ ‘Al-insan* (From the top of the Arafat Mountain Came the Declaration of Human Rights), Manar Al-Islam Magazine, No. 12.

²Al-Hujurat [The Inner Apartments] 49:13

³Al-Baqarah [The Cow] 2:30

has made the products of the earth readily available to Man for his sustenance, and to enjoy its blessings of food, beauty, and natural resources to satisfy his basic needs and desire. Yet, in return for these gifts, Man has been charged with duties for which he has to account.

Man has been bestowed with dignity and given a unique position in this life and the hereafter. First, Allah made Man His vicegerent on this earth and this is how Man's dignity was secured in Islam. Furthermore, Allah bestowed upon Man the grace of the sense of sight, hearing, speech, touch, smell, etc., and reason and intellect as his tools for acquiring knowledge. This is another foundation of Man's dignity in Islam. Finally, Man has been endowed with the faculties that enable him to distinguish between right and wrong, and make moral choices. This is another foundation of Man's dignity, and the unique position bestowed upon him by Allah.

We can summarize the main features of Man's role as God's vicegerent on earth as follows:

- (One) Man's role as God's vicegerent on earth is bestowed upon the whole of Mankind.
- (Two) Consequently, it is not a privilege for a certain class or group; it is for all.
- (Three) Based on the above, this vicegerency is entirely different from the theocratic domination of Christian priests, which is opposed in Islam.
- (Four) In conclusion, Man's role as God's vicegerent is governed by the general principles of Islam Sharee'ah and its specific provisions.

To undertake this noble role on earth, Man has to have the following distinctive traits:

1. The most important characteristics of Man as God's vicegerent on earth is the feature of being a thorough being or a complete being. Allah made Man a decent being free from perverted tendencies. This is what is referred to as the decency of Man by instinct. Whatever perversions or deviations Man may undertake are presumably caused coincidentally by the impulse of Man's desires, or by flawed upbringing, and subject him to prescribed punishment.¹
2. As to Man's duty and behavior towards himself, others and the community, it is enough to state that the Holy Qur'an makes numerous references to Man's

¹For further information see: Huqooq 'Al-insan war-rad 'Ala Ash-Shubuhah 'Al-muthara Hawlaha (Human Rights in Islam and the Objection Raised Against it) by the author of this book, 1997 G., pp.28-30.

obligations towards his Creator, the self, the family, and the community. The Holy Qur'an stipulates that Man has to abide by Allah's commands in this regard and, further, it cautions Man against acting with disregard to this responsibility by transgressing the limits of Islamic Sharee'ah.

This is the Islamic conception of Man as the most dignified and unique being. The grandeur of this status bestowed upon Man by Islam will become more and more emphatically prominent if we examine the status of Man in the systems which were prevalent before Islam. Man was conceived on the bases of differences of geographical, racial, ethnic origin and of socio-economic class and those of color of skin, etc...

The scriptures of the Holy books of the Indian Brahmins classify people on a scale of preferences on the basis of their origin and upbringing. It classifies people into four classes, the highest of which consists of Brahmins and the lowest of what is referred to as the "lower caste." The people of this lower caste are considered by this corrupt creed to be impure, unclean beings, to be treated as slaves by the upper caste.

The ancient Greeks used to think of themselves as an elite class, while others were Barbarians whose humanity was degraded and whose sole function was the service of the "chosen" class or the "elitist" Greeks.

Romans classified society into social classes. The highest on the ladder of social ranking was the class of noblemen who had the right to sovereignty over others. The others were slaves. The same conception was held by the Hebrews who considered the Kanonites to be common people, existing to serve them. The pre-Islamic era, "Al-Jahiliyya"(i.e. era of ignorance) witnessed similar racial and class stratifications and discrimination.

These bleak images and negative perceptions of Man were drastically corrected by Islam. With the appearance of Islam, Man's dignity was immediately restored and his unique and privileged position was highlighted for the first time in history, more than fourteen hundred years ago. Allah Almighty sent His Messenger, Prophet Mohammad (*may peace and blessings be upon him*) for the all of Mankind, with the call to the Islamic faith for all on equal footing with each other: Allah says,

*"And We have not sent you (O Muhammad SAW) except as a giver of glad tidings and a warner to all Mankind, but most of men know not."*¹

¹Saba' 34:28

Prophet Mohammad was sent for all humans while the preceding prophets were sent to one nation each, their own nations. The message of Islam concludes and perfects the preceding religions. Allah says,

“He (Allah) has ordained for you the same religion (Islam) which He ordained for Nûh (Noah), and that which We have inspired in you (O Mohammad SAW), and that which We ordained for Ibrahim (Abraham, Mûsa (Moses) and 'Iesa (Jesus) saying you should establish religion (i.e. to do what it orders you to do practically), and make no divisions in it (religion) (i.e. various sets in religion).”¹

Islam further commanded the belief in all the other messengers. Allah says,

“Say (O Muhammad SAW): “We believe in Allah and in what has been sent down to us, and what was sent down to Ibrahim (Abraham), Isma'il (Ishmael), Ishâque (Isaac), Ya'qûb (Jacob) and Al-Asbât [the twelve sons of Ya'qûb (Jacob)] and what was given to Mûsa (Moses), 'Iesa (Jesus) and the Prophets from their Lord. We make no distinction between one another among them and to Him (Allah) we have submitted (in Islam).”²

The message of Islam is sent to all peoples; it does not differentiate between an Arab and a non-Arab, a black and a white man. Thus, it is not restricted to a specific place; it does not admit the existence of geographical boundaries nor is it confined by the bounds of nationality. Therefore, the Islamic faith and its message are not confined to a certain region or country as is dictated by the principle of state sovereignty. It is sent for all parts of the world. In Islam all men are equal because its message is sent for all peoples of the world. Allah says,

“Truly! This, your Ummah [Sharee'ah or religion (Islâmic Monotheism)] is one religion, and I am your Lord, therefore worship Me (Alone).”³

Also Allah says,

“O Mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the

¹ Ash-Shûra [The Consultation] 42:13

² Al-'Imran [The Family of Imran] 3:84

³ Al-Anbiyâ' [The Prophets] 21:92

most honorable of you with Allah is that (believer) who has At-Taqwa [i.e. one of the Muttaqeen). Verily, Allah is All-Knowing, All-Aware.”¹

Based on the above, it becomes clear that Islam links the past with the present and to integrate all previous sacred messages into its own framework; thus, calling the nations of the whole globe into one Ummah and the different parts of the world into one unified region.

This is the true equality of brotherhood and solidarity, which the Western world failed to achieve. This is the universality of Islam, which the World Declaration of Human Rights tried to achieve, but with very little success in the 20th century. Islam achieved it at the beginning of the 7th Gregorian century in its most perfect form.

The message of Islam is as the final sacred message of all. Allah Almighty says,

“Muhammad (SAW) is not the father of any Man among you, but he is the Messenger of Allah and the last (end) of the Prophets. And Allah is Ever AllAware of everything.”²

Prophet Mohammad (*may peace and blessings be upon him*) said,

(I and all other Prophets before me are like a person who built a house which was perfect albeit for the corner stone. People started roaming around enjoying its beauty, said, are you going to finalize the construction of this house by placing its final brick? I am like that final brick which completes the house. I am the final and last Prophet who was sent to perfect the preceding sacred faiths).³

Third: The Concept of Human Rights in Islam

The Status of Rights in Islam

Islam legislated for the principle of human rights fourteen centuries ago. Its legislation was thorough and profound. Islam gave all assurances and provisions for the protection of human rights on the basis of the stipulations of Islamic Sharee’ah. As Islam is the last and final of all sacred messages which were revealed by Allah to His messengers (*Peace be upon them*) in order that they

¹ Al-Hujurat [The Inner Apartments] 49:13

² Al-‘Ahazab [The Confederates] 33:40

³ Narrated by Ahmad and Al-Tarmathi.

should relay them in order to guide people to a dignified life, where security, happiness, justice, and prosperity might prevail.

The human rights stipulated in the Holy Qur'an and the Sunnah of Prophet Mohammad (*may peace and blessings be upon him*) are irrevocable and not susceptible to change, perversions, adaptations, reproduction or nullification. These are the rights granted by Allah, *Glory Be To Him*. Hence, it is in nobody's capacity or jurisdiction nor society's jurisdiction, to tamper with them. Their immunity cannot be assaulted by individuals nor by societal institutions.

The idea of human rights in Islam as stipulated in the Holy Qur'an and the Sunnah have included all secular trends, be they old or modern. In fact, the concept of human rights according to Islamic Sharee'ah has many advantages over those of secular systems. This can be clarified as follows:

1. The establishment of human rights in Islam has included all personal, intellectual, political, legal, social, and economic rights and emphasized general liberties.
2. Human rights in Islam apply to both men and women, and also to children (i.e. minors), who are all entitled to the Sharee'ah's care through all the establishments and institutions of Islamic society.
3. Human rights in Islamic Sharee'ah apply to Moslems and non-Moslems inside and outside the borders of the Islamic State, as the welfare and well-being of people in Islam is a universal human goal. Allah says,

*"Allah does not forbid you to deal justly and kindly with those who fought not against you on account of religion and did not drive you out of your homes. Verily, Allah loves those who deal with equity."*¹

4. Human rights in Islam cover the rights of the individual, the society, and the state. This is so because the concept of enjoining good and forbidding evil is an obligation of all three parties. This obligation is commanded by Islamic Sharee'ah as it is based on the doctrine of Islamic faith and it permeates the conscience of a true believer.
5. The superiority of Allah's provisions over the declaration of human rights in different Man-made legislations expresses itself in the core principle of the human rights concept in Islam, that all provisions pertaining to human rights stem from the firm conviction of the Islamic creed, rather than from the positivist doctrines of human rights, from a social contract or even from an

¹ Al-Mumtahinah 60:8

individual school of thought. The sources of human rights in Islam come from Allah's Holy Book and His Messenger's Sunnah. Indeed, it is the Creator of Mankind, the sole Lord of the universe, Allah, who has granted these rights to Man. The foundation of human rights in Islam is the creed of the Islamic faith which governs the thinking and behavior of the individual, community and the State....

6. The fact that the notion of rights in Islam is drawn from the Islamic Sharee'ah means that rights will always be associated with the notion of duty. Consequently, the right of the individual will be subsumed under the rights of society in general. Furthermore, according to this scheme of human rights in Islam, the individual's political and intellectual rights will be associated with societal and economic rights, so that whatever is right for the individual, is considered to be a duty for others. Thus, there will be no place for individual egoism. The Prophet (*may peace and blessings be upon him*) says, "*Your belief will not be completed until you wish for your Moslem brothers what you wish for yourself.*"¹

7. The fact that the establishment of rights in Islam comes from Allah, *Glory Be To Him*, means that the application of rights becomes an obligation on the part of the owner of that right himself/herself, not just an obligation from others. The person entitled to a certain right is commanded to defend his rights, and to fight for them in cases of procrastination, error, or coercion. In one of the Prophet's teachings (Hadeeths) there is a statement to this effect: "*Whoever is killed in defense of his own self is a martyr, and whoever is killed in defense of his honor is a martyr and whoever is killed in defense of his money is a martyr*"².

Islam orders the individual, the community, and the state to support the individual's pursuit of his rights. In Islam, a believer is ordered not to concede to negligence in pursuance of his rights, especially those rights pertaining to his belief, his dignity, and humanity. Islam orders a person to defend his rights to dignity, freedom, belief, etc., even if that necessitates his temporary departure from his beloved homeland. Thus, immigration, or seeking asylum in today's terminology, to evade oppression becomes not just his right but his duty also.

It has become evident from the preceding discussion that the Islamic conception of human rights was general enough to accommodate all notions, approaches, and trends in the area of human rights of the past, and of today's

¹ Agreed upon

² Abu Dawood and Al-Tarmathi

secular system. It even went beyond, to the point where it had the advantage over the others of being a universal humane ideology.

To avoid an unnecessarily lengthy discussion of the issue, I will limit myself to mentioning the sum of the human rights included in the provisions of Islamic Sharee'ah. The reader is advised to consult relevant references should he/she be interested in further information on this issue of human rights in Islam.¹

Human rights in Islamic Sharee'ah can be summed up as follows:²

1. Human dignity, as has been provided for in the Holy Qur'an: "*And indeed We have honored the Children of Adam.*"³
2. The equal treatment of all people in determining their fundamental rights with no discrimination on the bases of race, origin, color, gender, parental lineage, or financial position. The Prophet (*may peace and blessings be upon him*) says, "*An Arab has no superiority over non-Arab except by having a higher degree of piety and righteousness*"⁴. He also says, "*Women are co-equal to Men.*"⁵
3. The call to the unity of one whole community of Mankind. In Islam, the most noble of all of Mankind are those who do the utmost good for the welfare and interest of the family of Moslems. The Prophet says, "*All Men and Women are the creatures of Allah; they all are one family of nations that believe in His Oneness. The most favored by Allah are the most charitable to His creatures.*"
4. The call (Da'wah) to co-operating in good deeds, and the doing of all kinds of benevolent deeds for all Mankind irrespective of their nationality and religion. Allah, Almighty says, "*O Mankind! We have created you from a*

¹For more information on this issue, see:

- This author's book : **Huqooq 'Al-'insan fil 'Islam** (Human Rights in Islam),
- **Huqooq 'Al-'insan fee Al-Islam bayn Ta'aleem Al-Islam wa 'Ilan 'Al'Ummum 'Al-Mutaheda** (Human Rights & the UN Declaration) by Shaikh M. Al-Ghazali.
- Dr. M. D. Othman: : **Huqooq 'Al-'insan fil 'Islam wal Fikr 'Al-Qanooni 'Al-Gharbi** (Human Rights in Islam & the Western Legal Thought)
- Dr. Ali A. Wafi: **Huqooq 'Al-'insan fil 'Islam** (Human Rights in Islam),

²Symposia on the Islamic Sharee'ah & Human Rights, pp.32-34

³Al-'Isra'[The Nocturnal Ascension] 17:70

⁴The Prophet's Farewell Address

⁵Narrated by Al-Tarmathi

male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allah is that (believer) who has At-Taḡwa [i.e. one of the Muttaḡeen).”¹ Also Allah in this regard says, “Allah does not forbid you to deal justly and kindly with those who fought not against you on account of religion and did not drive you out of your homes. Verily, Allah loves those who deal with equity.”²

5. Man’s right to freedom of creed, and the prohibition of religious compulsion. Allah says, *“There is no compulsion in religion. Verily, the Right Path has become distinct from the wrong path. Whoever disbelieves in Taghūt and believes in Allah, then he has grasped the most trustworthy handhold that will never break. And Allah is All-Hearer, All-Knower.”³ And “And had your Lord willed, those on earth would have believed, all of them together, So, will you (O Mohammad) then compel Mankind, until they become believers.”⁴*
6. Prohibiting the assault on other’s wealth and blood. The Prophet says, *“The Moslem’s life, wealth and honor are forbidden to all other Moslems.”⁵*
7. The right to the sanctity of one’s home and the protection of one’s own freedom. Allah says, *“O you who believe! Enter not houses other than your own, until you have asked permission and greeted those in them, that is better for you, in order that you may remember.”⁶*
8. Solidarity among all members of a community concerning their right to a life of dignity and freedom from poverty is achieved through alms-giving (Zakat) from the wealthy to those in need. Allah says, *“And those in whose wealth there is a known right, for the beggar who asks, and for the unlucky who has lost his property and wealth, (and his means of living has been straitened).”⁷*

¹ Al-Hujurat [The Inner Apartments] 49:13

² Al-Mumtahinah 60:8

³ Al-Baqarah [The Cow] 2:256

⁴ Yûnus 10:99

⁵ From the Prophet’s Farewell Address.

⁶ An-Noor [The Light] 24:27

⁷ Al-Ma’arij (70:24-25)

9. The right of learning and education as a duty required from each person to eradicate ignorance. The Prophet (*may peace and blessings be upon him*) says, “Seeking knowledge is an obligatory duty on all Moslems.”¹
10. The right to inflict punishment upon those who decline to learn or educate themselves. This right, covered by Islamic Sharee’ah provisions, has not been grasped by other systems of human rights in non-Islamic States. In this respect, the Prophet (*may peace and blessings be upon him*) says, “ O ye nations of Islam! Thou shall learn from the neighbors and thou shall educate you neighbors. Should you decline to so do, I shall promptly punish you!”
11. The right to impose quarantine on cases of infectious diseases. This right was established in Islam fourteen centuries ago. Islam secured this right before it was included in the human rights systems of all countries. This measure of excessive care about general health in an Islamic state was paralleled with strong emphasis on the right of learning and education to combat poverty and ignorance. This is in compliance with the teachings of the Prophet (*may peace and blessings be upon him*), “If you heard about plague spreading in a certain area, do not go there, and if it occurs where you are do not leave the place to escape therefrom.”²

There are innumerable texts from the Islamic Sharee’ah provisions that stipulate the protection of these rights. In general, they all explain the fundamental human rights, and present detailed accounts of Man’s economic, social, and cultural rights from a very lofty human perspective. This does not allow for any discrimination whatsoever between one individual and another. The World Declaration of Human Rights emphasizes these warnings against all forms of discrimination on the bases of gender, race, social class, parental heritage, color, language, religion, opinion, wealth, and nationality. However, the Islamic conception of human rights does go further than that, to include other matters that never received attention from the founder of the Human Rights Charter. The Holy Qur’an stipulates for this important matter:

*“ O you who believe! Stand out firmly for Allah and be just witnesses and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety, and fear Allah. Verily, Allah is Well-Acquainted with what you do.”*³

¹Narrated by Ibn Majah

²Narrated by Ahmad

³Al-Ma’idah [The Repast] 5:8

The preceding Qur'anic verses point to the establishment of human rights in Islam irrespective of hostility or feelings of animosity. Furthermore, Islam declared women as the other halves of men, and stated that they have equal rights in much the same way as they have obligations, except for the right of men to be masters of their own family. This is so because of the distinctive characteristics of men that qualify them, more so than their female counterparts, to undertake the heavy duty of family supervision without upsetting the balance between the two in their reciprocal rights and duties, and without hurting the females' dignity.

This illustrates Islam's keenness on protecting basic human rights, including economic, social and cultural rights. Islam, in all of its provisions for human rights, did not resort to preaching on moral conduct; instead it provided legislative orders to be implemented, supplemented by the texts of provisions from Islamic Sharee'ah to ensure their complete implementation.

The texts of the World Declaration of Human Rights and the International Human Rights Charter on economic, social, and cultural rights remained within the realm of recommendations without any legislation to ensure their implementation at the regional and the international levels. These are the human rights enshrined in Islamic Sharee'ah provisions. They all are drawn from the doctrine of Islamic creed, the spiritual entity of the Islamic system.

Man in the Islamic creed is considered the most noble and dignified of all creatures. Allah, Almighty says,

“And indeed We have honored the Children of Adam, and We have carried them on land and sea, and have provided them with At-Taiyibat (lawful good things), and have preferred them above many of those whom We have created with a marked preference.”¹

Based on this privileged status bestowed upon Man, Allah granted him salient human rights. These rights were granted by Allah to Man; they were not granted by Man to Man, whereby he can withhold them any time he chooses. This grant by Allah to Man is based on the principle of Man's decency. However, the rights and privileges bestowed upon Man entail the following consequences:

1. That these rights are secure, stable, and sacred. No one has the right to change them or confiscate them. The confiscation of these rights by a ruler or by individuals is considered an act of transgression beyond the limits set by Allah. A ruler who does this will lose his powers of ruling according to Islamic Sharee'ah.

¹Al-Israa' [The Nocturnal Ascension] 17:70

2. The perception of these human rights as a Godly endowment on Man makes people voluntarily respect them from within. This guarantees peoples' adherence to them.
3. Human rights as God's endowment upon Man makes them unsusceptible to change, nullification or imitation. Since Prophet Mohammad was the last Messenger, there will be no possibility of changing or modifying those rights.
4. Human rights should not allow for any signs of negligence or excess in their performance. Excessive attention to human rights in favor of the individual at the expense of the common interest of the community, or negligence in protecting the individual's rights in favor of the authority's interest, are all unacceptable in Islamic Sharee'ah. It is Allah who is the sole source of these rights; He is the one who bestowed them on humans. Allah has provided adequate and accurate legislation for human rights, so there will be no excessive claims made by individuals, nor will there be an abuse of the state's authority in claiming those rights and depriving individuals of them.

The Islamic era fourteen centuries ago is considered the most brilliant and most prosperous era in the history of the whole of Mankind, in that the distribution and conception of human rights for individuals and for communities were framed within a complete and perfect framework.

Moslems relied for protection on two matters in their system of human rights, these were:

1. The application of prescribed punishment in Sharee'ah. We will talk about this later.
2. The establishment of absolute justice commanded by Allah in the Holy Qur'an and the Prophetic Sunnah, through the Islamic Judicial System which was discussed earlier in chapter four.

In brief, the happiness and dignity that Man realizes in Islam are far better than in all other systems. In the pre-Islamic era, the whole of Mankind found themselves trapped in a very complex and tragic situation when they could not have a dignified life; there was no dignity or equality among humans then. Islam saves humanity from the bonds of class and racial discrimination. The declaration of humanity's rights to dignity, freedom, equality and justice, found its best expression in the Islamic faith, which was the most significant declaration of human rights throughout the whole of Mankind's history. This declaration of human rights was the most eloquent, the most far-reaching, as it was in Allah's words,

“O Mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allah is that (believer) who has At-Taqwa [i.e. one of the Muttaqeen). Verily, Allah is All-Knowing, All-Aware.”¹

This is because the conception of human rights in Islam went far beyond mere slogans and declarations, as is the case in most organizations advocating human rights. The Islamic authorities achieved a full, honest and accurate implementation of all the Islamic Sharee’ah commands in the area of human rights.

It is worthwhile mentioning here that the equality of all humans realized in Islam was not the byproduct of intellectual, political, and social advancement. Nor was it a result of the slaves’ claims for liberty. Even more, it was not the outcome of the democratic practices of governments. It was bestowed upon humanity altogether in one complete scheme through the revelation of the Holy Qur’an with the teachings of the Islamic faith. This shows the special attention given to human rights in Islam fourteen centuries ago.

Fourth: Human Rights in the Kingdom of Saudi Arabia: Their Protection and Guarantees

Human rights in the Kingdom of Saudi Arabia are the same rights originally established in Islam. The system of government of the Kingdom of Saudi Arabia is based on the sound and complete application of Islamic Sharee’ah provisions in all spheres of life, including those concerned with human rights.

Thus, the basic system of government of the Kingdom embraces all the rights enshrined in the Islamic Sharee’ah which have to do with the principles of human dignity, freedom, equality, social solidarity, and Shura (consultation). Articles 18 and 19 of the basic system of government affirm the state’s guarantee of the right to private property and its inviolability, and banned the confiscation of property. In this vein, article 22 stipulates for social and economic development, while article 33 stipulates for the protection of the environment, its development and the prevention of pollution. Furthermore, article 27 points to the state’s protection of the rights of its citizens and their families concerning infirmity (old age) and unexpected events or emergencies. Articles 28 and 30 point to facilitating job opportunities for every capable person, and call for drafting rules and regulations for the protection of workers and business owners, and for the provision of general education. Article 31 points to the state’s duty of providing health care services for all citizens.

¹ Al-Hujurat [The Inner Apartments] 49:13

Along the lines of the state's protection of human rights from an Islamic perspective, article 37 points to the right of sanctity of peoples' homes. Article 46 stipulates for the right to litigation for both the citizen and the resident on an equal footing. Article 26 stipulates for the state's duty to protect human rights in accordance with Islamic Sharee'ah provisions. This is a basic text attesting to the importance of human rights and the state's obligation in protecting them.

Furthermore, article 36 stipulates for the state's commitment and obligation for providing security for all citizens and residents on its territorial lands, prohibits acts of restraining peoples' freedom or putting them under arrest unless there is a judicial order to do so. Article 38 stipulates that a person cannot be sentenced for an incriminating act unless there is a clear-cut stipulation for such a sentence in the bylaws of Islamic Sharee'ah.

As to the right to freedom of opinion and self-expression, the basic system has a special provision obliging the press and the news media to abide by the government system and the use of polite language. Article 39 cautions against whatever may cause divisiveness, or harm the state's security, its public relations or anything that may hurt a person's dignity and his rights.

The basic system of government stipulates for the autonomy of the Judicial System of the Kingdom, and for the assurance of the citizens' and residents' right to litigation on parity with each other. This shows clearly that the basic system of government in the Kingdom is based on the rules and regulations of the Islamic Sharee'ah. These rules and regulations are well-defined and they are applied in a systematic fashion. Thus, the basic system of government is not a matter of slogans or figures of speech.

The Kingdom of Saudi Arabia was the first Islamic State that committed itself to human rights and was associated with the declaration of human rights in Islam issued by the Islamic Conference Organization on 11th of Moharram 1411H., corresponding to August 4th, 1990, which is known as the Cairo Declaration. It was the main venue providing the proper grounds for positive and realistic international cooperation.

As for the Kingdom's stance on the International Human Rights Charters, it has always been keen on supporting all efforts by the UN for international cooperation concerning the issue of human rights. This was clear in the Kingdom's vote in favor of the UN draft proposals and resolutions on human rights issues. Furthermore, the Kingdom never ceased to call on the international community to put an end to the violations of human rights and human dignity

represented by policies of racial discrimination and ethnic cleansing, mass murders, and forcible expulsion of certain groups.¹

The Kingdom of Saudi Arabia did express its genuine interest in enhancing its cooperation with UN organizations, and its desire to contribute to the UN voluntary funds for the respect and protection of human rights. In this respect, the Kingdom called for an objective, impartial handling of human rights, pointing to the need to stop double standards, and other discriminatory policies in considering cases of human rights violations. The Kingdom cautioned against using such cases as a pretext for unjustified intervention in the internal affairs of respective states. The Kingdom's concern for the issue of human right was explicitly manifested by its joining a number of international agreements on human rights issues such as the Genocide Prevention Agreement of 1948.²

The Kingdom also joined the 1926G. Slavery Agreement modified later by a protocol on 7/12/1953, and the agreement banning slavery in the year 1952G. It also signed the Discrimination Abolition Agreement of 1965G, the Anti-Torture Agreement of 1948G and the Agreement on Children's Rights of 1989G.

In addition, the Kingdom of Saudi Arabia has formed a committee to examine the other agreements on human rights with the aim of joining them later.³

It should be noted here that in view of the fact that the constitution of the Kingdom is the Islamic Sharee'ah, it follows then that the Kingdom's decision to sign any of those agreements is contingent on that agreement's conformity with the provisions of Islamic Sharee'ah. However, in case of a conflict between the texts of those agreements and the provisions of Islamic Sharee'ah the Kingdom's decision to join the agreement will be made on condition that the Kingdom maintains its reservations on those conflicting items.

Conclusion

Concerning the assurance for the observance of human rights inside the Kingdom of Saudi Arabia, article 26 of the basic system of government stipulates for the state's commitment to the protection of human rights in accordance with the Islamic Sharee'ah. Twenty articles of the basic system of

¹'As-Siyasa 'Al-Kharijiyya Lil-Mamlaka fee Mi'at 'Am (Ministry of Foreign Affairs. K.S.A Foreign Policy in 100 years), 1419H., 1999G., p.776

²Ibid, p.777

³Ibid, p.779

government deal with the issue of human rights. This is highly indicative of the fact that the protection and respect of human rights represent one of the foundations of this system.

As for the Kingdom's contribution to the assurances and protection of human rights in the international arena, the Kingdom has always supported the efforts exerted by the UN in this regard. This solid support has been reflected by the Kingdom's participation in many international conferences culminating in agreements on human rights. The Kingdom's efforts to protect human rights is a result of the Islamic Sharee'ah's emphasis on human rights.¹

Human rights are not a Western commodity as some people might think. Islam set the precedent for establishing human rights and ensuring their implementation in a way that international charters, constitutions and the legislative systems of other states failed to measure up to. The Kingdom of Saudi Arabia also called on the international community to put an end to the policies of double standards and discriminatory treatment in human rights violations; meanwhile it always cautioned against using such cases of human rights violations as an excuse for the unjustified intervention of one country in the internal affairs of another.

His Royal Highness Prince Saud Al-Faisal, Minister of Foreign Affairs pointed to this matter in his address to the World Conference for Human Rights held in Vienna in 1993G. He said, "This conference gives us a valuable opportunity to reconsider the issue of human rights from an objective perspective, whereby the policies of double standards and discriminatory measures are excluded in an attempt to put an end to the current violations of human rights." This is the approach adopted by the Kingdom of Saudi Arabia at the domestic and international levels.

The question that is usually raised concerning the Kingdom's stance on human rights is this: if the Kingdom of Saudi Arabia indeed supports human rights, how could it be that the Kingdom does not approve of some items of the World Declaration of Human Rights of 1948 and other UN Charters on the same subject? The response has been delivered by His Highness Dr. Turki Bin Mohammad Bin Saud Al-Kabeer, Assistant Deputy of the Ministry of Foreign Affairs, saying,² "The reservations made by the Kingdom on those UN Charters of Human Rights does not at all mean the rejection of human rights. On the

¹Ibid, p.801

²Turki Bn Mohammad Bin Saud Al-Kabeer, 'Al-Islam wal Democratiyya: Huqooq 'Al-'insan fil 'Islam (Islam and Democracy: Human Rights in Islam), Lecture delivered at the 12th Festival of Culture & Heritage, 1417H., 1997G.

contrary, it means the recognition of human rights. The guarantees and protection of human rights represent a religious obligation and conviction derived from the Sharee'ah of Islam which is the constitution governing the Kingdom's policies and functions in accordance with the basic system of government and the articles I referred to during this speech."

From the Saudi government's point of view, what counts in this regard is the practical implementation of human rights rather than slogans and rhetoric. There are many countries that theoretically boast about human rights while they are violating them at the domestic and international levels. Within this context, I find it very important to present the reservations made by the Kingdom on the World Declaration of Human Rights. These are:

- (a) A general reservation on the texts and provisions of the World Declaration of Human Rights. This reservation is based on the premise that the legislative texts in Islam clearly point to the great attention and care given to human rights in Islam, and that the Islamic Sharee'ah texts are not just a set of pieces of advice on morality but commands accompanied by the necessary legislation for their implementation. The texts and documents of the World Declaration of Human Rights, however, remain within the realm of mere recommendations without any legislative assurances at the national and international levels.
- (b) A specific reservation on article (16) of the World Declaration of Human Rights which grants the right of both men and woman to marry whoever they choose, irrespective of his/her religion. Islam commands that a Moslem woman cannot marry a non-Moslem. The rationale behind this requirement has to do with the inviolability of family life, in that a non-Moslem husband due to the difference of religion may not respect the sanctity of his wife's faith. Consequently, the family life may be subjected to immoral deviation and deterioration. In Islam, the wife is the more vulnerable component of a marriage.
- (c) A specific reservation exists concerning article (18), which stipulates for the individual's right to the freedom to change his religion. The preceding stipulation of every individual's right to the freedom to change his/her religion is in direct violation of the teachings of Islam. This is referred to as "apostasy" in Islam. Apostasy in Islam is not a matter of personal freedom as it involves leaving Islam after one has been acquainted with all of its messages, goals and teachings. Leaving Islam then can only be understood as an attempt by the apostate to cause harm, and corruption to Allah's faith. Thus, the punishment imposed on aberrancy aims to protect the religion and to block those with ill intentions from embracing Islam temporarily and then leaving it for their ulterior motives.

Furthermore, this punishment purifies the Islamic society from such hypocrites and opportunists. Thus, this preemptive measure results in security and stability in an Islamic state for the individual and the society.

It becomes evident then that the rationale behind the Islamic enforcement of the penalty for apostasy is not to impose restrictions on personal freedom, but to eradicate or uproot the evil deeds of those who are adamant about spreading corruption on earth.¹

B- The Position of Islam on Freedom and the Freedom of Self-Expression in Particular: The Application of the Right to Freedom in the Kingdom of Saudi Arabia

In talking about freedom, researchers classify the concept of freedom into various subcategories. These are: freedom of opinion, freedom of conviction, freedom of education, freedom of property, and personal freedom. These subcategories may be further divided into other subsidiary branches, as is the case of personal freedom which comprises the freedom of travel, the right to security, and the right to housing.

Since freedom of opinion is the source of all the aforementioned subcategories, I'll talk about it in detail by explaining its requirements and constraints. I will then talk about personal freedom, economic freedom, the right to possession and gain, and conclude this chapter with the practices of all freedoms/liberties in the Kingdom of Saudi Arabia in the light of the teachings of Islam.

First: The Freedom of Opinion and Self-Expression

Without doubt, the great appreciation and respect shown towards the freedom of opinion and of self-expression in Islam has surpassed all other political systems of the secular constitutional systems of today. Indeed, the application of the principle of enjoining good and forbidding evil in Islam is considered a true precedence that superseded all other systems of human freedom. No secular system could match the system of Islamic Sharee'ah.²

Islamic Sharee'ah made it a Moslem's obligation to speak his mind provided that he's saying what he considers to be the truth. Freedom of opinion has two aspects: the permissible and the obligatory aspects. The difference

¹Huqooq 'Al-insan war-rad 'Ala Ash-Shubuhah 'Al-muthara Hawlaha (Human Rights in Islam and the Objection Raised Against it), Ibid., p.157

²Mohammad Saleem 'Al-'Awa, 'An-Nizam 'As-Siyasi Lil-dawla 'al-'Islamiyya (The Political System in the Islamic State), Cairo, Dar 'Ash-Shorooq, 1989G., p.217

between the two corresponds to the difference between an obligation, and what is merely permitted. The distinction between the two is quite clear. For instance, if one merely permits a certain matter, it neither obligates people to do it, nor prevents them from doing it. But duty is the required deed, whose disregard invites punishment.

The difference between these two matters (right and duty) is that right implies a passive situation in which no one can prevent a person from carrying out an act as long as the conditions for that act exist. The most important of these is not to abuse the practice of that right. Duty, on the other hand, refers to an active situation in which a concerned person is obliged to perform that duty; otherwise, he will be deserving of punishment.¹

This shows the major difference between the legislative system of Islamic Sharee'ah and those of a secular system. The latter does not make any reference to the right of freedom of opinion and self-expression as an obligation. It merely stipulates that such a right is a permissible one, and it is left up to the individual to practice it or not. Islamic Sharee'ah, on the other hand, stipulates that such a right is an obligation. Indeed, the principle of enjoining good and forbidding evil does not leave any room for interpreting the rights of a nation's public life as mere permissibles. Islamic Sharee'ah stipulates that the above-mentioned principle covers a whole range of obligatory deeds – rights whose practice is obligatory.

Islam shows a great deal of interest and gives its utmost attention to the right of freedom of opinion within the following framework:²

1. Whoever is consulted on a certain matter must, after a prolonged process of examining the issue and a lot of thought, give his clear-cut opinion about the truth as this is in the nation's interest. Allah's Messenger (*may peace and blessings be upon him*) says, "Whoever of you is being consulted on a matter by his Moslem brother must give his best advice."³

2. A Moslem must give his opinion as long as he knows the truth of the matter. This obligation is carried out in compliance with Allah's orders. Allah says,

¹Ibid, p.218

²Abel-wahab Ash-Shishani, *Huqooq 'Al-'Insan wa Huriyyatuhu 'Al-'Asasiyya Fin-Nizam 'Al-'Islami wa An-Nuzum 'Al-Mu'asira* (Human Rights and Man's Liberties in Islam and other Contemporary Systems), Royal Scientific Society Press, 1400H., p.565

³Ibn Katheer, Part. 1, p.420

“The believers, men and women, are Auliya' (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) Al-Ma'ruf (i.e. Islamic Monotheism and all that Islam orders one to do), and forbid (people) from Al-Munkar (i.e. polytheism and disbelief of all kinds, and all that Islam has forbidden); they perform As-Salat (Iqfamat-as-Salat) and give the Zakat, and obey Allah and His Messenger. Allah will have His Mercy on them. Surely Allah is All-Mighty, All-Wise.”¹

This is also in compliance with Allah's messenger's commands of the obligation on the part of a Moslem to speak out on what he believes is right from an Islamic perspective. A good Moslem must join his righteous Islamic nation in pronouncing the truth in order to establish Islamic justice and equality. 'Ubad Ibnu Samit (*may Allah be pleased with him*) said, “We have given our pledge to the Prophet that we shall obey him, follow his steps, do what he orders us to do in times of both hardship and comfort, on things we like and dislike; that we shall not dispute the opinions of the religious scholars unless we have enough evidence to the contrary from Allah's Sharee'ah; that we shall say the truth wherever we go, fearing no one but Allah.”²

3. The Prophet (*may peace and blessings be upon him*) stated that refraining from speaking out if one knows the truth, causes disdain. Abu Sa'eed Al-Khudari (*may Allah be pleased with him*) narrated, “that the Prophet (*may peace and blessings be upon him*) said, Don't degrade yourself! and the audience asked: how does one degrade ones self O Messenger of Allah? The Prophet said, that someone knows the right thing to say but doesn't say it. When Allah Almighty asks one on Doomsday: what prevented you from saying your opinion and that Man says, fear of people. Allah then says, It was more fitting that you should have feared Me.”³

4. The Prophet (*may peace and blessings be upon him*), along these same lines, informed us that each organ of the human body has a charitable function on each Moslem, and that for the tongue charity is “uttering kind words” in the interest of our Moslem brothers. Abu Huraira (*may Allah be pleased with him*) narrated, “The Prophet (*may peace and blessings be upon him*) said, “Each greeting from people is an act of charity. Every time you judge justly between two opponents you have done a charitable deed. Every time you help a person mount his donkey/horse or help him lifting his luggage to its back you have done an act of

¹ At-Taubah (9:71)

² Al-Hafeth Al-Munthari, *At-targheeb wa At-tarheeb* (Encouragement and Warning), Vol.4,

p.3.

³ *Ibid*, p.4

charity, and every time you remove harm from people's way you have done and act of charity."¹

5. In Islam, recommending one another and giving advice to Moslems is an obligatory rite. A Moslem is commanded to give advice even to the Khaleefa himself. Recommending one another to good deeds through offering advice to the rulers of Islamic nations is placed among the top priorities for religious duties. Tameem Ad-dari (*may Allah be pleased with him*), narrates that the Prophet said, "Religion entails recommending one another. The audience asked: for whom? O Messenger of Allah? He said, to Allah's faith, His Book, His Messenger and to all Moslems all over."²

Thus, Islam established the right to the freedom of opinion on a large scale by granting the individual latitude in expressing one's own opinion for the benefit and interest of Moslems.

Second: Constraints on the Freedom of Opinion and Self-Expression in Islam

Islam has a set of constraints on the right to freedom of opinion and self-expression, along with its great respect for and appreciation of this right. The constraints are meant to make the best use of this right by directing it towards the benefit and interest of the people, and using it in pursuit of Allah's pleasure. Thus, there are certain restrictions on the practice of freedom of opinion and self-expression; otherwise, harm will get in the way of the individual and society, and it may shake the grounds of moral conduct and general ethics of the public. These constraints can be summed up as follows:

1. A Moslem should practice the right to freedom of opinion and self-expression in a peaceful manner through the use of prudent and pleasant advice, with no compulsion or violence. In the absence of convincing evidence, Islam asserts the need to uphold this restriction, as practicing the right to freedom of opinion without such a restriction may lead to disorder, and destruction of the foundation of society. Allah Almighty points to this matter in the Qur'anic verse:

*"Invite (Mankind, O Muhammad SAW) to the Way of your Lord (i.e. Islam) with wisdom (i.e. with the Divine Inspiration and the Qur'an) and fair preaching, and argue with them in a way that is better. Truly, your Lord knows best who has gone astray from His Path, and He is the Best Aware of those who are guided."*³

¹Narrated by Bukhari and Moslem. See: Sharh Al-arba'een. p.75

²At-targheeb wa At-tarheeb (Encouragement and Warning), Vol.4, p.11

³An-Nahl [The Bee] 16:125

He also says,

“And speak to him mildly, perhaps he may accept admonition or fear Allah.”¹

2. Islam bans the disclosure of opinions which may hurt people’s feelings or violate the sanctity of their private lives, if this is done with the aim of violating people’s privacy or family secrets...etc. The Holy Qur’an forbids the disclosure of opinion in these matters as there is no benefit or gain achieved by this illegitimate practice of freedom; on the contrary, such an abuse of the right to freedom of this type can only cause damage, corruption, and harm to the Moslem “Ummah”, nation. Allah Almighty says, *“Allah does not like that the evil should be uttered in public except by him who has been wronged.”²* And He also says, *“Verily, those who like that (the crime of) illegal sexual intercourse should be propagated among those who believe, they will have a painful torment in this world and in the Hereafter. And Allah knows and you know not.”³*

3. At the level of protecting the Islamic society as a whole and its religion, Islam does not condone the abuse of freedom of opinion and self-expression as this may cause harm to the Islamic society. Islam imposes prescribed penalties and discretionary punishment on the abuser of this freedom granted him by Islam. In this way Islam protects the Moslem society from the harm that may befall the individual and society at large.

Third: The Right to Personal Liberty

Islam has secured personal freedom of residence, travel, housing, work, etc. for all individuals. These cases of personal freedom are accompanied by some restrictions in specific situations. For example, the freedom of travelling from and into a certain country shall be prohibited in case of the spread of an infectious disease; another example is the cases of illegal work such as the business of liquor production or drug smuggling. Otherwise, the right to personal freedom is a right guaranteed by Islam and the Islamic state. Applying the Islamic Sharee’ah, does not impose any restrictions on the individual’s freedom, albeit those specific cases whereby the state takes the precautionary measures of restricting personal freedom to impede an imminent harm to people

¹Taha 20:44

²An-Nisa’[The Women] 4:148

³An-Noor [The Light] 24:19

or to ensure a certain service to the public such as imposing restrictions on traffic and on the construction of buildings, etc.¹

Islam has ensured the sanctity of homes in that a person cannot have the freedom of entering anyone's home without his/her permission. Allah says,

*“O you who believe! Enter not houses other than your own, until you have asked permission and greeted those in them, that is better for you, in order that you may remember.”*²

Fourth: Economic Freedom and the Right to Property and Gain

Islam has granted Man, Moslem or non-Moslem, every citizen of a state that applies the Islamic Sharee'ah, the right to economic freedom by choosing his own way of making a living within the limits of Islamic Sharee'ah. He has the right to engage in all sorts of business transactions such as buying, selling, renting, trading, establishing firms, and farming land, etc. The limits imposed on these business transactions are meant to prevent exploitation of different kinds such as “Riba” (i.e. interest on money loans), monopolies, malpractice, and gambling.

In brief, Islam established the right of economic freedom and the right to property but it has imposed certain restrictions on such liberties to secure the common interest of the community. Therefore, Islam's position on this issue is double-sided: on the one hand, Islam gives full recognition to this freedom, and on the other, Islam seeks to regulate its practices. Therefore, Islam's is not the role of an interested guardian alone. Here are the main restrictions:

(a) Restrictions on the origin of property.

A business should be established for a legitimate purpose. Islam does not allow, nor does it protect illegal business. Islam goes even further. If the legitimate owner of stolen money is unknown, the money goes to the treasury.

(b) Restrictions on the ways and means of accretion of wealth.

Islam has specified the means of the accretion of wealth in accordance with Islamic Sharee'ah. Islam does not permit the growth of wealth through illegal means such as interest (Riba') or the manufacture and sale of liquor,

¹Mohammad Al-Ghazali...et al. *Athaqafa al-Islamiyah* (Islamic Culture), King Abdul Aziz University Press, 1396H., 1976G., p.268

²An-Noor [The Light] 24:27

drugs, gambling casinos, etc. Islam has also legislated the community's right to a certain amount of an individual's wealth or property through Zakat and other legal expenditure. To this end, Islam prohibits the owner of property from bequeathing more than one third of his property to those who are not his natural inheritors, so the other two thirds of his wealth will be preserved for his natural inheritors.

(c) **Restrictions on the use of wealth.**

Islam prohibits expenditure of wealth in excessive proportions; it also prohibits extreme frugality in expenditure of wealth. Allah Almighty says,

“And those, who, when they spend, are neither extravagant nor niggardly, but hold a medium (way) between those (extremes).”¹

(d) Islam allows the expropriation of wealth as a necessity for the common interest, accompanied by fair compensation of the owner. This is the case where expropriation is required for expanding a main road, for instance.

Fifth: Religious Freedom

Creed is the foundation upon which the society and the state are built. The firm belief in monotheism, the oneness of God, and the total surrender to the one and only God, Allah, is the cornerstone of Islam's legislation that draws heavily on the sacred revelations. This conviction is the most noble goal for establishing a state. This bond of conviction is the most important one for a society's harmony. Thus, the doctrine of faith in Islam is the landmark of the state's public system. Criticizing it, opposing it, or accusing it of incrimination is considered destructive to society, to the system and to societal concordance. In an Islamic state, a declaration of stepping outside the bounds of the faith is prohibited and is considered an act of rebellion against the State, and an invitation to an uprising against it.²

Yet, Islam has elaborated a system of the most noble principles pertaining to religious freedom which no other system of religious freedom can get close to. These principles are:

¹Al-Furqan 25:67

²Mohammad Al-Ghazali....et al. *Athaqafa al-'Islamiyah (Islamic Culture)*, King Abdul Aziz University Press, 1396H., 1976G., p.269

1. That no compulsion is accepted in Islam. Allah says,

“Invite (Mankind, O Muhammad SAW) to the Way of your Lord (i.e. Islam) with wisdom (i.e. with the Divine Inspiration and the Qur'an) and fair preaching, and argue with them in a way that is better. Truly, your Lord knows best who has gone astray from His Path, and He is the Best Aware of those who are guided.”¹

Moslems took this principle as a guideline in dealing with the non-Moslems in the countries they conquered. They allowed those people to practice their own religions in return for paying the tribute which was taken in return for defending them against any attacks. Although Islam has assigned the duty of supervision of the household to the Man, and has given him a position of authority over his wife, it does not force a woman whose faith is not Islam, but one of the other two sacred messages, to convert to Islam.²

2. The second principle legislated by Islam is the freedom of discussion. To this end, Allah guided Moslems to resort to reason and logically-based arguments through their debates with the followers of other religions. They should rely on persuasiveness through the substantiation of argument by solid evidence and counter-arguments to the opponent's thesis. In this regard, Allah Almighty addressing His Messenger, the Prophet (*may peace and blessings be upon him*) says,

“Invite (Mankind, O Muhammad SAW) to the Way of your Lord (i.e. Islam) with wisdom (i.e. with the Divine Inspiration and the Qur'an) and fair preaching, and argue with them in a way that is better. Truly, your Lord knows best who has gone astray from His Path, and He is the Best Aware of those who are guided.”³

And in addressing the believers, Allah says,

“And argue not with the people of the Scripture (Jews and Christians), unless it be in (a way) that is better (with good words and in good manner, inviting them to Islamic Monotheism with His Verses), except with such of them as do wrong, and say (to them): “We believe in that which has been

¹An-Nahl [The Bee] 16:125

²Ali Abdel Wahed Wafi, *Huqouq al-‘insan fil-‘Islam* (Human Rights in Islam), Cairo, Dar An-nahda

³An-Nahl [The Bee] 16:125

revealed to us and revealed to you; our Ilah (God) and your Ilah (God) is One (i.e. Allah), and to Him we have submitted (as Muslims).”¹

And in addressing the people of other religions, He says,

“And they say, “None shall enter Paradise unless he be a Jew or a Christian.” These are their own desires. Say (O Muhammad May peace and blessings be upon him): “Produce your proof if you are truthful.”²

3. The third principle concerning religious freedom is the premise that sound and true belief is based on firm conviction not on blind imitation. Thus, Islam abolished the foundation of ancestral religious practices. Instead of such blind imitation, Islam calls upon people to use their mental faculties in order to think clearly and arrive at the truth by careful observation of Allah’s signs which are manifest in the universe. Allah Almighty says,

“When it is said to them: “Follow what Allah has sent down.” They say: “Nay! We shall follow what we found our fathers following.” (Would they do that!) Even though their fathers did not understand anything nor were they guided?.”³

4. The fourth principle legislated by Islam concerning religious freedom is that interpretation in Islam is legislated as permissible for whoever is capable and well-versed in the commandments of the Holy Qur’an and the Sunnah with full mastery of Arabic. Thus, it is permissible for every Moslem who fulfills the requirements of interpretation by the scholars of Islamic jurisprudence to interpret and infer the provisions from their two primary sources of Islamic Sharee’ah. Those principles are the guidelines legislated by Islam concerning the religious freedom and its emphatic recognition of this type of freedom. However, Islam does not grant this freedom without prescribing a set of restrictions in order to protect it from those who have ill-intentions who try to dally with the Islamic Sharee’ah by abusing the right to religious freedom. To this end, Islam has imposed a set of restrictions on the practice of religious freedom. These are:

- 1) That Islam’s recognition of religious freedom for the followers of both religions, Christianity and Judaism, is not totally free of restrictions. This conception of religious freedom is bound by the restriction that it should not violate nor endanger the Islamic faith or hurt the feelings of Moslems. By the

¹ Al-Ankabut 29:46

² Al-Baqarah [The Cow] 2:111

³ Al-Baqarah [The Cow] 2:170

same token, the protection of the right to religious freedom for the followers of the two sacred messages should never exceed its own limits to dally with Islamic faith and its sanctity under the pretext of practicing religious freedom.

- 2) That Moslems are prohibited from leaving Islam, its guidance, or aberrating into another religion under the banner of religious freedom.
- 3) That a non-Moslem shall have no authority over a Moslem through the venue of religious freedom. This restriction is illustrated completely in the area of secular systems, whereby a wife is granted the right to marry whoever she chooses without any restrictions having to do with religion according to the first item of article (16) of the World Declaration of Human Rights. In Islam, however, a Moslem woman's marriage to a non-Moslem is strictly prohibited and by the same token a Moslem man cannot marry a polytheist or a non-follower of Christianity or Judaism.

Sixth: Personal Liberties in the Kingdom of Saudi Arabia in the Light of the Teachings of Islam

The citizens and residents of the Kingdom of Saudi Arabia enjoy the rights to freedom and personal liberties that are in conformity with Islamic Sharee'ah. I will present examples of these types of liberties:

1. Personal Liberty

Scholars in the field of law define personal liberty as the individual's right to freedom of moving unhindered from one place to another, protection from any assault, and the illegality of arrest, punishment or detention without a legal order.¹

Personal freedom in this sense is ensured for the citizen and resident by the Kingdom of Saudi Arabia, as any attack on personal freedom is a tyrannical act in Islam. Islam prohibits despotism or aggression. The state's protection of citizens' lives, persons, honor, mind, and money is manifest in the Islamic Sharee'ah teachings and stipulations which are applied by the state and through the prescribed punishments for those who carry out acts of aggression against the lives of persons, honor, money, or minds of the citizens.

In accordance with what is currently practiced in the Kingdom of Saudi Arabia, the law prohibits incriminating any person without a text or a stipulation drawn from the Islamic Sharee'ah by law. The law, furthermore, does not

¹Abdel-Kareem Zeedan, *Al-fard wad-dawla fee Ash-Sharee'ah 'Al-'Islamiyya* (Individual and the State in Islamic Sharee'ah), 5th ed., 'Al-Faisal Islamic Press, 1405H., p.65

impose any sentence on anyone which is not provided for in the Islamic Sharee'ah system. It is also unacceptable to detain or arrest anyone without a legal justification, and whoever commits such a violation will be subjected to strict measures of punishment, no matter what position he occupies.

The Kingdom as an Islamic state realized its obligation to ensure the protection of its citizen's dignity, and protects him from humiliation and degradation. The State does not humiliate the citizen nor does it condone his humiliation by others.; it does this in compliance with Allah's commands,

"They (hypocrites) say: "If we return to Al-Madinah, indeed the more honorable ('Abd-Allah bin Ubai bin Salul, the chief of hypocrites at Madinah) will expel therefrom the meaner (i.e. Allah's Messenger SAW)." But honor, power and glory belong to Allah, His Messenger (Muhammad SAW), and to the believers, but the hypocrites know not." ¹

2. The Freedom of Housing

The citizen of the Kingdom of Saudi Arabia enjoys the sanctity of his abode, as it is prohibited for anyone to enter the home of another without the dweller's permission, or without legal and security considerations such as the legal order to search the home for criminals or prohibited commodities such as liquor or drugs. It is only after legal permission is obtained from the relevant authorities that security forces can search the place.

3. The Right to Property

Every citizen of the Kingdom of Saudi Arabia has the established right to the freedom of ownership or possession, and to make money which is legal and lawful from an Islamic perspective. He has the right to spend the money whichever way he chooses provided that it is not spent on illegal matters. He has the right to the protection of his wealth against any aggression from individuals and the state. If an individual attacks the property of another person, the state will punish the transgressor. If the state decides to expropriate an individual's property for the common interest of the public, such as opening a new road or expanding it, it will have to compensate the individual. The government has spent billions of riyals in compensation for expropriated property.

4. The Freedom to Work

The freedom to work means the established right of a citizen to work and the right to choose the type of work or business, industry, or profession he desires.

¹AL-Munafiqoon (63:8)

In the Kingdom of Saudi Arabia, a citizen has the right to practice whichever work, business, profession, in whichever field he wishes provided that he abstains from those jobs that are prohibited by Islamic Sharee'ah. He also has to be qualified for the job he chooses. Furthermore, the citizen has the right to quit his work, just as he is granted the right to choose his work.

5. Freedom of Practicing Religion

In talking about religious freedom, we should remember that the people of the Kingdom of Saudi Arabia are Moslems and that they form a society that is 100% Moslems, and that the Kingdom of Saudi Arabia is an Islamic state which is committed to its creed system, and that as the Islamic Sharee'ah is the foundation of the state and it applies it in all of its activities, then aggression against the Kingdom should be prohibited, and all criticisms, allegations and opposition should be prohibited. These acts are prohibited because they are meant to shake the grounds and foundations of the state, and this is considered an act of rebellion. This sort of rebellion against the Kingdom is an act of leaving the Islamic faith and it is referred to as apostasy, whose punishment is death unless the perpetrators of such actions repent.

Concerning non-Moslem expatriates in the Kingdom, they enjoy the right to religious practice and no attempts are made to force them to embrace Islam as there is no compulsion in Islam. Allah, the Exalted says,

“There is no compulsion in religion. Verily, the Right Path has become distinct from the wrong path. Whoever disbelieves in Taghūt and believes in Allah, then he has grasped the most trustworthy handhold that will never break. And Allah is All-Hearer, All-Knower.”¹

6. The Freedom of Opinion

This means voicing one's opinion in the cause of the common interest of the nation or criticizing what is harmful. Based on this principle, it is the right of the Saudi citizen to voice his opinion on matters of general interest in accordance with the sets standards of Islam and the interest of society. This is done in compliance with the Prophet's instructions: “Religion entails recommending one another. The audience asked: for whom? O Messenger of Allah? He said, to Allah's faith, His Book, His Messenger and to all Moslems all over.”²

¹ Al-Baqarah [The Cow] 2:256

² Narrated by Bukhari and Tarmathi.

The freedom of self-expression is not without restrictions, however. Transgressing the sanctity of others' honor, and spreading rumors all over lead to confusion, disorder and upset the atmosphere of stability and feelings of security among the citizens. None of these can be condoned in the name of freedom.

Chapter Seven

Enforcement of the Punishments Prescribed by Islamic Sharee'ah (Law) In the Kingdom of Saudi Arabia For the Protection and Preservation of Basic Human Rights

Introduction

From time to time the Kingdom of Saudi Arabia is subjected to unjust campaigns due to its application of Islamic Sharee'ah (Law) and its enforcement of this law's prescribed punishments. The pretext given for such campaigns is that the enforcement of the punishments prescribed by Islamic Sharee'ah (Law) entails a violation of human rights. The fact is, however, that the enforcement of the penalties set forth in Islamic Sharee'ah (Law) guarantees respect for and protection of human rights in every sense, while the call to nullify these penalties is a blatant call for the violation of human rights.

In order to clarify this and other facts related to the issue of the enforcement of the criminal penalties prescribed by Islamic Sharee'ah (Law) in the Kingdom of Saudi Arabia, we shall undertake in this chapter to discuss a number of facts relevant to the enforcement of such penalties and their applications in the Kingdom of Saudi Arabia. After this we shall discuss the penalties themselves and respond to the suspicions and allegations which have been raised to the applications of Islamic Sharee'ah (Law) in the Kingdom of Saudi Arabia. Lastly, we shall explain the manner in which those to whom the penalties of Islamic Sharee'ah (Law) are to be applied are tried in the Kingdom of Saudi Arabia.

First: Facts relating to the application of the penalties laid down by Islamic Sharee'ah (Law) in the Kingdom of Saudi Arabia

1. The application of the criminal penalties laid down by Islamic Sharee'ah (Law) is a protective wall, as it were; it is tantamount to the public statement that Moslem society rejects crime and will not allow it under any circumstances, and that these penalties are not as terrible as they are portrayed to be by the enemies of Islam who work to defame the reputation of Islam and its followers.
2. The application of the penalties laid down by Islamic Sharee'ah (Law) in the Kingdom of Saudi Arabia is to be seen as a constitutional issue, because the enforcement of these penalties in the Kingdom is based on explicit texts from the Holy Qur'an and the Prophetic Sunnah. As is well known, the Holy

Qur'an is the constitution of the Kingdom of Saudi Arabia, while the Prophetic Sunnah constitutes the approach to its application. Article One of the basic system of government stipulates that, "The Kingdom of Saudi Arabia is an Islamic state whose religion is Islam, and whose constitution is the Book of Almighty Allah and the Sunnah of His Messenger, (*may peace and blessings be upon him*)."¹ Hence, no organization or state has the right to criticize the Kingdom of Saudi Arabia for its application of the criminal penalties laid down in Islamic Sharee'ah, since it is done according to the constitution of the land. Criticism of the Kingdom for its enforcement of these penalties is viewed as unacceptable, unjustified interference in its internal affairs; in fact, it is forbidden according to the statutes of international law.

3. The enforcement of the penalties called for by Islamic Sharee'ah in the Kingdom of Saudi Arabia is rightly considered to be a means of guaranteeing respect for and protection of human rights; hence, the unjust campaigns waged against the Kingdom of Saudi Arabia by certain organizations in the name of human rights on account of its enforcement of these penalties is a clear, blatant call to violate Moslems' human rights. In order to clarify this fact, we undertake in what follows to present the unique features and qualities of the penalties laid down in Islamic Sharee'ah, the wisdom in their enforcement, and the advantages accruing therefrom, as well as the harm which results from disregarding these penalties. In addition, we undertake a comparison between societies in which Islamic criminal penalties are enforced and those where they are not.

A. The unique features and distinguishing marks of Islamic criminal penalties

The penalties laid down by Islamic Sharee'ah are marked by specific features which set them apart from all other such penalties; these features can be summarized as follows:¹

1. The penalty associated with each crime has been divinely decreed in terms of type, degree, and description. Hence, it is impermissible to alter it, reduce it or increase it, since it is a penalty stipulated by a divinely revealed text. The divine decree of the *type* of penalty means that the lawgiver has specified whether it should be flogging, amputation, etc. As for the decree or seriousness of the penalty, it means that the penalty has been set at 100 lashes, 80 lashes, and so on. And as for the divine decree of its *description*, it

¹The Imam Muhammad Ibn Sa'ud Islamic University, *Athar Ta'biq al-Hudud al-Islamiyah fil-Mujtama'* (The Social Effect of the Application of the Penalties Laid Down in Islamic Sharee'ah (Law)), p. 275, 1981G.

means, for example, that the penalty is to be public and witnessed by a group of believers. Hence, all the Moslem ruler has the authority to do is to carry it out.

2. The penalty does not vary from person to person; rather, it is equal, regardless of whether the person to be punished is the governor or the governed, a member of the nobility or a beggar, based on the words of the Prophet (*may peace and blessings be upon him*) who said, “I swear by God, even if Fāṭimah daughter of Muhammad were guilty of theft, her hand would be cut off.”¹
3. In order for a penalty to be carried out against a wrongdoer, he must be legally responsible; hence, it cannot be applied to a minor.
4. The Wise Lawgiver has limited the applicability of the penalties in three respects:
 - a. He has limited the means by which guilt may be established, for example, through a confession by the accused party with the possibility of repentance, which is to be accepted. In addition, it is stipulated that the witnesses must be trustworthy males, and that there must be either two or four witnesses. Women’s testimony is not accepted, nor is that of a single witness, even if he should take an oath.
 - b. He has limited such punishments to specific crimes, namely, those which involve a violation of one of the five entities which, according to Islamic Sharee’ah, must be guarded and preserved: religion, the soul, honor, the mind, and money.
 - c. He has instituted strict precautions in connection with their enforcement such that if there is sufficient reason to doubt the applicability of the penalty in a given case, it should not be carried out. This is based on the words of the Prophet (*may peace and blessings be upon him*): “Abstain from carrying out the prescribed penalties if you have doubts concerning them.” What is meant by “doubts” here is the existence of evidence which gives one reason to believe that the wrongdoer had an excuse for what he did.
5. Another feature of the penalties prescribed by Islamic Sharee’ah is that, as Islamic scholars have noted, such penalties admit of no sort of interference, nor do they lose their applicability once they have reached the Imam, since

¹Narrated by al-Bukhārī and Moslem.

they have become a right due to Allah Almighty; hence, neither the Imam nor anyone else possesses the right to revoke them.

B. The wisdom in enforcing the penalties prescribed by Islamic Sharee'ah and the benefits which accrue therefrom

Many Moslem scholars, both early in the history of Islam and in modern times, have sought to expound the wisdom behind the enforcement of the penalties prescribed by Islamic Sharee'ah (law). Allah Almighty lays no responsibility upon His creatures unless it is due to some divine wisdom of which He knows best. Some of the scholars who have sought to explain the divine wisdom behind the application of the penalties prescribed by Islamic Sharee'ah have said, Allah Almighty has established such penalties as restraints and deterrents; in other words, their enforcement will restrain or deter people from committing crimes and cause them rather to avoid such actions lest they suffer the same punishment.

Some scholars state that the basis for the enforcement of the prescribed penalties is that they serve as "instruments of correction" (*jawābir*) in the sense that if someone commits a crime for which one of these penalties has been prescribed, and if the penalty is then carried out against him, this serves to atone for his crime. After all, Allah Almighty is too gracious to punish one of His servants twice for the same offense – once in this world and again in the hereafter.

In support of this position, such scholars cite certain Prophetic traditions. According to one such tradition, narrated by al-Bukhārī on the authority of ʿUḇādah Ibn al-Ṣāmit (*may God be pleased with him*) once when the Prophet (*may peace and blessings be upon him*) was sitting with his Companions around him, he said, "Pledge to me that you will not associate anything with God, nor steal, nor commit adultery, nor kill your children, nor slander, nor disobey any command to do good. Whoever of you then keeps his pledge shall receive his reward from God; as for those who commit any of the wrongs I have mentioned but are then punished for it in this life, the punishment shall serve as an atonement for them."¹

The fact that the punishments prescribed by Islamic Sharee'ah are to be viewed both as deterrents and as instruments of correction is that there are some individuals who are not deterred by anything but punishment; whereas there are others for whom punishment is no more effective than a promise given in good

¹Narrated by al-Bukhārī.

faith. Hence, we may say that the penalties prescribed by Islamic Sharee'ah were established on the bases of the following two principles:¹

1. Human beings are naturally predisposed to avoid pain and discomfort, hence, if they know that committing a crime will result in the enforcement of such penalties, this will serve to deter them from engaging in such acts of disobedience.
2. In addition, these penalties restore to good spiritual standing one who has dishonored his religion and who, after committing an act of disobedience, has been punished for it in this world. However, such atonement and rectification take place only for those who are remorseful for what they did.

From the foregoing we may clearly see the wisdom behind the establishment of the penalties laid down by Islamic Sharee'ah; similarly, we can see that they offer great benefits both in this world and the next. For example:

1. They bring security and peace of mind to the Moslem 'Ummah (nation), its members, and its society; they prevent bloodshed; they prevent life from being wasted; they protect people's honor from being violated and their lines of descent from becoming confused; they keep money from being lost, wasted, or consumed in unjust ways; they preserve people's minds from imbalance and even death; and they prevent religion from becoming an object of ridicule.
2. Due to the resulting low level of crime, security will prevail and people will enjoy peace of mind. As a consequence, they will be free to devote themselves to fruitful labor and production, which will lead to the spread of ease and prosperity among all members of the society. People's incomes will rise, blessing will increase, and people will be in the position to seek God's bountiful grace.

Such worldly blessings may be clearly observed, for we see that the countries in which the penalties prescribed by Islamic Sharee'ah (law) are enforced enjoy security and affluence, while blessings are poured out upon them from above and below. As for those countries in which these divinely prescribed penalties are not applied, they are overwhelmed with terror, dread, and disorder, while crises and various upheavals are a common occurrence.

¹The Effect of the Application of the Penalties Prescribed by Islamic Sharee'ah (Law), p. 159.

C. The harm which results from disregarding or abolishing the penalties laid down in Islamic Sharee'ah (Law)

If such divinely revealed punishments are lost or nullified, if there is discrimination in their enforcement between the nobility and the common man, or if their enforcement is influenced by those who seek to interfere on behalf of the guilty, the outcome will be great harm and corruption, the most serious examples of which include:

1. A lack of respect for the sacred limits which Allah has set and violation of the rights of His creatures, knowing that such limits are jealously guarded by the Almighty, as are the material and moral rights of His servants.
2. Those who disobey Allah, showing no reverence for his sacred limits and violating the rights of His servants, make themselves into the enemies of Allah and His Messenger (*may peace and blessings be upon him*); but whoever resists Allah and His Messenger shall fall into degradation and shame. As Allah states, "*Those who resist Allah and His Apostle will be among those most humiliated.*"¹
3. Whoever nullifies the limits which Allah has set and replaces them with human laws wrongs his own soul; moreover, he is morally corrupt, a denier of the law given by Allah and an enemy of Allah and His Messenger (*may peace and blessings be upon him*).
4. Allah Almighty has established a causal link between disobedience and misery, just as He has established such a link between obedience and blessing; and there is no doubt that abolishing the limits set by Almighty Allah is one of the most serious sorts of disobedience, which is bound to lead to harm both in this world and the next.
5. A society in which the penalties set forth in Islamic Sharee'ah are disregarded is doomed to corruption and bankruptcy. Moreover, everyone in such a society belongs to one of two groups: disobedient individuals who have declared themselves in rebellion against their Lord's commands; or weak, fearful hypocrites who fail to command what is good or forbid what is evil. A society composed of these two elements cannot possibly prosper, nor does it merit respect or consideration.

¹Al-Mujādilah [The Woman Who Pleads] 58: 20.

6. The inevitable result of abolishing the limits set by Allah is the occurrence of overwhelming crises and devastating social catastrophes, and a frightful, even fatal, struggle among its various groups and factions.

D. A comparison between a society in which the penalties set forth in Islamic Sharee'ah (law) are enforced and one in which they are not

A comparison between a society in which the penalties prescribed by Islamic Sharee'ah are enforced and another in which they are not enforced requires, first of all, that we make a comparison between the penalties prescribed by Islamic Sharee'ah for specific crimes, and those which have been laid down by human beings as a substitute for them. In so doing, we must bear in mind that the One who laid down the penalties set forth in Islamic Sharee'ah is Allah Almighty, and that, the punishments which Allah has laid down cannot in any way be compared with those which have been established by mere human beings. Rather, what we are doing here is simply to highlight the superiority of the Islamic Sharee'ah and its associated penalties to the secular laws legislated by human beings when it comes to combating crime. To avoid a very lengthy discussion of this topic, I shall simply raise certain questions which imply their own answers, realizing from the start that there is a vast difference between the objects being compared, since the enforcement of the penalties set forth in Islamic Sharee'ah is sufficient to do away with crime, or at the very least, to minimize it, whereas the punishments legislated by human beings fail in what they were intended to achieve; in fact, it is possible that they make matters worse, teaching people methods of committing crimes of which they had previously been unaware.

One may ask here: given that the prevailing practice based on secular laws is to imprison thieves, armed rebels and highway robbers, does this punishment serve to make the criminal turn away from his crime on a permanent basis? Or does he simply learn from his fellow prisoners methods of aggression and stealing which he would not have had the chance to learn outside of prison?

Does fining criminals a few dinars, pounds, or dollars cause them to respect others' rights such that they no longer violate anyone's honor, curse religion, falsely accuse innocent individuals of acts they did not commit, or steal others' money?

Does the imprisonment of the drunk or drug dealer, for example, rectify his morals, reform him and stop him from further wrongdoing?

Practical evidence indicates that those who have been imprisoned come out of prison equipped with additional experience and even artistry in the field of crime.

In sum, the penalties which have been imposed by Allah are not hindered in their effectiveness by the criminal repeating his crime; practical observation of conditions in countries which enforce the punishments prescribed by Islamic Sharee'ah as compared with those which do not enforce them provides the most solid proof of this. To clarify this fact further, I shall undertake a comparison between a state which enforces the penalties laid down by Islamic Sharee'ah in its society and another state which does not:

1. In the state which enforces the penalties laid down by Islamic Sharee'ah, one enjoys peace of mind and there is an overall sense of security. One can leave his place of business or the door of his house open without fear; he can leave his money or possessions in open view and go to take care of personal business without a dishonest hand reaching out to take what belongs to him or an eye stealing glances at it. He might drop some money or he might forget it in someone else's car or elsewhere, only to hear an announcement on the radio or television informing him of where he can retrieve what he lost. By contrast, one finds that in those countries which do not carry out the penalties laid down by Islamic Sharee'ah, people enjoy neither peace of mind nor peace of heart; they cannot leave their doors open or their money in open view. It is not strange to see some criminal assailing his victim in broad daylight, on a crowded street, without anyone trying to stop him.
2. The society in which the divinely revealed penalties are enforced is characterized by honest, pure speech, integrity in people's dealings with one another, rejection of obscenity and indecency, and the desire to enjoy what Allah has declared permissible and to avoid what He has forbidden. The society in which the penalties laid down in Islamic Sharee'ah are carried out is like an oasis, where one can enjoy safety and ease; it is a place in which there is a sense of unity and brotherhood, where everyone is free to attend to his work, and where one's work brings an honest income to the one who performs it, as well as safety, security, and stability to his country. By contrast, we do not find that such conditions prevail to the same extent in a country which fails to apply the limits set by Allah in Islamic Sharee'ah.

In order to shed further light on the effectiveness of enforcing the limits set by Islamic Sharee'ah in combating crime, we now present some statistics which help to illustrate the benefits which can be attained through the application of these limits. An examination of the following statistics compiled by the Saudi Ministry of the Interior will make clear both the spiritual and material benefits

which have been realized through the application of Islamic Sharee'ah and its prescribed penalties.

The total number of criminal incidents during the year 1416H. (1996G.) totaled 29,987 throughout the entire Kingdom. The number of people who committed these crimes came to 26,443, with foreigners accounting for 36%. The close approximation of the number of incidents to the number of those committing them indicates that the crimes which occurred were on the level of individuals rather than that of organizations or gangs.

In addition, the criminal incidents involving serious crimes such as various cases of murder, attempted murder, death threats, and kidnappings came to no more than 2% of the total number of incidents. Crimes such as these, which cause anxiety to the citizenry and to the various agencies of the Saudi government in general, represent only a tiny fraction of the total incidents when compared to what takes place in other parts of the world. These crimes are not a result of some defect in the application of Islamic Sharee'ah in this country; rather, they arise from weakness in the faith of those who committed them and their distance from obedience to Allah and the teachings of the Islamic religion.

When we compare these crimes with what takes place in other countries of the world, we realize the huge disparity between the number, seriousness, and quality of the crimes committed in the Kingdom of Saudi Arabia and that of the crimes which occur elsewhere in the world. In addition, it becomes clear that the crime rate in the Kingdom of Saudi Arabia is very low and poses no danger to the population of the Kingdom. The average incidence of crime in the Kingdom comes to .32 per 1,000 individuals, whereas the crime rates in some other nations of the world are as follows: Spain – 77.26; West Germany – 41.71; Italy – 20.08; Denmark – 60.52; France – 32.27; Australia – 75.00; Canada – 75.00; Korea – 12.42; Ghana – 10.72; Kenya – 4.74; Indonesia – 1.47.

Hence, the Kingdom may be viewed as a model to be emulated for its low crime rate and for the stability which prevails in it, despite the wide geographical area which it covers and the remoteness of some of its populated regions, and despite the large numbers of pilgrims which come there every year, almost 2-3 million. Consequently, the Kingdom represents the most remarkable proof of the success of Islamic Sharee'ah in doing away with crime and achieving security in cities, villages, and unpopulated desert areas, as well as stability in its social and economic life.

Finally, based on this presentation of the enforcement of the penalties prescribed by Islamic Sharee'ah, their purposes and unique features, the benefits which accrue from their application, and the harm resulting from their abolition, we may say that:

- 1) the enforcement of the prescribed penalties is the best means of doing away with crime based on the solid proof of actual experience,
- 2) when crime is done away with, security prevails and the country concerned enjoys tranquillity and peace of mind,
- 3) when crime is reduced, the country's workforce devotes itself to production rather than corruption and aggression,
- 4) in such a situation, the society concerned is stabilized and more peaceful, and free of disturbances and confusion,
- 5) hence, it becomes clear that the application of the divinely prescribed penalties involves:
 - a. Respect for the right to life and a means of avoiding bloodshed.
 - b. Protection of the family from confusion over paternity and a means of preserving people's dignity and honor.
 - c. A means of protecting people's wealth and possessions.
 - d. Protection for people's minds against confusion and disorder, and for their morals against corruption.
 - e. The sanctification of religion and of what God has commanded us to cherish and preserve.

Second: Definitions of the limits prescribed by Islamic Sharee'ah (law), the types of crimes for which punishments are laid down, an explanation of the wisdom behind them, and a justification of them in light of the objections which have been raised against them:

Definitions of the types of crimes for which penalties are prescribed in Islamic Sharee'ah

Since such penalties have been divinely decreed, their enforcement is, in effect, the fulfillment of a right which belongs to Allah Almighty; and since their enforcement is a duty toward Allah, they may not be modified nor changed in any way, nor may they be abolished by either individuals or groups. The following seven crimes are the ones for which these punishments are prescribed: (1) adultery, (2) accusing a virtuous man or woman of sexual immorality, (3) drinking alcohol, (4) waging war against the Moslem community, (6) apostasy, and (7) rebellion against the rule of the rightful Moslem leader, or Imam.

In what follows we present a brief discussion of each of these crimes:

1. Adultery: Its definition, the conditions for the application of the punishment prescribed for it, and the wisdom behind such enforcement

Adultery is defined as unlawful sexual intercourse, be it vaginal or anal. Adultery is deemed one of the most serious sins in Islam. Allah has expressly forbidden it and has prescribed a penalty for those who commit it, saying, “*Nor come nigh to adultery, for it is a shameful (deed) and an evil, opening the road (to other evils).*”¹, and “*The woman and the man guilty of adultery or fornication, flog each of them with a hundred stripes . . .*”²

As for the punishment prescribed for this transgression, it varies depending on specific factors. If the transgressor is an unmarried man who has never entered into a legal marriage, he is to receive 100 stripes and be exiled from his homeland for one year. If he is a married man who has confessed to having committed adultery, or who was seen in the act of committing this transgression by four trustworthy [adult male] witnesses, and if all conditions for application of the prescribed punishment are obtained, he is to be stoned.

The conditions for applying the punishment for adultery

In order for the prescribed punishment to be carried out against an adulterer, it is necessary: (1) that the person be a Moslem in full possession of his mental faculties and free to make the choice whether to commit such an act or not; (2) that the crime be proven beyond any doubt, either by the person concerned confessing while in a fully normal mental state to having committed adultery, or based on the testimonies of four trustworthy witnesses who saw him in the act; and (3) that the person not withdraw his confession; for if he does before the punishment is carried out, saying that he lied and that he did not, in fact, commit adultery, the penalty is not to be enforced.

The wisdom in enforcing the punishment for adultery and a justification for it in the face of the suspicions and allegations raised against it

The wisdom in the prohibition of adultery lies in the purposes for which this prohibition came about, namely, the preservation of the purity of Islamic society and of Moslems’ souls, protection of Moslems’ dignity and honor, and keeping their lines of descent free of confusion. It is sometimes said that lashing the adulterer who is not married and lashing and stoning the adulterer who is

¹Al-Isrā’ [The Nocturnal Ascension] 17: 32

²Al-Nūr [The Light] 24: 2

married entails cruelty and violation of people's freedom and dignity and that, as a result, it is to be considered a violation of human rights. In response to this claim, let us state the following:

The legislation of the penalty for adultery, the care taken to enforce this punishment and letting this take place in the presence of a group of Moslem believers, as well as the numerous verses in the Holy Qur'an with regard to this matter, prohibiting, not only the act of adultery but other acts which could lead up to it, all aims at one thing, namely, to keep people's honor unstained, since unblemished honor is what brings happiness and tranquillity in the family and helps to ensure the raising of offspring who are virtuous, benevolent individuals capable of elevating and ennobling humanity. There is no doubt that a broken, disunited family cannot serve to form a virtuous nation or a high-minded people, since the building of a righteous society can only take place by the use of solid, well-cemented bricks. Among societies where adultery is common, indecency is found, and in which causes of corruption are widespread, will be quick to fall into material and moral corruption. Its members will become nothing but disconnected pieces among whom there is no solidarity, mutual understanding, love, or unity, since they have no sense of brotherhood or kinship and, as a consequence, they are liable to suffer from alienation and conflict, while their strength, their influence, and self-respect are lost.

Adultery is known to be one of the factors which destroys the foundations of peoples and nations, wasting the glory they have enjoyed and bringing them shame and dishonor in its place. This is because adultery hinders the production of strong, sound offspring and kills self-respect, chivalry, boldness and courage; at the same time, it severs the ties of kinship which bind people to one another, those ties on whose basis all human ties, be they paternal, filial, brotherly, or otherwise, are founded.

In addition, it has been established on the basis of scientific evidence that adultery is one of the major causes behind some of the most serious diseases, such as AIDS, herpes, and others. In short, due to the serious nature of adultery, it was necessary that the punishment prescribed for it be an effective deterrent, for the following reasons:

1. Adultery is a source of disgrace and degradation; hence, none of us would desire its consequences for his family. And if one would not want it for his family, how could he want it for anyone else? If someone did want it for others, he would be selfish, but the selfish person has no place in the community.
2. Adultery can result in the loss of innocent souls; the illegitimate child is lost in society, without a father to raise him or show him affection, and without a

family to care for him and take pride in him. Such a situation can turn him into a person who hates both individuals and society.

3. Adultery can lead to a child's confusion over who his real father is, with the result that he deprives others of what is rightly theirs since by his taking what belongs by right to others, they are deprived of what the law of Islam has entitled them to.
4. People's sexual desires drive them to seek out sexual union in one way or another; hence, if there were no penalty to restrain those who are prone to be carried away by such urges and to satisfy them by illegitimate means, this corruption would spread and the entire society would be infected with an evil that would stain their honor and bring confusion to their lines of paternity; indeed, it could endanger their stability and their lives. For all these reasons and others as well, it was necessary to establish a punishment for adultery which could serve as an effective restraint and deterrent.

Even so, the justice of the wise Lawgiver has made a distinction between the circumstances of the unmarried individual on one hand, and on the other, those of the married person, in whose case it is only reasonable that the punishment should be applied to its full extent upon him or her, namely, the penalty of death. Such a penalty, however, can only be carried out once measures have been taken to ascertain with utter certainty that the individual concerned actually committed adultery and that the conditions for the penalty's enforcement have all been fulfilled, either by the person's confessing to the crime four times, or by a testimony against him or her by four trustworthy witnesses.

This penalty, however severe it may appear to be, nevertheless bears within it the divine mercy. After all, how could four witnesses testify to having seen someone while he was in the act of committing adultery? When the wise Lawgiver made the penalty severe, He likewise set forth firm precautions against its mistaken application. Hence, unless society descends to a level of degradation and bestiality, or unless an individual has become so contemptuous of all that is sacred that he allows himself to be seen in such a situation, the stoning of such a person would be acceptable to most reasonable people; and this, in fact, is what the divine law requires. One who considers the conditions laid down by the wise Lawgiver for the enforcement of this penalty will realize clearly what great care has been taken in Islam to ensure justice and fairness in applying this punishment. It has taken precautions to ensure a clear, demonstration of guilt; and in order for such application to take place, it has stipulated conditions which are virtually impossible to fulfill. As a consequence of these conditions, the actual enforcement of this penalty throughout the history of Islam has been exceptionally rare.

As for those who commit adultery before marriage, the Lawgiver has mitigated their punishment, making it no more than lashing (which is unanimously agreed upon by Moslem jurists) and exile for one year (which is agreed upon by the majority of Moslem jurists). This penalty, in both its parts, is just and suited to the condition and circumstances of such an individual; moreover, it is sufficient to deter him from repeating such an offense as well as to discourage others from venturing into this shameful behavior.

The concern demonstrated in Islamic Shari'ah (Law) for the preservation of people's honor and dignity and for keeping their lines of paternity free from confusion brings benefits both to individuals and to society as a whole: To individuals, it protects himself, his family and loved ones from being harmed by evildoers; and to society, it helps to do away with vice and to allow virtue to be manifested among the members of society.

Conclusion

The penalties for adultery in Islamic Shari'ah were not established arbitrarily or without planning. Rather, they resulted from a proper understanding of human beings' physical and psychological makeup and an accurate evaluation of their instincts, inclinations and emotions. They were laid down to protect the interests of both individuals and communities. They are scientific, legislative penalties because they were established in order to combat crime, and they have been influential in combating crime for all times and in all places.¹

2. Accusing a virtuous man or woman of adultery (al-qathf)²

An example of such an accusation would be for someone to say to someone else, "You adulterer!" or to say that he had seen the other committing adultery or some other indecency, such as homosexual intercourse.

This offense is considered one of the major sins in Islam; those who commit it are declared by Allah to be acting disobediently and unjustly and are, to be punished. As Allah Almighty declares, "*And those who launch a charge against chaste women, and produce not four witnesses (to support their allegations), flog them with eighty stripes; and reject their evidence ever after:*

¹Abd al-Qādir ^cAwdah, *Al-Tashrīf al-Jinā'ī al-Islāmī* ("Islamic Penal Legislation"), Vol. 1, Beirut, Dār al-Kitāb al-^cArabī, p. 150

²*Ibid.*, p. 64

for such men are wicked transgressors; unless they repent thereafter and mend (their conduct); for God is Oft-Forgiving, most Merciful.”¹

The conditions for carrying out the penalty for “al-qathf”

In order for the person making a false accusation of this nature to be punished, several conditions must be fulfilled: (1) the person making the accusation must be an adult Moslem in full possession of his mental capacities; (2) the person accused of immorality must be someone who has been known in the community as a chaste individual; and (3) the person being accused of immorality must have issued a demand that his accuser be punished, since this is a right to which he or she is entitled, although if the accused chooses to forgive the offense instead, he or she can do so.

The wisdom in enforcing the punishment for accusing a chaste individual of adultery, and a response to suspicions and allegations raised against it

As Islam has forbidden adultery and required that those who engage in such an act be penalized, it has also prohibited us from accusing someone of committing this offense when the person accused is innocent. The punishment for raising such an accusation is 80 stripes and the refusal to allow the accuser to give testimony of any sort until he has demonstrated genuine repentance.

What the Islamic Sharee’ah aims to accomplish through such measures is to prevent people’s morals and honor from being attached by lying tongues and false reports, and to prevent people from raising accusations against one another unless they have definitive evidence in support of their claims. To a person with dignity and self-respect, honor is more precious than wealth itself, and to let such accusations go unpunished would leave people’s morals without protection and cause vice to spread; it would make it easier for people to engage in unchastity and bring about chaos, as well as creating enmity and hatred among families and generating bitterness and resentment in people’s hearts. This being the case, it could even lead to attempts to seek vengeance by means of murder and the like. For an evil such as this, there must be a penalty which causes people to hesitate before they speak, and not to give free rein to their tongues for fear of the corruption and evil which could result.

There is no doubt that there are numerous reasons for which someone might make such an accusation, such as envy, bitterness, the desire to compete, and the desire for vengeance. However, all such motivations boil down to a

¹Al-Nūr [The Light] 24: 4-5

single aim which is common to all those who make false accusations, namely, to cause pain and humiliation to the person being accused.

The punishment for such accusations in Islamic Sharee'ah has been established to prevent the fulfillment of this very aim. After all, the accuser aims to cause psychological pain to the person being accused; hence, the punishment so that he himself will experience both physical and psychological pain, since psychological pain is included in physical pain. Moreover, because the accuser aims to humiliate the person being accused, his punishment is to be humiliated by the entire community; as part of this humiliation, he loses his credibility and his testimony from then on will not be accepted. The accuser is thus stigmatized permanently as a wicked transgressor (**fasiq**), that is, unless he sincerely repents and reforms himself.

These, then, are some of the purposes behind the punishment for falsely accusing someone of immorality, and through which one can see the divine wisdom for legislating it. Nevertheless, there are some who say that the penalty of lashing is unnecessarily severe and that it is inconsistent with the spirit of modern civilization. People who make such claims should do well, first of all, to consider the significance of the crime involved and its harmful effects on society, then compare these to the punishment prescribe by Islamic Sharee'ah. After all, the purpose for the punishment is to restrain people from committing any action or uttering any statement which would harm society or its individual members. If crime is common among people to the point where no one is able to protect his honor, his life, or his wealth, then the human race – whom Allah has set apart from other creatures by granting them reason and intelligence – will have descended to the level of beasts, the strongest of which attack the weak. If this were to happen, it would mean annihilation for both the individual and the community, hence, the need for effective deterrent for criminals whose morals have grown corrupt; moreover, the deterrent force needs to be capable of rooting out the crime altogether lest its ill effects spread. It is thus in the interests of the society at large and of criminals themselves for the punishment for the crime to be a restraining force.

From what has been presented, we may state with certainly that the penalty for falsely accusing someone of sexual immorality is not cruel but, on the contrary, it is merciful and just. The enforcement of this penalty serves to prevent people's honor from being attacked through lies; it guards people's tongues from uttering obscenities; and it preserves the overall moral level of Islamic society in such a way that in their daily lives, their prayers, and their relationships with others, whether they are pleased or offended, calm or irritated, people will adhere to a path of moderation which will be pleasing both to Allah and His Messenger.

In sum, we may see now the wisdom in establishing this penalty, the purpose for which it was instituted, and the benefit which it brings to both the individual and society.

3. Theft

Theft is defined as taking money or other property which belongs to someone else wrongfully, for example, by entering a shop or residence and taking clothing, gold, etc. This definition implies that theft includes the following: (1) that one has taken someone else's wealth, (2) that the articles concerned have been taken deliberately, and (3) that the money or other property is someone's rightful possession.

Theft has been identified in the Holy Qu'ran as one of the most serious offenses; Allah Almighty says, "*As to the thief, male or female, cut off his or her hands: a punishment by way of example, for their crime: and God is exalted in power.*"¹

Proof that a theft has been committed takes place in one of two ways: either by an explicit confession on the part of the thief who makes the confession without being subjected to any form of threat, etc., or by testimony from two trustworthy witnesses that the person concerned engaged in the alleged theft.

The wisdom in enforcing the prescribed penalty for theft and a response to the suspicions and allegations raised against it

Islam has demonstrated respect for money as a vital necessity; it likewise respects the principle of private property, recognizing it as an undeniable right which no one has the right to violate under any circumstances. Hence, it has prohibited theft, coercion, embezzlement, betrayal, usury, cheating, and bribery, considering all money which has been taken without legitimate cause to have been consumed unjustly.

Islamic Sharee'ah calls for the amputation of the hand of the thief with which he would be most likely to steal again, the wisdom of which can be clearly seen, since the dishonest hand is like a diseased organ which must be removed in order for the body as a whole to become whole. Sacrificing a part for the sake of the whole is a principle which is agreed upon both by legal codes and the reasoning mind. Moreover, amputation of a thief's hand serves as a lesson and warning to those who entertain thoughts of taking other people's money so that, instead of doing what they have in mind, they will refrain, thereby preserving and protecting people's property.

¹Al-Mā'idah [The Repast] 5: 38

However, despite the obvious wisdom and benefit to be found in the enforcement of the penalty for theft for both the individual and society, we find that there are those who criticize the Kingdom of Saudi Arabia for applying this prescribed punishment, claiming that it involves cruelty and leads to the maiming of human beings. Be that as it may, the Islamic Sharee'ah which is applied in Saudi Arabia, including the penalty of amputating a thief's hand, is the only law in the world which knows nothing of cruelty. For what some people view as cruelty is, in fact, simply the force and decisiveness which characterize the Islamic Sharee'ah – a force and decisiveness which reveal themselves not only in the prescribed punishments, but likewise in Islam's creed, acts of worship, rights, and duties. The word "mercy" and its various derivatives is one of the most frequently occurring lexical items in the Holy Qur'an, while the Islamic Sharee'ah requires that no Moslem eat, drink, move, rest, work, worship, sleep, or awaken without making mention of the name of God, the Most Merciful, the Bestower of Mercy. For if he remembers the Mercy, he will be influenced by it in what he says and does. Mercy is one of the foundations of Islamic Sharee'ah; such a law knows no cruelty.

Enforcement of the penalty for theft is a sound means of combating this crime. The most eloquent testimony to this fact is what we witness here in the Kingdom of Saudi Arabia, which Allah has granted success in enforcing the limits prescribed by God in Islamic Sharee'ah. The result is that the total number of those whose hands have been amputated over a period of half a century comes to no more than 50, while the security which has been attained not only in Saudi cities but in its desert regions as well is greater than that which has been attained in any of the major Western capitals with their armed security forces. In fact, the loss of life -- among those who do the stealing, those who are stolen from, and security personnel -- which results from theft in one Western capital alone over the period of one year, for example, is several times greater than that of the Kingdom of Saudi Arabia over the fifty years since it began applying the penalty of hand amputation. Which of these outcomes, then, is more conducive to security and more merciful to humanity? It should also be noted here that many of those who were killed in these other capitals were not criminals or guilty of any wrongdoing, while those whose hands were amputated but were not killed are proven criminals. In addition, the terror in which people often live inside their homes and business establishments in Western capitals, lends more support to what we are saying.

The crime of theft is one of the most serious offenses; hence, if it is allowed to spread, it will endanger people's possessions, their honor, and their lives. Their lives will become bitter and hardly worth living, since the thief is like a wild animal that may savage anyone it encounters. His crime, then, must be resisted with the utmost severity until it is fully eradicated. If anyone

imagines that the penalty for theft in Islamic Sharee'ah is cruel or extreme, such a person needs to realize that the cruelty of the crime and its evil effects on society are even more extreme, indeed disastrous. Moreover, the penalties prescribed in Islamic Sharee'ah were established to serve as deterrents to those whose morals are corrupt.

Hence, it is clear that the suspicions and allegations which have been raised against the penalty for theft in Islamic Sharee'ah are baseless when assessed in the light of legality and sound reason.

4. The Islamically prescribed penalty for drinking alcohol and the use of drugs, and the wisdom in the prohibition of gambling

In this section I shall discuss both the Islamically prescribed punishment for drinking alcohol and the punishment for drug use due to the common basis of the Islamic rulings on intoxicants and drugs; I shall also touch on the subject of gambling, the ruling on which is closely associated with alcohol. Allah mentions these two practices together in numerous verses of the Holy Qur'an and in the stipulations of Islamic Sharee'ah due to the fact they both bring similar types of harm to the individual, the family, the country and morals.

a. The Islamically prescribed penalty for drinking alcohol:

The term "alcohol" (**khamr**) refers to any and all intoxicating beverages. Drinking such beverages is forbidden by Islam whether the amount taken is large or small. As Allah Almighty declares, "*O ye who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination, of Satan's handiwork: Eschew such (abomination) that ye may prosper.*"¹ Moreover, as the Messenger of God (may peace and blessings be upon him) said, "*Every intoxicant is a kind of alcohol, and all alcohol is forbidden.*"²

The conditions for carrying out the penalty for drinking alcohol

In order for the penalty to be carried out against someone who has drunk alcohol, a number of conditions must be fulfilled, the most important of which is that the person be a healthy, adult, consenting Moslem in full possession of his mental faculties who knows that alcohol is forbidden in Islam. If the person concerned is ill the penalty still applies, but its execution is to be postponed until he recovers from his illness.

¹Al-Mā'idah [The Repast] 5: 93

²Narrated by al-Bukhārī and Moslem

The wisdom in carrying out the penalty for drinking alcohol, and a response to the suspicions and allegations raised against it:

The Kingdom of Saudi Arabia is subjected to an unjust campaign by certain organizations in the name of human rights because of the fact that it applies the Islamically prescribed penalties in general, and this penalty in particular. Those waging this campaign claim that carrying out the penalty against those who drink alcohol entails a violation of human rights and freedom, since in their view, the individual is free to eat and drink whatever he likes.

In order to illustrate the wisdom in applying this penalty and to correct the misconceptions which have been circulated in this regard, let us state the following: The drinking of alcohol is expressly forbidden in both the Holy Qur'an and the Prophetic Sunnah, and no one, no matter who he happens to be, possesses the right to abolish the punishments prescribed by the Islamic Sharee'ah. Under this law, human beings are not free to do as they please with regard to what they eat and drink; rather, they are bound in all their actions, including their eating and drinking, to abide by what is written in the Book of Allah and the Sunnah of His Messenger (*may peace and blessings be upon him*). Islam has made clear what Moslems are and are not permitted to eat and drink, and of these, alcohol is one of the supreme taboos – indeed, it is regarded as the “mother of abominations.”

Islam has prohibited alcohol because it operates in conflict with the manner in which Allah created human beings to live. It paralyzes human activity; it deactivates the mind; it corrupts one's religion; it causes one to lose his money; and it destroys the soul. Its evil is not restricted to the individual alone; rather, it goes beyond the person who drinks it to affect others, since he may murder, steal, and commit sexual immorality under its influence.

This, then, reveals the wisdom in the prohibition of alcohol in Islam and the enforcement of the Islamically prescribed punishment against those who choose to drink. However, despite the clarity of this wisdom, some people claim that enforcing the Islamic penalty for drunkenness involves a violation of human rights. Such a claim is invalid, for human beings are not simply free to eat and drink whatever they please; rather, they are bound to abide by the provisions of Islamic Sharee'ah. In fact, a Moslem is not free to do anything harmful to himself, since he does not belong to himself. Hence, he cannot justify squandering the rights of his nation through his activities, thought and work. He lives in society and receives the benefits of security, affluence and happiness by virtue of his being a member of that society. Hence, he has the obligation to abide by the public order, to be sensitive to other's feelings, and to demonstrate solidarity with other members of society in that they are a single body.

b. Islam's position on drugs

1. The spread of drugs

The problem of drugs is one of worldwide proportions; it preoccupies people all over the globe. In order to combat drugs, conferences have been convened, seminars have been held, and agreements have been concluded among various nation-states, while various bodies and organizations have confronted this plague, especially since drugs have gone beyond a mere traditional crime and have become a danger threatening security in most countries of the world, both industrialized and developing nations.

International efforts to combat drugs began in 1909G., when the first international anti-drug conference was held in Shanghai, China. Yet, despite the efforts which continue to be made throughout the world to combat this crime, the production and spread of drugs of all varieties increase with every passing year. For example, the average amount of hashish being confiscated annually during the period 1947-1966G. was approximately 342 tons per year. This average rose during the period 1967-1974G. to 2,500 tons per year. Then, in 1987, the amount of hashish confiscated internationally reached a record-breaking level of 54,000 tons per year.

With regard to the spread and production of opium, the average amount confiscated on the world level was 42 tons annually during the period 1947-1966; this rose to 44 tons annually during the period 1967-1974; it increased to 52 tons per year during the period 1975-1986; then, in 1988 the amount of opium confiscated on an international level reached a record-breaking 92 tons.

With regard to heroin, the average amount of heroin being confiscated internationally came to 187 kilograms annually during the period 1947-1966; this average rose to 953 kilograms per year during the period 1967-1974; the average came to 7 tons annually during the period 1975-1986, and in 1988, the largest amount of heroin confiscated worldwide was 23 tons.¹

The above figures make clear the extent to which drugs have spread and their production increased on the international level in spite of the efforts being made to combat them. How is it, then, that drugs have spread to this extent despite the international efforts being made to prevent it? As we see it, the world wished to deal with this problem, indeed, this dilemma, by means of secular laws and regulations. However, if the world had adopted the Islamic approach to the war on crime, of which drugs are considered to be one type, it

¹Muhammad Fathi ʿId, *Al-Mukhaddirat: Al-Asbab, Al-ʿAṭulūl, Al-Tayassur* (Drugs: Causes, Solutions, Facilitation), the Anti-Crime Center Book Series, 1992, p. 25

would have been able to put a stop to this deadly problem, ridding itself of its evils. The Islamic approach to combating this crime is the same as that which it has adopted in combating alcohol and drunkenness; for if alcohol is “the mother of abominations,” then drugs are “the mother of crimes.”

2.The Islamic ruling on drugs

There is no explicit text in either the Holy Qur’an or the Sunnah of the Prophet (*may peace and blessings be upon him*) which sets forth the Islamic ruling on drugs, since drugs were not known during the life of the Prophet (*may peace and blessings be upon him*). Rather, they did not come to be known by this name until some centuries later. Due to the absence of the term “drugs” in the Holy Qur’an and the Sacred Sunnah, Moslem scholars have taken great pains to identify what this ruling is, relying on their deductions from general texts and comprehensive rules within Islamic legislation. Scholars representing all the various legal schools are in agreement that drugs of all types are prohibited in Islam, and that taking them is a major sin for which one deserves to be punished both in this life and the hereafter.

3.The wisdom in prohibiting drugs in Islam

Drugs are prohibited in Islam because, as was stated in the case of alcohol, they operate in conflict with the manner in which Allah created human beings to live. They paralyze human activity; they deactivate the mind; they corrupt one’s religion; they cause one to squander his money; and they destroy the soul. Their evil effects are not restricted to the individual alone; rather, they go beyond the person who drinks it to affect others, since he may murder, steal, and commit sexual immorality under their influence. The following are some of the reasons for which the Islamic Sharee’ah has forbidden drugs:

1. Drugs drive people to commit acts of disobedience, thereby subjecting them to punishment both in this world and the hereafter.
2. They cloud the thinking and, in one way or another, cause altered states of mind.
3. Taking drugs causes serious harm to the health, damaging vital bodily organs such as the brain, the nerves, the liver, the lungs, and the respiratory system.¹
4. They cause enmity and hatred, distracting people from the remembrance of Allah and prayer, and disrupting family ties. This is because, when someone

¹Sāmī Muṣliḥ, *Riḥlah Fī ‘Ālam al-Mukhaddirāt* (A Journey Through the World of Drugs), Cairo, Dār al-Bashīr lil-Ṭibā‘ah wal-Nashr, no date, pp. 114-115

is under the influence of drugs, he may do and say things which are foreign to his genuine nature and which he would not have done or said had he been free of their effects.

5. Drugs place the person who takes them in an uncomfortable, demeaning position vis-à-vis the rest of society; he becomes an outcast who is shunned by family members and others, who fear they might fall under his evil influence or be tempted to commit the same iniquities, since by virtue of drugs, he has become unfaithful and untrustworthy.
6. Drugs cause a person to appear in an undignified state, leading him to act immodestly and disrespectfully and robbing him of his usual dignified and sober personality.
7. Drugs produce deleterious effects in a person's state of mind, causing feelings of inferiority, self-contempt, unhappiness, anxiety, distress, and fear.
8. They are a waste of money on what brings no benefit and which, in fact, brings harm.
9. They distract the person from his work and from other activities and concerns which could bring benefit to him and his community.
10. They turn the person into a self-centered creature who spends all his money on his own pleasures and cravings, meanwhile abandoning his wife, his children, his parents to fend for themselves. He demonstrates no solidarity with his community, since he neither pays zakat nor gives charity nor contributes to charitable enterprises; he is, in short, a harmful member of society, and through this the wisdom of Islam's prohibition of drugs may be clearly seen.

Drug use is in conflict with the purposes of Islamic Sharee'ah with regard to the preservation of religion, honor, human life, money, and the mind, all of which Islamic Sharee'ah takes great care to protect in a variety of ways. Moreover, drug use involves a clear violation of a particular purpose of Islamic Sharee'ah ; in order to make this clear, I shall briefly discuss the negative effects left by drug use on religion, honor, human life, money, and the mind.

1. Religion¹

Allah created human beings to worship Him, obey His commands, and avoid what He has forbidden. As the Almighty declares, “*I have only created jinns and men that they may serve Me.*”²

There can be no doubt that the use of drugs will hinder a person from fulfilling this vital, indispensable duty, since drugs prevent one from remembering Allah Almighty and fulfilling the duties set forth in the Islamic Sharee’ah such as prayer, fasting and others. In these respects, then, drugs are similar to alcohol, about which Allah says, “*Satan’s plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and hinder you from the remembrance of Allah and from prayer: Will ye not then abstain?*”³ What could be more harmful than that which afflicts a person in relation to his religion – the most precious thing he possesses, and through which he attains happiness both in this life and the hereafter?

2. Honor

Islamic Sharee’ah devotes special attention to the matter of honor, declaring it a duty to preserve and defend it and forbidding violation of it. The Messenger of Allah, (*may peace and blessings be upon him*) said, “Your blood, your wealth and your honor are as sacred as this day of this month in this country of yours.”⁴ Islamic Sharee’ah commands us to defend our honor even if this leads to killing the one who seeks to attack it. It has laid down the penalty for falsely accusing a chaste man or woman of sexual immorality in order to punish those who seek with their words to destroy others’ honor, and it describes the person who does not defend the honor of his closest relative as a “cuckold” who deserves Allah’s wrath and punishment. Not only so, but it considers the person who is killed defending his honor as a kind of martyr; the Prophet (*may peace and blessings be upon*) said, “If anyone is killed while defending his honor, he dies as a martyr.” However, the use of drugs may lead one to be careless in the defense of his honor, since they afflict the person who takes them with a dullness or lack of responsiveness so that rather than being zealous, he becomes indifferent. The person on drugs may be driven to sacrifice his honor in order to obtain more, as he can’t bear to be without them.

¹This is based on a paraphrase of the papers presented at the Comprehensive Seminar on the Effects of the Royal Order Approving the Death Penalty for Drug Smugglers, Op. Cit., pp. 10-12.

²Al-Dhāriyāt [The Winds That Scatter] 51: 56.

³Al-Mā’idah [The Repast] 5: 91.

⁴Narrated by al-Bukhārī and Moslem.

3. Human life

Life is the gift of Allah, *Glory Be To Him*. He has commanded us to preserve it and to seek out the means of avoiding its loss. He says, “*Nor kill (or destroy) yourselves: for verily Allah hath been to you most Merciful!*”¹ Allah also declares, “*And make not your own hands contribute to (your) destruction.*”² Allah thus declares the taking of life to be one of the gravest sins, one which leads to the sentence of divine wrath and punishment. As for the drug user, he is slowly killing himself by his own free will.

4. Money

Money is a necessity of life; hence, Islamic Sharee’ah commands us to preserve it and work toward developing it, and not to lose it or spend it in a wasteful manner. Spending money on the purchase of drugs involves wasting it on that which brings no benefit and which, in fact, brings about the worst type of harm. Spending it on such things is thus viewed as one form of the wastefulness which is prohibited by the Holy Qur’an and the Sunnah.

5. The mind

One of the blessings which Allah has bestowed upon human beings is the mind, or reason, by virtue of which we can distinguish between right and wrong, good and evil, the beautiful and the ugly. Allah has made the power of reason to be the basis for human accountability and the means by which we are able to think about the universe and the soul. Someone who possesses such a great blessing has the duty to do everything in his or her power to protect it and to take the best possible care of it. However, the user of drugs is squandering this blessing and working deliberately to destroy it; thus, descending to the level of the beasts, if not lower. Hence, drugs are forbidden.

4.The penalty for drug use in the Kingdom of Saudi Arabia as derived from the teachings of Islam

The crime of drug use is not included among those for which specific penalties have been prescribed by Islamic Sharee’ah, even though the reason for its prohibition is the same as that for the prohibition of alcohol, since the penalties are limited to those crimes which are explicitly stated in the Qur’an and the Sunnah. No one has the right to add to or remove from these crimes on the basis of a personal judgment as an individual or as a group. Based on this,

¹Al-Nisā’ [Women] 4: 29

²Al-Baqarah [The Cow] 2: 195

the penalty which Moslem scholars have deduced for the crime of drugs is a penalty whose purpose is to deter criminals from repeating this crime and preventing other members of society from committing the same evil.

In view of the serious harm which results from the spread and use of drugs, the Council of Senior Scholars in the Kingdom of Saudi Arabia unanimously approved and issued Decree No. 138, on 20/6/1406H., according to which the penalty for drug smuggling is death. The reason for this ruling is the serious corruption which results from the smuggling of drugs and their introduction into the country, a corruption which is not limited to the smuggler himself, but which involves danger for the entire nation. The term “drug smuggler” is defined as one who imports or receives drugs from abroad, then uses them to supply dealers.

The Council stipulated that whoever is caught dealing in drugs for the first time is to be given a severe reprimand, and may be subjected to imprisonment, flogging, a monetary fine, or all of these combined according to the discretion of the court. If the same person is detained for dealing drugs a second time, he is to be punished in such a way that his evil is permanently uprooted from society, even if this means carrying out the death penalty, as what he has made him a spreader of corruption and a constant criminal.

The death penalty for the drug smuggler is just

Certain organizations criticize the Kingdom of Saudi Arabia for its enforcement of the death penalty against those drug smugglers who have been determined by Islamic Sharee’ah to deserve this sentence. In response to the claim made by such organizations that the death penalty is unjust, we say: When the magnitude of the crime and the degree of the criminal’s enmity toward society are quite clear (as is the case with regard to the crime of drug smuggling), there can be no doubt that the gravity of this offense is commensurate with capital punishment.

Summary

Drugs may be described as the crime of the age, whose victims are millions of people who are enslaved, then discarded. The international community has attempted to deal with this problem in all possible ways; however, it has not been able to solve the problem by means of positive legislation. Hence, the time has come for the international community to adopt the Islamic approach to combating this curse, that is, the approach which is being applied by the Kingdom of Saudi Arabia, and which involves executing the death penalty against drug smugglers. This approach has proven its ability to lower the rate of drug smuggling in the Kingdom of Saudi Arabia.

Every individual, organization or state with a concern for human rights, dignity and freedom needs to protect human beings from the affliction of drugs. However, such protection will be truly possible only when drug smugglers and those who seek to profit from human suffering have been eliminated once and for all.

c. The wisdom in the prohibition against gambling in Islam

Islam forbids Moslems to take part in any game which involves gambling, that is, any game which inevitably leads to profit or loss. A Moslem is not permitted under any circumstances to take gambling as a means of making money.

In prohibiting gambling, Islam affirms a number of wise insights and lofty aims, the most important of which are:¹

1. Islam desires the Moslem to pursue the means Allah has set forth for making money, and to seek outcomes via their legitimate causes. Gambling, which includes lotteries, causes people to rely on luck, coincidence and false hopes rather than on hard work and respect for the causes which Allah has placed on earth and has commanded us to make use of.
2. Money is sacrosanct in Islam in the sense that it is prohibited to take anyone's money away from him unless it is based on legitimate evidence, or unless the person willingly gives it away as a gift or as charity. But to take it from the person through gambling is to spend it in vain, which Islam forbids.
3. Gambling breeds enmity and hatred among those who gamble, even if they happen to speak as if they were content. For there is always a winner and a loser, and the loser, although he may remain silent, harbors silent rage and bitterness over his losses and hopes.
4. Disappointment drives the loser to gamble again in the hope of regaining his losses, while the winner is driven by the pleasure of winning to do the same. Thus the two continue in such a fashion, with both of them tied to the gambling table, so to speak. This is the secret behind gamblers' addiction.
5. Consequently, the pastime of playing games of chance is a grave danger both to society and the individual. It is a hobby which consumes time and effort, making those who gamble into idle people who take from life and do not give, and who consume but do not produce. The gambler is also too

¹Yūsuf al-Qardāwī, *Al-Ḥalāl wal-Ḥarām fī-Islām* (The Licit and Forbidden in Islam), Beirut, al-Maktab al-Islāmī, 1994, p. 277

preoccupied with his gambling to attend to his duties toward his Lord, himself, his family and his nation. It is not unusual for someone who has fallen in love with “the green table,” as some refer to it, to sell his religion, his honor and his homeland for its sake.

How true it is what the Holy Qur’an says about associating alcohol and gambling with each other in various verses, as they pose similar dangers to the individual, the family, the nation and morals, and the resemblance between the person addicted to gambling and the person addicted to alcohol; in fact, they are almost inseparable. In clarification of the ruling of Islam on such practices, Allah Almighty says, *“O ye who believe! Intoxicants and gambling, (dedication of) stones, and (divination by) arrows, are an abomination, of Satan’s handiwork: Eschew such (abomination) that ye may prosper. Satan’s plan is (but) to excite enmity and hatred between you, with intoxicants and gambling, and hinder you from the remembrance of God and from prayer: Will ye not then abstain?”*¹

5. The prescribed penalty for waging war against the Moslem community (al-hirābah)

“Al-hirābah” refers to the act of an armed group breaking off from the wider Moslem community to stir up chaos, shed blood, deprive people of their wealth, violate people’s honor, and destroy their means of production and livelihood, thus, defying religion, morals and order. Moreover, just as “al-hirābah” can involve an entire group, it can also involve a single individual. The concept of “al-hirābah” also includes various sorts of gangs, for example, a gang of thieves who cooperate in burglaries and bank robberies, or a gang which carries out political assassinations to invoke instability and disturb the peace.

The punishment for such crimes is mentioned in the Holy Qur’an where Allah Almighty says, *“The punishment of those who wage war against Allah and His Apostle, 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.”*² The Messenger of Allah (may peace and blessings be upon him) declares that whoever commits this offense is unworthy to be called a Moslem, saying, “If anyone bears arms against us, he is no longer one of us.”³

¹Al-Mā'idah [The Repast] 5: 90-91

²Al-Mā'idah [The Repast] 5: 33

³Narrated by al-Bukhārī

In what follows I will explain the wisdom in enforcing the penalty for al-*hīrābah* and respond to the suspicions and allegations raised against it:

The Kingdom of Saudi Arabia is subjected to unjust campaigns of criticism by some organizations who are representatives of human rights due to the Kingdom's enforcement of this penalty of al-*hīrābah* under the pretext that this enforcement entails acts of brutality and barbarism. In raising such suspicions and allegations, these organizations ignore the fact that the enforcement of the penalties prescribed by Islamic Sharee'ah seek, first and foremost, the protection and preservation of human rights. In fact, no other system on earth has been as competent as the Islamic Sharee'ah in protecting the dignity of the individual and his humanity.

The crime of al-*hīrābah* entails violation of peoples' security and disorder and destabilization of their lives as it can be an assault on human lives, on honor and property. It also, can mean all of these altogether. But, whichever act it may be, it is an ugly crime against society that destabilizes its security and terrorizes its individuals. It is thus, an indication of the indifference and disregard to the State's authority and its ruling system. It is, further, an assault on the moral system by severing the ties of kindness and brotherhood in a community and by spreading corruption on earth. Hence, the penalty prescribed for this crime is one of the most harsh sentences in Islamic Sharee'ah. Allah Almighty has prescribed the death penalty for those who commit the crime of murdering the innocent as a deterrent whereby those criminals may think twice before they consider committing such crimes. The psychological dimension of this penalty is based on the idea of balance, that is, while a person is contemplating a crime, he will be reminded of the penalty which will, in return, make him consider the dreadful consequences of committing it. This Islamically prescribed penalty works as a deterrent due to its psychologically-oriented bases. The secular systems, on the other hand, did not legislate the death penalty for the above-mentioned noble objectives; they only prescribed it for protecting the State's constitution and its general ruling system as they conceive of this kind of crime a true penetration into the general international system.¹

6. The penalty for the crime of rebellion and disobedience (i.e. al-*baghi*)

The ruling on those who commit this crime is found in the Holy Qur'an, where Allah Almighty says, *"If two parties among the believers fall into a quarrel, make ye peace between them: but if one of them transgresses beyond*

¹Abdulla Bin Salim Al-Hameid, *Baḥṯ Fit-tashree' Al-Jina'i Al-Islami: Al-Muqarana Bayn Al-Qawaneen Al-wad'yya* (Research in Islamic Criminal Legislation: Comparison with Secular Laws), Riyadh, Tweek Lil-Khadamat Al-'Ilamiyya, 1413H.

*bounds against the other, then fight ye (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)."*¹ Islam takes a tough stance toward the crime described in this verse (**al-baghī**), because it is directed against the government and those in charge of its affairs. The desire of such people to remove those in power and to get rid of them by any means possible, even if it means committing murder, in order to replace them with those of their own followers whom they wish to see in power, is an evil desire which can only be repressed by means of the death penalty. Moreover, leniency in connection with this crime leads to wars, upheavals and instability, which in turn leads the society into backwardness and dissolution. Execution is without a doubt the penalty most capable of deterring people from committing this crime which is motivated by greed and the desire to dominate.

When Islam instituted the death penalty for the crime of **al-baghī**, it did so only as a last resort as the evil of those involved in this crime can not be contained in any other way. Islamic Sharee'ah requires the Moslem ruler to take specific measures toward those involved in such an uprising before executing them. Once he has exhausted all these measures without being able to bring an end to the uprising, then and only then is he entitled to resort to the use of force. The term **al-baghī** in Islam is what is referred to in our generation as rebellion and disobedience; it is a form of political violence which sometimes leads to civil war. In fact, this crime includes all the elements of rebellion and disobedience mentioned in the categorizations of modern political scientists, as well as all forms of violence associated with them.

This, then, is the penalty for insurrection laid down by the Islamic Sharee'ah. Islamic Sharee'ah is more severe toward those involved in this crime than it is toward individual criminals because the individual who commits a crime by himself poses less danger to the security and well-being of the community than those who join forces to commit evil, who are capable of organizing themselves and, thus, can commit more evil without being seriously hurt themselves. Hence, it is necessary that the penalty set forth in Islamic Sharee'ah be a stiff one in order to deter those criminals.

It is regrettable that criticisms have been raised in the West concerning these penalties, which are carried out by the Kingdom of Saudi Arabia in obedience to Allah's command to execute the punishments set forth in the law of Islam against those who make war on the Moslem community and its rulers. Those who raise such suspicions and allegations claim that the penalties in

¹Al-Hujurat [The Inner Apartments] 49: 9

question waste the lives of civilized individuals, and that, consequently, they are not suited to the civilized world of the 21st Century. In so saying, however, they reveal their ignorance of the fact that there is not a system on the face of the earth which does more than Islam to preserve the dignity and humanity of the individual. However, the honor which Islam ascribes to the individual is reserved for those upright individuals who seek to preserve the community and its well-being. As for those who commit aggression against others, disturb the peace and cause chaos, they face a penalty which is commensurate with the crime they have committed and which, at the same time, can serve as a deterrent to others.

7.The penalty for apostasy and the judgment which it contains upon those who show contempt for Allah Almighty, His revealed scriptures and His messengers

The term “apostasy” as used here means an explicit, blatant departure from Islam by word or deed, such as by denying the oneness of Allah or something which is known of the religion, such as the duties of prayer and the payment of zakat, the prohibition against the drinking of alcohol and adultery, and the like. It might also take the form of demonstrating contempt for someone who is unanimously recognized by Moslems to be a prophet or messenger of Allah, one of God’s angels, or the Holy Qur’an.

Due to the seriousness of apostasy, Islam has instituted a deterrent penalty; as Allah Almighty states, *“And if any of you turn back from their faith and die in unbelief, their works will bear no fruit in this life and in the Hereafter; they will be companions of the Fire and will abide therein.”*¹ This verse declares the punishment which awaits such a person in the hereafter; as for his punishment in this life, it is the death penalty if he does not denounce his disbelief after being given the opportunity to repent. The Messenger of Allah, (*may peace and blessings be upon him*) said, *“If anyone changes his religion, put him to death.”*²

In order for this punishment to be carried out, the apostate must be known to have renounced his faith willingly and not under coercion. Nor is the apostasy of someone who is intoxicated given any weight until he regains his sobriety, since at the time he acted or spoke in a way that indicated that he had renounced his faith, he was not in his right mind. Moreover, given the fact that in most cases, apostasy results from inward doubts and questions concerning matters of faith, it is necessary before punishing the apostate to give him three

¹Al-Baqarah [The Cow] 2: 217

²Narrated by al-Bukhārī

opportunities to repent in the hope that he may return to faith. If he does, he is not to be killed; if, however, he stubbornly refuses, he is to be put to death.

This, then, is the punishment for the person who commits apostasy from Islam. Given its severity, Islam requires that stringent precautions be taken before judging someone to have committed apostasy when the person concerned has been known to be a Moslem of certain faith, since certainty can coexist with doubt. To declare someone a disbeliever when he is not is one of the gravest errors one can make, and the honorable Sunnah warns against it in the strongest terms.¹

Consequently, no one has the right to judge someone as an apostate except those well-versed in matters of the Islamic faith with a specialization in Islamic Sharee'ah; those who have the capacity to distinguish between that which is definitive and that which on mere conjecture, between the explicit and the ambiguous. Such people will not declare someone as disbeliever unless they have hard-core evidence, for example, denial of some truth of the religion whose acknowledgement is a necessity for every believer, mocking its doctrine or law, publicly cursing Allah Almighty, His Messenger, the Holy Qur'an and the angels, etc. It is not permissible to leave such a judgment to those with little knowledge, lest they make statements about Allah which they are not qualified to make. As for the one with the authority to carry out the penalty for apostasy, it is the person authorized by Islamic Sharee'ah to do so after the issuance of a ruling by a qualified Islamic court of law which appeals to nothing but the law of Allah alone.

Once the charge of apostasy has been ascertained beyond the shadow of a doubt, it must be confronted with the utmost severity. The underlying reason for Islam's severe stance here is that the Moslem community is based, first and foremost, on the Islamic doctrine and faith. This doctrine, then, is the foundation for the society's identity and the focal point around which its life revolves. It is, in short, the spirit of its very existence; hence, no one is allowed to do harm to this foundation or this identity. It is for this reason that apostasy is the most serious of all crimes in Islam.

According to those who have raised suspicions and allegations against the penalty for apostasy, this penalty is cruel and is a violation of a person's religious rights, since human beings are free to choose the religion they wish to follow and to change their religious affiliation if they choose to do so. This is a right which is guaranteed to the individual by the International Declaration of

¹Yūsuf al-Qardāwī, *Jarimat al-Raddah wa 'Uqūbat al-Murtadd* (The Crime of Apostasy and the Penalty for the Apostate), Beirut, al-Maktab al-Islāmī, 1418H./1998G., p. 48

Human Rights issued by the United Nations in 1948, Article 18 of which states that “every person has the right to change his or her religion.”

In response to these suspicions and allegations we say, The crime of apostasy is an offense which poses danger to the security of the Islamic state, and it is not possible to comprehend the danger of this crime and those who commit it to Islamic society unless one examines it from a perspective which encompasses all aspects of Islamic culture and civilization. If we look, for example, at the Islamic system of penalties, we find that it seeks to protect certain interests which it should preserve, and that anyone who violates any of these interests is to receive the penalty laid down for it in the Islamic Sharee’ah.

The fundamental interests ensured by Islamic Sharee’ah may be traced back to five basic principles or entities: (1) preservation of the religion, (2) preservation of the soul, or human life, (3) preservation of offspring, (4) preservation of money, and (5) preservation of the mind.

The basis and foundation for these interests is religion, since the Islamic state is founded primarily upon religion. Whoever departs from the religion declares himself in enmity against the state as well, and whoever destroys the religion in this society has destroyed the society itself. Hence, the preservation of the religion is the preservation of the entire society, since Islamic Sharee’ah (Law), including all its commands directed toward individual Moslems, is a fruit of the Islamic creed, and the stronger the creed, the firmer this legislative aspect becomes and the more deeply-rooted through practical application. In other words, the Islamic creed is the foundation of the entire Islamic system; hence, the preservation of the religion is viewed as the most primary of the interests which must be protected.

The creed in Islamic society performs a number of social functions, the most important of which include the following:¹

1. The creed leads to the solidarity of the nation, since unity in faith leads to unity of thought, while unity of thought leads to unity in people’s way of life, which in turn leads to unity of action, method and approach, all of which lead to solidarity and cohesion among the members of the Islamic ‘Ummah.
2. The creed serves to educate the individual conscience of each believer.

¹Muhammad Abū Hassān, *Al-Jarḥ wal-‘Uqūbah fil-Sharḥ al-Islāmiyah*, Jordan, Maktabat al-Manār, 1988, p. 400

3. One positive, logical consequence of the Islamic creed when it is well-established in people's minds and hearts is that they become more motivated to perform their work and duties, more likely to master the work they do, and more capable of enduring hardship.

Although apostasy from Islam may appear to be merely a personal matter, it is far more than that. Removing oneself from the religion of Allah after entering it, experiencing it firsthand, and learning Moslems' secrets and way of life, means the corruption of an entire, integrated system. The penalty for apostasy in Islam was established as a means of preserving the religion and guaranteeing its progress; of deterring greedy souls from entering it in order to achieve specific worldly aims, then reverting to disbelief after having achieved their aims. It is also a means of purifying the society from hypocrites and those who seek to capitalize on religion. This provides security for the Islamic state, and peace of mind for individuals and groups.¹

It is clear from the Islamic penalty for apostasy that it is not intended to be a restriction on personal freedom; rather, it aims to deter those who aim to spread corruption on earth.

8. The punishment for premeditated murder and a response to the suspicions and allegations raised against the enforcement of this penalty in the Kingdom of Saudi Arabia

Retribution for premeditated murder is connected to the punishments which we have discussed above. According to Islamic Sharee'ah (Law), the Arabic word being used here for "retribution," namely *qisās*, means "repaying the deliberate offender by subjecting him to the same treatment to which he subjected his victim, be it killing or wounding." In other words, whatever the offender did to his victim shall now be done to him. Allah Almighty says, "*O ye who believe! The law of equality (al-qisas) is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman. But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude. . . .*"² Moreover, Allah's Messenger (*may peace and blessings be upon him*) said, "If someone's near kin is slain, he may choose either to be paid the bloodwit or to seek retribution."³

¹The Imam Muhammad Ibn Sa'ūd Islamic University, *Athar Taṭbīq al-Ḥudūd al-Islāmiyah fil-Mujtama'* (The Social Effect of Enforcing the Prescribed Punishments Set Forth in Islamic Sharee'ah (Law), 1981G., p. 15

²Al-Baqarah [The Cow] 2: 178

³Narrated by al-Bukhārī and Moslem

Allah has established this “law of equality” of retribution in cases of premeditated murder for a wise purpose which holds great benefit for us, namely, justice among people. It ensures that the penalty is commensurate with the crime so that criminals may be deterred from committing the same crime again, and it spares others further harm; thus allowing the Moslem nation to live in security and ease under the protection of the just rule of Islam. If it were not for this “law of equality,” chaos would spread, and everyone would seek to secure his own rights by taking vengeance on the murderer, thereby causing the incidence of murder to increase leading to loss of innocent life. Consequently, this principle was laid down in order to preserve life and prevent bloodshed. As Allah Almighty says, *“In the Law of Equality there is [saving of] life to you, O ye men of understanding; that ye may restrain yourselves.”*¹

Yet despite the clear wisdom in this principle, the Kingdom of Saudi Arabia has been criticized for applying this just form of punishment. There are people who call for the abolishment of the death penalty, claiming that it is cruel and that the murderer is sick and should be treated rather than killed. In response to this claim we say, What you are advocating is based on your compassion for the offender. Meanwhile, you do injustice to the victim and show mercy to the assailant as the victim’s relative is satisfied with retribution only rather than revenge. This benefits the victim, his family, and the community at large.

Whoever does a careful study of the penalty for inflicting mortal harm on a human being will discover how much concern is demonstrated by the Islamic Sharee’ah for the soul of the person who has committed the crime of premeditated murder, as well as its concern to prevent violence and bloodshed from spreading further. As for its concern for the offender, it may be seen in the fact that it has made the actual enforcement of the penalty dependent on the position taken by the avenger of the victim’s blood. In so doing, the Islamic Sharee’ah recognizes the right of retribution as a matter in which Allah’s right and that of His servants are combined. Allah’s right is represented by the preservation of people’s spiritual and physical lives; this right can only be fulfilled by the establishment of a penalty which can serve as a deterrent to committing further similar crimes. The most fitting punishment is for the offender to suffer the same fate which was suffered by his victim, in order to pacify the avenger of the victim’s blood and to prevent further bloodshed due to people’s feeling that the penalty applied was not just.

¹Al-Baqarah [The Cow] 2: 179

The right of the individual is being protected on the basis of equality between the punishment and the crime committed. At the same time, if someone opens the door to pardoning the offender and is willing to accept a bloodwit instead, Allah Almighty states, “*But if any remission is made by the brother of the slain, then grant any reasonable demand, and compensate him with handsome gratitude.*”¹ It is also possible for the bloodwit itself to be waived.

Human beings clearly have a right to see this punishment executed, since the crime in actual fact affected the victim more than anyone else. Islamic Sharee’ah, whose provisions are reasonable to the mind, does not overlook this right; on the contrary, it has made it quite clear. However, while Islamic Sharee’ah recognizes this human right, it does not disregard the right of Allah Almighty; rather, this divine right remains a restraining force over what human beings choose to do with their right. For example, if it becomes apparent that the use of the human right to remit the punishment is going to cause harm to the society – as in the case of the offender who has been pardoned, but who poses danger to public security – he may be put to death not as an application of the “law of equality,” but as a means of preventing the harm he may continue to inflict society or spread corruption on earth.

It thus becomes clear to every objective of the truth that the “law of equality” prescribed by Islamic Sharee’ah entails a just, fair penalty.

Third: The guarantee of a fair trial for all those against whom the Islamically prescribed punishments are to be carried out in the Kingdom of Saudi Arabia:

Islamic Sharee’ah is the sole frame of reference to which appeal is made in all court cases and litigations in the Kingdom of Saudi Arabia. Hence, the law of Islam possesses sole authority over the Judicial System in the Kingdom.

In my discussion of the development of the Judicial System in the Kingdom of Saudi Arabia, as well as its autonomy and its role in the protection of human rights, we mentioned the foundations upon which the Judicial System rests, and I explained that these foundations include the guarantee of the individual’s right to a fair trial. Hence, I shall content myself here with what was stated earlier on this topic. However, we must affirm once again that all of the cases in the Kingdom of Saudi Arabia are eventually ruled upon by judges trained in Islamic Sharee’ah, and that apart from the cases which come before the summary courts, judges in all courts are prepared to hear and rule on all cases referred to them by the head of the court, who distributes cases among the judges under his jurisdiction.

¹Al-Baqarah [The Cow] 2: 178

Cases involving the law of equality, stoning and amputation in particular are heard by all of the judges of the greater court, who carry out the most thorough possible investigations into all parties to each case, assuring the accuracy of their statements, and recording all data and testimonies required for the case to be heard and ruled upon. Then, once all or the majority of these judges have issued their rulings, the documents pertaining to the case are placed before the permanent committee of the Supreme Judiciary Council, which studies all of the measures taken and all the rulings issued with respect to the case in question. Once all or most of the members of this committee rule on a case involving the law of equality,¹ stoning or amputation, then the documents of the case are brought before the king to be endorsed, after which they are referred to the parties qualified to carry out the verdict. From the foregoing, every fair-minded inquirer should be able to discern the thoroughness and fairness of the measures taken in such cases, and the strength of the guarantees provided to ensure truthfulness, impartiality, objectivity and freedom from error.

It should also be stressed here that, in accordance with the teachings of Islam, the confessions given by those who are being tried in cases involving the prescribed penalties discussed in this chapter, or any other penalties for that matter, are not extracted under torture. Rather, each confession results from the suspect who voluntarily provides such information, while efforts are made to ensure that witnesses' testimonies are mutually consistent and that information about events is complete and accurate, to be presented to qualified experts for study and examination. The purpose for all such measures is to ensure that there is complete commitment to the legitimacy of the measures taken in connection with any confession of wrongdoing, and that the results obtained produce an impartial investigation based on methods which are legitimate and humane.

¹Al-Tashrif al-Jinā'i, Vol. I, p. 224

Chapter Eight

The Status and Rights of Women in Islam And Their Applications in the Kingdom of Saudi Arabia

Introduction

Woman occupies a high position in Islam and enjoys a wide range of human rights. The Holy Qur'an addresses women along with men, so that its precepts apply equally to both sexes, since in the view of Islam, woman is a responsible human being endowed with full competence. She represents half of human society; hence, it is necessary for this half to take part with the other half, in order that both halves together may contribute to the building of society on the stable foundations of freedom, justice and equality without preference for one gender over the other.

This wonderful humanistic view has given the Moslem woman a strong sense of self-confidence and dignity; as a consequence, she has set out in life to perform her duties toward her home and the wider community in the most admirable way, knowing with a certainty that she and the man are peers who are fulfilling life's various missions together. After all, there is no life without women just as there is no life without men.

In the Islamic view, woman is a human being first, and a female second. Since Islam appeared, woman has become the man's partner, sharing with him a common destiny such that the two of them together form the two halves of humanity, and herein lies their similarity. At the same time, God has created the man "other" than the woman, and herein lies their difference. Similarly, God has caused the man and the woman to complement and complete one another, and herein lies their unity.

However, despite the lofty view which Islam takes of the woman and the way in which it has honored her with all that she deserves, the opponents of Islam have raised numerous objections to Islam's attitude toward women. In order to clarify the truth about the position taken by Islam on women, I shall discuss the following topics:

- 1) the condition of women before Islam in various nations,
- 2) the condition of women and the rights granted them under Islam,
- 3) a response to the objections raised to the status of women in Islam, and

- 4) the woman's position and rights in the Kingdom of Saudi Arabia in light of the teachings of Islam.

First: the conditions of women before Islam in various nations

One who studies the history of the ancient nations prior to Islam will find that the woman in such societies was not recognized as having any rights whatsoever. She could be bought and sold like livestock and property; she was forced into marriage and prostitution; she had no inheritance rights, and she was owned rather than an owner. Moreover, most of those who owned women prevented them from disposing of the little they might have in their possession. The husband was viewed as possessing the right to dispose of his wife's property without her consent, and there were differences of opinion among men in some countries as to whether the woman was even a human being with a soul and an eternal spirit like those of the man, whether she should be instructed in religion, whether it was valid for her to engage in acts of worship, or whether she could enter paradise in the afterlife or not. One of the Byzantine councils is reported to have decreed that the woman is an unclean animal devoid of a spirit or rights, but that she is obliged to serve and that her mouth should be muzzled to prevent her from laughing or speaking because she is "the snare of Satan." The greatest of the secular legal codes known to have existed among the ancient nations prior to Islam allowed a father to sell his daughter, while some Arabs believed that a father had the right to kill his daughter, and even to bury her alive. There were also those among them who believed that a man who killed a woman was not liable for punishment or even the payment of bloodwit.¹

The greatest justice done to women by the French people in Europe following the birth of the Prophet Muḥammad, (*may peace and blessings be upon him*) and before the beginning of his prophetic mission, was that after lengthy disagreement and debate, they decided that the woman is a human being who was created solely to serve the man.

Indian leader Jawaharlal Nehru sums up the status of women in the ancient legal codes, saying, "As for women's legal status based on the statements of Manu, it was indisputably bad. Women were in constant dependence either on a father, a husband or a son, since it is a well-known fact that inheritances among them passed from their deceased males to their living male descendents without women being given any part in them." Commenting further on this topic, Nehru adds, "In any case, the condition of women in ancient India was better than that

¹Muḥammad Rashīd Ridā, *Ḥuqūq al-Nisā' fī-Islām* (Women's Rights in Islam), Beirut, Dār al-Jabal, 1405H./1985G., p. 5.

of women in ancient Greece, in ancient Byzantium, or in the early Christian era.”¹

This overview of the status of women before the appearance of Islam gives us a truthful judgment on the position of women in many of the ancient nations. This situation may be summarized in the following points:

1. The woman’s humanity was given no consideration by the man; she was not recognized for any sort of effort, nor a defined role by which she contributed to the organization of society. She was, at best, an item to be inherited rather than a person who inherits.
2. In the view of many, the woman was not qualified to practice piety or to pursue virtue, and according to some religious groups, it was doubtful whether she possessed a spirit like that of the man’s, or whether she would be resurrected like the man to the hereafter.
3. There was no recognition of a woman’s legal personality or her competence to deal with economic affairs. In most cases, she could neither own nor inherit, and she had no role in selling, buying, financial partnerships or any other sort of socio-economic enterprises.

We may sum up all of these beliefs in a single error, namely, that the woman’s humanity was not the subject of any consideration on the part of the man. Either her humanity was simply not appreciated, or she was stripped of it entirely; or, there may have been a sense on men’s part that life’s activities and tasks did not give her a vital role in the surrounding environment.²

What may be concluded is that the woman’s femininity, together with the requirements of the primitive life of ancient nations, was the direct cause behind the development of the particular errors we have described. Consequently, the wisdom and originality of Islam may be seen in the fact that when it undertook to determine the woman’s place in life, it did so on the basis of her true innate constitution, including both its spiritual and physical dimensions. It declared her a full-fledged human being on an equal footing with the man, while at the same time it highlighted the qualities that are unique to her as a female.

¹Quoted by Ma^crūf al-Dawālībī in *Al-Mar’ah fī-Islām* (Women in Islam), Beirut, Dār al-Nafā’is, 1409 H./1989G., p. 21.

²*Al-Bahī al-Khawī, Al-Islām wa Qadāyā al-Mar’ah al-Mu^cāṣirah* (Islam and Modern Women’s Issues), Lebanon, Dār al-Qur’an al-Karīm, 1400H./1980G., p. 17.

Second: the conditions of women and the rights granted them under Islam

Reference was made above to the fact that women's humanity was not recognized in many of the ancient societies which preceded the appearance of Islam. However, while the woman was suffering such conditions, Islam emerged in the Arabian Peninsula, granting her both rights and duties and recognizing her possession of unique qualities and higher potentials. At that time in human history, such a phenomenon was quite astonishing, since it required radical change in some of the most fundamental conditions of women's lives. Islam recognized women's competence to act as free social and economic agents; in addition, it recognized the woman as qualified to engage in worship and to be treated as an accountable human being, and it gave her a public social presence and a role in the reform of society based on her ability to guard its values and correct its deviations.¹

Under the protection of Islam, women were liberated from the restrictions under which they had been living and they regained their right to life and to inheritance. Islam granted the woman dignity, liberty and life, prohibiting the practice of burying female infants alive and placing the woman and the man on an equal footing by requiring children to obey both their parents. As Allah Almighty says, "*and that ye be kind to parents. . .*"²

In contrast to the laws of some other countries, Islam grants the woman independent financial status, and it defines the rights belonging to both spouses, setting forth commensurate rights and duties for husband and wife. Allah Almighty says, "*And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree [of advantage] over them.*"³ Each spouse has the right to be respected by the other within a framework of mutual kindness and compassion: "*Among His signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts).*"⁴ The husband is bound to support his wife and children in a spirit of generosity: "*Let the man of means spend according to his means: and the man whose resources are restricted, let him spend according to what Allah has given him.*"⁵

¹Al-Islām wa Qadāyā al-Mar'ah, p. 47

²Al-Isrā' [The Nocturnal Ascension] 17: 23

³Al-Baqarah [The Cow] 2: 228

⁴Al-Rūm [The Roman Empire] 30: 21

⁵Al-Ṭalāq [Divorce] 65: 7

In specifying more the rights of each spouse, Allah Almighty says, *“Let the woman live in the same style as ye live, according to your means.”*¹ Moreover, the husband is to support his wife generously as long as he lives, or throughout the waiting period following divorce if he should divorce her: *“Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means.”*² *“And if they [your divorced wives] carry (life in their wombs), then spend (your substance) on them until they deliver.”*³ A divorced wife has the right to receive child support payments from her former husband for the children she may have born him and who are still in her custody, depending on his financial means: *“and if they suckle your (offspring), give them their recompense”*⁴

A wife also has the right to ask her husband to terminate the marriage contract on friendly terms, according to an arrangement referred to in Islamic Sharee’ah (Law) as *khal’*: *“If ye do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she give something for her freedom.”*⁵ She may also seek a divorce through the Islamic courts in accordance with the provisions of Islamic Sharee’ah.

With respect to inheritance, the wife has the right to inherit from her husband, her parents, her children, and other immediate family members: *“Their share is a fourth if ye leave no child; but if ye leave a child, they get an eighth”*⁶

Both spouses have the responsibility to respect one another’s privacy and secrets and not to reveal to others any sort of physical defect in the spouse of which others are not aware. This duty is reaffirmed in the event of divorce and continues once the former spouses are separated: *“And do not forget liberality between yourselves.”*⁷

Every human being, whether male or female, has the right to work and be productive, earning a living through the legitimate means Allah has made available: *“It is He who has made the earth manageable for you, so traverse ye*

¹Al-Ṭalaq [Divorce] 65: 6

²Al-Nisā’ [Women] 4: 34

³Al-Ṭalaq [Divorce] 65: 6

⁴Al-Ṭalaq [Divorce] 65: 6

⁵Al-Baqarah [The Cow] 2: 229

⁶Al-Nisā’ [Women] 4: 12

⁷Al-Baqarah [The Cow] 2: 237

through its tracts and enjoy of the sustenance which He furnishes"¹ Similarly, all individuals have the right to equal employment opportunities, and there should not be any discrimination in compensation between one person and another as long as the effort made is the same and the work is equal in terms of type and amount: "*Then shall anyone who has done an atom's weight of good, see it! And anyone who has done an atom's weight of evil, shall see it.*"² In keeping with the same principle, Islam assures the woman the right to the reward for whatever she has done: "*To men is allotted what they earn, and to women what they earn.*"³

The woman's freedom is as sacred and inviolable as the man's; similarly, the right to life is sacred, be it that of a male or a female, and no one has the right to attack or violate it in any way: "*We ordained . . . that 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.*"⁴ As for the right to equality in Islam, it is the basis for people's enjoyment of rights and their accountability for the performance of duties; it is an equality which arises from the single human origin of all of us: "*O mankind! We created you from a single (pair) of a male and a female.*"⁵

The enlightened principles brought by Islam in connection with women's position and rights may be summarized as follows:

1. The teachings of Islam recognize the woman as equal to the man in humanity; as Allah Almighty says, "*O mankind! Reverence your Guardian Lord, who created you from a single person, created, of like nature, his mate, and from them twain scattered (like seeds) countless men and women.*"⁶
2. Islam recognizes the woman as qualified to pursue piety and worship, to enter Paradise if she does good and receive punishment if she does wrong, exactly as man. Allah Almighty states, "*Whoever works righteousness, man or woman, and has faith, verily, to him will We*

¹Al-Mulk [Dominion] 67: 15

²Al-Zilzāl [The Convulsion] 99: 7-8

³Al-Nisā' [Women] 4: 32

⁴Al-Mā'idah [The Repast] 5: 32

⁵Al-Ĥujurāt [The Inner Apartments] 49: 13

⁶Al-Nisā' [Women] 4: 1

give a new life, a life that is good and pure, and We will bestow on such their reward according to the best of their actions.”¹

The Holy Qur’an tells us that in terms of reward on the Day of Resurrection, women have equal standing before Allah with men:

*For Moslem men and women,
For believing men and women,
For devout men and women,
For true men and women,
For men and women who are patient and constant,
For men and women who humble themselves,
For men and women who give in charity,
For men and women who fast (and deny themselves),
For men and women who guard their chastity, and
For men and women who engage much in Allah’s praise,
For them has Allah prepared forgiveness and a great
reward.”²*

These, then, are ten qualities which the Qur’an describes both women and men share equally, and the reward which they share together, namely, “forgiveness and a great reward.”

3. Islam waged war on the tendency in many cultures to view the birth of a female as bad omen and a cause for grief. Condemning this pernicious custom, Allah Almighty says, “*When news is brought to one of them of (the birth of) a female (child), his face darkens, and he is filled with inward grief! With shame does he hide himself from his people because of the bad news he has had! Shall he retain it on (sufferance and) contempt, or bury it in the dust? Ah! What an evil (choice) they decide on!*”³
4. Islam forbade the practice of burying female infants alive and rebuked those who engaged in it, warning them of severe punishment from Allah on the Day of Resurrection, “*when the female (infant), buried alive, is questioned for what crime she was killed.*”⁴
5. Islam urged people to honor the female, be she mother, daughter, or wife in all spheres of life.

¹Al-Naḥl [The Bee] 16: 97

²Al-Aḥzāb [The Confederates] 33: 35

³Al-Naḥl [The Bee] 16: 58-59

⁴Al-Takwīr [The Folding Up] 81: 8-9

6. The teachings of Islam gave the woman the right to inherit whether she was a daughter, a sister, a mother or a wife.
7. The teachings of Islam systematized marriage rights, giving both the man and the woman certain rights. While it reserved for the man the role of leader in the family within his sphere of jurisdiction, it similarly reserved for the woman a leadership role within her sphere of jurisdiction. However, this leadership is not based on oppression, tyranny, or the desire to dominate over others; rather, it is only organizational in nature. If a dispute arises among the members of the family, appeal is primarily made to a man; however, there is nothing to prevent the wife from taking part in solving the dispute.
8. The teachings of Islam regulated the matter of divorce in such a way as to prevent the man from acting in an arbitrary or tyrannical way; it set a limit, for example, on the number of times a man could utter the statement, "I divorce you" to a maximum of three, whereas among the Arabs of pre-Islamic times, there was no such limit.¹ In addition, Islam set a specific time frame during which a legitimate divorce must take place, thus, assuring the soundness of the decision to divorce if it becomes an unavoidable necessity.
9. The teachings of Islam introduced regulations into the practice of polygamy, setting the maximum number of wives a man may be married to at four, on condition that he is able to provide all of them with equal support. It must be noted, of course, that the pre-Islamic nations, including the Arabs, used to allow polygamy without setting any limit on the number of wives a man could have.

It becomes clear from what has preceded that Islam honors the woman and gives her the position which suits her in the human sphere, the social sphere, and the legal sphere. A good number of fair-minded scholars in the West have born witness to the soundness of Islam's stance on women, the human rights it has accorded her, and the position it has granted her. In what follows I shall quote some of these scholars so that their words may be heard by their fellow Westerners:

In his book entitled, *The Search for God*, Evelyn Koon states, "When Islam came, it restored the woman's freedom, causing her to become a partner to the man, with the same rights as he enjoys and the same responsibilities. The man has no basis for claiming superiority over the woman except insofar as he

¹In other words, if a man utters these words once or twice, they can be retracted without the divorce being irreversible; the third time he utters them, however, the divorce becomes a legal reality and must be dealt with accordingly [translator's note]

possesses greater physical strength or practical resources. When he acts in the role of leader toward her, he does so in the capacity of guardian, enfolding her in his powerful arms, defending her with his life, and supporting her with what his hands have earned; beyond this, however, the two of them are equals both in good times and in bad. This truth is what God expresses in the words, *'And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree [of advantage] over them . . .'*¹

“This ‘degree’ is the care, protection and responsibility which the man is to demonstrate for the woman, but which should never go beyond these things to her or deny of her rights. And just as Allah has made the man and the woman partners in the practical affairs of life, He also made them share equally in the possibility of sincere repentance, the performance of righteous acts by virtue of which they merit reward, and the attainment of high spiritual standing both in this life and the hereafter. Hence, although the man may endure life’s hardships and the difficulties of work, this is not more valuable than what is endured by the woman who serves her household with competence and loyalty and is faithful to her husband.”²

Roger Garodet states, “According to the Qur’an, the woman has the right to dispose of what she owns, which is a right that most Western laws did not grant her, and those of France in particular, until the 19th Century. With regard to inheritance, it is true that the female inherits half the share inherited by the male; however, this is compensated for by the fact that all financial obligations, especially the burdens entailed in the family’s assistance of others, fall on the male’s shoulders, while the woman is exempted from all such responsibilities. The Qur’an also gives the woman the right to ask for a divorce, a right which the woman did not obtain in the West until thirteen centuries later.”³

In his book entitled, **The Story of Civilization**, Will Durant states, “Islam raised the status of women in the lands of the Arabs, doing away with the practice of burying girls alive and giving men and women equal status with respect to legal procedures and financial independence; in addition, it gave the woman the right to engage in any activity as an independent agent, to keep her own wealth and the money she has earned, to inherit, and to dispose of her wealth as she sees fit. In addition, it did away with the Arabs’ custom of passing women from fathers to sons along with their material property; it granted

¹Al-Baqarah [The Cow] 2: 228

²Evelyn Koon, **The Search for God**, translated by ʿUmar Abū al-Naṣr, Beirut, al-Maktabat al-Ahliyah, p. 82

³Roger Garodet, **The Promises of Islam**, translated by Dhūqān Qurḩūḩ, Cairo, 1984, p. 80

females half the share of an inheritance granted to males, and it prohibited forcing women to marry against their will.”¹

Emil Durmingham states, “There can be no doubt that Islam raised women’s standing in the Arab lands and improved their condition. The Qur’an contains a prohibition against burying girls alive and commands that women and orphans be treated fairly. One of the false claims put forward about Islam is that, women were stripped of their influence as wives and mothers.”²

Marseille Boizar states, “The woman enjoyed respect and freedom under the Umayyad Khaleefas in Spain, taking full part in social and cultural life. . . . Islam addresses men and women equally and treats them in an equal manner. The Islamic Sharee’ah aims in general to achieve a distinctive aim, namely, protection, while its legislation offers the woman precise definitions of the rights which are hers, showing notable concern to guarantee these rights. Both the Qur’an and the Sunnah urge that the woman be treated with justice, gentleness and compassion. The Qur’anic teachings and the teachings of Muḥammad have proven to be a protector of the woman’s rights.”³

Louis Sidbo writes, “The Qur’an, which is the Moslems’ constitution, raised the woman’s status rather than lowering it. It made the girl’s share of the inheritance equal to half of that of her brother, whereas in pre-Islamic times, girls did not inherit at all. Moreover, since Islam makes men “the protectors and maintainers of women,” it has made clear that the woman enjoys the right to care and protection from her husband. As for servant girls not allowed to be part of the inheritance left by the head of the family, Islam ruled that they must take what they need for a year, collect their dowries and receive a share of the wealth of the deceased.”⁴

These, then, are some examples of testimonies by fair-minded Western scholars to the lofty position and rights enjoyed by the woman in Islam.

¹Will Durant, *The Story of Civilization*, translated by Muḥammad Badrān, et. al., Cairo, 1964, Vol. 13, p. 6

²Imād al-Dīn Khalīl, *Qas̄idat al-Islām* (They’ve Said About Islam . . .), al-Riyād, The International Moslem Youth Seminar, 1992, p. 411

³Marseille Boizar, *The Humanity of Muḥammad*, translated by ‘Aff Dimashqiyah, Dār al-Ādāb, 1980, pp. 108-109 and p. 140

⁴Louis Sidbo, *The General History of the Arabs*, translated by ‘Ādil Zu ‘aytar, Cairo, Dār Ifyā’ al-Kutub al-‘Arabiyah, p. 110

Third: A response to suspicions and allegations raised concerning women's position and rights in Islam

As I have mentioned, Islam came at a time when some people were skeptical as to whether women were human beings or not, while others attacked women's humanity and viewed them as having been created merely to serve men, and while still others denied their humanity altogether. Hence, it is to Islam's credit that it brought honor to the woman, affirming her humanity and her competence to be held accountable for her actions, to be granted responsibility before Allah, to be rewarded for her actions, and to enter Paradise. Islam recognized women as human beings with dignity and with the same rights as those of men.

However, despite Islam's having granted these and other rights to the woman, Islam's opponents have raised a variety of objections to the woman's status in Islam. The most important of these are:

1. Inequality between men and women with respect to inheritance,
2. The man's possessing the sole right to initiate divorce,
3. Islam's allowance of polygamy,
4. Islam's requirement of the *hijab* (Islamic attire) for women, and
5. Islam's position on the mixing of the sexes and of a Moslem man's being alone with a woman who is neither his wife nor a relative whom he is not entitled to marry.

In what follows I offer a response to the baseless objections which have been raised concerning women's position and rights in Islam.

1. Inequality between men and women with respect to inheritance

Islam abolished all practices of ancient nations depriving women of the right to ownership, affirming their right to ownership of all types, and the right to dispose of their possessions by all lawful means. Islam established the woman's right to bequeath her wealth to others and to inherit along with men. Moreover, it benefited women further by imposing upon men the responsibility to pay marital dowries and to provide financial support for their wives and children even if the wife happened to be wealthy. Islam gave women the right to buy, sell, rent, give their money as gifts and as charity, as well as the right to defend their wealth through litigation or by registering claims for payment for services rendered, as well as other legitimate activities.

Yet, despite all these rights which women have been granted by Islam, there are people with prejudices against Islam who have used the rule of inheritance – which God laid down in His holy book with the words, “*Allah (thus) directs you as regards your children’s (inheritance): to the male a portion equal to that of two females . . .*”¹ -- as an excuse to launch criticisms at Islam, saying, “This unjust rule reveals the principle of discrimination against women; it inflicts harm on women by allowing a son to inherit from his parents twice what is inherited by a daughter.”

In response to this argument we say, Contrary to the claims put forth by some, giving the male twice the inheritance of a female is not intended to degrade the female in any way. Rather, this difference was laid down for a sound reason, namely, that Islamic Sharee’ah (Law) requires the man to support the woman financially; hence, this ruling came about as a result of the disparity which exists in Islam between the financial burdens and expenses imposed on the man from which the woman is exempted.

This fact becomes clearer when we realize that if a Moslem man marries, he is required to give his wife a dowry, to furnish a dwelling for her, and to support her financially from his own money whether she happens to be poor or wealthy. Then, if they have children, it is the man’s duty to support them, while the mother bears no responsibility in this regard. Hence, in a case such as this, the man’s inherited portion ends up being less than his sister’s, since if his sister marries, she will receive a dowry from her husband and be supported by him. Consequently, she can make use of what she inherited from her father for herself alone. Other things being equal, then, if heirs owned nothing but what they had inherited, women would always have more than men, as they get half of the inheritance which they don’t share with anyone while the man has to share his with his wife.²

However, the woman has less earning power than the man due to the fact that once she marries, the burdens associated with pregnancy, childbirth, and motherhood make it more difficult for her to earn as much as men can, generally speaking. And [since the man’s earning power is greater for such reasons], his responsibility for supporting the household and the children is not an injustice to him or a sign of preference for the woman. The reason the woman is given what she is given of the inheritance is to provide her with money to spend on herself if she has no opportunity to marry, or if her husband dies and does not leave her enough to meet her needs; in other words, it forms a kind of monetary reserve for her and for her family.

¹Al-Nisā’ [Women] 4: 11

²Fituq al-Nisā’ fit-Islām , p. 19

This, then, is the wisdom behind Islam's making the woman's portion of the inheritance half that of the man's. Where, then, is the injustice spoken of by those who criticize the Islamic system of inheritance? It is a matter of simple arithmetic, not of emotions; hence, if the woman takes one-third of the amount inherited and spends it on herself, and if the man take two-thirds of it and spends it first on his wife, then on his children, which of the two will have received a larger portion based on the logic of mathematics?

The man in Islam is required to spend his money on building a family which includes, first of all, his wife, whom he must support not simply because he chooses to, but as a matter of duty. No matter what her private fortune happens to amount to, he has no right to take¹ anything from her unless there is complete mutual agreement between them; the husband is obliged to support his wife as though she owned nothing, while she has the right to register a complaint against him if he fails to support her or even if he is not sharing with her by comparison with his means; and based on Islamic Sharee'ah, rules that if her husband fails to support her, they must separate. Given considerations such as these, can there be any further doubt as to how much of the total fortune goes to the woman? Is it a true privilege, economically speaking, for the man to be given twice the inheritance of the woman when he is obliged to bear burdens for which the female is not?

It should also be explained here that the woman's half of what is received by the man applies only to money which is inherited without having been worked for. Money which is inherited is divided according to the fairest principle at which human beings have yet arrived, namely, "to each according to his need," with the criterion for determining need by obligations laid upon the person concerned. However, with respect to money which is earned, there is to be no discrimination between the woman and the man, whether it has to do with wages for work performed or business profits, since situations such as these are subject to a different standard, namely, a suitable balance between effort and compensation. Hence, there is no injustice against the woman; Islam does not teach that a woman's worth is half that of the man.

2. The man's possessing the sole right to initiate divorce in Islam

Divorce in Islam has been a matter of controversy due to the suspicions and allegations which have been raised against it by Islam's opponents for the purpose of misrepresenting Islam and its teachings. Such opponents have

¹Muhammad Khaṭīb, *Shubuhāt Ḥawli al-Islām* (Suspensions and Allegations to Islam), Kuwait, The International Islamic Union, p. 126

focused in particular on the matter of the man's possessing the sole right to initiate divorce. In response to this objection, I say:

That Islam only instituted divorce as a means of dealing with a number of problems in the life of married couples, as well as in the life of the family and society. It must also be said that in general, not every divorce is commendable in Islam; in fact, there are divorces which it condemns and even forbids due to their destructive effect on the family, which Islam is keen to build up and support. This is the meaning of the words of the Prophet, (*may peace and blessings be upon him*) that, "Of all things licit, divorce is the most odious to God."¹

The divorce instituted by Islam may be likened to a painful surgical operation in which one endures a wound or perhaps even the amputation of a limb in order to preserve the rest of the body and to prevent it from suffering even greater harm. If a sense of deep-seated alienation occurs between the husband and wife, and if the efforts of those who attempt to bring about reconciliation meet no success, then divorce in such a case is the bitter medicine for which there is no substitute. As Allah Almighty says, "*But if they disagree (and must part), Allah will provide abundance for all from His all-reaching bounty.*"²

What Islam has instituted is thus the very thing which is required by reason, prudence, and human interests. After all, what could be more illogical and opposed to human nature than a lifelong partnership imposed on two people by the force of law, when neither of them is comfortable with the other? Indeed, to impose such a life on two people by the authority of the law would be a cruel punishment which no one but a criminal would deserve. It would be worse than life imprisonment; in fact, it would be an unbearable hell.

Even so, Islam has taken measures to restrict the likelihood of divorce by all legitimate means. Such means include, for example: (1) A woman's consent to marry the man who proposes to her; it is not acceptable under any circumstances for a woman to be forced to marry someone against her will; (2) Spouses' duty to live together in a spirit of kindness, their rights and duties are known by each other; (3) urging the husband to be realistic such that, rather than seeking perfection in his wife, he will look not only at her faults but at her positive qualities as well, for though he may be annoyed by some of her traits, he will find others that are pleasing to him; (4) urging the husband to allow himself to be guided by reason and an understanding of

¹Narrated by Abū Dāwūd

²Al-Nisā' [Women] 4: 130

where his [and his wife's] true interests lie if he ever feels offended at her so that, rather than being carried away by his emotions, he will ask Allah to improve the situation. Allah Almighty says, ". . . *live with them [your wives] on a footing of kindness and equity. If ye take a disliking to them it may be that ye dislike a thing, and Allah brings about through it a great deal of good,*"¹ and (5) instructing the community to intervene if a serious dispute occurs between two spouses by forming a "family council" composed of trusted members of both his family and hers, to attempt to bring about a reconciliation and resolve the crisis: "*If ye fear a breach between them twain, appoint (two) arbiters, one from his family and the other from hers; if they wish for peace, Allah will cause their reconciliation.*"²

In order to limit the possibility of divorce, Islam did not make it possible at any time or under any circumstances. Rather, the divorce which is spoken of in the Qur'an and the Sunnah requires that the man exercise caution and restraint and choose the appropriate time to take action. A man who initiates a divorce must be in full command of his faculties, fully conscious of what he is doing and be in a balanced mental state. In addition, he must actually intend to initiate a separation from his wife. This said, it must be understood that the word, "I divorce you," does not sever the marriage bond once and for all. Rather, as it is described in the Qur'an, the act of initiating a divorce leaves the person with two more opportunities to reconsider. If, after voicing his intention to divorce the first and second times, no reconciliation has taken place, then the third time makes it final and irrevocable. Once this has taken place, the man can no longer take his wife back until or unless she marries another man and is divorced from him as well.

At any rate, divorce does not deprive the wife of her husband's financial support until the official waiting period (*‘iddah*) is over; the husband is not allowed to send his wife out of the home they have shared as a couple. Rather, he is required to allow her to remain near him during this period, in the hope that tender affection and mutual desire might be rekindled. Divorce does not give the husband the right to use up the wife's dowry or to reclaim from her anything he has given her previously.

This is the divorce as set forth in Islam.

¹Al-Nisā' [Women] 4: 19

²Al-Nisā' [Women] 4: 35

The wisdom in placing the right of initiating divorce in the hands of the man:

The power to initiate divorce was given to the man in Islam because the man is more likely to be concerned to keep the wife whom he has spent his money on and who, if he divorced her, would spend the same amount again, if not more, in addition to the obligation to continue supporting her financially during the waiting period following divorce. In addition, given a man's temperament and way of reasoning, he will be more willing to tolerate those things in his wife which he dislikes and not rush into divorcing her simply because he happens to get angry with her from time to time, or for every bad habit of hers that he may have difficulty putting up with. In general, the woman tends to get angry more easily than a man, and to have less "staying power." Add to this the fact that in the event of divorce, she is not obliged to shoulder the financial responsibilities and expenses that are required of the man. Consequently, if the wife were given this right, she would be more likely than the husband to resort to divorce for some trivial reason.

In explanation of the wisdom in Islam's placing the right to initiate divorce in the hands of the man, Dr. Yūsuf al-Qardāwī states,

The man is the head of the family, its breadwinner, and the person with primary responsibility for it. He is the one who paid the dowry, and it was on his shoulders that the establishment of the family rested. Whoever finds himself in this position will only be willing to allow the dissolution of the family he has established for the most compelling reasons and necessities, in which case he will have no choice but to bear such losses. Not only so, but the man is more aware of the consequences of divorce, more deliberate and slow to act, and less impressionable than the woman. Consequently, he is the one most qualified to hold the power of initiating divorce in his hands. As for the woman, she tends to be more volatile and emotional than the man, and if she possessed the power to initiate divorce, she might use it hastily for a very trivial reason....¹

Many fair-minded Western scholars have praised the system of divorce in Islam, its objectives, and the wisdom behind it. Laitner states,

Marriage among Moslems is innocent of the charges which have been raised against it by Christian writers, and it is incorrect to say that there is no limit to marriage and divorce among Moslems. Divorce for Moslems is not an easy matter, for apart from the presence of the

¹Yūsuf al-Qardāwī, *Malāmih al-Mujtama' al-Moslem* (The Features of Moslem Society), Cairo, Maktabat Wahbah, 1993, pp. 346-347

arbiters [brought forth from each spouse's family], the man must pay the "deferred dowry," the amount of which was specified upon conclusion of the marriage contract, and which is generally more than the husband could easily come up with. Hence, the woman's position in Islam is powerful, and she stands protected from divorce.

The Christians and the Buddhists view marriage as a spiritual reality; yet despite this fact, the marriage contract is given more respect among Moslems than in Christian lands.

I regret here to note something which I have no choice but to mention, namely, that I lived among the Moslems for 54 years, and despite the lenience with respect to divorce among them and the harsh stance taken toward it by the Christians, the number of instances of divorce among the Christians was far greater than that among the Moslems. I speak the truth when I say that the compassion and goodwill demonstrated by Moslems toward their families, strangers, the elderly and scholars are something which Christians would do well to emulate.¹

Louis Sidbo states, "Divorce is permitted in Islam; however, it has been made subject to certain conditions, and the parties may go back on it if the decision was made in haste, since in order to become final and irrevocable, a divorce must be initiated three times. . . . Once a woman has been divorced for the third time, her husband may not take her back unless she then marries another man and is divorced by him as well. This ruling contains great wisdom, as it minimizes the instances of divorce; moreover, the woman may not demand a divorce for any cause other than maltreatment."²

These, then, represent the views of a number of fair-minded Western scholars on divorce in Islam.

Conclusion

Islam instituted the marital relationship as something which should survive and last, not be severed, and it has established supports for it which help to ensure its continuation and stability. However, it also looks to reality and to human nature, since not all individuals are pure and innocent, and so long as there are evil tendencies and weaknesses in the soul, disputes are bound to occur, bringing with them feelings of hostility and enmity and making it possible for evils and sins to be committed.

¹Laitner, *The Religion of Islam*, translated by ^cAbd al-Wahhāb Salīm, Damascus, al-Maktabat al-Salafiyah, p. 110.

²*Tārīkh al-^cArab*, p. 111

It is for this reason that Islam allows divorce, which is the separation of husband and wife when it becomes impossible for them to share a common life together any longer due to the pain and ill will which have arisen between them, the aim of divorce is to repair the harm done and make it possible for the two of them to go their separate ways and find someone else with whom they experience pleasure and contentment.¹

Islam has given the husband the right to initiate divorce because the man is more capable of balanced thinking and the sound assessment of the outcomes resulting from divorce. At the same time, Islam gives the woman the right to ask her husband for a divorce if she is suffering harm in the marriage and does not want their relationship to continue, on condition that she compensates him for this loss by returning the dowry he paid her in the beginning; in this way fairness is ensured and measures are taken to prevent her action from being taken for ulterior motives.

3. Islam's allowance of polygamy

One of the suspicions and allegations raised concerning women's rights and status in Islam is based on Islam's allowance of polygamy. Some people speak of polygamy as if Islam was the first religion to have allowed this practice; however, this is due either to ignorance on the part of Islam's critics, or to an ignorance of history. Islam was not the first religion to grant allowance to polygamy; on the contrary, it had existed as a legitimate form of marriage at least since the inception of Judaism, which is the origin of Christianity. Moreover, polygamy was not only a legitimate practice within Judaism, but it is a fact that in the days of the Old Testament prophets beginning with Abraham, the father of the prophets, may peace be upon him, there was no set limit on the number of wives a man could have at one time.

When Islam came, it placed a restriction and a condition on the practice of polygamy; as for the restriction, it consists in the fact that Islam limited to four the number of wives a man could be married to simultaneously; as for the condition, it is that the Moslem man who sets about to marry more than one wife must be confident of his ability to treat his wives equally with regard to material provision for them, including food, drink, clothing, residence, and so forth. Anyone who is not confident of his ability to meet this condition is forbidden to marry more than one wife. As Allah Almighty says, "*But if ye fear that ye shall not be able to deal justly (with them), then only one . . .*"²

¹Muhammad al-Mubarak, et.al., *Islamic Culture*, Vol. 3, Jeddah, Maḥābiḥ Jāmi'at al-Malik 'Abd al-'Azīz, 1989, p. 101

²Al-Nisā' [Women] 4: 3

The wisdom in allowing polygamy in Islam:

The wisdom in Islam's allowing polygamy becomes clear if we realize that there are men who like to have children, but whose wives are unable to bear children due to illness or some other cause. Would it not be more generous toward such a wife, and better for the man as well, to take another wife who could fulfill his wish while remaining married to his first wife and at the same time ensuring and protecting her rights?

Society may be faced with exceptional conditions and circumstances, such as a state of war which leads to the loss of a large number of young men, with the result that the population balance is upset and women come to outnumber the men. In a case such as this, polygamy would become a necessity in order to avoid the moral corruption and social chaos which would inevitably arise from the presence of so many women without men. It is true, of course, that a woman might work to support herself financially; but her natural sexual needs, how will she meet them? And her need for children, how will she satisfy it? The desire to have children is a natural human drive from which no one is exempt. However, it runs far deeper in the woman than it does in the man; it is an expression of her authentic nature without which she may not feel that life is worth living. So, would there be any way to meet all of these needs on the part of the woman herself without making it possible for more than one woman to share a single man in a publicly recognized, legitimate manner?

On this subject, Dr. Yūsuf al-Qardāwī states, "The number of women may be greater than the number of men, especially in the aftermath of wars which kill off men and youths. In such circumstances, it is in the interest of the society and of the women themselves to have co-wives rather than to live out the rest of their lives as spinsters deprived of marital life and all that it provides of tranquillity, love, legitimate sexual fulfillment, and motherhood."¹

Polygamy, then, represents one of three paths which can be taken by those women who have no eligible men available to them: (1) they can spend their lives feeling bitter for having been deprived of marital life and motherhood; (2) they can be given free rein to meet their sexual needs however they please and live as the playthings of corrupt men, with the possibility of bearing illegitimate children; thus, increasing the number of foundlings who are denied their material and spiritual rights; or (3) they can be allowed to marry a married man who is capable of supporting them financially, meeting their physical needs in a legitimate manner, and treating them with fairness. There is no doubt that this third path is the just, ideal solution; and it is this solution which is called for by Islam.

¹Malāmiḥ al-Mujtama' al-Moslem, p. 354

One of the justifications for polygamy is that there are some men with especially powerful sex drives but whose wives have less sexual desire or whose menstrual period lasts a long time each month. In such a case, the man has only two choices if he wants to release his excessive sexual energy: to take another wife, or to engage in extramarital intercourse, which is forbidden in Islam.

From what has been said thus far, we may state that the system of polygamy in Islam is both moral and humane. It is moral because it does not allow the man to have sexual contact with any woman he pleases, whenever he pleases. It is impermissible for him to have such contact with more than three women other than his original wife, nor is he permitted to have such contact with any of them secretly. Rather, he is required to conclude a marriage contract and to announce this publicly; it is likewise necessary for the woman's legal guardians or family members to be aware of the arrangement and to consent to it. The marriage contract must then be registered according to modern organizational procedures, and it is also considered desirable for the man to host a banquet and invite his friends to attend it.

The Islamic system of polygamy is also humane, because by this means, the man relieves some of society's burdens by taking in a woman who has no husband and allowing her to join the ranks of chaste, virtuous wives. It is humane because the man pays the price of a dowry, furnishings for his bride's home, and other expenses which bring social benefits through the formation of a social "cell" which results in productive offspring who will work on behalf of the Moslem nation. The man in this situation recognizes the children who are born as a consequence of this sexual contact and presents them to the society as fruits of kindness and affection, children in whom he can take pride and in whom the entire nation will likewise take pride in the future.

Many Western scholars have testified to the soundness of the system of polygamy in Islam, praising it, recognizing the wisdom in it, and drawing attention to the consequences of Western societies' refusal to legitimize polygamy. In what follows I quote the opinions expressed by some of these Western scholars on polygamy in Islam:

Loravichia Vagliri states, "There is thus far no conclusive proof that polygamy is necessary a social evil and an impediment to progress. However, we prefer not to discuss the matter on this level. We can also stress that in some stages of social development, when particular circumstances arise, for example, the deaths of an exceptionally large number of males in war, polygamy actually becomes a necessity, and the fact is that Islamic Sharee'ah (Law) had placed

specific restrictions on the practice of polygamy whereas before Islam, polygamy was practiced freely, with virtually no restrictions upon it.”¹

‘Abdullah Quilliam states,

As for polygamy, Moses (*may peace be upon him*) did not forbid it, while David (*may peace be upon him*) practiced and advocated it; it was forbidden in the New Testament until quite some time later. Muhammad (*may peace and blessings be upon him*) put a clear stop to excesses in the practice of polygamy. Moreover, in actual practice, polygamy is a rare exception to the general rule in Islamic countries, and despite all the nonsense which has been circulated concerning it, it is not devoid of benefit. It has helped to protect women’s lives and through Islamic Sharee’ah (law), it has provided women with reasonable assistance. Polygamy in Islamic countries is less harmful than the crimes being committed by the Christian nations under the banner of “urbanity” Thus, let us first have a better look into our own situation before we direct criticisms to others’ situations.²

Laitner states,

As for polygamy . . . regardless of its real benefits – since it reduces the numbers of [unmarried] women in those places where women outnumber the men, and regardless of the fact that it reduces the number of prostitutes and the harm they bring and prevents the birth of illegitimate children – we cannot deny that most Moslem men have only one wife. The reason for this is the teaching of Islam itself. Muhammad (*may peace and blessings be upon him*) came to a nation which viewed females as a terrible evil that they used to bury them alive. Men were bound by no limits whatsoever with respect to marriage, and they used to consider women as property to be inherited upon the death of their husbands. The Prophet (*may peace and blessings be upon him*) put an end to this, and did not allow the man to marry more than four women, with the condition that he could treat them all equally. As for those men who could not fulfill this condition, they were forbidden to marry more than one.³

The well-known German philosopher Schopenhauer stated, “The marriage laws in Europe have a corrupt foundation in that they treat the man and woman

¹Loravichia Vagliri , *A Defense of Islam*, translated by Munīr al-Ba‘īabakkī, Beirut, Dār al-‘Ilm lil-Malāyīn, 1976, p. 419

²‘Abdullah Quilliam , quoted in *They’ve Said About Islam*, p 447

³Laitner, *The Religion of Islam*, p. 11

equally. Such laws require us to limit ourselves to one wife, and in so doing, they deprive us of our rights while multiplying our duties.” Then he goes on to add, “In the countries which allow polygamy, there is not a single woman who lacks a husband to take care of her affairs. Among us, however, married women are few, while countless others remained unmarried. You see them without anyone to support them, from the high-born young virgin who has now grown old and feeble and finds herself lost and forlorn, to weak creatures from the lower classes who are burdened with difficulties and endure the hardships of labor, and who perhaps have grown frustrated and now live miserable lives in which they are embroiled in shame and disgrace. In London alone there are 80,000 harlots, the blood of whose honor has been spilt on the altars of marriage, victims of men’s being restricted to a single wife.”¹

In his book entitled **The Civilization of the Arabs**, Gustav Lubon writes, “The Eastern system of polygamy is, in principle, a good one. It raises the moral level in the nations which adopt the practice, it increases family cohesion, and it grants the woman respect and happiness which she does not find in Europe.”²

In her book, **The Religions Which Have Spread in India**, Annie Byzant states, “When we weighed matters in the balance of pure justice, it became apparent to us that Islamic polygamy – which preserves, protects, feeds and clothes women – was preferable to Western harlotry, which allows the man to take a woman simply to satisfy his lusts, then cast her into the street when he has finished with her.”³

These, then, are the statements made by fair-minded Western scholars about the system of polygamy in Islam, and they are in unanimous agreement that the legalized polygamy practiced among Moslems is superior to the illegal “polygamy” practiced in Western countries which have increasing numbers of illegitimate children.

4. Islam’s requirement of the hijab (Islamic attire) for women

One of the suspicions and allegations raised against Islam’s attitude toward women has to do with the subject of the **ḥijāb**, the claim that the ḥijāb restricts the woman’s freedom. The Arabic word **ḥijāb** refers to that which covers, prevents, or protects. Also derived from the same root is the Arabic **ḥājib al-‘ayn**, or “eyebrow,” since the eyebrow helps to protect the eye from injuries. Similarly, the Arabic word **ḥājib** is used to refer to a sultan’s or king’s private

¹Abdullah ‘Ilwān, **Ta‘addud al-Zawjāt ftl-Islām** (Polygamy in Islam), Cairo, Dār al-Salām, 1988, p. 22

²Ibid.

³Ta‘addud al-Zawjāt ftl-Islām, p. 23

guard, since he prevents others from entering to see the ruler without his permission lest any harm come to him.

Hence, the *hijāb* is so called because it protects the Moslem woman from the glances of men other than her near relatives.¹ Its purpose is to honor the woman and preserve her reputation, social position and honor. The requirement of the *hijab* for the Moslem woman is based on the following text from the Holy Qur'an, where Allah Almighty says, "*And when ye ask [the Prophet's wives] for anything ye want, ask them from before a screen [Arabic, hijab]: that makes for greater purity for your hearts and for theirs,*"² and, ". . . and make not a dazzling display, like that of the former times of ignorance; and establish regular prayer, and give regular charity; and obey Allah and His Apostle. . . ."³

The first of these verses is known as "the *hijāb* verse," since it was the first verse of the Holy Qur'an to be revealed on this theme; following this, the Messenger of Allah (*may peace and blessings be upon him*), had his wives wear clothing which concealed all but their faces and feet, and the Moslem believers did the same with their own wives; this verse is considered solid evidence in support of the necessity of the *hijāb*.

The wisdom in the *hijāb* and its legitimacy in Islam

Given the fact that adultery is one of the most serious sins, the most harmful to society, the most detrimental to the purity of the human spirit, and the most capable of corrupting people's honor, wealth, and bodies, the wise law of Islam has completely forbidden it. The prohibition of this act is beyond dispute, since the texts in which it is forbidden are clear and unambiguous and can be interpreted in no way but as an absolute prohibition. Allah Almighty says, "*Nor come nigh to adultery: for it is a shameful deed and an evil, opening the road (to other evils).*"⁴

The Messenger of Allah, (*may peace and blessings be upon him*) declared the punishment for adultery in very clear terms, saying, "If the two people committing adultery have never been married, they are to receive 100 stripes and be exiled from their homeland for one year; however, if they have both been married, they should receive 100 stripes and then be stoned."⁵

¹Specifically, all men other than her father, grandfather, husband, sons, brothers, uncles, and nephews

[translator's note]

²Al-Ahzāb [The Confederates] 33: 53

³Al-Ahzāb [The Confederates] 33: 33

⁴Al-Isrā' [The Nocturnal Ascension] 17: 32

⁵Narrated by Moslem

Due to the seriousness of the death penalty, which is among the severest possible punishments, Allah Almighty -- out of mercy for His believing servants -- has instituted a number of preventive measures which can help protect people from committing the shameful act of adultery which poses such a danger to society and which carries such a stiff penalty. There can be no doubt that the *hijāb* is among the most effective, powerful means of preventing shameful acts; hence, if Allah had not commanded the use of the *hijāb*, then our own reason itself would require it, since it the Moslem believer's duty before Allah to lower his glance in modesty and avoid that which is taboo, namely, adultery.

Moreover, since the Moslem believer has been commanded to abide by such limits, he must search for ways that will enable him to obey his Lord and comply with His commands and avoid those things which He has forbidden. Apart from the efforts that have been made to keep women out of men's sphere and men out of women's sphere, no one has yet found a better means than the *hijāb* to enable men and women to live in accordance with God's commands. If a woman is obliged to pass through men's sphere of activity once a day, for example, she can veil her face and go about her business without being in danger of causing temptation. However, if women's faces and the other aspects of their physical beauty remain uncovered, and if men are still commanded to lower their gazes and remain chaste, this becomes unbearable for men; hence, the divine laws are free from such unreasonable demands.

This, in short, is the wisdom in Islam's institution of the *hijāb*, and many fair-minded Western scholars have spoken highly of the *hijāb* in Islam and the aims for which it is used. Rosemary Howe states, "The *hijāb* is fundamental to Islam, because religion is also day-to-day practice. The Islamic religion has defined everything for us, such as the appropriate attire and the way relations between men and women should be handled. The *hijāb* preserves the woman's dignity and shields her from lustful glances. At the same time, it preserves the dignity of the entire society, preventing unrest among its members and protecting both sexes from deviating from the right path."¹

Loravichia Vagliri writes,

In order to avoid the temptation given the ill effects of such behavior, it is necessary for the Moslem woman to put on the *hijāb*, that is, to cover her entire body except for those parts which it is absolutely necessary to keep unrestricted -- such as the eyes and the feet. However, this did not arise from a lack of respect for women or out of a desire to suppress their wills. Rather, it is for the purpose of protecting them from men's lusts. This ancient, well-established principle of segregating women

¹ Arafāt Kāmil, *Men and Women Who Embraced Islam*, Kuwait, Dār al-Qalam, 1973, p. 28

from men, and the moral life which grows out of it, have made the business of organized prostitution entirely unheard of in the Eastern countries, except in those areas where foreigners have had some influence or power. No one can deny the value of such gains; hence, we have no choice but to conclude that the use of the *hijāb* has been the source of great benefit for Islamic society.¹

5. Islam's position on the mixing of the sexes and of a Moslem man's being alone with a woman who is neither his wife nor a relative whom he is not entitled to marry

Islam holds the view that mixing between men and women is a genuine danger; hence, it works to separate them from one another except in the context of marriage. It forbids open mixing, and it explicitly prohibits one-to-one encounters between a man and a woman who is not a near relative whom it would be unlawful for him to marry.

This Islamic views has been criticized by proponents of mixing between the sexes, their argument being that the absence of such mixing deprives the male and female of the enjoyment of meeting together and the sweet sense of intimacy which each experiences in the other's presence; in addition, this leads to the development of rules of social etiquette having to do with sensitivity, polite treatment of others, tact, etc.

Another claim made by such people is that if one forbids friendly interaction between males and females, this will only increase their longing for each other. This, in turn, will produce psychological repression, whereas mixing will resolve such complexes and reduce their tendency to think about each other since contact with the opposite sex will become an ordinary thing. Such arguments are obvious fallacies, which may be seen in the fact that the enjoyment of meeting together and the "sweet sense of intimacy" of which they speak have brutal, unwholesome consequences. The pleasure which men and women experience in meeting together may lead to a loss of honor, impure intentions, corruption of the soul, the breakup of households, and misery in the family. Islam has forbidden the Moslem man to be alone with a woman who is not a near relative whom he would be forbidden to marry; similarly, it forbids careless mixing. The Messenger of Allah, (*may peace and blessings be upon him*) said, "Any time a man is alone with a strange woman, Satan is present with

¹A Defense of Islam, p. 104

them.”¹ He also said, “None of you should be alone with a woman unless she is accompanied by a near male relative of hers.”²

The wisdom in Islam’s prohibition of mixing between the sexes and one-to-one encounters between a man and a strange woman becomes clear if one recognizes that such mixing is a means by which one might be led into committing adultery. Islam’s forbidding of casual mixing and private meetings between men and women is for the purpose of preventing any occasion for the commission of the crime of adultery, which is absolutely forbidden in Islam. This fact may be appreciated if one reflects on the effects of the unrestricted mixing which takes place in some societies. The most significant of such effects are:

1. The degeneration of morals

The moral decline, the tyranny of desires and lusts, the triumph of purely animal instincts over the more sublime human impulses, the loss of modesty and chastity among both men and women, and the social turmoil being witnessed in many countries are, in fact, the result of free, irresponsible mixing between the sexes.

2. The spread of illegitimate children

This phenomenon is a byproduct of one’s instincts and the disintegration of the barriers which once existed between young men and women in those countries which allow complete mixing of the sexes.

3. Increasing numbers of spinsters and bachelors

Due to the availability of easy ways to satisfy one’s physical desires without shouldering the responsibilities of marriage and fatherhood, many young men have taken the easy way, spending the days of their youth moving from one woman to another and indulging in the pleasure of “variety” rather than committing themselves to married life which, as they describe it, would be “monotonous and repetitive.” As a result of this trend, vast numbers of young women are spending their youths deprived of a partner to share a life of intimacy and warmth with, except, of course, for those who exploit this situation as a means of obtaining illegal enjoyment; at the same time, there are huge numbers of bachelors living deprived of a legitimate marital life.

¹Narrated by al-Ṭabarī

²Narrated by al-Bukhārī and Moslem

4. High divorce rates and the breakup of households for the most trivial of reasons

While the above mentioned type of obstacle to marriage exists, we find that the marriages are vulnerable to failure; families are quickly shattered and marital ties are broken for the most trivial causes in societies characterized by casual, mixing of the sexes.

5. The spread of fatal diseases

The spread of nervous disorders and psychological illnesses, as well as complexes and disturbances whose victims number in the hundreds of thousands is one result of the unrestricted mixing of the sexes in many countries. Among the most dangerous diseases of this sort is the recently discovered AIDS, or acquired immune deficiency syndrome, which robs the body of its immunities and makes it vulnerable to fatal illnesses. Such developments confirm the validity of the warning issued by the Messenger of Allah, (*may peace and blessings be upon him*) who said, "There is no people among whom acts of indecency become habitual and a matter of public knowledge but that they witness the outbreak of plagues and sufferings the likes of which were never known by their forebears."¹

These are some of the effects of casual mixing of the sexes and private encounters between men and women who are not close relatives whom they would not be eligible to marry. Given these considerations, would any sensible person cast doubt on the soundness of Islam's position on this matter?

Freud and his followers in the field of psychology held that lifting the traditional constraints on sexual desire would relieve people's nerves, resolving their complexes and bring them tranquillity and peace of mind. Now the constraints have been lifted, including that on mixing between the sexes, and people have given free rein to their instincts; however, this has done nothing but increase people's complexes and made nerves more tense, while anxiety has become the dominant feature of the age.

Fourth: Women's position and rights in the Kingdom of Saudi Arabia in light of the teachings of Islam

The position and rights of women in Saudi Arabia are, in fact, the position and rights of women in Islam, because the Kingdom of Saudi Arabia is an Islamic state in which Islamic Sharee'ah governs all of its affairs. Hence, the position and rights which Islam recognizes for women are recognized and put into practice in the Kingdom of Saudi Arabia in accordance with the noble

¹Narrated by Ibn Mājah and al-Ḥākim

teachings of Islam. No one has the right to abolish or reduce these rights, since Islam views any attempt to violate them as an offence which calls for a deterrent punishment.

Since I have already discussed women's rights in Islam, I shall only mention some of them here as an example of the types of rights possessed by women in the Kingdom of Saudi Arabia and the efforts made by the Kingdom to enable Saudi women to enjoy these rights fully. The most important rights of women in the Kingdom of Saudi Arabia can be summarized as follows:

1. The right to life; whoever violates this right on the part of the Saudi woman is liable to just punishment under the law.
2. Purity, both physical and spiritual; if anyone wishes to defame a woman's purity through the filth of crime, he is viewed as having wronged her and assaulted her.
3. Chastity and modesty are both the adornment and the right of the Moslem Saudi woman; hence, if anyone denies her these so as to detract from her beauty, he will be violating her rights.
4. Another right of the Saudi woman is the right to bear children as a means of contributing to life and its continuation within the limits imposed by our mortality; hence, anyone who attempts to hinder her from exercising this right or to diminish her reproductive ability through abortion or otherwise has committed an injustice against her.
5. The Saudi woman has the right to draw near to her Lord by engaging in works of righteousness and blocking all that is forbidden in pursuance of her spiritual well-being; whoever attempts to divert her or hold her back from this pursuit has wronged her and violated her.
6. The Saudi woman possesses the right to own wealth, to dispose of it, and to spend it in a manner which is neither wasteful nor disobedient to Allah's commands; hence, whoever denies her rights is guilty of injustice against her.
7. It is the Moslem Saudi woman's right to study the Book of Allah and the Sunnah of His Prophet and to become educated in matters pertaining to her religion, including the precepts of the Islamic Sharee'ah and the means by which she can pursue spiritual well-being, perfection and contentment both materially and spiritually; hence, no one is entitled to deny her these rights and if he seeks to do so, he will have committed an injustice against her.

8. The Saudi woman possesses a legal right to receive material support from her father, her husband, and her adult sons and grandsons; whoever denies her this right has treated her unjustly.
9. It is the Saudi woman's legally recognized, inviolable right to be provided with health care.
10. The Moslem Saudi woman has the right to seek a divorce and to be aided in this pursuit if she has suffered ill-treatment by her husband, whether by tormenting her in some way or by depriving her of her marriage rights; no one is entitled to deny her this right.
11. The Saudi woman has the right to seek employment on the condition that she does so in a modest, dignified manner, and anyone who seeks to deprive her of this right has committed an injustice against her.

These are some of the most notable types of rights enjoyed by the Saudi woman. Moreover, given the fundamental role played by the woman in establishing the family, the Kingdom of Saudi Arabia has taken care to ensure these rights, and its development plans aim to provide the woman with everything required to raise her status economically, socially, educationally and otherwise.

The Kingdom has given priority to the social and educational aspects of women's lives as a means of pursuing advanced human development for the woman, thereby helping her to become qualified to participate effectively with men in all areas of life. Females have been granted educational opportunities throughout all stages of the educational process, in both the sciences and the humanities. The percentage of girls receiving an education in Saudi Arabia is now 95%, which is equal to the percentage for boys, and the government ensures financial support and suitable housing for female students. The amounts being spent on education represent approximately 25% of the governmental budget and 9% of the gross national product, which are among the highest percentages worldwide.

Women have also been given the opportunity to enter the work force in ways that are consistent with their constitutions and potentials and which preserve their dignity. Hence, there are increasing numbers and types of jobs available in a variety of sectors whose requirements are consistent with women's nature in the fields of culture, education, medicine, nursing, social services, and administrative and academic leadership. Moreover, in order to enable women to perform their duties and fulfill their responsibilities both within the family and the wider society, and to increase job openings for women, the Saudi government is working on the creation of new employment

opportunities for them in an increasing number of areas. It is in this context that the government has begun working recently on the adoption of a part-time work system in some areas with a full salary for the woman and full enjoyment of her rights.¹

Along with the government's efforts to ensure the woman all means necessary to live a life of dignity, it has given attention to medical and social care for women, who are provided with health care both in the cities and in the villages. This is being done within the framework of development plans which aim to apply the principle of "good health for all" as a national strategy to ensure and support social development; by all standards, Saudi Arabia's achievements in this area have surpassed those of many other societies. In addition, the Saudi government provides means of living a life of dignity for women who have lost their breadwinner, who suffer from some disability, or who are unable to work, through social security programs which help such women to cope with the circumstances of their lives.

The Saudi woman enjoys complete freedom to own property, to buy and sell, to engage in commercial ventures, and to own business establishments or other institutions, shares in companies and stocks, and so forth. The government also makes it possible for women to get interest-free loans from development funds which assist them in the initiation of commercial enterprises or in building private homes; such loans can be paid back in easy installments over a period of 25 years. All such arrangements are made in accordance with the legal personality and independent legal status which a female is granted through Islamic Sharee'ah from the moment she is born. In these respects, the woman is treated equally with the man, she can bear financial responsibilities and enjoy full rights, including her right to inherit and to seek divorce if her marital situation proves to be impossible, as well as her right to custody and child support.

These, then, are the most important rights enjoyed by the woman in the Kingdom of Saudi Arabia under the protection of the noble Islamic Sharee'ah.

Saudi women and driving

In concluding this chapter, I would like to clarify that Saudi women not being allowed to drive cars aims simply to prevent the occasion for the commission of acts which are forbidden in Islam. Hence, its purpose is to preserve the woman's dignity, honor and reputation, and it is acceptable to the vast majority of the Saudi citizens, since it is in keeping with their social and cultural traditions and customs. The reason for this is that a woman's driving of

¹The *Al-Riyad* newspaper, Issue No. 11674, p. 33

a car could lead to things which are not allowed in Islam, such as spending time alone with a man who is not a **maḥram**, that is, a near relative whom it would not be lawful for her to marry, removing the **ḥijāb** outside of her home, mixing with men in a careless fashion, and committing other forbidden acts. In order to prevent that, the sacred Islamic Sharee'ah prohibits those situations which could lead to what is forbidden. From this it should be clear that forbidding Saudi women from driving cars does not belittle from their rights; on the contrary, it is a way of honoring them.

Conclusion

The status and rights of women in the Kingdom of Saudi Arabia are derived from the teachings of Islam and its attitude toward the woman in general, which can be summed up in the following:

1. Preserving the nature and femininity with which Allah has endowed her.
2. Respect for the vital, sacred function for which Allah created her and to which she is disposed, and because of which Allah has given her – more than He has to the man – a capacity for tenderness and feeling, and emotional volatility; thus, preparing her to fulfill the task of motherhood.
3. Considering the home to be the woman's "great sphere of dominion." She is its mistress, its organizer and its controlling force, since she is the man's wife, his life partner, the one who eases his loneliness, and the mother of his children. Hence, Islam looks upon the woman's work as manager of the home -- in which capacity she looks after her husband's affairs and gives their children a good upbringing -- as a form of worship; hence it resists any school of thought or system which would seek to hinder her from fulfilling this task in the best possible manner. Any school of thought or system which seeks to get a woman out of her primary sphere of dominion in the name of freedom, employment, art or anything else is categorically rejected in the Kingdom of Saudi Arabia no matter what justifications are offered. Such attempt is opposed to the teachings of Islam.
4. Establishing happy homes, which are the foundation of a happy society; moreover, happy homes are built on the foundation of trust, assurance, and cooperation in engaging in works of righteousness and developing consciousness and fear of Allah.
5. Permitting each woman to work outside the home in capacities which are suited to her temperament and her field of specialization, especially when she or her family need her help, or when the society is in need of the skills she has to offer.

Chapter Nine

Islam's Stance on Extremism and Terrorism and Its Applications in the Kingdom of Saudi Arabia¹

The entire world, from north to south and east to west, is suffering from waves of extremism and terrorism which has thrown humanity into a blazing oven of problems and catastrophes. Every day there are reports of terrorist operations resulting from extremism whose echoes are heard throughout the various news media. As a consequence, terrorist organizations have come to play a critical role in determining the direction of many political parties, having become one of the hidden forces influencing the world.

It is regrettable that such movements of extremism, violence, and terrorism are associated with Islam when Islam is innocent of such associations. In this chapter I intend to present the true position taken by Islam on extremism, devoting a separate section to a discussion of Islam's stance on terrorism. In addition, I will clarify the position taken by the Kingdom of Saudi Arabia on extremism and terrorism in light of the teachings of Islam.

First: Islam's stance on extremism

Extremism is an international phenomenon which appears on the level of thought or action. There is hardly any modern society which is entirely free of extremism, which takes various forms: political, moral, intellectual, and religious. As for religious extremism, it is not restricted to the followers of any particular religion or sect.

Complaints of terrorism are not limited solely to developing countries, but are found in developed nations in Europe and America. In fact, some researchers state that the modern phenomena of extremism and terrorism came into existence and developed originally in Western societies. In America, researchers are engaged in studies and analyses of the ideas of numerous extremist religious factions known as "cults." One such cult, known by the name of its leader, Jim Jones – who promoted extremist religious ideas -- was involved in an incident of mass suicide in Guyana a number of years ago when Jones' disciples committed mass suicide in obedience to his instructions.²

¹This discussion is taken for the most part from another book of mine, entitled, *Ḥaḡḡat Mawḡif al-Islām min al-Taḡarruf wal-Irbāb* (Islam's True Stance on Extremism and Terrorism). I have chosen to include it here due to the importance of this topic in achieving the aims of the present work.

²Abd al-Qādir, Ṭāsh, *Qadarunā an Nakūna Moslemīn* (It Is Our Destiny to be Moslems), Riyadh, Dār ʿĀlam al-Kutub, 1413 H., p. 209

We may conclude from the foregoing that extremism is not simply an Arab Islamic phenomenon, as some in the Western media claim, but rather, it is a worldwide phenomenon from which no society is free. Not only so, but it is a phenomenon which is entirely unacceptable and which must be opposed. All possible means should be used to do away with it, since it poses danger to all. Moreover, if resistance to religious extremism in particular is required in other parts of the world, then it is even more needed in Moslem societies, because Islam rejects extremism of all types and in all forms, and it works to dry up its sources by uprooting the causes and motivations which lead people to fall into the deviation of terrorism with its deadly perils.

In order to make clear how Islam rejects extremism, I shall devote the following discussion to the definition of religious extremism and the Islamic ruling on it, the wisdom in Islam's prohibition of extremism, the harm it can cause and the dangers which it poses, as well as those texts from the Qur'an and the Sunnah which call for adherence to "the straight path." In addition, I shall clarify the criterion and measure on the basis of which actions should be judged to be extremist or moderate. And finally, I shall describe the Islamic approach to combating extremism.

1. The definition of terrorism

The Arabic word **al-taṭarruf**, or "extremism," is a new addition to the vocabulary of Islamic legal terms, since this word is not found either in the Qur'an or the Sunnah. However, Islamic legal texts refer to the same concept by means of the Arabic word **ghulūw**, or "excess." Excess in religion is an exceeding of limits, for example, by praising or condemning something to a degree that goes beyond what it actually deserves. As for "extremism," it is used to describe someone who has exceeded the limits of moderation in some way.

Through a close examination of the terms **al-taṭarruf**, "extremism" and **al-ghulūw**, "excess," we find that they are so close in meaning as to be nearly synonymous, that is, extremism refers to taking something to its limit and end, and at the same time, the term "extremism" refers to the use which is restricted in large part to a religious context. It goes without saying that what truly matters is the realities and contents being named, not the names themselves; hence, I will use the term "extremism" alongside "excess," because the former term is the one used by the Western media which draws an association between extremism (excess) and Islam.

2. Texts from the Qur'an and the Sunnah calling for adherence to "the straight path," and Islam's prohibitions and warnings against extremism and excess

Allah calls in his Holy Book for adherence to "the straight path," and for abstention from excess in religion. Allah Almighty says, "*Therefore stand firm (in the straight path) as thou are commanded, thou and those who with thee turn (unto Allah); and transgress not (from the path), for He seeth well all that ye do.*"¹ The command here to "stand firm in the straight path" means to remain committed to this path at all times, and not to transgress the limits which Allah has set for people in this regard. As Allah Almighty warns, "*If any do transgress the limits ordained by Allah, such persons wrong (themselves as well as others).*"² The "limits" referred to here are the outer boundaries of those actions which are allowed, be they commanded or not commanded while transgressing the limits means going beyond them in some way.³

Allah Almighty warns Jews and Christians in particular against excess, saying, "*O People of the Book! Commit no excesses in your religion, nor say of Allah aught but the truth.*"⁴

These, then, are some of the verses in the Holy Qur'an which call upon us to adhere to the straight path, while warning against and even prohibiting extremism. Moreover, in addition to the numerous Qur'anic verses which forbid extremism and excess, there are also a number of Prophetic traditions which prohibit them as well. Such traditions include the following: Ibn Mas'ūd, (*may Allah be pleased with him*) reports that the Messenger of Allah, (*may peace and blessings be upon him*) said, "Those who speak in an affected, pompous manner will perish." He then repeated this statement two more times.⁵ He also said, "This religion [which I bring] is one of ease, not of hardship. Anyone who goes to excess in its practice will find that it has crushed him. Rather, guide each other's steps aright, draw near to one another, and be of good cheer, seeking aid [along the spiritual path] through worship in the morning and evening hours, and occasional night vigils."⁶ In explanation of this tradition, al-Ĥāfiẓ Ibn Ĥajar states, "The meaning of these words is that one should not delve so deeply into

¹Hūd 11: 112

²Al-Baqarah [The Cow] 2: 229

³Ibn Kathīr's commentary, Vol. 1, p. 589

⁴Al-Nisā' [Women] 4: 171

⁵Narrated by Moslem

⁶Narrated by al-Bukhārī

acts of piety that he leaves gentleness behind; otherwise, he will find himself insulated, isolated and defeated.”¹

Such Prophetic traditions, which warn against and forbid religious extremism – or, as it is described in Islamic Sharee’ah (Law) texts, “excess in religion” – provide evidence that such excess is a departure from “the middle way” which Allah has chosen for the Moslem nation. The Messenger of Allah, (*may peace and blessings be upon him*), condemned “every trend which leads to excess in religion,” and he rebuked those of his companions who went to such extremes in pious devotion that they abandoned the moderation taught by Islam. By virtue of the teachings of Islam, the Prophet, (*may peace and blessings be upon him*), struck a balance between the spiritual and material dimensions of life, between the requirements of religion and the requirements of the world, and between the individual’s right to live his or her life on earth and the right of his or her Lord to receive the worship for which human beings were created.

Islam established forms of worship which help to purify the individual, raising him to a higher level both spiritually and materially. At the same time, such worship elevates the entire community, setting it on a foundation of brotherhood and solidarity without negating human beings’ task of being Allah’s vicegerents on earth. Prayer, the payment of zakat, fasting and the pilgrimage to Mecca are all forms of worship which do not isolate the Moslem from life or from society; on the contrary, they strengthen his bond to other members of society on the level of both emotions and action. It is for this reason that Islam did not allow monasticism, which imposes on those who enter it a state of isolation from life and its legitimate pleasures and from activity aimed at developing and improving life on earth. Islam views the entire earth as the believer’s own special place and it views work on earth as a kind of worship and spiritual striving provided that one undertakes such pursuits with pure intentions and abides by the limits established by Allah. Unlike some other religions and philosophies, Islam does not want us to neglect material life for the sake of spiritual life, to subject our bodies to deprivation and torment in order for our spirits to be purified and elevated. Rather, it brings balance to all of these matters.²

3. The wisdom in Islam’s prohibition of extremism

In His holy revelation delivered through His Messenger, (*may peace and blessings be upon him*) Allah Almighty forbids religious extremism, referred to in Islamic legal terms as “excess.” The wisdom in Islam’s prohibition of extremism, excess in religion may be seen in the following:

¹ *Fatḥ al-Bārī*, Vol. 1, p. 94

² *Yūsuf al-Qardāwī, Al-Ṣaḥwāt al-Islāmiyah Bayn al-Jubūd wal-Taḥarruf* (Islamic Awakening in the Midst of Unbelief and Extremism), Cairo, Dār al-Ṣaḥwah, 1412 H., pp. 30-31

a) Allah completed His religion and the bestowing of His grace on the believers through the revelation of the Holy Qur'an to the last prophet. Moreover, the Holy Qur'an is the basis and origin of the Islamic religion, since Allah neglected nothing in His book. He says, *"We have sent down to thee the Book explaining things"*¹ The Messenger of Allah, (*may peace and blessings be upon him*) is the one who communicates and explains what Allah wills for us through that which has been revealed. As Allah declares, *"And We have sent down unto thee the Message, that thou mayest explain clearly to men what is sent for them . . ."*² The Apostle, (*may peace and blessings be upon him*) was protected from error in all things which he communicated about Allah Almighty, and in all matters of people's religion which he explained and clarified. Hence, since excess means adding to what has been delivered by the Messenger of Allah, may peace and blessings be upon him, such an addition amounts to a departure from the rule of moderation in Islam to one of two extremes, excess or neglect, both of which are unacceptable in Islam.

b) Allah Almighty has made Islam the straight path by means of which humanity can be fully fulfilled in both the spiritual and material spheres; as such, it is the means by which they can achieve happiness both in this life and the hereafter. Moreover, given the fact that Islam's doctrines and forms of worship, remain unchanged regardless of time and place since Allah has brought them to perfection and completion both in terms of their roots (fundamental principles) and branches (derivative teachings) and caused them to be recorded in the sacred texts which we now possess, no human being has the right to add to them or subtract from them in any way.

c) Islam is a religion based on affirmation of the oneness of Allah, and Allah Almighty has forbidden us to allow ourselves to fall into divisions and disputes, as religious extremism is considered to be one cause. Allah says, *"As for those who divide their religion and break up into sects, thou hast no part in them in the least"*³

d) Excess in religion involves hardship for those who become subject to it, which is inconsistent with the teachings of Islam calls for ease and the removal of undue hardship or difficulty which are distinctive features of Islam which distinguish from other religions.

¹Al-Nahl [The Bee] 16: 89

²Al-Nahl [The Bee] 16: 44

³Al-An'ām [Cattle] 6: 44

In sum, Islam has forbidden extremism and excess in religion¹ because it represents a big challenge to the guidance brought by Islam and a rejection of the path of moderation, mercy, ease and gentleness. Religious extremism (excess) is a kind of injustice and cruelty which people commit against themselves; in addition, it turns people away from the path of Allah because it distorts the truth and alienates people from it.

This warning against extremism and excess is also given because they involve fundamental flaws. These include:²

One: Excess tends to alienate people, and is not tolerated by ordinary human nature. This is why the Prophet, (*may peace and blessings be upon him*), got angry with his companion Mu'adh Ibn Jabal when, while he was leading others in prayer on one occasion, went on for such a long time that one of those praying complained of it to the Prophet. The Prophet then came to Mu'adh and said, "Do you consider yourself so fascinating, Mu'adh?"³

Two: Excess tends to be short-lived, since people easily become bored and tired, leaving even the smallest amount of work undone. Or they take the opposite path from the one they have been on; that is, they go from excess to neglect, from zeal to indifference.

Three: Excess leads to the violation of other rights and duties which must be fulfilled.

From what I have said thus far one can see clearly Islam's position on excess and extremism and the wisdom in its prohibition of them. At this point an important question arises: if extremism and excess are this dangerous, then by what criterion or measure can we judge whether a particular action is extreme and excessive, or moderate? In order to answer this question one must observe the following:

Judging actions to be extremist, excessive or moderate is the sole right of scholars of Islamic Shari'ah. Declaring an action or a person to be excessive is a serious matter, and the only people qualified to do so are those scholars who possess an understanding of the limits of a given action and who know the fundamental principles and branches of Islamic doctrine. After all, the judgment issued on a given matter depends on one's conception or understanding of it.

"The only acceptable criterion for describing actions as extremist or moderate is that of Islamic Shari'ah (law), which is based primarily upon the

¹Abd al-Rahmān Ibn Mu'allā al-Luwayhiq, *Mushkilat al-Ghulūw fil-Dīn fil-ʿAṣr al-Ḥādīr* (The Problem of Religious Excess in the Present Age), Vol. 1, 1419 H.

²*Al-Ṣaḥwāt al-Islāmiyah Bayn al-Juhūd wal-Taḥarruf*.

³Narrated by al-Bukhārī

authority of the Qur'an and the Sunnah and their interpretation in accordance with recognized rules and principles.”¹ Ideally, then, judging an action to be extremist or moderate is a task given to jurists with knowledge of Islamic Shari'ah, since distinguishing between that which is self-evident and that which is ambiguous requires the knowledge of the opinions recognized as valid in light of Islamic Shari'ah. These matters are tasks which require a competent understanding of Islamic Shari'ah, and which must be referred to those qualified to deal with them.

Thus, it is clear that those who are qualified to decide that this or that act is excessive or moderate are scholars of Islamic Shari'ah whose knowledge and understanding are recognized and trustworthy; if the matter of defining “excess in religion” was left to ordinary people's opinions and whims, we would be drawn in several directions at once.

4. Islam's approach to combating extremism and excess

One of the distinctive features of Islam is that it has blocked all paths which might lead to extremism and excess. In so doing, Islam has taken a variety of paths and employed a number of different approaches to detecting and combating extremism (excess) and freeing the lives of Muslims from its dangers. In the interests of time and space, I shall discuss only two of Islam's approaches to combating extremism and excess. These are: (a) encouraging people to adopt a moderate, balanced approach in all of life's affairs, and (b) basing the Islamic religion on ease, and the removal of undue hardship.

a. Encouraging people to adopt a moderate, balanced approach in all of life's affairs. Moderation is one of Islam's distinctive features; it is a badge of honor worn by the Islamic nation which it has the unique right to be a witness over other nations. As Allah Almighty says, “*Thus We have made of you an 'ummah' justly balanced, that ye might be witnesses over the nations. . .*”² If someone's testimony concerning an ordinary matter, is only valid if the witness is a just person characterized by sound reasoning, integrity and good morals, then imagine if he or she were going to be a witness “over the nations”?

Given the fact that those who offer this testimony have been shown the prudent middle road between the ignorance of excess on one hand and the ignorance of neglect on the other, then they will rescue all of humanity. After all, human beings cannot remain neutral in the face of the perversions which surround them on all sides; they have been chosen to be witnesses to those

¹Salāh al-Şawī, *Al-Taġarruf al-Dīnī: Al-Āfāq al-Duwalīyah* (Religious Extremism: International Horizons), 1413 H., p. 15

²Al-Baqarah [The Cow] 2: 143

around them, and there is no doubt that the neglect of this duty means the loss of this “middle way,” the right to give this testimony, as a unique characteristic by virtue of which Allah has distinguished the nation of Islam and set them apart from others in all affairs of their lives.

If we have a proper, thorough understanding of moderation in Islam, and if we then make a careful examination of its components, we will find that it includes all facets of life, and that it leaves its mark on all aspects of the mindset of the true Moslem. Such a person has a constant sense of self-respect and confidence in Allah, as well as humility before Allah and other people. Hence, moderation leaves its marks on the entire Moslem nation – in the form of gentleness, benevolence, moderation and balance, thus making it possible for their civilization to spread and prosper on earth.

b. Basing the Islamic religion on ease, and the removal of undue hardship.

The ease and facility which characterize Islam are a feature by virtue of which it differs from other religions. Hardship is not among the aims of the divine law, as may be seen from the Qur’an and the Sunnah. Among the texts which clarify this point are the following: In speaking of the grace He has bestowed on the nation of Islam, Allah Almighty declares, “*He has chosen you, and has imposed no difficulties on you. . . .*”¹ He also says, “*Allah intends every facility for you; He does not want to put you to difficulties.*”² Also, Prophetic traditions affirm the ease which characterize the Islamic religion and the fact that the Islamic Sharee’ah (law) is intended to remove undue hardship. The following traditions affirm the ease which marks Islam and its distance from extremism and excess: (1) “Allah desires ease for this nation, not hardship.”³ (2) When the Messenger of Allah was sending Mu’adh Ibn Jabal and Abū Mūsā al-Ash’arī to Yemen to invite its people to Islam, he said to them, “Facilitate rather than impose difficulties; announce glad tidings rather than alienating.”⁴ (3) The Prophet, (*may peace and blessings be upon him*) said, “This religion [which I bring] is one of ease, not of hardship. Anyone who goes to excess in its practice will find that it has crushed him. Rather, guide each other’s steps aright, draw near to one another, and be of good cheer, seeking aid [along the spiritual path] through worship in the morning and evening hours, and occasional night vigils.”⁵ These, then, are some of the Prophetic traditions which reveal the moderation of the

¹Al-Ĥajj [The Pilgrimage] 22: 78

²Al-Baqarah [The Cow] 2: 185

³Narrated by al-Ṭabarānī

⁴Narrated by al-Bukhārī

⁵Narrated by al-Bukhārī

Islamic Sharee'ah and its intent not to impose hardship, but rather to provide ease.

The preceding discussion illustrates that Islam has established a clear, sound approach to combating extremism and excess, an approach which is represented by moderation, ease, and the removal of hardship.

Second: Islam's stance on terrorism

Introduction

International terrorism has become an inseparable part of daily life for people in the modern world. Hardly a day goes by without the occurrence of some terrorist operation somewhere in the world, its intent being to create a state of threat which will get people into problems and calamities. It is a cause for regret that these terrorist acts are associated with Islam when Islam is innocent of such an association. There is no legal ruling in Islam which commands the Moslem to engage in acts of extremism, violence and terrorism, since such acts are highly dangerous, with devastating effects. Islam commands only what has been commanded by Allah Almighty in the Holy Qur'an and what has been commanded by His Messenger in his Sunnah. Moreover, neither the Holy Qur'an nor the Sunnah contains anything indicating a call to extremism and violence. On the contrary, they call for the removal of hatred and hostility. Yet despite this clear truth, Islam is subjected to campaigns of slander and misrepresentation launched by some of the Western news media. Such campaigns have become fierce since the fall of the Soviet Union and the breakup of its republics and the end "the Cold War" between East and West. The aim is to present Islam as an enemy of Western civilization. It is also regrettable that a number of Arab and Moslem journalists have taken part in these campaigns, with or without knowledge of the bad effects which such campaigns could have on their countries and societies.

According to the views expressed by those carrying out these unjust campaigns, extremism is by nature "Islamic," as are violence and terrorism. As for violence and terrorism which come from non-Moslems, they receive hardly any mention, as the Western media either pass over them lightly, or ignore them altogether.¹ Constant mention is made of "Islamic terrorism," whereas all other terrorism is neglected. This alleged Islamic practice has become an excuse for casting doubt on Islam itself and defaming the reputation of both the religion and its adherents. Forces hostile to Islam have associated Islam with terrorism in order to do everything possible to harm Moslems' reputation.

¹Ahmad Yūsuf al-Tall, *Al-Irbāb fī-Ālamayn al-Ārabī wal-Gharbī* (Terrorism in the Arab and Western Worlds), Amman, 1998, p. 4

Hence, in order to present the true Islamic stance on terrorism, to make clear that far from being a partner to terrorism, Islam wages war on it, and to explain the Islamic approach to combating terrorism, I shall take up the following points: (1) a brief historical overview of terrorism with the aim of demonstrating that terrorism is not restricted to a particular place or time; (2) the definition of terrorism; (3) terrorism in the balance of Islam; and (4) Islam's preventive and curative program for doing battle with terrorism.

One: a brief historical overview of terrorism: It behoves us here to give a brief overview of the history of terrorism in order to show that terrorism has not been limited to any particular time or place and to make it clear to every fair-minded reader that terrorism is not a product of Islam. As an act which produces a state of terror, fear, panic, anxiety or threat on the part of the public, terrorism is as old as history itself, and it has been practiced by groups belonging to the Jewish and Christian religions.

The term "terrorists" was used for the first time to refer to "Robespierre" and his comrades in his committee connected with the "Court of Terror."¹ It appears that the Jacobins sometimes used the term "terrorist" when speaking or writing about themselves, but with a positive connotation; however, the term "terrorist" later came to be used haphazardly, and with criminal connotations.

Nevertheless, acts whose intent is to terrorize other people have existed ever since history began to be recorded; one of the oldest known examples of terrorist movements is that of the "Sycarion," a highly organized Jewish religious sect whose members employed unorthodox, nontraditional tactics to attack their foes in broad daylight. They preferred to engage in their acts of terrorism on feast days when the city of Jerusalem was full of crowds. They did not merely kill innocent people who did not share their beliefs, but also used to demolish rulers' palaces and burn stored goods and public records. They were keen to destroy debenture bonds, thereby preventing creditors from being paid back. The assassination campaigns carried out by the "Zuslotiyun" were so brutal since their victims were not only employees of the occupation government, but other Jews as well.

Terrorist activities were tolerated and even blessed by the higher classes of the Christian clergy. Ford mentions a striking account of the assassinations which took place under Christian auspices when he speaks of Ebius X and Gregory XIII, who together nearly brought about a historical catastrophe due to the church's link with political murders.

¹Muhammad ^cAziz Shukri, *Al-Irhab al-Duwalī* (International Terrorism), Beirut, Dār al-^oIlm lil-Malāyīn, 1991, p. 2

These are two examples of terrorist organizations belonging to the Jewish and Christian religions; nevertheless, no historian has put forward a theory of “Christian terrorism” or “Jewish terrorism” due to the actions carried out by these terrorist groups. With regard to the history of Islam, there are a number of terrorist groups which have belonged in name to Islam, but which in reality had rebelled against the teachings of Islam and took a non-Islamic path by engaging in terrorism. Perhaps the most salient example of such a group is the sect referred to as the Karmathians. The Karmathians were followers of Karmath, who sent a man by the name of ʿAbdullah Ibn Maymūn to teach his ideas in Iraq. Karmath declared his followers to be no longer accountable for the required acts of worship and piety in Islam and he gave them license to commit wanton folly, commanding them to abandon prayer and fasting. Teaching his disciples that they were bound by no religious duties whatsoever, Karmath told them that it was permissible for them to seize the wealth of their opponents and to spill their blood. The Karmathians thus turned into a gang of murderers who killed their opponents and declared their money and possessions free game, spreading destruction and terror among everyone around them until they finally reached Mecca, there they stormed the Holy Kaʿbah and removed the kiswa, or covering of the Kaʿbah. They also removed the black stone from its place, which remained in their possession for over twenty years.

The Karmathians are an example of a terrorist group which belonged nominally to Islam, but which violated its teachings. Hence, the terrorist acts committed by groups such as this must not be taken as evidence that Islam supports terrorism. Moreover, if historians have not developed a theory of Christian or Jewish terrorism despite the existence of terrorist groups belonging to these two religions, it is only fair then that no impartial scholar should develop a theory of Islamic terrorism, describing the Islamic religion as “the religion of terrorism.” The reason for this is that Islam grants no legitimacy to terrorism nor does it even sympathize with it. On the contrary, it wages war against it and prohibits it, and it has established legal limits with the aim of combating it.

In order to shed more light on the fact that terrorism has not been restricted to a particular time or place and that it is not associated specifically with Islam, I quote the following statement by a researcher who, studied extremism and terrorism, he writes:

Extremists and rebels against societal consensus have emerged from Europe in all spheres. They began with “black magic” groups, heretics, and so forth; then the black river swelled until, in the 19th Century, there emerged anarchist and communist movements in politics, and barbarism in literature and art. Then in the present century, the Fascist,

Nazi, leftist and religious terrorist movements came to occupy a significant place.

Since the end of the 19th Century and the beginning of the 20th Century, there have been international groups, “Black Science,” “Children of Nature,” “The Workers’ Avant-guard,” “Whatever,” “Hard Labor,” “The Disgusted Ones,” “The Bankrupt,” “Dynamite,” “Hearts of Iron,” “The Hungry Peasant,” and “Those Without Family.” Twelve organizations, each of them with its own workers and members, plans, headquarters, and methods of spreading its message. None were reformist or charitable organizations aiming to feed the “hungry peasant.” Rather, they were extremist organizations whose members had studied nothing but Chemistry. When the French extremists’ leader was asked, “Why Chemistry in particular?” he replied, “So that the anarchist will know how to make his own bombs.”

Teams of terrorist anarchists began spreading from France into most parts of the world, including Russia, some Asian countries, and a number of European capitals. The last two decades of the 19th Century witnessed a state of fright and panic which affected not only the general public, but high-ranking figures including kings, princes, and high ranking leaders.

After security forces began pursuing the anarchists with increasing energy, they announced the principle of “doing away with the security forces in the name of freedom.” Hence, when policemen would go out to arrest them saying, “We are arresting you in the name of the law,” the anarchists would reply, “You arrest us in the name of the law, and we kill you in the name of freedom.”¹

These, then, are twelve terrorist, anarchist, extremist organizations, none of which belonged to Islam. Is it reasonable, then, to say that Islam has exported terrorism as is claimed by some of the Western media? The association drawn by the media between Islam and terrorism is both surprising and bewildering, since terrorism involves injuring, murdering, oppressing and intimidating the innocent, whereas Islam does not approve of terrorism at all. On the contrary, it forbids it; Islam declares terrorism to be prohibited by Allah, while those who adopt it as a profession will face severe punishment.

Two: The definition of terrorism. There is no established definition for terrorism at the present time (the year 2000 G.), whether in international law or

¹Ibrāhīm Nāfi^c, *Kābūs al-Irhāb wa Suqūṭ al-Aquī^cah* (The Nightmare of Terrorism and the Falling Away of the Masks), Maṭābī^c al-Ahrām al-Tijāriyah, 1415 H., p. 26

among international and regional organizations. Hence, I have adopted the definition proposed by the Council of Arab Ministers of Interior and Justice in the Arab agreement on combating terrorism which was issued in Cairo in 1998. The Arab Interior and Justice Ministers defined terrorism in this agreement as follows:

Terrorism is any act involving violence or aggression, whatever its motives or aims, which is committed in order to carry out a criminal enterprise, be it individual or communal, and which aims to cause terror or alarm among people by harming them or endangering their lives, their freedom or their security, by doing damage to the environment, facilities or public or private property, by stealing or seizing such property, or by endangering some national resource.

Three: Terrorism in the balance of Islam. Terrorism -- which is in reality an attack directed against innocent men, women and children, the threat of engaging in such an attack, or any other means of harassing people, disturbing their peace or robbing them of their sense of security and tranquillity -- is completely unacceptable in Islam. Hence, it is impermissible for anyone to make such an attack, to participate in it, to plan it, or to cover it up whether it has been committed by governments, individuals, institutions or other organizations, regardless of their identity or capacity. The reason for this is that terrorism causes property to be lost or wasted, and it prevents the progress and development needed to guarantee the interests of both individuals and groups. Terrorism is a grave crime because it involves a direct assault on society. Islam looks at its effects and punishes those who commit it in a manner equal to the panic and fear it has caused to innocent people.

There are numerous falsehoods and calumnies which the Western media has spread about Islam, one of which is the claim that Islam advocates violence and extremism and opposes the call to peace, despite the awareness that Islam is itself a religion of peace. Islam denounces violence and terrorism in all of its forms, urging Moslems to stay away from violence, terrorism, or the use of force. In fact, Islam even prohibits committing violence against oneself, and on this basis it forbids suicide. Allah Almighty says, "*And make not your own hands contribute to (your) destruction.*"¹ Hence, if Islam warns against a person's destroying himself, then it must warn more against destroying others as well.

Islam has censured terrorism and warned of its dangers even if it is carried out in jest. As we read in the following Prophetic tradition, "Once a man took another man's sandal and hid it from him as a practical joke. When he

¹Al-Baqarah [The Cow] 2: 195

mentioned this later to the Messenger of Allah, (*may peace and blessings be upon him*) he said, ‘Do not alarm another Moslem, for to do so is to commit a great injustice.’¹

According to another tradition, the Messenger of Allah, (*may peace and blessings be upon him*) said, ‘No Moslem is permitted to alarm another Moslem.’²

In a third tradition we read, ‘If anyone looks at a Moslem in such a way as to frighten him for no rightful cause, Allah will frighten him on the Day of Resurrection.’³

In a fourth tradition, we read, ‘If anyone waves an iron instrument at his brother, he will be cursed by the angels until he stops, even if he happens to be his full brother (born of the same mother and father).’⁴

Such traditions demonstrate the great care taken by Islam in both its doctrine and its law to ensure that people’s social relations are based on love, affection, mercy, compassion, and cooperation in performing righteous actions and the fear of Allah.

Islam affirms the sanctity of human life and forbids the unjustified shedding of anyone’s blood. As Allah Almighty states, ‘*Take not life, which Allah hath made sacred, except by way of justice and law.*’⁵ Islam places great stress on the sanctity of human life, and on the heavy burden of guilt by who violates this sanctity, considering all human souls to be essentially one. Consequently, if anyone commits aggression against someone else, it is as if he had committed aggression against all people because in so doing, he has violated the right to life; conversely, if anyone is charitable toward another, it is as if he had done it for all of humanity. Allah Almighty says, ‘*We ordained . . . that if anyone 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 anyone saved a life, it would be as if he saved the life of the whole people.*’⁶

In sum, Islam wages war against terrorism in all forms and of all types, since Islam is itself the religion of peace. Hence, peace in Islam is such a strong

¹Narrated by al-Bazzār and al-Ṭabarānī

²Narrated by Abū Dāwūd

³Narrated by al-Ṭabarānī

⁴Narrated by Moslem

⁵Al-An‘ām [Cattle] 6: 151

⁶Al-Mā‘idah [The Repast] 5: 32

desire which it urges people to fulfill in life. Rather, it is a fundamental element of its doctrine and its program for spiritual training and nurture; in addition, it is a goal whose awareness Islam instills deeply in the individual Moslem, in society, and in the Moslem nation as a whole.

Islam conceives of life as a human unity whose purpose is mutual understanding among people and cooperation toward doing good and growing in the consciousness of Allah. It does not conceive of it as struggles among various classes of society, nor as a war among different people or among the various races. As Allah Almighty says, "*O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily, the most honored of you in the sight of Allah is (he who is) the most righteous of you.*"¹

Peace is a principle which is deeply-rooted in Moslems' souls that it has become a part of their being and a doctrine in which they firmly believe. From the dawn of Islam, it has raised its voice in a call for peace throughout the world, laying out the well-guided plan which is capable of helping humanity to achieve such peace. Islam loves life and instills this love in people; hence, it frees them from fear and sets forth the ideal way of life for human beings, directing them toward the goals of upward movement and progress under the protective shields of security and peace.

Four: Islam's program for combating terrorism. Great efforts have been made on the international level to combat terrorism through the United Nations, as well as on the part of numerous nations outside the UN which have held seminars and conferences and issued numerous resolutions and recommendations with regard to the fight against terrorism. However, despite the international efforts which have been made and which continue to be made toward this end, they have failed to deal with terrorism a way that eradicates this serious disease which spreads further in the body of humanity with every passing day.

The failure of these efforts is due to the fact that they have sought to deal with the phenomenon of terrorism through secular systems and laws which overlook important facts, thereby hindering rather than fostering awareness of the true nature of terrorism. Hence, if the world wishes to deal effectively with terrorism, it needs to adopt the Islamic program for combating crime in general, and terrorism in particular. Islam offers a distinctive program for fighting crime, of which terrorism is viewed as one type; this consists of two approaches: (a) the preventive approach, which seeks to stop crime before it is committed, and (b) the curative approach, which deals with crime after it has been committed.

¹Al-Ĥujurāt [The Inner Apartments] 49: 13

A. The Islamic Preventive Program for Combating Terrorism

Islam is a divinely revealed religion characterized by justice, moderation and high-mindedness which, its doctrine and its law, set out to treat the willfulness and base desires in the human soul; as such, it eradicated the innate propensities for hostility, destruction and violence in those individuals who came to believe in its message and instilled in them principles and ideals which made them into benevolent souls, knowledgeable of the rights they possessed. When Islam established this creative, dynamic balance between rights and duties in the lives of Moslems, it did away with all remaining violent tendencies in the human soul. Consequently, there was no terrorism and no violence to speak of, since the causes which might lead to it had been dealt with efficiently by the Islamic principles and values. In other words, Islam blocked off all means, paths, causes, motives which might drive someone to commit an act of terrorism, guaranteeing the individual rights for his spiritual, physical, intellectual, social, and emotional needs.

In order to clarify this fact, I shall present some examples as evidence in support of what I am saying. If, for example, there are motives and causes for terrorism which are based on nationalist, separatist aspirations given that nationalist organizations engage in terrorist activities as a means of exerting pressure, achieving separate-nation status or crystallizing an independent political or religious identity, then it should be noted that the principles of Islam and the political practices associated with them in Islam's "golden age" guaranteed everyone – both minorities and the majority, Arabs and non-Arabs, white and black – a high degree of equality in all dimensions and aspects.

If the causes behind terrorism are economic in nature, then it must be remembered that Islam has guaranteed economic equality as well. After all, the opportunity to work is available to all, while the invitation to work treats human labor with such appreciation and respect that it is raised to the status of worship. Social solidarity in the finest sense of the word may be seen in the institution of zakat based on which the rich offer assistance to poor and needy Moslems voluntarily, as well as in charitable donations and the just distribution of any material benefits with which Allah has blessed the Moslems in one way or another. In this manner, a remarkable spirit of love for others came to exist among Moslems, and the Moslem community came to be like a single family in which older members cared for the younger ones and the stronger ones cared for the weak, and each person's life was valued equally. Moreover, if the causes behind terrorism are political in nature, it should be recalled that within the context of specific legal guidelines, Islam has guaranteed equal political rights for all. Every Moslem, for example, has the right to express his views so long as this takes place within the framework of the noble teachings of Islam.

Islamic political practice guarantees everyone an ideal degree of freedom in all its dimensions, including the freedom of worship; no one would be forced to abandon his religion and enter Islam; all who enter Islam do so voluntarily and by choice.¹ Under the banner of Islam, Christians and Jews have enjoyed all their rights, with Islam guaranteeing them security and stability and urging Moslems to deal kindly with them. Accordingly, Moslems have demonstrated keen concern to provide an atmosphere of tranquillity and safety for non-Moslems so long as they are committed to the security of Islamic society and the Islamic State.

Islamic society has been characterized by the freedom to work and to express one's personal opinion, rights which are enjoyed by all without exception. Another characteristic of Islamic society is an ideal degree of justice, since everyone is treated equally before courts of law, with no distinction made between leaders and followers, or even between the ruler himself and the ordinary citizen. Hence, it may be said that Islam has refined people's souls, giving them a sound, moral upbringing by doing away with people's hostile tendencies. In this manner, Islam has removed the causes which tend to lead to the commission of crimes of terror.

In addition to this means of protecting people from falling into the error of selfishness and the resulting tendency toward aggression and violence, the Islamic Sharee'ah has established strict rules and penalties capable of deterring weak souls from committing aggression against others, such as attacks on people's lives, their wealth, society's public morals and values, or refusal to obey those in authority. In this regard, there are two types of crimes which are committed against the society as a whole and to which Islamic Sharee'ah has set limits to restrain people before they think seriously about committing them.

The first type of crime committed against society as a whole is what is known as **hīrābah**, while the second type is known as **baghī** (both of which are discussed in Chapter 7 above). These two types of crime represent a pattern of violence directed against society, although the second type is closer to the modern concept of terrorist crimes, since crimes of terror tend to be driven by political motives, specifically, the desire to take over political power.

Now that I have discussed the path of prevention set forth by the lofty principles of Islam, let me move on to a presentation of the path of treatment set forth by Islamic Sharee'ah once crimes against society have already been committed.

¹Abū al-A^ḳlā al-Mawdūdī, *Sharf at al-Islām fil-Jihād wal-^ḳAlāqāt al-Duwaliyah* (The Law of Islam as it Pertains to Jihad and International Relations), translated by Dr. Samūr ^ḳAbd al-Ḥamīd Ibrāhīm (First Printing, Cairo, Dār al-Ṣafīwah, 1985), pp. 117ff.

B. The Islamic Curative Program for Combating Terrorism

In my discussion of the Islamic preventive program for combating terrorism, we noted that Islam has granted a number of human rights and established guarantees to protect these rights, which are capable of meeting all of people's spiritual, physical, intellectual and emotional needs. Similarly I noted that in this manner, Islam has invalidated all claims, both direct and indirect, which could be used as excuses for committing a terrorist act in order to secure a right or to resist something which the terrorist sees as an injustice.

In addition to this preventive approach to protecting people from falling into the error of selfishness and the resulting tendency toward aggression and violence, the Islamic Sharee'ah has established stiff penalties to deter weak souls from committing aggression against others, against human life, religion, reason, material wealth, society's public morals or values, or refusal to obey those in authority. And here we find ourselves before two types of terrorist crime committed against society as a whole, and for which Islam has instituted just deterrent penalties represented by the Islamically set limits discussed in Chapter 7. As we have mentioned, the two types of crimes being referred to here are: (a) crimes of **hīrābah**, and (b) crimes of **baghī**.

Third: The stance taken by the Kingdom of Saudi Arabia on extremism and terrorism

The stance taken on extremism and terrorism by the Kingdom of Saudi Arabia is, in fact, the same stance as that taken by Islam itself and which I have discussed previously. This is due to the fact that the Kingdom of Saudi Arabia is an Islamic state which applies Islamic Sharee'ah: What Islamic Sharee'ah requires, the Saudi government carries out, what this law allows, the Saudi government adopts, and what it forbids, the Saudi government avoids and opposes. In order to demonstrate this fact, I shall quote here from Resolution No. 148 on 12/1/1419H. issued by Saudi Arabia's Council of Senior Scholars in response to the occurrence of acts of sabotage in numerous countries of the world, acts which had victimized large numbers of innocent people and led to the destruction of huge amounts of money and property. The following excerpt is taken from this resolution:

In its 32nd session, held in the city of Ta'if beginning on 8/1/1409 H., based on the evidence which it possesses of the occurrence of a number of incidents of sabotage which have victimized many innocent people and caused the destruction of large amounts of money, property and installations in many Islamic nations and others, committed by certain unbalanced, bitter individuals whose faith is either weak or nonexistent – including the blowing up of dwellings, setting fire to public and

private property, blowing up bridges and tunnels and blowing up or highjacking airplanes,

and since it has been observed that these crimes are being committed in countries which are both near and distant neighbors,

and given that the Kingdom of Saudi Arabia, like other countries, is vulnerable to the occurrence of such acts of sabotage:

The Council of Senior Scholars thought it is necessary to look into the possibility of approving a deterrent penalty for those who commit acts of sabotage, directed against public installations, government interests, or other locations, with the intention of causing destruction and disturbance of security.

The Council is aware of the fact that according to those knowledgeable in matters of Islamic Sharee'ah, the provisions of this law revolve in their entirety around the indispensability of protecting five necessities ensuring the means of their survival and preserving them from harm, namely: religion, the soul (human life), honor, the mind, and money.

The Council has given consideration to the great dangers which arise from crimes involving attacks on that which Moslems hold sacred, including their lives, their honor and their wealth, and the degree to which such acts of sabotage undermine public security, bring about states of chaos and unrest and cause Moslems to fear for their lives and their property -- recognizing that Allah, has preserved for people their religions, their bodies, their spirits, their honor, their minds, and their wealth through the establishment of limits and penalties which make it possible to achieve public and private security.

The Council of Senior Scholars then concluded their resolution with the approval of a deterrent penalty for such acts of sabotage:

First: If someone is proven to have engaged in an act of sabotage and destruction which upsets security by an attack on people's lives and private or public property, such as the blowing up of residences, mosques, schools, hospitals, factories, bridges, water reservoirs, or public resources under the control of the House of Finance such as oil pipelines, the blowing up or highjacking of airplanes, and the like, his penalty shall be execution. The basis for this is the evidence found in the Qur'anic verses quoted above, according to which such destruction on earth requires that its doer be subject to the death penalty, as well as the fact that the danger and harm caused by those who engage in acts of

sabotage are graver than those caused by someone who, for example, engages in highway robbery by attacking an individual and killing him for his money. The judgment concerning saboteurs is found in the Qur'anic verse pertaining to *hirābah*.

Second: Before the punishment referred to in the above paragraph may be carried out, it is essential that all necessary verification measures be completed on the part of Islamic Sharee'ah (Law) courts, courts of cassation, and the Supreme Judiciary Council. In so doing, they ensure that the authorities have fulfilled all their moral and legal obligations to spare innocent life and offer testimony to this country's commitment to carry out all measures necessary to verify that a crime has actually been committed and, in the case of a guilty verdict, to carry out the required penalty.

Third: The Council deems it advisable that the approval of this penalty be announced through the news media.

This, then, is the penalty for terrorist acts as endorsed by the Saudi Council of Senior Scholars.

2. The political and diplomatic efforts made by the Kingdom of Saudi Arabia to combat extremism and terrorism

Represented by its Ministry of Foreign Affairs, the Kingdom of Saudi Arabia has exerted major efforts on the external level to combat terrorism, denouncing it on both the regional and international levels. What follows are some examples of the political and diplomatic efforts which have been made by the Kingdom of Saudi Arabia to oppose extremism and terrorism.

On the regional level, one may recognize the Kingdom's stance on extremism and terrorism by examining the role which it plays in two spheres, the first represented by the Arab Gulf Cooperation Council, and the second, by the Arab League.

The Saudi policy on combating terrorism is based on the principle that regional security is an indivisible whole, and that it is the sole responsibility of the region's native inhabitants. Consequently, the Kingdom first sought to bring forth a single Gulf stance on important international issues, including the issue of terrorism. Thus, it put into practice the principle of cooperation and good neighborliness which is itself one of the noble principles of Islam. When this goal was achieved, the way was made easier for another achievement on the level of the Arab world, namely, the Arab Agreement on Combating Terrorism. This agreement represented a qualitative leap in the realm of cooperation among Arab states, whose final outcome will be in the best interests of both Islam and

Moslems. This agreement was commended by the entire world, which recognized it as a distinctive achievement which demonstrated to the entire world that the Arabs and Moslems are even more concerned than others to combat terrorism. The Arab Agreement on Combating Terrorism was the first of its kind internationally to draw a clear distinction between terrorism and the principle of legitimate armed struggle for the liberation of lands under foreign occupation; in addition, it placed Saudi Arabia and other Arab states in a better position internationally to work toward an international treaty which distinguishes between terrorism and legitimate armed struggle. At the close of their meeting held in Algeria on 31/1/2000, the Arab Ministers of Interior called for the convening of an international conference on combating terrorism, in which given a detailed, agreed-upon definition [of terrorism] should be drawn up to distinguish between terrorism and legitimate armed struggle. In an interview conducted by the **Al-Riyāḍ** newspaper with some of the Arab interior ministers on 28/12/1418H. , His Highness Nāyif Ibn ʿAbd al-ʿAzīz, Saudi Minister of the Interior, explained that this agreement might be expanded to include all Islamic states.

On the international level, Saudi Arabia carries out its role in combating terrorism as an effective member of the United Nations and the international community. In this capacity, the Kingdom seeks to highlight an Arab and Islamic policy on terrorism in all its forms, and in particular, terrorism which is carried out by states against religious and ethnic minorities, or by colonialist states against peoples whose lands are under occupation.

In the address which he delivered on the occasion of the 50th Anniversary of the establishment of the United Nations, His Royal Highness Prince Sulṭān Ibn ʿAbd al-ʿAzīz, Second Deputy Premier, Minister of Defense and Aviation, and Inspector General clarified Saudi Arabia’s stance on terrorism, saying,¹

My country represents the heart of the Islamic world, since it is the birthplace of Islam which places peace at the forefront of its noble principles. It denounces violence and terrorism, and for this reason, King Fahd devotes all his efforts to ensuring that the Kingdom continues to fulfill its mission with regard to the causes of peace.

Similarly, in the address which he delivered before the 52nd session of the UN General Assembly held on 8/10/1997, His Royal Highness Prince Suʿūd al-Fayṣal, Minister of Foreign Affairs, clarified the Kingdom’s official position on terrorism saying,

¹Al-Majallah magazine, Issue No. 820, 22/2/1407 H.

On all possible occasions and in all international forums, the government of Saudi Arabia has tirelessly condemned the terrorism which has spread so fast throughout the modern world, voicing its support for all the international efforts exerted in opposition to this dangerous phenomenon. This position has been manifested through the statements issued by the Arab Gulf States Cooperation Council, which include a frank, clear condemnation of terrorism in all its forms due to its dangerous effects on the security of individuals and the interests of peoples and societies. These statements stress that extremism, violence and terrorism are worldwide phenomena which are not restricted to any particular people, ethnic group or religious sect. Moreover, in view of the international nature and of this phenomenon, the matter of opposing and combating it calls for joint international efforts which focus on the motives and causes behind it and the results leads to.

In an address delivered before the 54th session of the UN General Assembly convened on 2/6/1420H.(30/8/1999), Dr. Nizar Ibn ʿUbayd Madanī, Assistant Minister of Foreign Affairs, spoke of the extent to which the phenomenon of terrorism has spread and the stance taken on it by the Kingdom of Saudi Arabia, saying, “Terrorism, which strikes everywhere in the world relentlessly and indiscriminately, has become represent a worldwide phenomenon of the great seriousness; it requires organized international efforts if we are going to contain and combat it. The Saudi Arabian government has tirelessly condemned terrorism in all its forms, joining its efforts with those being exerted internationally to forestall this perilous phenomenon.”

From what has preceded, one can clearly recognize Saudi Arabia’s definitive stance on extremism and terrorism on both the internal and external levels, a stance which has expressed itself through condemnation of and opposition to both these evils. Yet despite this fact, some of the media have interpreted the material assistance and relief provided by the Kingdom of Saudi Arabia as the funding of terrorism and extremists; the same interpretation is placed on Saudi Arabia’s aid to Moslem minorities in non-Moslem countries. In order to state the facts concerning these false accusations, I will explain the objectives of the aid provided to others by the Kingdom of Saudi Arabia in general, and the true nature of the aid it provides for Moslem minorities in particular.

3. The true nature of the assistance and relief provided to others by the Kingdom of Saudi Arabia

a. The basis, nature and aims of such assistance and relief

Due to its religious and humanitarian orientation, the Kingdom of Saudi Arabia offers assistance and humanitarian relief to others. One of the most salient features of such aid is the moral drive for giving it which is the principle of helping the victims of disasters, wars and floods, as well as displaced persons and refugees in numerous different countries. The same goes for Saudi Arabia's support for the needy and victimized and its backing of causes of truth, justice and peace throughout the world. Yet despite the noble aim behind such aid, some of the news media interpret it as the funding of terrorism.

To accuse the Kingdom of Saudi Arabia of funding terrorism is to commit an offense against reality and history, and in reply to this baseless charge I say: The aid provided by the Kingdom of Saudi Arabia reaches those who need it in more than 100 countries; in other words, Saudi aid and relief cover more than 70% of all countries in the world. This aid and relief are provided for purely religious and humanitarian reasons, their purpose is to alleviate the sufferings of human beings wherever they happen to be on the basis of clearly defined legal parameters. The humanitarian practices of the Kingdom of Saudi Arabia are based on values and morals. Hence, the humanitarian stances taken by the Kingdom are established goals guided by the teachings of Islamic faith. The Saudi Arabian's historic role and its position as a principal leader and a center from which guidance have radiated outward e all indicate of the universality of the Islamic religion.

The areas in which Saudi Arabia provides support for the needy have trouble included all human sectors throughout the world which have encountered in their forward movement, or those which suffer from backward conditions due to a lack of resources or the absence of assistance to rescue them from their predicament, so that they can cope with life's burdens.

With a profound Islamic sensitivity, the Kingdom of Saudi Arabia seeks out life situations through initiatives which take a number of forms based on the nature of the case at hand and the needs which it presents. As a consequence, the unique humanitarian aid provided by the Kingdom of Saudi Arabia has become a kind of protective umbrella which, rather than waiting for those in need to come running to it for shelter, seeks them out in an active way, then gladly showers them with its bounty, all of this being inspired by the Islamic approach based on solidarity, cooperation, and the unity of all humanity.

Hence, lending a helping hand to others to relieve their suffering is a well-established Saudi custom. For a better appreciation of the significance of this custom, let us refer to an item mentioned 70 years ago (11/10/1929) in the **Umm al-Qurā** newspaper, according to which His Majesty King ʿAbd al-ʿAzīz – may he rest in peace – donated 500 pounds to the disaster-stricken in Palestine. Then, not content to let this contribution be limited to the government itself and concerned to see such a practice be adopted by the general public, he sought to establish solidarity in people’s minds and hearts by giving everyone an opportunity to engage in voluntary charitable work. To this end he ordered the formation of national fund-raising committees in the year 1348H. (1929G.), then the contributions were sent to the people of Palestine to reduce the effects of the catastrophe which had befallen them that year. The fund-raising campaign was launched by the king himself – may Allah have mercy on him – thereby establishing a solid foundation for charitable work which his descendents have adhered to.

King Fahd Ibn ʿAbd al-ʿAzīz states, “In Saudi Arabia’s clear determination to provide humanitarian aid to friendly nations, and peoples in need, it is acting on the basis of awareness, depth and a solid conviction of the importance of its role in serving human causes thanks to its Allah-given spiritual values, glorious cultural heritage, and abundant material resources.”¹

The presentation above clarifies to every impartial thinker that the aid and relief provided for others by the Kingdom of Saudi Arabia are to be viewed as honorable humanitarian aid whose purpose is to alleviate human suffering. This being the case, it would be impossible to employ such aid in any manner whatsoever to finance terrorism, which Saudi Arabia condemns and combats on all levels and by all means. Terrorism involves injustice, aggression and destruction on earth, while the constitution of the Kingdom of Saudi Arabia, namely, the Holy Qur’an, is the only constitution in the world which has laid down a deterrent penalty for terrorism, a penalty represented by the legal limits which were explained in our discussion of Islam’s program for combating terrorism.

b. The true nature of Saudi Arabia’s support for Moslem minorities in non-Islamic countries

The leadership role which the Kingdom of Saudi Arabia has assumed in the Islamic world has placed additional burdens on its shoulders. Spreading the Islamic message and supporting Moslem minorities in non-Islamic countries has been misunderstood by various parties who see it as Saudi support for terrorists

¹The Ministry of Foreign Affairs, *Al-Siyāsāt al-Khārijīyah lil-Mamlakat al-ʿArabīyah al-Saʿūdīyah ft Miʿat ʿĀm* (Saudi Arabian Foreign Policy Over One Hundred Years), Riyadh, 1419 H, p. 292.

and extremists and interference in the domestic affairs of countries in which such Moslem minorities reside. In reality, however, Saudi Arabia's stance on this issue is clear and unambiguous, for the principles of international law and the UN Charter stipulate that these minorities possess the right to practice their own forms of worship and religious rites. The Saudi support for them comes within this framework, and is offered in the open and is recognized as legitimate in the context of international relations. Such aid poses no threat or harm to the security of other states. Those who exploit these situations as a basis for criticizing Islam and Moslems are themselves who support to major campaigns under a variety of pretexts, such as "human rights" or "the right to self-determination" when the parties concerned are non-Moslem minorities in an Islamic country. The most salient example of this is what happened in Eastern Timor, which was forced against its will to withdraw from an Islamic state. The Kingdom of Saudi Arabia supports and helps Moslem minorities in non-Islamic States based on religious and humanitarian considerations, and as a means of inviting others to embrace Allah's faith through wisdom and prudent advice. However, it does not interfere in other countries' internal affairs because it would not wish others to interfere in its affairs.

Chapter Ten

A Comparison Between Shūrā (Consultation) In Islam and Western Democracy

Introduction

Shūrā, or consultation, is one of the foundations of Islam, its purpose is to organize the relationship between the governor and the governed in Moslem society in accordance with the teachings of the Holy Qur'an and the Sunnah of the Allah's Messenger, (*may peace and blessings be upon him*). As for Western democracy, it is a mechanism for organizing the relationship between the governor and the governed in secular Western societies.

Researchers into political systems have arrived at differing conceptions of the type of relationship which exists between shūrā in Islam and Western democracy, with presentations of the points of similarity or difference between the two. According to some, there is no difference between shūrā in Islam and Western democracy, since both of them aim to combat tyranny and work to foster equality, freedom and justice. Others, by contrast, hold that the two systems have nothing essential in common, since each of them originates from a different source; that is, shūrā is of divine origin, while Western democracy is of human origin. Moreover, shūrā in Islam is bound to adhere to the teachings of the Holy Qur'an and the Sunnah, while Western democracy is free of all such constraints.

Before presenting the various views on this matter, I would like to give a brief overview of both shūrā in Islam and Western democracy.

First: Shura in Islam

Introduction

The Islamic system of government is a consultative system in which the ruler exercises governing powers in the light of the Holy Qur'an and the noble Sunnah. When making important decisions, especially those pertaining to public affairs, critical situations and crucial events facing the Moslem nation and the state, the ruler first informs himself of the views of a group of individuals who represent all sectors of the Moslem nation, and whose members are characterized by intelligence, practical wisdom, foresight, deep faith in Allah Almighty, and loyalty to the Moslem nation and the government.

The idea of shūra possesses special significance from an Islamic point of view, since it emerged in the early days of Islam in close connection with Islamic doctrine. Shūrā was guided by belief in the one and only Allah,

Sustainer of the worlds, which gave it a unique content which is uncharacteristic of other nations. A thorough study of the examples of true *shūrā* which were witnessed in the days of the Prophet, (*may peace and blessings be upon him*) and the era of the Khaleefas leaves no doubt that there was an intimate connection between Islamic doctrine and *shūrā*. Rather than being merely a superficial connection, it was a vital one, since it helped to ensure that the Moslem nation would maintain its uniqueness, including freedom from the power of tyrants. Hence, *shūrā* represents a practical political path which prevents people from taking one another as “lords” beside Allah. As such, it is the preventative treatment brought by Islam to prevent rulers from enslaving people and making themselves lords over them.

With the establishment of the principle of *shūrā*, Islam abolished from Islamic life what is known as autocratic rule, that is, the rule of a single tyrant; it also did away with theocratic rule, namely, the rule of a leader who claims to be divine, and demagogic rule, that is, the rule of the masses with their passions. By means of *shūrā*, then, Islam prohibited all systems of government which conflict with the true public interests of people due to the danger and harm which they pose.

A. The legitimacy of *shūrā* in Islam and the wisdom behind it

The necessity of *shūrā* in Islam may be inferred from the teachings of the Holy Qur’an and the noble Sunnah. Allah Almighty says, “*It is part of the mercy of Allah that thou dost deal gently with them. Were thou severe or harsh-hearted, they would have broken away from about thee: so pass over (their faults), and ask (Allah’s) forgiveness for them; and consult them in affairs (of moment). Then, when thou hast taken a decision, put thy trust in Allah. For Allah loves those who put their trust (in Him).*”¹ Likewise Allah says, “. . . but that which is from Allah is better and more lasting: (It is) for those who believe and put their trust in their Lord . . . those who hearken to their Lord, and establish regular prayer; who (conduct) their affairs by mutual consultation . . .”² It is narrated of the Prophet, (*may peace and blessings be upon him*) that he said, “He who consults others will have no cause for regret, and he who asks Allah for proper guidance will not suffer failure.”³

¹ *Al ‘Imrān* [The Family of ‘Imrān] 3: 159

² *Shūra* [Consultation] 42: 36, 38

³ Narrated by al-Ṭabarānī

What is meant by *shūrā* here is “seeking out the opinion and advice of those with experience in order to arrive at that which is closest to the truth,”¹ or “seeking out the opinion and advice of the Moslem nation, or those who represent them, in matters of concern to them.”²

The wisdom behind the adoption of *shūrā* in Islam may be seen in a number of facts, including the following:

- 1) At certain times and in many different circumstances, rulers are subject to emotional impulses which may have negative effects on the life of the Moslem nation. In such situations, *shūrā* is one of the most successful controls by which rulers’ emotions may be kept restrained.³
- 2) *Shūrā* is a kind of open dialogue, and this dialogue is one of the best means by which to create an informed, enlightened public and to reinforce the bonds of love and confidence between governor and governed. As such, it is one of the best ways for a ruler to do away with doubts, misgivings and delusions and to put a stop to rumors which tend to arise and spread under tyrannical regimes and in the darkness of demagoguery and oppression.
- 3) *Shūrā* lends emotional warmth and intellectual cohesion to the Moslem nation by giving each individual a sense of his personal and intellectual worth and helping him not to feel as though he is a neglected entity within the wider community but, rather, someone who has specific possibilities to offer. This generates in both individuals and the larger community a sense of creativity and contentment, which leads in turn to the discovery of many unrecognized talents and potentials in the nation.⁴
- 4) Based on the principles of Islam, each individual feels that he has a role to play in the life of the community and society, and *shūrā* provides opportunities to each individual to offer whatever he is capable of by way of efforts, ideas, opinions and skills for the good of society; it gives each person the chance to express his opinion on public affairs.

¹Abd al-Rahmān ^cAbd al-Khāliq, *Al-Shūrā fi Zill Niẓam al-Hukm al-Islāmī* (Consultation in the Islamic System of Government), Kuwait, al-Dār al-Salafiyyah, 1975, p. 14

²Abd al-Hamid al-Anṣārī, *Al-Shūrā wa Atharuhā fil-Dimuqrāṭiyyah* (Consultation and Its Influence on Democracy), Cairo, al-Maṭba‘ah al-Salafiyyah, 1980, p. 40

³Izz al-Dīn al-Tamīmī, *Al-Shūrā Bayn al-Aṣlāḥ wal-Mu‘āṣarah* (Consultation Between its Origins and its Contemporary Form), Amman, Jordan, Dār al-Bashīr, 1985, p. 27

⁴Ibid., p. 34

Based on the clear wisdom to be seen in Islam's institution of *shūrā*, we can say that *shūrā* represents a political process which is necessary if the state is to succeed in managing the nation's affairs in a sound manner and if truth is to prevail in society. *Shūrā* is a political guarantee of the stability of the state, a means of protecting it from conditions which could weaken it, and a major factor contributing to society's well-being. In short, every ruler who wants his rule to continue, his state to enjoy stability, and his people to live in security, peace and prosperity must do all he can to obtain precise, objective information concerning conditions in his country; and *shūrā* is the best means to achieve these ends.

B. The spheres in which *shūrā* is applicable and the limits imposed upon it in Islam

The Qur'anic command to adopt the system of *shūrā* is described as "conducting affairs by mutual consultation," a phrase which is sufficiently general to include the affairs of the Moslem community in all aspects of its life. If we adopted this general sense of the phrase, we could say that all public affairs of the Moslem nation may – or must – be subjected to the process of *shūrā*. However, such an interpretation could not have been the intended meaning of the texts which instruct Moslems to engage in *shūrā*, the reason is that there are two restrictions which must be observed in this regard.

The first of these restrictions is that *shūrā* does not apply to any question to which there is a text in the Holy Qur'an or the Sunnah which is viewed as generally applicable legislation, since matters such as these are automatically excluded from the system of *shūrā*. The second restriction is that when an issue is presented for consultation, it is not permissible for the conclusion at which the participants in the consultation arrive to be adopted if it is in conflict with any legislative text found in the Holy Qur'an or the noble Sunnah.¹

However, outside the scope of these two restrictions, which may be seen as two aspects of a single restriction -- namely, adherence to the teachings of the Qur'an and the Sunnah with regard to the types of questions which may be presented for consultation and the conclusions to which such consultation leads - - any matter for which there is no text in the Qur'an or the Sunnah may be presented for consultation so long as it pertains to the public affairs of the Islamic nation. And in reality, the fact that the matters which may be presented for consultation have not been specified in a definitive way is better suited to the Islamic approach to legislation, namely, that of defining universal principles and general rules while leaving the particulars and details unspecified in order that

¹Muhammad Salīm al-^cAwwā, *Fīl-Niẓām al-Siyāsī lil-Dawlat al-Islāmiyah* (On the Political System of the Islamic State), ^cUkāẓ, Fifth Edition, 1981, pp. 186-187

Moslems may harmonize the teachings of the Qur'an and the Sunnah with the requirements of the various times and places in which the law of Islam is put into practice.

From what has been said thus far about *shūrā* in Islam, it may be seen clearly that *shūrā* is a fundamental principle of Islam in the political sphere whose legitimacy is demonstrated by the evidence of specific verses from the Holy Qu'ran as well as traditions of the Allah's Messenger (*may peace and blessings be upon him*). Moreover, the legislation of Islam is comprehensive and flexible enough that in fulfilling its duty to apply the principle of *shūrā*, the Islamic nation may choose the form of *shūrā* most suited to the various circumstances, times and places in which it finds itself. Apart from the restrictions we have mentioned with respect to the areas in which *shūrā* applies and the conclusions to which it leads, all other issues pertaining to this topic are left to the discretion of those in authority in the Islamic state, who may deal with them through consultation with those who possess expertise on the matter concerned; for in this manner they are able to ensure the interests and achieve the goals of the Islamic state.

As for the purpose of *shūrā* in Islam, it is not to resolve some struggle between the ruler and the ruled, since under an Islamic state, both ruler and ruled belong to a single family in which no one may be considered superior to anyone else except insofar as he is more conscious of and obedient to Allah. The Moslem ruler is simply one Moslem among others whom Allah has given a heavier burden to bear. The contemporary systems of government which employ popular methods of control over rulers under a variety of names aim to prevent injustice and tyranny which are forbidden by law in an Islamic state. However, the purpose of *shūrā* is to enable the nation to decide what it deems best in its public affairs in a manner which prevents tyranny and prevents the ruler – regardless of the things he has achieved or his personality -- from becoming a dictator.¹

At the end of this section on *shūrā* I would like to point out that the questions which are raised in any discussion of *shūrā* is: To whom is the task of *shūrā* assigned, by whom is it led, and with whom is it conducted? The fact is that these and similar questions are matters of detail and organization which may differ from society to society and from era to era.² If any of these questions had to be treated in a particular manner at all times and in all places, we would have definitive texts to this effect in the Holy Qur'an and the noble Sunnah.

¹Ibid., p. 202

²Ibid., p. 203

In fact, the various forms of *shūrā*, the approaches to its application, and the procedures involved are not part of Islamic doctrine, and they are not included in the fixed Islamic legal principles which must be adhered to in all times and places. Rather, they are subject to independent legal interpretations on the part of those qualified to engage in such interpretation, research, and choice. As for the origin of *shūrā*, it is a fixed, unambiguous teaching which cannot be neglected, since *shūrā* in all places and times is beneficial in all places and times.

The affairs of life are varied and numerous. Moreover, in each area of life there are people with relevant knowledge and expertise which enable them to recognize the way things ought to be. The life of the nation includes various aspects, include those of contracts, judicial decisions, the resolution of disputes and controversies, money and the economy, the management of internal and external affairs, administrative arts, education, engineering, the sciences and humanities, and others. There are people associated with each aspects who are known for the maturity and soundness of their points of view, the significant contributions they have made to society and civilization, and long experience.¹

It is these individuals who are qualified to be consulted in the nation's public affairs. It is they whom the people of the nation should recognize for their achievements, placing their confidence in them and authorizing them to serve as their representatives who voice their opinions on their behalf. These people are the medium through which the nation can know how it needs to direct its affairs for which there is no explicit text in either the Holy Qur'an or the Sunnah. These are the facts which were taken into consideration by the Kingdom of Saudi Arabia when it formed the Consultative Council, whose members are individuals with specialized knowledge and expertise.²

Second: The concept of democracy and the foundations of democratic representative government

1. The concept of democracy

As an introduction to a comparison between *shūrā* in Islam and democracy, I shall present a brief discussion of the concept of Western democracy just as the brief overview of *shūrā* in Islam.

The word "democracy," which is of Greek origin, means "the authority of the people." Hence, democracy is a system of government in which the authority to pass laws and regulations is the right of the people themselves. The Greeks

¹Mahmūd Shiltūt, *Al-Islām ʿAqdāh wa Sharḥah* (Islam: Doctrine and Law), Cairo, 1964, p. 463

²Saudi Arabia's Consultative Council was discussed above in Chapter 2

wanted by means of this term to distinguish between the rule of the people and two other types of government, namely, the rule of a single individual, or an “autocracy”, and the rule of a small minority, which they referred to as an “aristocracy.”

One of the observations which has been made in the West in recent times is that most modern systems of government raise the banner of democracy and claim to have adopted it even if they happen to be far from genuine democracy. The starting point of democratic rule is that sovereignty belongs to the people, who alone are the ultimate authority, while any other authority is merely derived from this. Moreover, given the impossibility of gathering the entire people together in one place, and given the fact that councils which are composed of large groups do not do a good job of studying, examining and reflecting on issues in preparation for arriving at sound solutions, they settled on the representative system, in which the people choose those who will represent them, exercising authority in their names for their best interests on the condition that they give a periodic account to the people. This is how regular elections and representative councils emerged with the right to speak in the name of the people. It is on this basis that democracy has been described as “the government of the people, by the people, for the people.”

2. The foundations of representative rule

Representative rule in democracy rests upon four foundations, namely:

- (a) The presence of an elected parliament;
- (b) The periodic reelection of the parliament such that those who are fulfilling their representative duties satisfactorily are reelected while others are removed. Such elections are normally held every 4-5 years;
- (c) The parliament independently exercises public authority during its term in office without being called to account or criticized;
- (d) Each member of parliament is elected by a particular voting district. However, once he is elected he comes to represent the entire people, and not only his particular voting district. What this means is that if the interests of the district which he represents come into conflict with those of the people as a whole, he is duty bound to defend the interests of the whole people

3. The constitution and the separation of powers

The modern representative system of government involves the presence of a constitution, which is a basic law that organizes the government in the form of a state. The constitution defines the specific powers to be granted to the

legislative, executive, and judicial branches, clarifies the relationship between these branches, and establishes the foundations of general freedoms within the state. Such a constitution is drawn up by a “founding authority” which is generally elected by the people to fulfill this task, and there are no restrictions on its authority in this regard; rather, it is free to choose the form of government which it desires for the people.

Once the constitution has been drafted, the people elect the parliament, which might be composed of one or two representative bodies. The parliament then exercises legislative powers, in addition it may also carry out the function of governing the state in cases where the state has adopted the parliamentary system, which is the most prevalent form of democracy in the modern world. If, on the other hand, the state has adopted the presidential system, the parliament is answerable to the head of state alone, as is the case in the United States of America; the French constitution also calls for a presidential system.

The right to vote is generally granted to all citizens once they reach a certain age, with 18 years being the voting age in most countries of the world, and with males and females enjoying the same right in this regard at the present time. In fact, some countries have laws which make voting mandatory such that those who fail to exercise this right without excuse are subject to punishment. The right to nominate is also organized, with most countries in the world operating on the basis of the principle of “public choice,” according to which a candidate is not required to meet a specific financial quota or carry a particular academic degree; rather, it is sufficient for him to be literate and to fulfill certain other conditions which assure his ability to carry out the functions of a governmental representative, such as being of a minimum age, holding citizenship, and enjoying a good reputation.

4. The parliament is free to legislate as it sees fit

There are no restrictions on the parliament’s legislative powers except for those explicitly stipulated in the constitution. The constitutions usually do not contain many restrictions on the parliament’s legislative authority. Examples of such restrictions include a prohibition against legislating retroactive punishments, prohibitions against instituting the penalty of public confiscation of wealth, prohibitions of slavery, not allowing a citizen to be forbidden to return to his country, etc. Hence, the authority of the parliament to legislate is hardly restricted at all, and this freedom reaches its peak in states with flexible constitutions such that of England, about which it has been said, “The English parliament can do anything but turn a man into a woman or vice-versa”! Consequently, such countries have reached the point of passing shameful legislation, such as laws permitting homosexual relationships between men under certain conditions.

In order for a parliament to pass a law, it must follow certain procedures first, such as proposal of a draft bill, discussion, obtaining a vote by the majority required and endorsement by the head of state, followed by publication. The parliament cannot pass any legislation unless more than half of its members are in attendance and unless the bill obtains the majority required by the constitution, which is generally more than half the number needed to complete the official quorum.

Third: Where do democracy and Shura in Islam meet, and where do they depart from each other?

Numerous thinkers in recent times have discussed the relationship between democracy and Islam, of which shūrā is considered one pillar. In what follows I shall present an overview of the opinions of some of these thinkers on the relationship between democracy and shūrā in Islam.

1. The opinion of Dr. Muḥammad al-Rayyis

Dr. Muḥammad Ḍiā' al-Dīn al-Rayyis, Professor of History at the Dār 'Ulūm (House of Sciences) College in Egypt may be the first researcher to have presented a thorough discussion of the points of similarity and difference between shūrā in Islam and democracy. In Dr. al-Rayyis's view, there are many points of agreement between Islam and democracy, but the points of difference are greater. Concerning the points of agreement, he writes:

If what is meant by "democracy" is what has come to be associated with it by way of specific political or social principles such as equality before the law, freedom of thought and religion, the realization of social justice, the guarantee of specific rights such as the right to life, liberty and work, etc., then there can be no doubt that all these principles are realized and all these rights are guaranteed in Islam as well.

It must likewise be noted that based on Islam's view of these rights in terms of their natural origin, they might be viewed as rights belonging to Allah, or rights shared in common by Allah and human beings. Alternatively, such rights might be viewed as blessings rather than as rights, or as the ideal state of things. However, these distinctions have no effect on the basic view of the nature of these features or conditions, since the end result is the same, namely, that people are guaranteed all these benefits.

If, on the other hand, what we mean by 'democracy' is that which is known to lead to the fulfillment of the principle of the separation of powers, then this is also apparent in the Islamic system. The legislative

authority here – which is the most important of the powers in any democratic system – is deposited with the nation as a unit and is separated from the authority of the imam (the Moslem leader) or the head of state. This is because legislation originates from the Qur'an and the Sunnah, the consensus of the nation, or independent judgments on legal questions; as such, it is independent of the imam. In fact, legislation is above the imam, who is bound to adhere to it. The authority of the imam, then, is not actually based on the opinion of the ruler or the president; rather, it is based on the precepts of Islamic Sharee'ah (Law), that is, Allah's commands.

With regard to the differences between Islam and democracy, Dr. al-Rayyis makes the following three observations:

One: What is meant by the word “people” or “nation” (**‘Ummah**) in modern democracy as it is known in the West is a community of people living within specific geographical boundaries and whose members are joined by ties of blood, race, language, and shared customs; in other words, democracy is inevitably associated with the idea of “nationalism” or racism, and it is accompanied by a tendency toward prejudice and bigotry. Islam, however, is not like this, for the Islamic nation, or ‘Ummah, is not a society whose members are united by unity of location, blood, or language, all of which are artificial, accidental, or secondary bonds. Rather, the primary bond between them is unity of creed; in other words, their unity resides in the mind and heart. Everyone who embraces Islam, whatever his or her race, color or country, becomes a member of the state of Islam, since the Islamic view is humanistic and its horizon encompasses the entire world. At the same time, however, this does not prevent there from being, within this broader circle, narrower regional or national circles. In fact, this may be a necessity, and even a duty, for the sake of the best interests of the community, optimal organization, and the fulfillment of national or local aims which are not in conflict with more universal purposes. Hence, if other bonds such as unity of homeland, ethnic origin, language and so forth are present alongside the more fundamental bonds established by a unified creed, then this is the most powerful confirmation of the existence of the [Islamic] nation and the emergence of the state.

Two: The aims of modern Western democracy, or any other democracy in modern times, are worldly or material, since they have to do with achieving happiness for a particular nation or people by fulfilling their needs in this life -- for greater wealth, for example, higher wages, or party gain. The aims of the Islamic system, or Islamic democracy so to speak, include worldly aims such as these and give them the importance due to them while avoiding nationalist prejudice; however, alongside such aims it also includes spiritual aims, which are actually the primary, most fundamental, and most lofty of its purposes. The

Islamic state must see the afterlife as the goal of its actions and engage in all acts of righteousness called for by the religion, acts which earn Allah's pleasure while at the same time meeting people's spiritual needs. The Islamic state allows the religion, to be the criterion by which it evaluates its actions and conduct.

Three: The authority of the nation, that is, the people, in Western democracy is absolute. It is the people who are the unqualified possessors of sovereignty, and it is they – or the council they have elected to represent them – who lay down the laws. The resolutions passed by their representative council become laws which must be enforced and obeyed even if they are in conflict with the moral law or with overall human interests. Modern democracy might, for example, declare war in order to assure the sovereignty of one people over another, to take over a market, to colonize a place or to monopolize oil wells, and for the sake of such ends of blood is spilt and human lives are lost, thereby causing misery to all humanity!

In Islam, however, the authority of the people is not absolute; rather, it is restricted by the law of Islam and by the religion of Allah, which every member of the nation has embraced and committed himself to obey. The Moslem nation may only act within the confines of this law, which is contained in the Qur'an and the Sunnah. Hence, if Islam recognizes that the overarching will of the people is one of the sources of the law, then it goes without saying that this will depends in turn on the teachings of the Qur'an and the Sunnah in one way or another, and that the people entrusted with this same right by virtue of some command from both the Qur'an and the Sunnah. Similarly, if one assumes that one of the features of the Moslem nation's will is that it would never deviate from the truth, i.e., from the path which has been laid out by the Qur'an and the Sunnah, then the Islamic nation is committed to the moral law by its principles, since the Islamic religion has imposed both duties and responsibilities upon them.

These, then, are some of the points of similarity and contrast between democracy and Islam as presented by Dr. al-Rayyis.

2. The opinion of Shaikh Muḥammad al-Ghazālī

The well-known Islamic thinker Shaikh Muḥammad al-Ghazālī, may he rest in peace, treated the subject of the relationship between democracy and shūrā in Islam, clarify the essential difference between them. He states,

If democracy means the same thing as shūrā, then it is a necessity required by Islamic Sharee'ah (law); in fact, the religion itself might be lost if democracy were lost. However, there is a difference between

Western democracy and Islamic shūrā, since Islamic shūrā operates within the parameters of the text [of the Qur'an and the Sunnah], whereas democracy in the West is bound by no such texts. Thus, for example, the people's representative council might be presented with a proposal to abolish the death penalty. If this proposal is then approved by a majority of the council's members, it becomes the law of the land. However, given that such a step would conflict with the teachings of Islam on the necessity of imposing on murderers a punishment commensurate with their crime, then shūrā in such a case would be unacceptable because it would involve a violation of one of the religion's texts. It actually happened that the British House of Commons abolished the death penalty; in fact, it has legalized perverse sexual behaviors, which is unacceptable from the Islamic point of view. However, in all situations where the texts of the religion are taken into account, shūrā is called for and, indeed, necessary.¹

3. The opinion of Dr. ʿAbd al-Ṣabūr Marzūq

Clarifying the difference between shūrā in Islam and Western democracy, Dr. ʿAbd al-Ṣabūr Marzūq states,

Democracy in the West means the people's choice of their ruler. The difference between democracy as it is understood in the West and as it is understood by Moslems is that in the West, it is not subject to religious criteria and it conflicts with certain ideals. Hence, for example, democracy in Britain has granted people illegitimate rights, such as the right for two men to get married, treating such conduct as a matter of personal freedom.

Islam respects the people's choice of their ruler only within the framework of Islamic principles. Democracy in the Western view is based on the system of institutions and electoral processes, while Islam defines the people's choice of their ruler as a kind of pledge of allegiance.²

4. The opinion of Dr. Tawfīq al-Shāwī

Dr. Tawfīq al-Shāwī states,

The most significant thing that shūrā does is to show the individual the means by which he can benefit from others' advice, expertise and points

¹The Egyptian newspaper, *Al-Wafd*, 16/1/1992

²Ibid.

of view. At the same time, it shows the nation the path it must follow in order to impose its will and make communal decisions; in these respects, shūrā is in agreement with democracy, which is a part of it. However, in order to guarantee the validity and fairness of the decisions which it makes, the nation must be guided by Islamic Sharee'ah and values, which ensure that their decisions are sound and just and enable them to attain success, progress and development. To the extent that the Moslem nation allows its will to revolve around Islamic law toward what it perceives to be the best possible decisions, and the most beneficial plans, shūrā becomes like a ladder on which it may ascend toward lofty goals defined by the Islamic Sharee'ah.

Democracy without the law of Islam gives free hand to people's whims and passions, allowing such impulses to exercise authority over them without any commitment to sovereign, unchanging, authentic divine principles which guard against error and violence against both the people and the state.¹

In conclusion, one could state that according to the preceding statements, the essential dispute between Islamic shūrā and Western democracy is that whereas shūrā must proceed in adherence to the teachings of Islamic Sharee'ah and its overarching aims, Western democracy imposes no limitations or restrictions on the people's authority to legislate whatever they like for themselves even if this means permitting and legalizing that which is forbidden.

This point of disagreement is of essential significance, since the goal of shūrā in Islam is to arrive at the soundest point of view on a topic proposed for discussion and debate and on which there are varying points of view. If there is a text in either the Qur'an or the Sunnah whose meaning is indisputable on the issue under discussion, then this itself contains "the soundest point of view" given through the divine revelation to which Moslems are committed. Given the existence of this "soundest point of view," there is no place for consultation as is the case, for example, concerning the necessity of imposing on murderers a penalty commensurate with their crime. Issues such as justice, equality, integrity and the sincere worship of Allah, since commitment to such principles and values could never be subject to question or discussion, although there may well be a variety of opinions on the best way to apply them. As for other questions, of which there are many and which, in fact, include most affairs pertaining to this earthly life, Allah Almighty has commanded that they be presented for consultation in His words, ". . . who (conduct) their affairs by mutual consultation . . ."

¹Ibid., p. 251

Hence, the actual distinction between Islamic shūrā and Western democracy is not a distinction between one type of democracy and another, but rather, a distinction between the Islamic creed and those who do not believe in it or live by it.

These, then, are the views of some thinkers on the relationship between shūrā in Islam and Western democracy. However, they are all in agreement that there is a fundamental difference between the two, since Western democracy is free of all restrictions in the area of legislation and law, where shūrā is bound by Islamic law with the result that there can be no consultation concerning matters about which the teachings of Islamic Sharee'ah are beyond dispute or any other matters of which all Moslems must be aware concerning their religion; rather, shūrā applies only to questions about which there is no explicit text from the Qur'an or the Sunnah.

In addition, a fact which needs to be understood by some Western politicians who strive to export democracy to the Islamic world in particular is that Islam, of which shūrā is one of its pillars, does not conform to the other recognized political systems on the political map. This is because in Islam, sovereignty does not belong solely to the ruler, since the Islamic religion is not an "autocracy"; nor does it belong to the law alone, since Islam is not a "nomocracy"; nor does it belong to the people alone, since it is not a "democracy." Rather, in Islam sovereignty belongs to the divine law alone, whereas in Western democracy, it belongs to the people, who have the authority to legislate whatever they choose without any restrictions or conditions.

In sum, the special status granted to democracy by those in the West and the prevailing belief in its beneficial value does not mean that this system is valid for other nations, since every nation has its own special characteristics arising from its particular creed and from its view of the universe, life and human beings.

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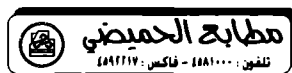
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في المملكة العربية السعودية (باللغة الانجليزية)

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