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ISLAM AND WORLD ORDER: FOUNDATIONS AND VALUES

BY

Nasser Ahmad M. Al-Braik

submitted to the

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Dedicated to

my parents for their guidance

and to

my wife, Amina

for her understanding and encouragement

ISLAM AND WORLD ORDER: FOUNDATIONS AND VALUES

BY

Nasser A. Al-Braik

ABSTRACT

Much has been written in recent years concerning the
current state of affairs which has engulfed the world order.
A number of notable theories have been espoused in an
attempt to defuse the situation. In all this endeavour the
Islamic theoretical perspective was never examined in an
attempt to demonstrate its practical alternative to resolve
the crisis. This thesis highlights the Islamic alternative
proposition in dealing with the important issues prevalent
in the world today, namely, institutionalized violence,
crippling poverty, societal repression and environmental
degradation. The thesis, therefore, outlines a formula
which provides an examination of the actual and potential
relevance of Islamic law, (Shariah), values and concepts as
related to these issues. It utilizes the methodology which
combines the four-value system of the global reform as
enunciated and identified by the World Order Models Project
(W.O.M.P.) as: peacefulness, economic equity, social and
political dignity and ecological balance with the work of

Z. Sardar's Warrd system. Each of the four values is given an in depth analysis in a separate chapter.

The main findings of this thesis include the following main features: (1) Islamic public order is deeply rooted in the Shariah and is regulated by its law and at the same time, guided by its past centuries of experiences.
(2) World order in Islam provides a collective value system for the community and thus prescribes a cooperative order.
(3) The concept of Community (Ummah) is probably the single most important and influential concept within the lexicon of Islamic thought. (4) The major and significant roles that the scholars, philosophers, and jurists have played in the development of Islamic thought, i.e., within the realm of social, economic, ecological as well as political knowledge and disciplines. (5) The variety and entire spectrum of legal thought inculcated within Islamic law have been, fundamentally, the basis for the legal schools claim to a universal application of an alternative paradigm.

Finally, the thesis reassesses the contribution of the Islamic order; its basic foundations and values to the emerging world order, with the objective of stimulating further research in Islamic and world order studies.

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INTRODUCTION

We live in a world that is increasingly marked by violence, poverty, repression and environmental degradation. The failure of the present system of world order suggests the need for alternatives.

We are, as Professor Richard Falk articulated

> undergoing a major reorganization of inter-
> national life at the present time which will
> result in drastic modification of the world order
> system that has prevailed since the Peace of
> Westphalia in 1648. This reorganization is being
> brought about through the efforts of powerful
> economic, political, and cultural actors on the
> world stage...[1]

This dissertation supports the proposition that Islam can play a significant and beneficial role during this period of transition. It can carefully provide and articulate a global alternative of reforming the existing world order. The thesis will promote new modes of thought, new orientation and a set of values thereby creating 'a strategy of change' or in other words 'a credible strategy of global reform.' My purpose is to prepare the ground for

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[1]"A New Paradigm for International Legal Studies: Prospects and Proposals" The Yale Law Journal, Vol. 84, No. 5, (April 1975), p. 969.

studying the actual and potential relevance of Islamic doctrine and concepts to the current transition and in conclusion to provide an option or model of reform for the world community.

The intent is to present a comprehensive review of the concept of the Islamic community (Ummah) and its foundations and development throughout Islamic history. Accordingly, the proposed Islamic world order will be based primarily on this key concept which in turn is linked with three major principles: Unity (Tawhid), Trust (Amanah), and Obedience (Taah).

Therefore, the first essential requisite for this study is to provide a general review of Islamic laws, rules and values as related to the studies of world order. To quote a prominent authority on the subject, world order is defined as:

> the structure of power, authority, and beliefs
> that give human relations their specific shape on
> all levels of social interaction, ranging from the
> nuclear family to a world government. A world
> order system is a comprehensive description of the
> pattern of world order arrangements prevailing at
> a given historical period and some account of the
> ways in which its various parts interact to
> produce a whole.[2]

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[2]Burns, H. Weston, R. Falk and A. D'Amato (eds.). International Law and World Order. St. Paul: West Publishing Co., 1980, p. 1173; Also see R. Falk, "The Role of Law in World Society: Present Crisis and Future Prospects" Toward World Order and Human Dignity. edited by W. Reisman, B. Weston and others. New York: The Free Press, 1976, p. 150; for a definition of the term 'world order' as a condition and a set of processes see Stanley

This thesis will explore this analytic construct from an Islamic perspective. It will proceed to combine the four values of global reform identified by the World Order Models Project (WOMP), namely, peacefulness, economic equity, social and political dignity and ecological balance, with the work of Ziauddin Sardar's Warrd system.3

The nature of this work requires that primary sources will be based on the following: the literature extant on the subject by the classical writers in the Arabic language, and the literature of modern Muslim scholars, along with some Western Orientalists plus non-Orientalists in the English and French languages. The study of such writings is significant for making comprehensive analyses and thus deriving conclusions.

The most important and frequently quoted work in this study is the Holy Quran. It is the original text of Islam as a religion, a culture and a way of life. The Traditions or the sayings and practices of the Prophet Muhammad (peace be upon him) will also be quoted in part to support or clarify certain issues.[4] Both constitute the primary source of Islamic law, known as the Shariah.

Hoffmann, *Primacy or World Order* New York: McGraw Hill Book Co., 1978. p. 188-189.

[3]The *Future of Muslim Civilization*. London: Croom Helm, 1979, p. 157-158.

[4]The traditions are also called Hadith and Sunnah. They will be used interchangeably in this study.

This study will be divided into six chapters. The first chapter will focus on the theoretical principles of the nature of politics and political thought in Islam. It will present an overview of the general setting of the theoretical essence and structure of the Islamic conception of community; its interpretations and development by Muslim and non-Muslim scholars thoughout history to the present day.

This chapter is followed by an outline of two concepts: Equality and Justice. It will examine the basis of equality in Islam and will review some important issues, including the differences between members of the community. This chapter will also deal with what constitutes a just policy. It will analyze the differences between the two major sects in Islam: the Sunnis and the Shiites and will further provide a brief review of the sources, schools and application of law in Islam. And hence this chapter constitutes the first value of global reform, specifically economic equity as well as social justice.

Chapter three is designed to unravel the second value of global reform, namely, political and social dignity. This will be accomplished by analyzing the concept of freedom in Islam which signifies the ability to become and to realize one's full potential.

In this study of the Islamic conception of freedom I will examine the following questions: 1) What is the nature

of freedom?; 2) To what extent is freedom allowed - for both
the individual and for the community, and 3) what are the
types of freedom that Islam condones?

Chapter four will scrutinize the third value of global
reform: Peace. It will analyze how Islam perceives peace
between individuals, communities and nations. Furthermore,
schools of thought as to war and peace in Islam will be
discussed. The study will finally illustrate that Islam
basically is not an aggressive system; rather it is a
peaceful one, its mission being peace to all mankind.

The final value of global reform will be presented in
chapter five. It contains a study of relations between
Islam and ecology. It will analyze the cultural basis of
our environmental crisis as well as its effect on human
behavior. This study will investigate distinctive Islamic
insights into ecological quality and environmental ethics.
It will trace the studies of Nature which have been
conducted by Muslim scholars throughout history. Finally,
chapter five will shed some light on the ecological
interdependence and equilibrium between man, nature and
environment from an Islamic point of view.

The general conclusion of this study will evaluate the
theoretical foundation of the Islamic world order based on
WOMP's criteria for global reform and Sardar's Warrd system.
It aims to observe and analyze the outlined assumptions,
assess the benefit of the aforementioned criteria thereby

creating a step toward that transition, and hence, helping in the emergence of a new world order as a means of finding an appropriate solution to the crisis of contemporary international relations.

This study will be developed as a modest effort in generating an 'intellectual movement' that would facilitate the search for a legitimate and practical way for a better world order, one that is compatible with and can satisfy human needs and aspirations. Finally it seeks to stimulate further research in the field of Islamic studies and world order.[5]

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[5]It is of great importance to indicate at the beginning of this research that this work emphasizes the foundations and values of the Islamic world order. The subject of how these foundations relate to contemporary world affairs will be the focus of future work by the writer.

CHAPTER I

POLITICS AND COMMUNITY

It is written in the Quran: "God doth command you
to render back your trust to those to whom they
are due; and when ye judge between man and man,
that ye judge with justice; verily how excellent
is the teaching which He giveth you! For God is
He Who heareth and seeth all things. O ye who
believe! Obey God and obey the Apostle and those
charged with authority among you. If ye differ in
anything among yourselves, refer it to God and His
Apostle, if ye do believe in God and the Last Day:
that is best, and most suitable for final
determination."

Sura: Nisaa or The Women 4:58-59

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A. Politics in Islam

Politics among Muslims encompasses a wide spectrum of issues and also comprises a complicated network of human ideals. And whenever the Muslim jurists and scholars (Faqih, singular; Fuqaha, plural)[1] discuss politics, the paramount subject of the caliphate (Khilafah)[2] emerges as the first issue of discussion. This is due to the important part through which leadership and accountability in the life of the community of faith (Ummah) have their greatest impact.[3] Fakhr Ad-Din Ar-Razi states: "Politics is chieftainship and rulership (As-Siyasah Riyasa or Riasa) and hence the science of politics is the science of leadership and governorship."[4]

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[1]The distinction between 'Ulama and Fuqaha will be discussed in the chapter on Justice and Islamic Jurisprudence in this study.

[2]Khilafah means vicegerency and custodianship. Caliph or Khalifah means the vicegerent and custodian of God on earth, who is to rule in conformity with His will. And hence the word Khalifah refers to the person, while Khilafah refers to the institution.

[3]The theory of Caliphate is important due to the fact that it gives an account of political reality and provides a framework for a unified Ummah even when actual political and military power become disintegrated.

[4]Abu Al-Fadhl Muhammad Ibn Omar, known as Fakhr Ad-Din Razi, famous theologian and philosopher of religion. He was born in Rayy in northern Persia in A.H. 543/ A.D. 1149 and died in Herat in A.H. 606/A.D. 1209. "Imam Fakhr's main role in the intellectual life of Islam was to support the orthodox policy of the caliphate of his time to suppress rationalistic philosophy in favour of theology...." See Seyyed Hossein Nasr, "Fakhr al-Din Razi." A History of Muslim Philosophy, Vol. 1, edited by M. M. Sharif.

When the fundamental structure of the caliphate emerged
and thereafter consolidated and stabilized and the horizon
of Islamic domain began to expand, it included many
diversified peoples who differed immensely in their ethnic
and cultural background. This phenomenon resulted in the
emergence of certain problems that necessitated an early or
immediate resolution. This new experience produced what is
referred to by the Muslim scholars as As-Siyasah
Ash-Sharaiyyah (juridical policy) which means taking care of
the leadership and the people as it pertains to the
juridical precepts of Islamic law (Ash-Shariah) or, as N. J.
Coulson explains, it is "in fact the power of the leader in
matters of law to determine whether or not there is a policy
of the Shariah, so that the policy making is a process of
the leader who more or less divines it."[5] Many of the

Wiesbaden: Otto Harrassowitz, 1963, pp. 642-656. At another
point it is stated that "Al-Razi's life-work is of
importance by his attempt at reconciliation of philosophy
and religious traditions, in which he displayed a
rationalism uncommon for his time." Shorter Encyclopaedia of
Islam, edited by H. A. R. Gibb and J. H. Kramers. Ithaca,
N.Y.: Cornell University Press, 1953. p. 470. Ibn Bajjah or
Avempace states that "politics, in a general way, [is] the
ordering of actions to an end that is being pursued." See
Farhang Rajaee, Islamic Value and World View, New York:
University Press of America (1983), p. 51; see also E. I.
Rosenthal, "The Place of Politics in the Philosophy of Ibn
Bajjah," Studia Semitica, Vol. 2, entitled "Islamic Themes,"
Cambridge: University Press (1971), pp. 35-59.

[5]"The State and the Individual in Islamic Law."
International and Comparative Law Quarterly, Vol. 6, (1957)
pp. 49-51; see also M. Cherif Bassiouni, "Islam: Concept,
Law and World Habeas Corpus," Rutgers Camden Law Journal,
Vol. 1, No. 2 (Fall 1969), p. 175.

Muslim scholars used this term to indicate the just policy and the true reponsibility which is guided by the divine revelation and prophetic teachings on the part of the leadership.[6]

Being influenced by Aristotilian writings, the Muslim philosophers [Hakim (singular) or Hukama (plural)] considered politics as a branch of practical wisdom (Hikmah Amaliyyah). According to Aristotle, knowledge (gnosis or Maarifah) could be self-directing in and of itself and this is attributed to what they refer to as theoretical knowledge (Maarifah Nadhariyyah); it could also be relegated to postulate a specific behavior in a system and this is an embodiment of practical knowledge (Maarifah 'Amaliyyah). If the objective of practical knowledge is to dictate a conduct of good behavior for the individual, it is considered to be ethical (Akhlaq); if its intention is to direct or manage good conduct for the family, it is extrapolated to be an economic idealism (Iqtissad); and if its goal is manifested

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[6]See for example Taqi Ad-Din A Ibn Taymiyyah, As-Siyasah Ash-Shariayyah. Cairo: Dar AlKitab Al-Arabi, 1969. This book will be discussed later in this chapter; Also for a reference from the Quran, see Sura: Ahzab or The Confederates 33:36; Tauba or Repentance, Baratt or Immunity 9:51; Al Hijr or Rocky Tract 15:5; and Sura: Qamar or The Moon 54:49-52. [In reference to the Sura, the Arabic word for the chapter (of the Quran) is followed by its English translation, the number of the Sura and the number of the verse(s)] See Abdullah Yusuf Ali, The Holy Quran; Text, Translation and Commentary. Washington, D.C.: The Islamic Center (1978).

as an engine for the state as a whole, it is considered to
be within the realm of politics (Siyasah).[7]

The influence of such classification could be easily
traced in the Islamic philosophy (Falsafah) and particularly
in the writings of Al-Farabi and Ibn Sina or Avicenna.[8]
Al-Farabi, for example, distinguishes between the
theoretical philosophy (knowledge of things that cannot be
changed or created) and the practical philosophy (which,
unlike the former, can be created or modified). He also
makes a distinction between ethics and politics and regards
the latter discipline as the master of all sciences. Ibn
Sina, on the other hand, was more influenced by Aristotle
than Al-Farabi. He has divided the sciences (Al-'Ulum) into
theoretical and practical and has subdivided the latter
further into ethics, economics and politics.[9]

Ikhwan As-Safa or the Epistles of the Brethren of
Purity, are a group of anonymous Ismaeli-influenced

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[7]See Kamal Al-Mannoni, "As-Siyasa: Mafhoom" ("Politics:
Conception and Its Development"), Al-Fikr Al-'Arabi, Vol. 22
(September/October 1981), pp. 93-94.

[8]Both scholars will be discussed in detail later in
this chapter. For further study of other political theorists
of Islam, see W. M. Watt, Islamic Political Thought,
Edinburgh: University Press (1968), pp. 104-107.

[9]See K. Al-Mannoni, op. cit., pp. 93-94; also see Fauzi
M. Najjar, "Al-Farabi: The Enumeration of the Sciences", and
Muhsin Mahdi, "Avicenna on the Divisions of the Rational
Sciences," Medieval Political Philosophy, edited by Ralph
Lerner and Muhsin Mahdi, Ithaca: N.Y., Cornell University
Press, 1963, pp. 24-30 and 95-97.

speculative thinkers writing at Basra in the fourth century A.H./tenth century A.D.[10] They, on their part, have identified politics with divinity and have divided it into five prototypes: (1) prophetic politics (As-Siyasah An-Nabawiyyah), which is conducted by prophets and messengers who decree the laws and cure sick souls from corrupt religious rituals; (2) the caliphate politics (As-Siyasah Al-Khilafiyyah or Al-Khalafiyyah): it is a polity that is dealt with by the caliphs (Khalifah, singular or Khulafa, plural) of the prophets who command good and forbid evil; (3) public politics (As-Siyasah Al-Ammah) which means the chieftainship over the populace or the rulership over the groups; (4) private politics (As-Siyasah Al-Khassiyyah) that deals with an extent through which, and in what manner,

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[10]Their full name is Ikhwan As-Safa wa Khillan Al-Wafa. This is the name under which the authors of the famous Rasa-il (Treatises or Epistles) conceal their identity. These fifty or fifty-one studies contain the essence of their neo-Platonic ideas on nature, that is to say "those who are united in the Spiritual City, by the purity of their soul...and the loyalty that flows from this, loyalty to one another, in fact to all men, and perhaps above all to the true Imam." "They aim...at securing man's happiness in this world...[and] securing the happiness of his soul in the next...Purification of the soul must begin with striving after the four virtues: attempting to acquire knowledge; having healthy opinions; acquiring good traits of character; and performing pure deeds and good actions." They also use the names Ikhwanuna (Our Brothers) or Awliyau Allah (The Friends of God). See The Encyclopaedia of Islam, Vol. 3 (1971 edition), pp. 1071-1074; for an excellent essay on the Ikhwan and their identity and content, see Seyyed Hossein Nasr, An Introduction to Islamic Cosmological Doctrines, Cambridge: Harvard University Press (1964), pp. 23-43; also see M. Saeed Sheikh, Studies in Muslim Philosophy. Lahore: Sh. Muhammad Ashraf (1974), pp. 46-59 and 228.

individuals should manage their own internal affairs; and (5) self essence politics (As-Siyasah Adh-Dhatiyyah), whose orbit is signified by one's ability to know oneself in one's conduct and behavior.[11]

Insofar as Ibn Khaldun[12] is concerned, he links politics with human culture ('Umran) which to him means "the totality of conventionalized social habits, institutions and arts."[13] For him, "the selection, organization and understanding of the events of history presuppose a theory of culture; and the implicit adoption of such a theory is more liable to lead to error in judgment than when it is explicitly formulated and examined."[14] This according to Ibn Khaldun will lead to a new science of culture as a tool for understanding and writing history, and subsequently will

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[11]See Seyyed Hossein Nasr, op. cit., pp. 25-106; also see K. Al-Mannoni, op. cit., p. 94.

[12]His full name is Abdul Rahman Abu Said Wali Ad-Din Muhammad Ibn Abi Bakr Muhammad Ibn Al-Hasan Ibn Khaldun (A.H. 732-808/A.D. 1332-1406). He is an Arab historian and sociologist, famous for his masterpiece known as Al-Muqaddimah (An Introduction to History), translated by Franz Rosenthal (three volumes), New YOrk: Pantheon Books (1958). Also see Ibn Khaldun's biography in The Encyclopaedia of Islam (1971) edition), pp. 825-831. His thoughts will be discussed later in this chapter.

[13]Muhsin Mahdi, Ibn Khaldun's Philosophy of History, Chicago: University of Chicago Press, (1971), p. 289.

[14]Ibid.

contribute "to a sound knowledge of historical events which
is necessary for guiding a political community."[15]

B. The Conception of Community (Ummah) and Islam

This chapter will focus on the concept of Ummah as an
organized sociopolitical entity - a people or a community.[16]
It is recognized as the most important of all the social
concepts in Islam. Concurrently, the concept of Ummah as
interpreted by Muslim scholars is also one of the most
complicated and obscure doctrines within Islamic philosophic
thought. It is worth noting however, that the notion of
Ummah as a theoretical construct, in isolation, is one
thing, while its application within an historical continuum
of a social dynamic or reality is another, for it
incorporates its own generalized order, empirical mechanisms
and verifiable causal relationships.

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[15]Ibid. For more analysis on Ibn Khaldun's political
thought, see Hamilton A. R. Gibb, "The Islamic Background of
Ibn Khaldun's Political Theory," Studies on the Civilization
of Islam, edited by Stanford J. Shaw and William R. Polk,
Princeton: Princeton University Press (1962), pp. 166-175.

[16]The word Ummah, as will be explained later, means, in
addition to community, fraternity, brotherhood (Al-Ukhuwwah
or Ikha). In general, it is a community that owes common
cultural and religious allegiance to one of the recognized
scriptures. For more views on the concept of Ummah, see
Abdo A. Elkholy, "The Concept of Community in Islam,"
Islamic Perspectives, edited by Khurshid Ahmad and Zafar I.
Ansari, London: The Islamic Foundation (1979) p. 171-181;
Also see Appendix I (The Constitution of Madinah) article 2.

Furthermore, as this study will show, inasmuch as there exist a number of conflicting views among scholars and philosophers as to what constitutes a definitive, scientific concept of Ummah; nevertheless many scholars continue to maintain an interest in the careful study and examination of Ummah as a theoretical construct in order to develop a more detailed and comprehensive knowledge of its foundation and structural components. This understanding leads then to further clarity concerning the differentiation between its theoretical dynamics and its concrete effects on other social perspectives and values.

The Islamic conception of Ummah in its present compositional structure is an historical one. It was developed during the medieval era of history. The initial focus of this chapter therefore will be to trace this concept from its inception through its various transformations during pivitol moments of Islamic history. A thorough historical understanding of this key concept (Ummah) is necessary in order to understand other concepts of Islam.

It is within Ummah that the proposed world order model will be constructed. And insofar as the study of international relations and world order are concerned, this work will investigate how and to what degree the concept of Ummah will contribute to the peace, stability, equality and freedom of the world today.

The study of the concept, therefore, will proceed as follows: First, the notion of community (Mafhoom Al-Ummah) according to the Holy Quran and the Tradition of Prophet Muhammad (p.b.u.h.) will be thoroughly examined. These are the basic precepts that should be taken into account in any study of ideological problems as they were manifested in medieval Arabic and Islamic as well as in contemporary times. Then the study will be followed by an analysis and a brief survey of major works of Muslim writers and philosophers. Foremost among these is Al-Farabi, who is considered to be the most distinguished metaphysical philosopher of Islam. Al-Farabi studied and wrote extensively on political social thought. Al-Masudi, a contemporary of Al-Farabi, will be reviewed for his pioneer work in establishing a new methodology in the study of universal history. A study of Al-Baghdadi's religious description and Al-Mawardi's political definition and classification of the concepts of Ummah and caliphate (Khilafah) will be included as well as the work of Ash-Shahrastani, a religious thinker who established a new approach to public history and made it a school of thought which had a far reaching intellectual dimension. Al-Ghazali's theory of the caliph (Khalifah) as the symbolic unity of Ummah plus Ibn Khaldun and Ibn Al-Azraq's thoughts on historical sociology, natural authority, and the historical and social theories of Ummah will also be critiqued. Ibn Taymiyyah's conception of

cooperation (Taawun) and the role of the Shariah will be discussed. Also included will be a brief investigation of the work of the following major Orientalists: W. M. Watt, H. A. R. Gibb (d.1971), C. A. Nieuwenhuijze, H. Laoust, Louis Massignon (A.H. 1301-1382/A.D. 1883-1962), and G. E. von Grunebaum (d. 1972). The study will conclude with a summary of the research and will outline the results.

The emphasis of writing here does not primarily represent the development of the concept of Ummah from a chronological point of view, but rather is an approach that attempts to demonstrate the core meaning of the concept and its significance in terms of the various schools of thought in the Islamic era. Furthermore, it should be understood that the notion of Ummah and its ramifications are closely linked with other social factors which determine its function and dimension.

Ummah: The Quran and the Hadith

The study of the Islamic conception of community (Ummah) in the Quran faces various difficulties as is the case in interpreting the writings of the philosophers and historians of the medieval Islamic era. The first of these difficulties is the absence of the specific definition in the Quranic verses as to the notion of Ummah and, because of this absence, the early interpreters (Mufassirin) decided to

treat the subject by using the method of metaphorical

interpretation--hermeneutics or spiritual exegesis

(Ta'weel).[17] This method, however, did not achieve either a

decisive interpretation or a definitive explanation. This

is due partially to a particular expression of the esoteri-

cism (Al-Batin) of the verses (Ayah, singular or Ayat,

plural) of the Quran.[18]

Such being the case, we can conclude, therefore, that

the gate of interpretation (Tafsir or Ijtihad) was and is

not closed, either to religious jurists or to scholars.[19]

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[17]A great Muslim philosopher, Ibn Rushd (Averroes),
defined Ta'weel as "extension of the significance of an
expression from real to metaphorical significance, without
forsaking therein the standard metaphorical practices of
Arabic, such as calling a thing by the name of something
resembling it or a cause or consequence or accompaniment of
it, or other things such as are enumerated in accounts of
the kinds of metaphorical speech." George F. Hourani,
Averroes: On the Harmony of Religion and Philosophy, London:
Messers. Luzac and Co., 1976. p. 23.

[18]See Seyyed Hossein Nasr, "The Meaning and Role of
Philosophy in Islam," Studia Islamica, Vol. 37 (1973), p.
65; also see Ismail R. Al-Faruqi, "Toward a New Methodology
for Quranic Exegesis," Islamic Studies, Vol. 1, No. 1 (March
1962), pp. 35-52.

[19]Wael B. Hallaq, "Was the Gate of Ijtihad Closed?"
International Journal of Middle East Studies, Vol. 16, No. 1
(March 1984), pp. 3-41. Muhammad Iqbal, a Muslim poet and
philosopher, states that "the closing of the door of Ijtihad
is pure fiction suggested partly by the crystallization of
legal thought in Islam, and partly by that intellectual
laziness which, especially in the period of spiritual decay,
turns great thinkers into idols. If some of the later
doctors have upheld this fiction, modern Islam is not bound
by this voluntary surrender of intellectual independence.
Sarakhsi writing in the tenth century of the Hijra rightly
observes: 'If the upholders of this fiction mean that the
previous writers had more facilities, while the later

It is, nonetheless, this approach, among others, that will benefit us theoretically, at least in creating the atmosphere of social awareness and in understanding through scrutinizing the revision of the historicity of the Quranic era.

The word "Ummah" is mentioned sixty four times in the Quran, including the following verses that Muslims frequently repeat in their religious rites and civic affairs: "Ye are the best of peoples, evolved for mankind, enjoining what is right, forbidding what is wrong, and believing in God."[20] "If thy Lord had so willed, He could have made mankind one people but they will not cease to dispute."[21] The Quran also adds, "Verily, this brotherhood of yours is a single brotherhood, and I am your Lord and Cherisher: therefore, serve Me (and no other);"[22] "To every people (was sent) an apostle: when their apostle comes (before them), the matter will be judged between them with

writers had more difficulties in their way, it is nonsense; for it does not require much understanding to see that Ijtihad for later doctors is easier than for the earlier doctors. Indeed the commentaries on the Quran and Sunnah have been compiled and multiplied to such an extent that the Mujtahid of today has more material for interpretation than he needs'" The Reconstruction of Religious Thought in Islam. New Delhi: Kitab Bhavan (1984), p. 178; Also for further details on the principle of Ijtihad and its role as one source of Islamic law see the chapter on Justice and Islamic Jurisprudence in this dissertation.

[20]Sura: Al-i-Imran or The Family of Imran 3:110.

[21]Sura: Hud or The Prophet Hud 11:118.

[22]Sura: Al-Anbiyaa or The Prophets 21:92.

justice, and they will not be wronged."[23] The Quran

continues, "To every people is a term appointed; when their

term is reached, not an hour can they cause a delay, nor (an

hour) can they advance (it in anticipation)."[24]

From this juncture one could affirm the fact that these

verses have not given a specific or limited definition to

the word Ummah; on the contrary, the verses rather entail

many and diversified meanings as they are stated in the

Quran.

It should not be surprising, however, that the common

meaning of certain words is a phenomenon shared and acknow-

ledged by all other languages, though the Arabic language in

a sense is broader in this usage. What then is the real

definition of the word Ummah as prescribed in the Quranic

verses?

Based on the classical interpretation of the verses of

the Quran on the word Ummah, it is verily understood by

Muslim scholars that there exists at least five or six

different definitions or meanings attached to it.[25] Some of

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[23]Sura: Yunus or Jonah 10:47.

[24]Ibid, 10:49.

[25]Some Muslim scholars have given eight different
meanings to the word Ummah. For an insightful review of the
subject see Radhwan Al-Sayyed, Al-Ummah wal-Jamaah was-
Sultah (Community, Group and Authority: Studies in the
Arabic Islamic Political Thought), Beirut: Dar Iqra (1984),
pp. 43-48; also see Ali Issa Othman, The Concept of Man in
Islam in the Writing of Al-Ghazali, Cairo: Dar Al-Maaref
Printing and Publishing House, (1960), pp. 195-196.

these verses are frequently mentioned in the Quranic

chapters while others are of rare occurrence; some signify

the would-be main definition of Ummah and other verses

accrue or derive their interpretation from the general

meaning and thus assume a secondary importance.[26]

The writer shall begin the inquiry into the word Ummah

by dissecting at the outset its first interpretation which

is synonymous with the meaning of time (Waqt) or term/period

(Heen). The Quran explains, "if we delay the penalty for

them for a definite term, they are sure to say: What keeps

it back? Ah! on the day it (actually) reaches them, nothing

will turn it away from them, and they will be completely

encircled by that which they used to mock at!"[27] The Quran

adds on another occasion, "But the man who had been

released, one of the two (who had been in prison) and who

now bethought him after (so long) a space of time, said, 'I

will tell you the Truth of its interpretation: send ye me

(therefor).'"[28]

Second, the word Ummah is interpreted to mean an

individual who embodies all the good and becomes a model for

others (Al-Insan As-Saleh) as the following Quranic verse

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[26]See Nassif Nassar, <u>Mafhoom Al-Ummah</u> <u>Bayna Ad-Din Wat-Tarikh</u> (The Conception of Community Between Religion and History), second edition, Beirut: Dar At-Talieah (1980), p. 15.

[27]Sura: Hud or The Prophet Hud 11:8.

[28]Sura: Yusuf or Joseph 12:45.

indicates: "Abraham was indeed a model, devoutly obedient to God (and) true in faith and he joined not gods with God."[29] Ali Yusuf Ali, in his interpretation of this verse, has stated that Ummah here meant to signify:

> a model, a pattern, example for imitation: but the idea that he was an Ummah in himself, standing alone against his world, should not be lost sight of. The Gospel of Unity has been the cornerstone of spiritual Truth for all time. In this respect Abraham is the model and fountain-head for the world of western Asia and its spiritual descendants all over the world. Abraham was among a people (the Chaldaeans) who worshipped stars and had forsaken the Gospel of Unity. He was among them but not of them...[30]

The third meaning of Ummah connotes the followed path (At-Tariqah Al-Muttabaah) as the Quran has acknowledged: "We found our fathers following a certain religion and we do guide ourselves by their footsteps."[31]

The other common interpretation of the word Ummah is used to identify a group of people. The Quran states: "And when he arrived at the watering (place) in Madyan, he found there a group of men watering (their flocks)..."[32] Moreover, the Quran also adds by saying "When some of them said: Why do ye preach to a people whom God will destroy or visit with

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[29]Sura: Nahl or The Bee 16:120.

[30]Ali Yusuf Ali, The Holy Quran, p. 688.

[31]Sura: Zukhruf or Gold Adornments 43:22.

[32]Sura: Qasas or The Narration 28:23.

a terrible punishment?"[33] Both of these definitions

reaffirm the general Quranic interpretation of the word

Ummah to indicate a group of people. This meaning of Ummah

applies to many verses in the Quran as has been earlier

suggested. The classical interpreters (Al-Mufassirin),

however, have frequently tried to link the previous meaning

with the latter one as the following Quranic verse has

declared:

> Mankind was <u>one single nation</u>, and God sent
> messengers with glad tidings and warnings; and
> with them He sent the Book in truth, to judge
> between people in matters wherein they differed,
> but the People of the Book, after the clear signs
> came to them, did not differ among themselves,
> except through selfish contumacy. God by His
> grace guided the believers to the truth,
> concerning that wherein they differed. For God
> guides whom He will to a path that is straight.[34]

Further, the term Ummah can be explained as a community

owing common religious allegiance to a specific divine

scripture. The Quran explains:

> To every <u>people did We appoint rites (of
> sacrifice)</u>, that they might celebrate the name of
> God over the sustenance He gave them from animals
> (fit for food). But your God is one God: submit
> then your wills to Him (in Islam) and give thou
> the good news to those who humble themselves.[35]

And the Quran adds: "...Thus have We made alluring <u>to each</u>

<u>people</u> its own doings. In the end will they return to their

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[33]Sura: 'Araf or The Heights 7:164.

[34]Sura: Baqara or The Heifer 2:213.

[35]Sura: Hajj or The Pilgrimate 22:34; see also Sura:
Nahl or The Bee 16:36.

Lord, and We shall then tell them the truth of all that they did."[36]

The last definition of Ummah in the Quran is interpreted as indicative of the people who followed Prophet Muhammad (Muhammad's followers, At-ba'au or Ass-habu Muhammad). The Quran has further reasserted that : "Ye are the best of people, evolved for mankind, enjoining what is right, forbidding what is wrong..."[37] When the Prophet once said: "The saved group among the religious groups is one," the Companions (Sahabah) asked: "Oh, Messenger of God, which one?" He said: "The people of the Sunnah and the followers of the Community." They asked "Who are the people of the Sunnah and the followers of the Community?" He said: "Those who follow what I and my Companions abide by."[38]

We now can safely conclude that the term Ummah was meant to signify a community and brotherhood.[39] The

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[36]Sura: An'am or Cattle 6:108. A. Y. Ali adds in his commentary the following, "The task before the man of God is: (1) to use any of these which can subserve the higher ends; (2) to purify such as have been misused; (3) to introduce new ideas and modes of looking at things; and (4) to combat what is wrong and cannot be mended. All for the purpose of leading to the truth and gradually letting in spiritual light when there was darkness before," The Holy Quran, p. 321.

[37]Sura: Al-i-Imran or The Family of Imran 3:110.

[38]Ali Issa Othman, The Concept of Man in Islam in the Writings of Al-Ghazali, op. cit., p. 213.

[39]For detail see, for example, Frederick Denny "Community and Salvation: The Meaning of the Ummah in the

expression of a single faith (Ummah Wahida), as illustrated in this verse, "Verily, this brotherhood of yours is a single brotherhood, and I am your Lord and Cherisher, therefore serve Me (and no other);"[40] or midmost community (Ummah Wasat or Westa) as the Quran explains, "Thus have We made of you an Ummah justly balanced, that ye might be witnesses over other nations, and the Apostle a witness over yourselves;"[41] or submissive community (Ummah Muslimah), "Our Lord," states the Quran, "make of us Muslims, bowing to Thy (Will), and of our progeny a people Muslim, bowing to Thy (Will), and show us our places for the celebration of (due) rites, and turn unto us (in mercy) for Thou art the Oft-Returning, Most Merciful."[42] All of these expressions, therefore, "clearly bring out the origin, ideological orientation and character of the community."[43]

It is noteworthy here to indicate that the Islamic community (Al-Ummah Al-Islamiyyah) with its sense of unity (Wehda) and solidarity (Tadhamun) is not only so entrenched in the Quran but also in the traditions (Ahadith, plural of

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Quran" (unpublished doctoral dissertation, University of Chicago, 1974).

[40]Sura: Anbiyaa or The Prophets 21:92.

[41]Sura: Baqara or The Heifer 2:143.

[42]Sura: Baqara or The Heifer 2:128.

[43]Manzooruddin, Ahmed, "Umma: The Idea of a Universal Community," Islamic Studies, Vol. XIV, No. 1 (Spring 1975), p. 27.

Hadith) and sayings of the Prophet Muhammad. Take, for example, the following Hadith of the Prophet Muhammad: "The Muslims in their mutual affection and mercy should be as a single body: if one member is affected, the other members suffer fever and sleeplessness." The Prophet also adds, "One believer is to another like the parts of one structure, each strengthening the others."[44]

All these usages emphasize the spiritual interdependence (Ar-Ribatt Al-'Aqaidi) of the various conditions which shape the human species.

> The theoretical foundations of the Ummah were provided by the Islamic theory of monotheism (Tawhid). The expressions 'Ummah Muslima' and 'Ummah Wahida' clearly imply that Islam (submission, surrender) and unity (Wehda) are the two most important foundations of the Ummah and both of these concepts are theoretically interrelated.[45]

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[44]These sayings of the Prophet are quoted in Themes of Islamic Civilization, edited by John Alden Williams, Berkeley: University of California Press (1971), p. 17. Also in this book one finds a survey of different perspectives on community, pp. 7-55.

[45]Manzooruddin Ahmed, "Umma: The Idea of a Universal Community," op. cit., pp. 27-28. A discussion of the relation between the Islamic community and other communities will follow in the next chapters.

The Intellectuals and the Concept of Ummah:

Review of the Literature

(a). The Muslim Scholars

Al-Farabi

Abu Nasr Al-Farabi is celebrated as one of the best commentators on Aristotle, which won him the name of the Second Master (Al-Muallim Ath-Thani).[46] He is the greatest philosopher of Islam before Ibn Sina or Avicenna[47] and is regarded as the founder of political philosophy in Islam "if by political philosophy is understood the philosophic concern about political life and its relevance to human happiness and perfection."[48]

According to Al-Farabi, the city community is part of Ummah and Ummah is divided into cities. The principle of

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[46]His full name is Muhammad Ibn Muhammad Ibn Tarkhan Abu Nasr Al-Farabi (A.D. 870-950). For a biography, see The Encyclopaedia of Islam (1913 edition), p. 53; R. Lerner and M. Mahdi, Medieval Political Philosophy, op. cit., pp. 22-23.

[47]He is Abu Ali Hussein Ibn Abdullah Ibn Al-Hasan Ibn Sina (A.H. 370-428/A.D. 980-1037). For reference, see The Encyclopaedia of Islam (1970 edition), p. 941.

[48]Fauzi M. Najjar, "Farabi's Political Philosophy and Shiism," Studia Islamica, Vol. XIV (1961), p. 57. For further views on Al-Farabi's political science and jurisprudence, see R. Lerner and M. Mahdi, op. cit., pp. 24-30; Also see M. Saeed Sheikh, Studies in Muslim Philosophy, op. cit., pp. 82-96, 229.

cooperation (Taawun) is essential in these cities in order to achieve a virtuous, perfect and happy community.[49] The Ummah, therefore, in which cooperation exists and is prevalent among its cities for the purpose of happiness is the virtuous Ummah (Al-Ummah Al-Fadhilah).

Al-Farabi defines Al-Maamorah Al-Fadhilah as the one which is composed of the whole universe; hence, Al-Maamorah represents the virtuous communities (Al-Umam Al-Fadhilah). He also spoke of the ignorant ones (Al-Umam Al-Jahilah). In short, from the writings of Al-Farabi, one may conclude that he used the term Ummah in its social context and not strictly in its Islamic religious meaning.[50] He believed that Ummah can be explained as a particular group of people while Millah (Millat) is used to denote specific opinions and actions drawn from past experience in the life of a particular group.[51] For Al-Farabi therefore, Ummah connotes the one that was virtuous regardless of the number of Millahs (Milal)[52]

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[49]The goals of cooperation of this school of thought are different from that of Ibn Taymiyyah, as will be seen in this as well as later chapters.

[50]Nassif Nassar, Mafhoom Al-Ummah [The Concept of Ummah], op. cit., p. 38.

[51]Millah in Arabic could mean sect; in Persian Millat means people.

[52]Nassif Nassar, Mafhoom Al-Ummah, op cit., pp. 41-53. For additional study of Al-Farabi's work, see Robert Hammond, The Philosophy of Al-Farabi and Its Influence on Medieval Thought, New York: The Hobson Book Press (1947); R.

Al-Masudi

Abul Hasan Al-Masudi, one of the most distinguished historians of the medieval era, is considered by Muslim scholars to be more of a historian and a geogeapher than a social thinker.[53] Nevertheless, it is evident to most knowledgeable scholars that a true history, as a bundle of chronicles or narrative record of societal events of the past, indedd has a considerable impact on the writings of social intellectuals as well as on those learned individuals who are directly concerned with the historical events in their societies. Concurrently, it should also be assumed in some way that this aspect of history exerts a very significant influence on society as a whole. This gradual social movement of history, on the basis of available records, allows us to better understand the different societies which possess diversified societal principles and rules that are eventually transformed into social theories,

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Lerner and M. Mahdi, Medieval Political Philosophy, op. cit., pp. 22-94; D. M. Dunlop (editor), Al-Farabi: Fusul Al-Madani: Aphorisms of the Stateman, Cambridge: University Press (1961)); and N. Rescher, Al-Farabi: An Annotated Bibliography, Pittsburgh: University of Pittsburgh Press (1962). Also for a detailed study on the concept of community by Al-Farabi as well as other great Muslim scholars like Ibn Sina (Avicenna) and Ibn Rushd (Averroes) see J. A. Tagavi," A Comparative Analysis of Community in Western and Islamic Political Thought," [unpublished doctoral dissertation, Rutgers, The State University of New Jersey, (1980)] p. 234-339.

[53]His full name is Abul Hasan Ali Ibn Al-Hussein Ibn Ali Al-Masudi Ash-Shafi'i (d. A.D. 956 or 957). For a biography, see The Encyclopaedia of Islam (1913 edition), pp. 403-404.

and thereafter present us with a knowledge of laws to be
used by scholars to better evaluate real historical value
(i.e. world historical outlook).[54] Thus Al-Masudi's
historical records, in the light of the view cited above in
relation to the impact of historians on a society, are very
relevant to the world viewpoint or outlook of Islam.[55]

For Al-Masudi history is:

> a branch of knowledge enjoyed by both scholars and
> ignorant persons and relished by both the stupid
> and the intelligent. Everything remarkable
> becomes known through history. Every marvel
> achieves appreciation through it. Noble and
> sublime character qualities are derived from it.
> (Our) knowledge of the political wisdom of kings
> and others is based on it. History collects for
> you (information on) the first and the last (of
> persons and things); insufficiency and abundance,
> nomadic life and city life, (persons and)things
> of the present and of the past. Many judgments
> (regarding the moral and legal character of
> things) are based upon history. The knowledge of
> it is considered an asset in any gathering and
> station.[56]

He further adds that his incentive to write history (Tarikh)
and world events (Akhbar or Ahdath) was "the desire to
follow the aim aspired to and followed after by scholars and

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[54]See Nassif Nassar, Mafhoom Al-Ummah [The Concept of
Ummah], op. cit., p. 56.

[55]For an analysis of a Muslim worldview see, for
example, see W. M. Watt, Islamic Political Thought, op.
cit., p. 67-73; Also for a world perspective as related to
the concept of Ummah see Watt and H. Gibb in this chapter.

[56]Franz Rosenthal, A History of Muslim Historiography,
second edition, Leiden: E. J. Brill (1968), p. 290.

sages, and the wish to leave in the world a praiseworthy memory and ready, well-arranged knowledge."[57]

The two most important books of Al-Masudi are the following: First, Muruj Ad-Dhahab Wa Maadin Al-Jawhar [Meadows of Gold and Mines of Gems] in which he tells the story of the creation of the world followed by a physical description of the earth.[58] The second book is entitled Kitab At-Tanbih Wa Al-Ishraf [Book of Indication and Revision] and it makes constant reference to the other six parts of his work on history.[59] Nassif Nassar summarizes the works of Al-Masudi in four parts: the first includes the events of past nations and great kingdoms; the second deals with natural and human geography; the third treats issues of politics and religion from an historical viewpoint; and the fourth evolves around the Islamic era of universal history.[60]

Moreover, a brief summary of Al-Masudi's work has demonstrated that he did not limit his writing solely to the

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[57]Ibid, pp. 290-291. Some scholars consider Al-Masudi as the characteristic representative of the universal cultural interpretation of history. See ibid, p. 136.

[58]Ibid, pp. 108-136; This books's title is also translated as Prairies of Gold and Mines of Previous Stones.

[59]For the total of 36 works by Al-Masudi, see Tarif Khalidi, "Masudi's lost Works: A Reconstruction of Their Content," Journal of the American Oriental Society, Vol. 94, No. 1 (January-March 1974), p. 36.

[60]Nassif Nassar, Mafhoom Al-Ummah [The Concept of Ummah], op. cit., pp. 62-63.

narrow perspective of religion which sees history only from the perspective of divine will, nor did he look at history from the sectarian national outlook which traces historical events to the division of humankind into conflicting or disputing and different nations. On the other hand, one can easily discover in his work that organized religions, and especially Islam, show a tangible impact on humanity, especially in his treatment of the Islamic period.[61]

Abul Hasan Al-Masudi used the term Ummah in its historical-social context and that Millah (Millat) and religion (Dien) are identical in his writings. Therefore, according to him, it is possible for an Ummah to have a Millah and by the same token an Ummah can exist without a Millah to which Al-Masudi refers as an ignorant Ummah (Al-Ummah Al-Jahiliyyah or Al-Jahilah).[62]

In his book At-Tanbih Wa Al-Ishraf, for example, he divides the world into seven major groups (communities): (1) Persians; (2) Chaldeans, Syrians; (3) Greeks, Romans, Franks; (4) Egyptians and North Africans; (5) Turks; (6) Indians, Sinds; and (7) Chinese. Al-Jahidh and At-Tawhidi,

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[61]Ibid, p. 67.

[62]Ibid, PP. 67-68. It is interesting to note that the term ignorance or Jahiliyyah has been repeated four times in the Quran. It also mentions the ignorant regime or rule as the following verse explains: "Do they then seek after a judgment of (the days of) ignorance? But who for a people whose faith is assured can give better judgment than God." Sura: Maida or The Table Spread 5:53.

distinguished writers of the time, divide the world
communities, for their part into four: Persians, Romans,
Indians, and Arabs.[63]

It is possible to say that the criterion that Al-Masudi
uses in dividing these communities is based on the unity of
Ummah and its formation manifested in the language (Lughah
or Lisan) plus the political unity in terms of natural
behavior and dignified character (Mizat Al-Karama). Hence,
in order to comprehend Al-Masudi's conception of Ummah, one
has to understand the following two components: one is
natural manner or behavior (Ash-Shiyam or Al-Khuluq
At-Tabieayyah) and the second is the environment (Bee-ah) or
Al-Maskan, in Al-Masudi's phraseology; it includes the
descent (Nasab) and common resources (Al-Mulk Al-Wahid or
Al-Mawarid Al-Mushtarakah Al-Wahida).[64]

Consequently, he does not perceive political unity as a
necessity in forming an Ummah, but rather sees it as one
that makes it victorious and distinguished among other
communities (Umam). Here, Al-Masudi puts more emphasis on
descent, natural character, and environment (in this

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[63]Nassif Nassar, Mafhoom Al-Ummah (The Concept of
Ummah), op. cit., pp. 70-71.

[64]Nassif Nassar, "Mafhoom Al-Ummah fi Nadhrat Al-Masudi
Ila At-Tarikh" (The Conception of Ummah in Al-Masudi's view
of History) Dirasat Arabiyyah, Vol. 14, No. 3 (January
1978), p. 50.

context, meaning the community resources) as preconditions
of great importance in creating a new Ummah.[65]

Al-Baghdadi and Al-Mawardi

Abdul Qahir Abu Mansur Al-Baghdadi and Abul Hasan Ali
Al-Mawardi are two celebrated scholars of the first half of
the 11th century.[66] This means that they lived during the
domination of the Shiite Buwahids over the Abbasid caliphate
in Baghdad (A.D. 945-1055) and the beginning of the rule of
the Fatimids (who also did not subscribe to the Sunni
doctrine) first in Northwest Africa and then expanded into
Egypt and Syria (Ash-Sham) (A.H. 297-567/A.D. 909-1171). On
the other hand, they witnessed the increased fragmentation
of the Western frontier, namely, the Andalusian and North
African provinces. These circumstances undoubtedly
influenced the direction of their thoughts.

It is not unusual, therefore, to find that their
perception of Ummah corresponds with a more religious
orientation, away from the horizon of social and historical
thought. The Islamic community in their time was not a

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[65]Ibid. Also refer to Tarif Khalidi, Islamic
Historiography: The History of Al-Masudi, Albany: State
University of New York Press (1975), p. 89.

[66]The first scholar's full name is Abdul Qahir Ibn
Tahir Muhammad Ibn Abdullah Abu Mansur Al-Baghdadi (d. A.H.
429/A.D. 1037); the second one is Abul Hasan Ali Ibn
Muhammad Ibn Habib Al-Mawardi (A.H. 364-450/A.D. 972-1058).
Both are Shafii scholars (Fuqaha). See The Encyclopaedia of
Islam (1913 edition), pp. 416,570.

community dominated or ruled by one leader in one land. It was rather divided on both ideological and political levels.

One of the most distinguished works of Al-Baghdadi is his book Al-Farq bayna Al-Firaq [The Difference between Sects]. It "takes each sect separately, judges all from the standpoint of orthodoxy and condemns all which deviate from the straight path. It is not a plain tale of facts, like Shahrastani's Kitab Al-Milal Wa An-Nihal, but a polemic."[67]

In this book Al-Baghdadi lays down the conditions of membership in the Islamic community. These conditions are ideological in general making the majority Sunni Muslims the topmost position of the community followed by the rest of the community. His sole aim was to build a community that belongs to the true Islam and hence create a harmonious atmosphere surrounding the Abbasid caliphate. This unity of faith (Aqidah), however, was not enough to unify the Sunni peoples and other groups as one community under one caliph in one territory.[68] So what can be done and how can members of the Sunni sect be unified under such circumstances? Moreover, can such political unity ever be formalized or achieved under realistic terms? Al-Baghdadi did provide answers to those questions in the affirmative based on the

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[67]See The Encyclopaedia of Islam (1971 edition), p. 909.

[68]See Nassif Nassar, Mafhoom Al-Ummah [The Concept of Ummah between Religion and History], op. cit. p. 92.

following premises: first, by following the precepts of the first generation of Muslims (As-Salaf As-Saleh) and, second, by pursuing the pragmatism of the day (Al-Waqiea).[69] Al-Baghdadi held a similar view as that of the Sunni scholars of thought who preceded him insofar as the issue of the caliphate was concerned, but he added one important and very specific point of view, i.e., the permission to disregard the sole leadership role of only one imam or leader. This decision, with some reservations, was meant to try and bridge the gap in order to accomodate the tension (or bipolarity) which existed between the principle and reality or between theory and practice. It was to be used as an outlet or escape to give a legitimate existence to a traumatic situation. Needless to say, giving such permission (to the Muslim community at that time) would have entailed opening the door for other separatist and secessionist movements to deviate from the authority of the central caliphate and thereby increase the already weakened and severely fragmented unity. Thus, the logical question that we are obliged to address ourselves under the circumstances should be as follows: how can we objectively analyze this unity of the Muslims while conversely trying to theoretically uphold and protect their political unity, especially when we take into account that the existing

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[69]Ibid, p. 93. The literal meaning of Salafiyyah or As-Salaf As-Saleh is venerable ancestors.

situation is one of continuous division and crushing defeat

for the Abbasid power?

Professor Manzooruddin Ahmed presents Al-Mawardi's

clarification of the situation as follows:

> Al-Mawardi, the classical exponent of the ideal
> theory of the Khilafah emphasized the indivisible,
> universal and divine character of the ummah by
> maintaining that the institution of Khilafah was a
> canonical rather than merely rational necessity,
> and that there could not be more than one Khalifah
> at the same time, and also that the establishment
> of the Khilafah in all ages by most of the Ashari
> jurists like Al-Baghdadi, Abu Yala and Abu Yusuf.
> For all these Sunni jurists, the communal unity of
> the ummah was ultimately dependent upon the
> political unity. The idea of anarchy for them was
> an anathema and for this simple reason they were
> willing to compromise with the political realities
> of their own times in order to maintain the myth
> of legal and political unity.[70]

> It is apparent, therefore, that these jurists

> would legitimize the institution of sultanate,
> despotism and even tyranny. Al-Mawardi was
> confronted with such a situation [because] during
> his times the focus had shifted from the Khalifah
> to the amir as the center of secular authority
> and, therefore, he justified the exercise of
> authority by the amir so long as he recognized the
> de jure sovereignty of the Khalifah.[71]

Al-Mawardi's most celebrated and scholarly work, Al-

Ahkam As-Sultaniyyah [The Ordinances of Government], deals

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[70]"Ummah: The Idea of a Universal Community," op. cit.,
p. 37.

[71]Ibid, p. 38; see also Hamilton A. R. Gibb,
"Al-Mawardi's Theory of the Caliphate," Studies on the
Civilization of Islam, op. cit., pp. 162-164.

primarily with constitutional law.[72] He places the imamate
or the caliphate as of utmost necessity to both religion and
community (Dien-wa-Ummah). He further indicates that the
two essential duties of the caliphate are safeguarding the
application of law (Shariah) and regulating the interests
(Massaleh) of the affairs of the community.[73] According to
Nassif Nassar, Al-Mawardi does not specify clearly the
essentials of the Ummah and by the same token does not
distinguish it from Millah as an ideological doctrine, faith
or belief. Al-Mawardi stresses that the first responsi-
bility of the caliph (Khalifah) is securing religion which
means keeping within and protecting the faith as well as
standing with and supporting what scholars or jurists have
agreed upon in the past.[74]

Some scholars consider Al-Mawardi's works and
especially Al-Ahkam as a sign or an attempt to renew the
historical picture of unity of the Islamic community; it
also tries to explain the immense need for an understanding
of the then existing reality of divided community, at least
theoretically. He was characterized as being the "de facto

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[72]Abul Hasan Ali M. Al-Mawardi, Al-Ahkam As-Sultaniyyah
Wa Al-Wilayatu Ad-Diniyyah (The Ordinances of Government;
Les Constitutions Politiques). Cairo: Al-Halabi, 1966.

[73]On the principle of massalah (singular of massaleh or
public good) see the chapter on Justice and Islamic
Jurisprudence in this study.

[74]Nassif Nassar, Mafhoom Al-Ummah (The Concept of
Ummah), op. cit., p. 96.

philosopher." The methodology upon which he was dependent was that of creating specific political concepts that could be secured between the concept of central authority of the caliph and the concept of mandate rulers in Islamic lands, in other words, the de jure authority or command of the caliph versus the de facto rule of the ruler.[75]

Al-Mawardi, seeing which way the wind was blowing, adopted two theories. They are based on distinctive characters between prescribed mandate (Tafweedh) and executive autonomy (Tanfeed). The latter one could be explained as the authorization or the vesting of power to deputies who would then take care of the affairs of the community in the principalities or provinces. These deputies (Amir, singular; Umara, plural), according to Al-Mawardi, are those who are endowed with "general jurisdictions over special duties." This makes the structure of power resemble a vertical shape leaving the caliph as the head and bringing the rest of the deputies under his umbrella. The prescribed mandate (Tafweedh), on the other hand, is the power that is seized by force without the consent of the caliph.

For this purpose, Al-Mawardi makes a distinction between two kinds of authority: one he calls Imarat Istikfa-a, that which entails the performing of a special

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[75]Ibid., p. 94.

duty or task -- the writer will call it "rule of adequacy" or "rule of limited sufficiency;" the other kind of authority as described by Al-Mawardi is the Imarat Istiela-a, i.e., the seizure of power by force or, in other words, conquest -- the writer will call it "rule by seizure."[76]

The former type of authority does not provide any special problem since it is included under the jurisdiction and command of the legitimate caliph, and since the deputies are appointed by him, they are therefore subject to dismissal. Unlike the former, the latter type of authority raises the problem of relations with the caliph: the symbol of unity of Ummah and the ruler who is able to disengage from the central administration and thereby appoint himself as the legitimate governor over a specific territory.[77]

In the face of this dilemma, Al-Mawardi sees that the best solution to this issue is to have a compromise (Tasweyah) between the concerned; here the Khalifah permits the ruler to rule implicitly as part of his extended authority (i.e., codes of morality) and in response to this recognition the ruler explicitly acknowledges the status of

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[76]For details on the significance of the 'Amirate by Seizure' see H. A. R. Gibb, "Al-Mawardi's Theory of the Caliphate." op. cit., pp. 162-164.

[77]Further explanation of these two theories is provided in the chapter on Equality and Islamic Doctrine in this study.

caliphate and manifests the religious loyalty and obedience.[78]

Consequently, after reviewing both of these scholars, i.e., Al-Baghdadi and Al-Mawardi, one can state that their perception of Ummah stems from an immensely debated argument that has risen between the spirit of religion and the lure of politics, between the integrity of faith and the unity of land. Al-Baghdadi believes in the unity of the land for all the Sunni sects, plus the other groups. He however does not accept other jurisdiction except in a compelling situation. Al-Mawardi, for his part, proposes a formula for unity, at least on the political landscape, that joins theoretically between the unity of leadership (Zaamah-Qiyadah) and other centers of administration.

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[78]N. Nassar., Mafhoom Al-Ummah, op cit., pp. 98-99. Dr. Nassar emphasizes that this theory is not a creation of Al-Mawardi in its totality because it was discussed among the defenders of imamate and caliphate before him, including Judge or Qudi Abdul Jabbar Ibn Ahmad Al-Asad Abadi Al-Muatazili; see Al-Mughanna: Kitab Al-Imamah [The Book of Imamate], Cairo: Ad-Dar Al-Massriyyah n.d., p. 245. Al-Mawardi was, however, the first to speak of the concept of Amarat Al-Istiela-a or rule by seizure. It was a way of finding a new formula of uniting the Islamic community politically after it became difficult to keep the old concept of unity in addition to the inability to use military power to restore the old order. It is interesting to note that this theory resembles what is called today the federation vs. the confederation of states in international relations and political science. Professor Radhwan As-Sayyed discussed the above and was cited by Nassif Nassar in his book Mafhoom Al-Ummah (The Concept of Ummah), op. cit., p. 100.

Ash-Shahrastani

Abul Fat-h Ash-Shahrastani is one of the principal historians of religious studies in the Middle ages.[79] He wrote several books, the most distinguished and famous being Kitab Al-Milal Wa An-Nihal [Book of Religions and Philosophical Sects]. This work, written in A.H. 521 or A.D. 1127, is considered by many scholars to be one of the few books that has treated the issues of religions and sects in a fashion of historical objectivity and with a comprehensive knowledge and understanding of the issues before and during the Islamic era.[80]

This book is judged as such because earlier books were either written particularly for a certain group of scholars or comprehensively as a reponse to the belief or philosophical argument that has been considered to be

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[79]His full name is Abul Fat-h Muhammad Ibn Abd Al-Karim Ash-Shahrastani (d. A.H. 548/A.D. 1153).

[80]See The Encyclopaedia of Islam (1913 edition), pp. 263-264; his other important works include: Nihayat Al-Iqdam fi Ilm Al-Kalam, a book of speculative theology, and another on metaphysics entitled Musanaat Al-Falasifah. It is interesting to note that both Ash-Shahrastani and Ali Ibn Ahmad Ibn Hazm (d. A.H. 456/A.D. 1064) called their works Kitab Al-Fasl fi Al-Milal Wa An-Nihal [Book of Philosophic and Religious Sects]. It is called by Sir Hamilton Gibb "the first work on Comparative Religion." See Ilse Lichtenstadter, Introduction to Classical Arabic Literature, New York: Schocken Books (1976), pp. 88-89.

contradictory to the teaching of Quranic precepts or for that matter an interpretation of a specific issue.[81]

As far as the concept of Ummah is concerned, Ash-Shahrastani distinguishes between (1) Ummah and Millah; and (2) Millah and Nihlah (singular of Nihal). From reviewing <u>Kitab Al-Milal</u> one can state that this division follows from the path of historical and social comprehension rather than from a religious conception. Al-Millah, according to him, for example, is the acquisition of subsistence (livelihood) and the preparation for the Day.[82] Millah, therefore, is a disciplined group that is based on these two ends. Ash-Shahrastani, however, does not make this distinction in the book under study which simply means that he uses the term Ummah in its religious connotation.[83]

It is clear that Ash-Shahrastani's usage of the concept of Ummah has not reached the level of intellectual maturity compared with other scholars, notably Al-Farabi and Al-Masudi in their efforts to explain the difference between these two concepts.

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[81]See Nassif Nassar, "Al-Millah wal-Ummah' Inda Ash-Shahrastani" [The Sect and the Ummah in the Opinion of Ash-Shahrastani], <u>Dirasat Arabiyyah</u>, Vol 14, No. 6 (April 1978), p. 24.

[82]The Arabic translation is: Al-Millah hiya tahssil al-maash wa al-istieadad lil miaad.

[83]See Nassif Nassar, "Al-Millah wal-Ummah' Inda Ash-Shahrastani," op. cit., p. 26.

The history of the conception of Ummah did not cease however, with Ash-Shahrastani's work. Moreover, it did not follow the Quranic line and surrender to it, as was the case since the eleventh century.[84] Given this background of religious framework, a great debate has taken place with the coming of the great scholar, Abu Hamid Al-Ghazali.[85] During his age,

> the authority of the Khalifah was either ceremonial or at best nominal, and the sultan had emerged as [the] politically dominant factor within the ummah. Therefore, in order to maintain the myth of the unity of ummah, he was obliged to rationalize the myth of the Khalifah as a symbol of the unity of the ummah and at the same time to justify the secular monarchy of his masters. In order to achieve this he developed a theory of division of functions according to which the basic functions of the Khalifah could be performed by his wazirs and amirs.[86]

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[84]Ibid., p. 32.

[85]His full name if Abu Hamid Muhammad Ibn Muhammad At-Tusi Ash-Shafii Al-Ghazali (A.H. 450-505/A.D. 1058-1111). See The Encyclopaedia of Islam (1913 edition), pp. 146-147. He believed that the basis of all religious certainty was ecstatic experience.

[86]Manzooruddin Ahmed, "Ummah: The Idea of a Universal Community," op. cit., p. 38; Also see E. I. J. Rosenthal, Political Thought in Medieval Islam, Cambridge: University Press, (1962) p. 39; "Some Consideration on the Sunni Theory of the Caliphate." Studies on the Civilization of Islam by Hamilton A. R. Gibb, op. cit., pp. 142-132; Ali Issa Othman, The Concept of Man in the Writing of Al-Ghazali, op cit., pp. 191-196. H. A. R. Gibb has called Al-Ghazali "a man who stands on a level with Augustine and Luther in religious insights and intellectual vigour," Islam: A Historical Survey, Oxford: Oxford University Press, 1984) p. 94; For a biography and the role of Al-Ghazali in Islamic philosophic and political thought see M. Saeed Sheikh, Studies in Muslim Philosophy, op cit., pp. 125-173 and 230-232.

This resulted in a significant new dimension in the analysis and also helped in shaping the scholarly works in new directions.

Ibn Taymiyyah

Ibn Taymiyyah[87] points out that the admission and the Muslim profession of faith (Shahadah) requires the complete and absolute obedience to God and His Messenger, but he does not limit the number of leaders (Imams or A-immah) to whom obedience is owed.

> ...He regards the Muslim community (Ummah) as a natural confederation of states. Every imam is at once the proxy (Wakeel), guardian (Wali) and partner [Shareek] of those whom he administers, and therefore his mission is to construct and instill respect for the system of orders and prohibitions which, within the framework of the revealed Law according to the circumstances, is to govern the various areas of the life of the community.
>
> Furthermore, each member of the community has the duty and the right to give advice [Nassihah], within the limits of his competence, to his brothers in religion and hence to ordain good and forbid evil, striving to avoid anything which could endanger the solidarity of the Believers and divide the community.[88]

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[87]His complete name is Taqi Ad-Din Abu Al-Abbas Ahmad Ibn Adbul Halim Ibn Taymiyyah, born at Harran on 10 Rabi' I 661/22 January 1263 and died at Damascus on 20 Dhu'l-Qi'ada 728/26 September 1328. He belongs to the Hanbali school of law and became one of its most distinguished theologians and juriconsults.

[88]H. Laoust, The Encyclopaedia of Islam (1970 edition), p. 954.

Therefore, Ibn Taymiyyah, as a theologian and jurist (Faqih or 'Alim), writes in his work, <u>As-Siyasah Ash-Shari'ayyah</u> [The Juridical Policy] that the establishment of the state is a sacred duty and based on both reason and tradition.[89]

He considers religion and the state to be indissolubly linked:

> Without the coercive power [Shawkah] of the state, religion is in danger. Without the discipline of the revealed Law, the state becomes a tyrannical organization. The essential function of the state is to see that justice ('Adl) prevails, to ordain good [Amr Bilmaroof] and to forbid evil [Nah-i An-il Munkar], to bring about, in reality, the reign of unity [Tahqiq At-Tawhid], and to prepare for the coming of a society devoted to the service of God [Ibadah].[90]

And hence the idea of caliphate (Khilafah) arises here.

> For him any specific form of Khilafah was not relevant so long as there was an authority to enforce the Shariah. He emphasized the concept of cooperation [Taawun] between the ruler (Imam) and the wielders of power [Ahl Ash-Shawkah] who were composed of the scholars ['Ulama] and the state functionaires [Umara] and dominant classes...[91]

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[89]Op. cit., pp. 161-168. His other major works include <u>Mihaj As-Sunnah</u> [Method of Traditions] and <u>Majmu Fatawa</u> or <u>Majmmuat At-Tafsir</u> [Collection of Religious Decisions].

[90]H. Laoust, <u>The Encyclopaedia of Islam</u>, op. cit., p. 954..

[91]See Manzooruddin Ahmed, "Umma: The Idea of a Universal Community," op. cit., p. 38. Also for further study on Ibn Taymiyyah's political thoughts, see Khalid Jindan, "The Islamic Theory of Government According to Ibn Taymiyyah," (unpublished doctoral dissertation, Georgetown University 1979).

Ibn Khaldun

Ibn Khaldun's main work of universal value is the Introduction (Al-Muqaddimah).[92] "It is presented as an encyclopaedic synthesis of the methodological and cultural knowledge necessary to enable the historian to produce a truly scientific work."[93]

Al-Muqaddimah is divided into six long chapters. The first chapter deals with human society in general; it describes how the environment (Bee-ah) influences human nature. It is followed by a chapter on the societies of rural and relatively primitive civilizations (Al-Umran Al-Badawi). The third chapter analyzes the different forms of government and institutions. The societies of urban

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[92]For a brief biography of Ibn Khaldun see Politics in Islam discussed earlier in this chapter. See also "Ibn Khaldun" by Muhsin Mahdi, International Encyclopaedia of the Social Sciences edited by David Sills and others, Vol. 7. New York: Crowell Collier and MacMillan, Inc. (1968), pp. 53-57; M. Saeed Sheikh, Studies in Muslim Philosophy, op cit., pp. 205-222 and 234.

[93]See comments by M. Talbi in The Encyclopaedia of Islam (1971 edition), p. 829. Talbi states that Ibn Khaldun "begins by defining history--which he expands to include the study of the whole of the human past, including its social, economic, and cultural aspects--defining its interest, denouncing the lack of curiosity and of method of his predecessors, and setting out the rules of good and sound criticism. This criticism is based essentially, apart from the examination of evidence, on the criterion of conformity with reality, [Qanun Al-Mutabaqah] that is, of the probability of the facts reported and their conformity to the nature of things, which is the same as the current of history and of its evolution. Hence, the necessity of bringing to light the laws which determine the direction of this current..."

civilization of what he calls (Al-Umran Al-Hadhari) is

discussed in the fourth chapter; they are the most developed

and refined forms of civilization. Chapter five treats in

general industrial matters and economic affairs, and the

final chapter deals with the various kinds of sciences,

scholarship, literature, and cultural aspects.

> The central point around which his [Ibn Khaldun's]
> observations are built and to which his researches
> are directed is the study of the etiology of
> decline, that is to say the symp-toms and the
> nature of the ills from which civilizations die.[94]

Ibn Khaldun starts his discussion of human civilization

(Al-Umran Al-Bashari) with two concepts: generation (Jeel)

and community (Ummah). He does not, however, clearly

identify the different meanings between them. On occasion,

he defines Jeel or generation in terms of a specific unit of

time marked by the average of a person's age, usually 40

years. He illustrates the age of state or civilization, for

that matter, with three generations. The other meaning of

Jeel is closely identified with group (Jamaah) and with

community or Ummah in general. He also uses the terms Jeel,

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[94]Ibid. Also see Y. Lacoste who writes, "If Thucydides
is the inventor of history, Ibn Khaldun introduces history
as a science." Ibn Khaldoun, Naissance de l'Histoire, Passe
du Tiers-Monde, Paris: Francois Maspero (1969), p. 187.

Jamaah, Shaab (people), Ummah, and Irq[95] (blood-related ancestors) interchangeably.[96]

Ibn Khaldun spoke of three types of politics in Al-Muqaddimah. The first type he identifies as the natural rule or governance (Al-Mulk At-Tabieai). It

> is based on natural solidarity alone which is used by the ruler to further his own purposes and satisfy his own lower impulses. Paramount among these are his choleric desires which dominate the state. The ruled are oppressed and used merely as instruments to satisfy these desires. The ruler has ended the state of war among his subjects and checked their lower impulses for the sole purpose of waging a war against them and giving free rein to his own lower impulses...[97]

The second type Ibn Khaldun calls the rational politics or regimes (As-Siyasah Al-'Aqliyyah) which

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

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[95]Irq literally means vein; it means here the blood-related groups like relatives or people with common ethnic or biological reference.

[96]Nassif Nassar, Mafhoom Al-Ummah, op. cit., p. 129-130; in this connection Ibn Khaldun states: "The differences which are seen between the generations (Ajyal) in their behavior are only the expression of the differences which separate them in their economic way of life" M. Talbi, The Encyclopaedia of Islam op. cit., p. 830.

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

of solidarity in rational regimes: external com-
pulsion weakens the solidarity of the ruled, and
so does the gratification of the desires for mun-
dane ends which the rational regimes pursue[98]

The third and final type is the regime of Law (As-Siyasah

Ash-Shariayyah). It

is brought into existence by a most vigorous and
socially effective force which is indeed the cause
of a miraculous transformation in social rela-
tions. Through the successive performance of
amazing miracles, and other acts contrary to the
normal operation of nature, the prophet creates in
his followers that deep-rooted faith in the re-
wards and punishments of the world to come which
greatly changes their social life. He gets rid of
the low impulses which are the causes of factions
and conflicts, and unites them for a cause super-
ior to their individual appetities and interests.
He induces them to get rid of their bad habits and
to replace these with moderate and just habits.
Since their hopes and desires are now directed to
intangible and other-worldly ends like immortality
and happiness in the world to come, they are able
to be moderate in the pursuit of this-worldly
ends, and their energies can be directed toward
fighting for just and good causes. Finally, since
the restraints against bad action and the desire
to act in accordance with the prescription of the
Law are the result of inner faith, the ruled do
not need to be forced to obey the laws by threats
of punishment in this world or the inducement of
external rewards. They will obey the Law, and
even die for it, for the sake of God, hoping that
He will reward them for their piety in the world
to come. The result is a strong, united, virt-
uous, and obedient group which can conquer and
rule nations greater, richer and stronger in all
other respects except that inner faith which
distinguishes a religious community.[99]

Ibn Khaldun further explains the mechanism of politics and

his philosophy of history, stating that

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[98]Ibid., op. cit. p. 266.

[99]Ibid., op cit., 267-268.

...since the regime of Law is not based on worldly
interests but on inner faith, there is no external
cause which can preserve the regime after the
inner faith declines. The Law may remain, but
once the inner impulse vanishes and the Law as a
moving force in the hearts of men ceases to exist,
the regime of Law as a dynamic reality ceases to
exist. Natural solidarity re-emerges to assert
itself, and unless a rational regime is substi-
tuted for the regime of Law, the latter is bound
to degenerate into natural rule serving the lower
impulses of whoever happens to have the stronger
solidarity.[100]

Ibn Khaldun

...considers that the basic causes of historical
evolution are in fact to be sought in the economic
and social structures. He, therefore, set himself
to analyze them, elaborating as he did so a
certain number of new operative concepts, the most
pregnant of which is incontestably that of
'Assabiyyah'...[101]

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[100]Ibid., op. cit., p. 268. See also E. I. J.
Rosenthal, Political Thought in Medieval Islam, op cit., pp.
52 and 84-113.

[101]See M. Talbi, The Encyclopaedia of Islam (1971
edition), p. 830. Ibn Khaldun's Assabiyyah is Rosenthal's
"group consciousness" or "group feelings" in Ibn Khaldun's
Muqaddimah, op cit. It is also Issawi's "social solidarity"
in Charles Issawi, An Arab Philosophy of History, London
John Murray (1950), and Ilse Lichtenstadter, Introduction to
Classical Arabic Literature, op. cit. p. 63. Furthermore,
Ibn Khaldun's Assabiyyah is Enan's "vitality of the state;"
see Muhammad A. Enan, Ibn Khaldun: His Life and Work,
Lahore, Sh. Muhammad Ashraf (1946), p. 84, and E. I. J.
Rosenthal, Islam in the Modern National State, Cambridge:
University Press (1965), p. 18. Philip K. Hitti also states
that "Assabiyyah...implies boundless and unconditional
loyalty to fellow clansmen and corresponds in general to
patriotism of the passionate chauvinistic type... This
ineradicable particularism in the clan, which is the
individualism of the member of the clan magnified, assumes
that the clan or tribe...is a unit by itself, self-
sufficient and absolute, and regards every other clan or
tribe as its legitimate victim" History of the Arabs, New

He recognized that Khilafah and Mulk are two separate political forms of government. He advocated:

> Mulk-Haqiqi as the second best form of government after the Khilafah. Therefore, for Ibn Khaldun, the transformation of the Khilafah into Mulk does not necessarily disrupt the cohesion of the Ummah by his theory of Assabiyyah. [Hence,] he emphasizes Assabiyyah as an independent natural factor of communal cohesion and relates this theory with his theory of Mulk as an independent form of government. Ibn Khaldun shifts the focus altogether from the Khalifah based on the role of Shariah to the Mulk based on the political laws of the monarchy [(As-Siyasah Al-Malakiyyah or Al-Mulkiyyah)]; and in his view, the legal unity of the Ummah continued to flourish despite such a transformation.[102]

York, MacMillan Company, 5th edition (1951), p. 27. A better definition of the concept of Assabiyyah is illustrated in the following Hadith or Tradition: Prophet Muhammad is reported to have said, "He is not of us who proclaims the cause of Assabiyyah, and he is not of us who fights in the cause of Assabiyyah and he is not of us who dies in the cause of Assabiyyah." When asked to explain the meaning of Assabiyyah, he is said to have replied: "It means helping your own people in an unjust cause." See Muhammad Asad, The Principles of State and Government in Islam, Gibraltar, Dar Al-Andalus (1980), p. 32. To Muhammad Asad Assabiyyah means 'tribal partisanship'; Also see Malise Ruthven, Islam in the World, Oxford: University Press (1984), p. 100. For further insight on the notion of 'Assabiyyah see Ibrahim M. Khalifa, "An Analytical Study of 'Asabiya': Ibn Khaldun's Theory of Social Conflict," (unpublished doctoral dissertation, Catholic University, 1972).

[102]See Manzooruddin Ahmed, "Ummah: The Idea of a Universal Community," op. cit., p. 38-39. See also E. I. J. Rosenthal, Political Thought in Medieval Islam, op. cit., p. 52. It might be useful to compare Ibn Khaldun's classification of politics with that of Aristotle's monarchies, aristocracies, democracies; Montesquieu's absolutisms, limited monarchies, republics; and Spencer's militant and industrial states.

Ibn Al-Azraq

Muhammad Ibn Al-Azraq[103] was a fine researcher
following in the footsteps of Ibn Khaldun's methodology. He
lived in a time of great changes that surfaced on the
borders of Muslim lands. It was the era that witnessed the
fall of Constantinople into the hands of the Ottomans and
the fall of Granada and the rest of the Liberian peninsula
into the hands of the Christian Spaniards. So this period
witnessed the expansion of Islam on one front, Eastern
Europe, and the retreat or defeat of the southwest fronts on
the same continent. The internal map, however, did not
change greatly, with a continuation of division and rivalry
between provinces and principalities.

Ibn Al-Azraq was from Granada and worked in the courts.
He became a judge until the occupation of Granada. It
seemed that Sultan An-Nassri depended on him when he sent
him to other parts of the Muslim world to seek help in order
to assist Granada from the aggression which was coming from
the north.[104] And, thus, he left for Fez (Fas), then to

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[103]His full name is Muhammad Ibn Ali Muhammad Ibn
Al-Azraq Abu Adbullah Shams Ad-Din Al-Gharnatti, or the
Granadean (died A.H. 896/A.D. 1491). See Khayr Ad-Din
Al-Zirikli, Al-Aalam (Biography of the Most Eminent
Personalities of Men and Women Among the Arabs, Arabized and
Orientalists), 2nd edition, Vol. 7, Cairo: Dar Al-Kutub
Al-Missriyyah (1956), p. 181.

[104]The Nassrids or Banu Al-Ahmar were the ruling
dynasty in Muslim Spain (A.D. 1232-1492). "Muslim Spain was
reduced in the fourteenth century to the small southern

Tlemcen and Tunis, and finally to Egypt, but he did not get the help he sought. After that, he paid a visit to Makkah and made the pilgrimage, and he was later appointed as a judge in Jerusalem (Al-Quds). There he died after a few months of his appoitment in A.H. 896/A.D. 1491. Granada fell the next year.[105]

It is without doubt that the general state of the Muslim world at the time, plus the military relations with the European powers, greatly influenced Ibn Al-Azraq's thinking and his cultural and judicial study in the capital of the Nassrids, Granada. This is represented in his numerous works such as Al-Ibriz Al-Masbook fi Kaifiyyat Adab Al-Mulook (The Administration of King's Manner); Badaiea As-Sulk fi Tabaieaa Al-Mulk (The Tradition of Customary Rules); and Rawdhat Al-Aalam (The Garden of the Eminents).

From these writings, one can trace Ibn Al-Azraq's interpretation of the term Ummah. It was used in the same way as Ibn Khaldun used it before, namely, in its historical and social meaning, though on some occasions he referred to it in its religious contextual format. It is interesting, however, to see how Ibn Al-Azraq used the term Millah instead of Ummah in referring to Islam and Muslim groups. Muslims, to him, represented Millah; they do not compose

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strip which constituted the kingdom of Granada..." Muhsin Mahdi, Ibn Khadun's Philosophy of History op. cit., p 24.

[105]Nassif Nassar, Mafhoom Al-Ummah, op. cit., pp. 141-142.

Ummah due to the fact that the unifying bond is the Quranic creed or belief. Hence, Ummah is a group of people distinguished from the rest in their original descent, custom, and set of values.[106]

The historical background that Ibn Al-Azraq depended upon is the same as one finds in the works of Ibn Khaldun when he wrote about distinguished groups such as Arabs, Berbers, and Ajams (Persians and otherwise).

Ibn Al-Azraq's political thoughts do not provide an original contribution as far as the concept of Ummah is concerned or, for that matter, the subject matter of caliphate or imamate (Imamah). This could be attributed to the nature of the historical juncture in which Ibn Al-Azraq found himself. "It resembles a passing stage from a theocratic state to a nationalistic one.[107]

(b). The Orientalists [108]

The Orientalists who dealt with the concept of Ummah include C. A. Van Nieuwenhuijze. He wrote that:

> ...the history of Islam can, in a way, be written as the history of the manner in which this

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[106]Ibid., p. 144.

[107]Ibid., p. 145.

[108]For a different view, namely the Western conception of community represented by the Liberals such as Hobbes and Locke, and the Continental tradition represented by Rousseau, Burke, Tocqueville, H. Arendt and others, see Jiman A. Tagavi, "A Comparative Analysis of Community in Western and Islamic Political Thought," op cit. p. 15-104.

primordially functional entity, the Ummah, has
been realized under the prevailing conditions of
the day, which have been its supposed coordinates.
In the same manner, the position of Islam at a
given moment can be studied in terms of the manner
in which Muslims try to understand and, in under-
standing it, to realize, the Ummah.[109]

Here Nieuwenhuijze states the difference between Ummah and

nation as "two determinative concepts of community

unison;"[110] the nation is a

concept that completely lacks unequivocal deter-
mination, simply by being so traditional as to
combine, expansively and extensively, any ration-
alizations as to criteria of unison. (To make it
workable for analytic purposes, one could hardly
say more than that under modern world conditions a
nation (state) tends to be a quantitatively
optimum socio-cultural unit.)... In other words
...to a Muslim the problem of nationhood cannot be
envi-saged but in terms of what scope can be prac-
tically and empirically allowed to the operative
effect of the concept of nation, within the co-
ordinates of the permanently valid, comprehensive
concept of Ummah.[111]

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[109]C. A. van Nieuwenhuijze, "The Ummah - An Analytic
Approach." Studia Islamica, 10 (1959), p. 18. S. Hurgronje
states, "those who linguistically or ethnically or locally
belonged together in such a way that God can make known
together His will by one envoy form an ummah." Selected
Works of C. Snouck Hurgronje, edited by G. H. Bousquet and
J. Schacht, Leiden: E. J. Brill, (1957), p. 10.

[110]"The Ummah-An Analytic Approach" op. cit., p. 11.

[111]Ibid. The Islamic concept of nation is "based
neither on land nor on community of languages or common
economic interests, but on a common belief about the
external manifestations of the universe and a common
historical tradition. This definition finds support from
certain modern thinkers especially Renan who comes very
close to this concept: 'A nation is a living soul, a
spiritual principle. Two things which in truth are but one
constitute this soul, this spiritual principle. One is in
the past, the other in the present. One is the common
possession of a rich heritage of memories; the other is the

Nieuwenhuijze characterizes the Ummah as a "symbol of cohesion;" it is "the unique principle of social identity valid in Islam, it makes for the only Islamic Community of which any Muslim is a member simply by virtue of being a Muslim."[112] He later describes "the Ummah as a social unit gives its member, the Muslim, probably more latitude of 'individual', non-socially-controlled, movement than any other community, religious or otherwise, can afford to do."[113] He finally concludes by summarizing the concept as unique, indivisible, and a religious-socio-cultural organism that entails its actual realization by its coherence.[114]

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actual consent, the desire to live together, the will to preserve worthily the undivided inheritance which has been handed down.'" For the essay, see Shameem Akhtar, "Iqbal's Concept of a New World Order," Pakistan Horizon, Vol. 30, No. 3 and 4 (1977), p. 68. Also refer to B. R. Ambedkar, Pakistan or the Partition of India, third edition, Bombay: Thacker and Company Ltd. (1946), p. 17.

[112]"The Ummah-An Analytic Approach" op. cit., p. 20.

[113]Ibid., p. 21.

[114]Ibid., p. 22. Louis Massignon tries to understand the concept of Ummah by stating that it is "the group of men to whom God sends a prophet and especially those who, having heard his prophecy, believe in Him, making a pact with God through an intermediary." Esat Cam "Authority, freedom and individual rights in Islam." Islam and a New International Economic Order: The Social Dimension. A Symposium. Geneva, International Studies for Labour Studies 7-10, January (1980) p. 49; so Massignon therefore believes that Ummah is a "theocratic laique et egalitaire," La Passion de Husayn Ibn Mansur Al-Hallaj: Martyr Mystique de l'Islam, Paris: Gallimard (1922), p. 719. He also made an effort to identify the concept between its classical sense and the analytic approach to functional characteristics. For this, see "L'Umma et Ses Synonymes," Revue des Etudes Islamiques (1946), pp. 151-157. Ilse Lichtenstadter identifies the Ummah as it "became the secular organ through which the

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

> consists of the totality (Jamaah) of individuals bound to one another by ties, not of kinship or race, but of religion in that all its members profess their belief in the One God, Allah, and in the mission of His Prophet Muhammad. Before God, and in their relation to Him, all are equal without distinction of rank, class or race.[115]

Ummah, according to Gibb, is:

> at once a religious and a social term...The first political pronouncement of the Prophet Muhammad to the infant Muslim community at Medina was "Ye are one ummah over against mankind," one single society, that is to say, welded together by community of religious purpose and the resulting social relationships and obligations...[116]

He continues by asserting that the great conquests that followed Prophet Muhammad's death gave sharp reality to the question of unity and solidarity of the community. Gibb states

> ...The earliest omens were not favorable. Human appetites and rivalries are not so easily overcome, and a century filled with conflicts and civil wars seemed to give the lie to any idea of

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sacred demands were to be fulfilled," Introduction to Classical Arabic Literature, op. cit., p. 42. See also an article by the same author entitled "From Particularism to Unity: Race, Nationality and Minorities in the Early Muslim Empire," Islamic Culture, Vol. XXIII, (1949) pp. 251-280.

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

[116]H. Gibb, "The Community in Islamic History," The American Philosophical Society Proceedings, Vol. 107, No. 2 (April 1963), p. 173. See also "The Community," Themes of Islamic Civilization, edited by John A. Williams, op. cit., pp. 7-55.

community. There were plenty of obstacles:
fanatics who vindicated their conviction of being
the only true heirs of Muhammad by rebellion and
slaughter, partisans of rival claimants to the
government of the Community, disputes over prin-
ciples and details of legal development. But it
was precisely [Gibb emphasizes] through these
experiences and conflicts that the concept of the
Ummah gained in clarity and significance.[117]

Gibb continues by stating that the "first lesson learned

from them was that the Community must not be identified or

confused with political regimes..."[118] In other words,

political division "in no way impaired the unity of the

ummah."[119] What held the community together was, therefore,

not any kind of formal organization but a
collective act of will, inspired by personal
conviction and a sense of election (I hesitate to
use the term "pride"), and sustained by the ritual
duties of daily prayer and the month of fasting,
and especially by the ecumenical experience of the
annual Pilgrimage to Mecca. It is in keeping with
this that the Islamic conception of its own

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[117]"The Community in Islamic History," op cit., p. 173.

[118]Ibid.

[119]Ibid., p. 175-176. In discussing the political
history of Islam Gibb states that "the early refusal to
link Islam to given political regimes led to an idealistic
insistence upon the illegitimacy of any system of law and
government which did not arise out of and express its basic
religious ethic. Yet nothing is more striking in Islamic
history than the contrast (to quote John Ruskin's words on
Venice) between 'the vitality of religion in private life
and its deadness in public policy.' The Community as a
whole withdrew more and more from participation in its
political institutions; nevertheless, its governments
themselves remained within the Community, inasmuch as they
formally recognized its principles and observed the
unwritten concordat that they should lay no finger on the
sanctity of its religious institutions and abstain from
interference with the religious life and convictions of
their subjects..."

history is embodied, not in its political annals, but in the immense output of biographical compilations which preserve the memory of countless men and women in every region, from the first generation of Muhammad's contemporaries onward through the centuries, who by their activities and their influence contributed to maintain and to develop the spiritual life of the Community.[120]

Furthermore, a distinguished Orientalist, W. M. Watt, maintains that "in contemporary terms one could say that the essential belief here was that through membership of this community the individual life attained significance" and, since the Islamic community is divinely constituted and had a divine rule of life, then it is "the community through which a man attains salvation or the supreme goal in

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[120]Ibid., pp. 174-175. Gibb stresses that "the Islamic Community is indeed the only human organization in our world that is still expanding without benefit of military power, political backing, or organized propaganda," p. 176; Gibb's work of _Studies on the Civilization of Islam_ sees "the whole of medieval Islamic history is dominated by the effort on the part of the Sunni or 'orthodox' religious institution, first, to maintain its universalism against internal and external challenges, and second to realize the widest possible measure of religious, social and cultural unity throughout the Islamic world. The second of these objects was not achieved until the political unity of Islam had been disrupted, partially recreated, and disrupted again; but in the effort to achieve it a vast area of interaction was created between peoples of diverse stocks and traditions, and in this process--almost, indeed, as a by-product of it-- the medieval Islamic culture was brought into existence." op cit., p. 4; See also Albert Hourani, "Islam and the Philosohy of History," _Middle East Studies_, Vol. 3, No. 3 (April 1967), p. 262.

life."[121]   "One is reminded," he writes "of the Christian
assertion extra ecclesia nulla salus."[122]

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[121]*Islamic Political Thought*, op. cit., p. 57.   See
also his articles, "The Conception of the Charismatic
Community in Islam," *Numen*, Vol. VII (1960), pp. 76-90, and
"Condition of Membership of the Islamic Community," *Studia
Islamica*, Vol. 21 (1964), pp. 5-12.   G. E. von Grunebaum
sees "the community as the true repository of the living
faith," *Islam: Essays on the Nature and Growth of a Cultural
Tradition*, London, Routledge and Kegan Paul Ltd. (1961),
p. 9; von Grunebaum illustrates his "concern for the way in
which the Islamic faith served as a 'point of
crystalization' for a new socio-political unity, and what
had begun as a religion became a civilization," ibid, p. 31.
See also Albert Hourani, "Islam and the Philosophy of
History," op. cit., p. 262.

[122]*Islamic Political Thought* op. cit., p. 59; Professor
Julius Stone states that "the learning as to the Ecclesia -
the mystical body of the church - with its varied range of
meanings, provided what some have thought to be the first
concept of a community in the West.   Clearly the Ecclesia,
conceived as a societas Christiana, must have referred to
the condition of individual human beings to whom souls,
salvation and damnation could be attributed.   When in the
later Middle Ages the notion of Ecclesia was transmuted into
a societas humana, this might have reinforced the reference
to human beings.   Yet in the concreteness of history, this
transmutation served, by its recognition of human concerns
lying beyond the pale of Christianity, to aid the emergence
of purely secular political power, and its withdrawal,
though in the form of our modern state entities rather than
world community of individual human beings, from
overlordship of both church and Holy Roman Empire.   In the
outcome of this particular struggle, paradoxically, the
notion of a community of mankind that emerged did so not
literally in terms of human beings but in terms of states
deemed somehow to represent the human beings," *Visions of
World Order: Between State Power and Human Justice*,
Baltimore: The Johns Hopkins University Press (1984), pp.
84-85.   Some define the Ecclesia as a "universal mode of
right living rather than as the actually existing community
of mortals which endeavors to follow it," Michael Wilks, *The
Problem of Sovereignty in the Later Middle Ages: The Papal
Monarchy with Austinus Triumphus and the Publicists*,
Cambridge University Press (1963), p. 22; Also for the
Ecclesia as "a purely spiritual union of believers existing
outside the political field" and the ideological differences

Thus, speaking of the nature of the solidarity of the Islamic community, "it is first and foremost a natural community, a community into which one is born,"[123] He further states that "the character of Islam as a natural community is further exemplified by the reluctance of Muslims to expel anyone from the community for deviance in belief or liturgical practice."[124] And here one could conclude that the most significant aspect of the Ummah is its high level of solidarity. It is "une solidarite organique qui suppose l'existence d'une fin commune et la participation de chacun a la realisation de cette fin, dans les limites de ses moyens et selon la differenciation des taches,"[125]

Watt turns to another aspect of this concept by affirming

> against the occidental principle of homo homini
> lupus - which may be part of the reason for the
> emphasis on freedom - the Islamic community has a

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between the societa Christiana of the hierocrat and the societa of the Averro-Aristotelian see the same reference, pp. 16-18 and 431-432.

[123]W. M. Watt, _Islamic Political Thought_, op. cit., pp. 62-63.

[124]Ibid.

[125]"It is the organic solidarity which supposes the existence of common goals and ends, and the participation of everyone to the realization of this goal within the limits and according to the differentiation of tasks," Henri Laoust, _Essai Sur Les Doctrines Sociales et Politiques de Taqi-d-Din 'Ibn Taimiya_, Caire: Institut Francais d'Archeologic Orientale (1939), p. 255. See also K. Jindan, "The Islamic Theory of Government..." op. cit., p. 121.

strong sense of brotherhood... This brotherhood
is not just theoretical, but influences the actual
conduct of Muslims in many ways. Thus there is no
racial discrimination in Islam...[126]

He later concludes that

the sense of Muslim solidarity (was a reality
independent of the unity or the disunity in the
political system) has fostered the integration of
many races into the unity of Islam, especially
Sunnite Islam with its tendency toward homogeneity
in social and intellectual patterns...[127]

Summary

The research by this writer has resulted in four

conclusions regarding the Islamic concept of Ummah. The

first conclusion is that Ummah with its foundations is a

genuine Islamic concept. This, however, contradicts the

claim of liberal thinkers that contemporary Islamic thought

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[126]Islamic Political Thought, op. cit., p. 97. See
also John Kenneth Galbraith, The Anatomy of Power, Boston,
Houghton Mifflin Co. (1983), p. 175; one has to point out
though that "this cohesiveness within the Ummah does not go
against the others outside it. Muslims are well aware that
they are part of humanity as a whole. The entire humanity
is the Ummah of Muhammad since God sent him as a messenger
to mankind. The scholars of the Golden Age had an all-
encompassing outlook. They were willing to build upon ideas
developed by non-Muslims, either their contemporaries or
predecessors. It was this characteristic that enabled them
to assimilate and synthesize so much knowledge in such a
short period in the early years of Islam," M. Ali Kettani,
"Science and Technology in Islam: The Underlying Value
System,:" Ziauddin Sardar, (ed), The Touch of Midas:
Science, Values and Environment in Islam and the West,
Manchester: University Press (1984), p. 85; Also for details
on Watt's perspectives on the character of the Ummah see his
book Muhammad at Medina, Oxford: The Clarendon Press,
(1956), p. 238-249.

[127]Islamic Political Thought, op. cit., p. 98.

has borrowed from the West such basic Islamic ideas as
constitutionalism, historical progress, or even liberty or
individual freedom.[128] The religious as well as the
historical and social contexts of Ummah were clear from the
writing of the pioneers of thought in the medieval Arabic
and Islamic era. It is also worth noting here that the
conceptual framework of Ummah does not necessarily
correspond to the period of the Abbasids' rule (A.D. 750-
1258) nor does it correlate with that period of time when
disputes and conflicting ideological movements were obscured
in the Muslim lands, an experience which has led many
nationalist scholars to relate it to the thinking of
contemporary doctrines of Ummah and nationalism.[129]

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[128]These ideas were shaped by historical circumstances
and conditions perhaps peculiar to the West in many
respects. For a review of Constitutionalism in Islam see
for example Abdullah A. Al-Munifi "The Islamic
Constitutional Theory." (unpublished doctoral dissertation,
University of Virginia, 1973); and Abul Ala Maudoodi, The
Nature and Content of Islamic Constitution, Karachi: Jamaa
el-Islami Publications, 1952; Kamal A. Faruki., The
Evolution of Islamic Constitutional Theory and Practice from
616 to 1926. Karachi: National Publishing House, 1971;
Fahmi Judaane, Osus At-Taqaddum Inda Mufakkiry Al-Islam [The
Foundations of Progress According to the Intellectuals of
Islam] 2nd edition. Beirut: Al-Muasasah Al-Arabiyyah, 1981;
Also for details on the individual freedom see the chapter
on Freedom and Islamic Precepts in this study.

[129]For an understanding of the great changes which
affected the Muslim state during the critical years of the
early Abbasid period see S. D. Goitein, "A Turning Point in
the History of the Islamic State (Apropos of Ibn
Al-Muqaffa's Kitab As-Sahaba)" Islamic Culture Vol. XXIII,
No. 3 (July 1949) p. 120-135.

The second conclusion of this research maintains that the original concept of Ummah has witnessed a transition from Arab tribal 'community' to a more diversified universal community (Pax Islamica),[130] from loyalty to the tribe to loyalty to the faith, and from the centrality of the chieftain (Shaikh) of the tribe to the centrality of the Shariah represented by the pious caliph (Khalifah).[131] This transition provided Muslims with a sense of belonging, continuity and tradition which contrasts with the medieval European reliance on common customs, mores and values (as described by Tonnies).[132]

The third conclusion of this study states that Ulama, scholars and philosophers played a major role in maintaining the unity of the doctrine of and belief in Ummah. They helped to provide communal solidarity for the Muslims even

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[130]For an historical survey of community transformation in Islam see Jiman A. Tagavi, "A Comparative Analysis of Community in Western and Islamic Political Thought" op. cit., p. 170-233; Also for an analysis of Pax Islamica as the new world order see Ismail Raji Al-Faruqi, Islam and the Problem of Israel, London: Islamic Council of Europe, 1980, p. 83-86; and by the same author, Tawhid: Its Implications for Thought and Life, Wyncote, Pa.: The International Institute of Islamic Thought, 1982, p. 223-234.

[131]According to W. M. Watt "the kinship groups (however) remain important for social and administrative purposes, but in the religious sphere membership of the clan or tribe has been replaced by membership of the Islamic community, and 'tribal humanism' by the religion of Islam." Muhammad At Medina, op cit., p. 302.

[132]See Ferdinand Tonnies, Gemeinschaft und Gesellschaft [Community and Society], New York: Harper and Row, 1963.

as Islam was expanding geographically while distingrating politically.[133]

The difficulty of constructing a complete theory of Ummah is another puzzle that this study has uncovered. It shows that contemporary Arabic and Islamic thoughts have inherited this deficiency from the medieval ages.

It is precisely this lack of theoretical continuity which has led contemporary Muslim scholars to argue and develop what they call the 'Ummatist theory'. It

> is one where government governs most not least,
> and where sovereignty belongs to God and His law,
> not to the arbitrary will of majority or minority,
> and where the ultimate good is the divine pattern,
> not the eudaemonia of the members...[134]

Ummah, therefore, is based on three basic pillars: unity (Tawhid); trust (Amanah); and obedience (Taah); and it culminates in two fundamental principles: sovereignty (Hakimiyyah) and truth (Haqq) [See Diagram I].

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[133]For further information about the desire of the philosophers (Falasifah) in reconciling the traditional Gemeinschaft elements of Islam with the rational Gesellschaft elements of philosophy and also to see how they attempted to reconcile revelation and reason by utilizing the concept of Ummah as a bridge between them, refer to Jiman Tagavi, "A Comparative Analysis of Community in Western and Islamic Political Thought." op. cit., p. 241-324.

[134]Ismail R. Al-Faruqi, "On the Metaphysic of Ethics in Islam." Listening: Journal of Religion and Culture Vol. 14, No. 1 (1979) p. 35.

Based on the previous discussion one can safely define
the Ummah as a community guided by divine laws (Shariah)[135]
and regulated by consensus (Ijmaa) of its members cooperat-
ing together (Taawun) for the sake of common good (Masslaha
'Aamma) and relying upon the utilization of the resources
(Mawarid) available to achieve viability and creativity
(Ibdaa). In short, the Ummah is "where actionalism is
totalist, not totalitarian; authoritative but not authori-
tarian."[136]

The concept of Ummah is probably the most important and
influential concept in the lexicon of Islamic political, as
well as social, theory.[137] Therefore, this researcher

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[135]Divine laws include the Quranic scripture and
Prophetic teachings.

[136]Ismail F. Al-Faruqi, "On The Metaphysic of Ethics in
Islam." op cit., p. 35.

[137]It is worth noting here that Islamic political
theory in general is based upon three pillars: namely (1)
Shariah (Islamic law), (2) Shura (consultation), and (3)
Ijmaa (consensus of opinion). For a reference see, for
example, Muhammad Dhiya Ad-Din El-Rayes, An-Nadhariyyat As-
Siyasiyyah [Islamic Political Theories] Cairo: Maktabat Dar
At-Turath, 1979; On another occasion, Ali Issa Othman states
that "The Muslim social thinker cannot 'construct' a utopian
image of human society as is done in the Western tradition
in 'political theory.' Such an attempt would disregard the
Rule of God. He is supposed only to investigate the forces
which govern human society and, from such investigation,
arrive at a knowledge of the wisdom incorporated in the
principles of the Quran [Among these principles is that in
human society nothing is created by man and God is its real
and only Ruler]. His next task is to translate these
principles into workable norms for society by 'deduction.'
Nor can a Muslim social thinker limit his interests to a
'polis,' an 'empire,' or a 'nation-state,' for God's
government can not be limited. God in a real sense, rules

believes that understanding this key concept would undoubtedly facilitate the understanding of other concepts in Islam including vicegerency (Khilafah) and brotherhood (Ikha).

It is on this basis that the writer will proceed in constructing a proposed world order model, bearing in mind that special emphasis is always given to the concept of Ummah. In the next four chapters, therefore, the study will turn directly to the values needed for the completion of this task using the criteria of the World Order Models Project (WOMP). These values are as follows: Economic well-being and social justice, Chapter II; Political and social dignity, Chapter III; National and international peace, Chapter IV; and, Ecological quality, Chapter V.

all and the Muslim thinker and his own community are just parts of the whole. But God's government is not a 'Kingdom of God' to come where everyone follows the same way of life. It has always existed and will continue to exist as long as God wishes. But some societies have received better guidance than others. The criterion of which principles guide better is to be found in history and differences between peoples." The Concept of Man in the Writings of Al-Ghazali, op cit. p. 191.

Absolute Reference Frame (The Quran & The Hadith)

Divine

The World
(Umam)

The World
(Umam)
(Plural of
Ummah)

Sovereignty
(Haklmiyyah)

Unity
(Tawhid)

Truth
(Haqq)

Obedience
(Taah)

Trust
(Amanah)

GROUPS

Individual

GROUPS

Brotherhood
(Ikha)

Ummah

Vicegerency
and
Custodianship
(Khilafah)

Justice
('Adl-'Adalah)

Equality
(Musawah)

Peace
(Salam)

Freedom
(Hurriyyah)

Ecology
(Bee-ah-Tabie'ah)
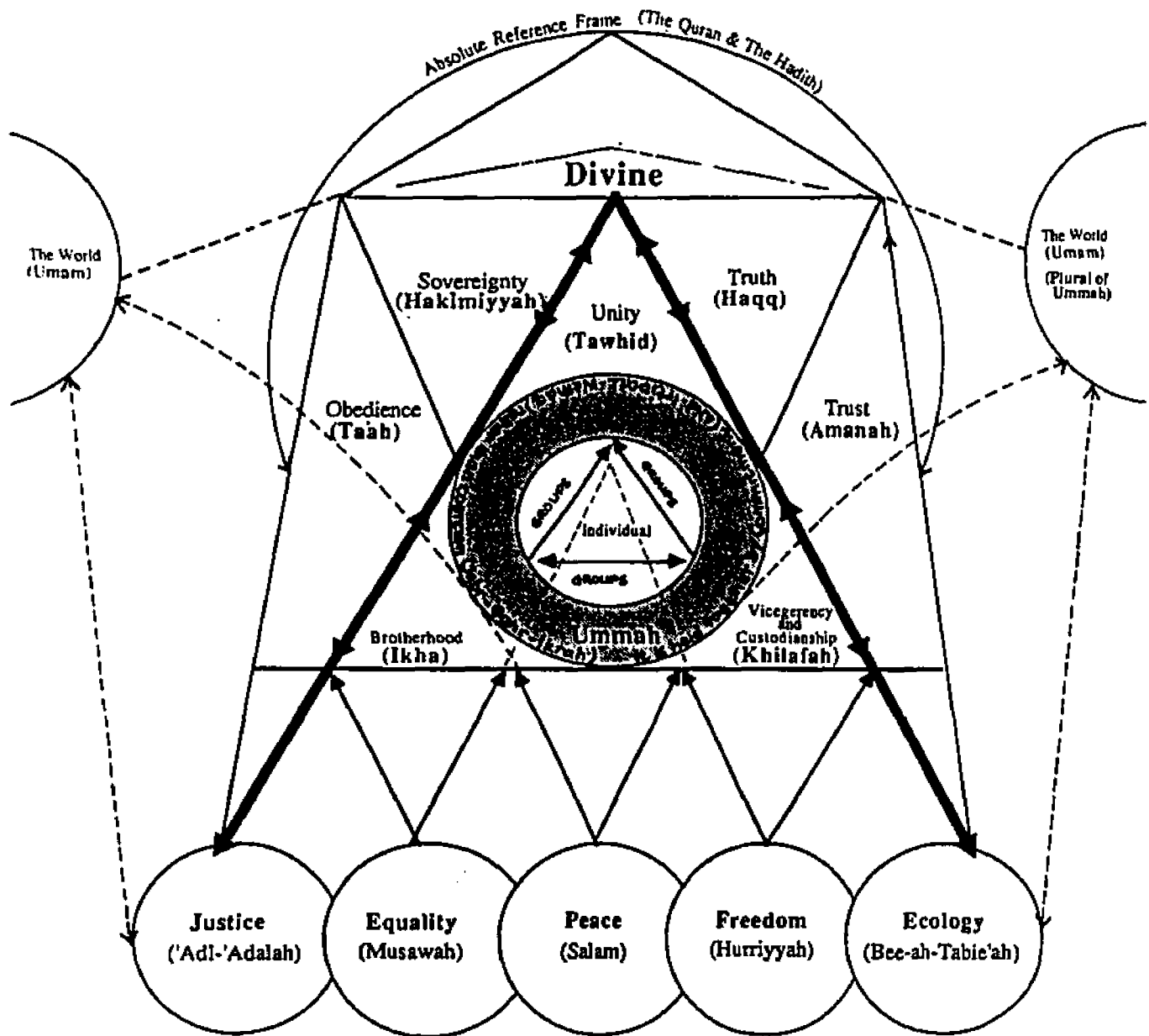
Diagram 1: Community in Islam

CHAPTER II

JUSTICE AND EQUALITY

It is written in the Holy Quran: "O ye who
believe! Stand out firmly for justice, as wit-
nesses to God, even as against yourselves, or your
parents, or your kin, and whether it be (against)
rich or poor: for God can best protect both.
Follow not the lusts (of your hearts), lest ye
swerve, and if ye distort (justice) or decline to
do justice, verily God is well acquainted with all
that ye do."

Sura: Nisaa or The Women 4:135

"Jurisprudence is the soul's cognizance of its rights
and obligations"

Imam Abu Hanifah (A.D. 699-767)

"He who pursues the pathway of justice would be in
possession of the most fortified garden."

Arab Philosopher: Al-Kindi
(A.H. 185-260/A.D. 801-873)

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A. Justice and Islamic Jurisprudence

Islam considers justice, 'Adl' or 'Adalah,' the finding of truth and the doing of good deeds a prerequisite for the functioning and articulation of man's inalienable rights in the social order.[1] According to Muslim scholars justice denotes:

> ...Obedience to the law...(it) is a comprehensive law, covering what we now call civil and penal law, public and private law, moral and religious law, or the law relating to both deeds and beliefs...[2]

The sole function of justice is not only to protect the "weak" against the "strong" but to be able to safeguard the interest of the community against wrongdoers. As Abu Bakr As-Siddiqi said on his assumption of the caliphate: "The

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[1]The word Adl occurrs at least 27 times in the Quran alone. There are also numerous Quranic passages with clauses containing such terms as Haqq and Qistt. All may be rendered in the English language as justice or equity. For example, see Sura: Hadid or Iron 57:25 and Sura: Maida or The Table Spread 5:9. Also for other definitions of justice by Muslim scholars, see Haroon Khan Sherwani, Studies in Muslim Political Thought and Administration, Philadelphia: Porcupine Press (1977), pp. 51-53; 107-108; 122-123; 151-154; and 179-181.

[2]Muhsin Mahdi, The Political Orientation of Islamic Philosophy. Occasional paper series published by the Center for Contemporary Arab Studies, Georgetown University, 1982, p. 5. A great classical Muslim scholar, Ibn Rushd or Averroes on another occasion states that justice "attains its perfection only when men are citizens of the state...It consists...in no more than every citizen following the activity for which he is best qualified by nature." For an inquiry into the nature of justice in Islam see Majid Khadduri, The Islamic Conception of Justice. Baltimore: The Johns Hopkins University Press, 1984. p. 97.

weak among you shall be strong in my eyes until I secure his right if God will; and the strong among you shall be weak in my eyes until I wrest the right from him."[3] The responsibility for the administration of justice in Islam rests upon the leader, Khalifah, as well as the entire Muslim community. The Quran declares, "God doth command you to render back your trusts to those to whom they are due; and when ye judge between man and man, that ye judge with justice. Verily how excellent is the teaching which He giveth you! For God is He who heareth and seeth all things."[4] The Quran adds, "God commands justice, the doing of good and liberality to kith and kin, and He forbids all shameful deeds, and injustice and rebellion: He instructs you that ye may receive admonition."[5]

The just policy as the Muslim religious scholars, 'Ulama,[6] perceived it is "all the rules of conduct that

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[3]Abdal-Malik Ibn Hisham, The Life of Muhammad, trans. A. Guillaume; Lahore: Pakistan Branch of Oxford University Press, 1967, p. 687

[4]Sura: Nisaa or The Women 4:58.

[5]Sura: Nahl or The Bee 16:90.

[6]The Muslim learned men and women are called Ulama singular of 'alim and should not be identified as theologians, for "theology in the Western tradition contains connotations and mental commitments which should not be transferred to the 'alim. The 'alim's scope of interests and intellectual freedom are as different from those of the Western 'theologians' as Islam is essentially different from Christianity;" see Ali Issa Othman, The Concept of Man in Islam in the Writing of Al-Ghazali. Cairo: Dar Al-Maaref Printing and Publishing House, 1960. p. xix.

affect the interests of the community while trying to fulfill them in accordance with the prescribed Islamic legal codes."[7] The conduct of justice in Islam, therefore, is regulated by the Shariah, the laws derived from the Quran, the Sunnah or the authentic Tradition [(Hadith) decisions and sayings of the Prophet Muhammad], Ijma'a (the consensus of opinion of the 'Ulama or the religious scholars) and Ijtihad (the council of judges on a particular case).[8] These legislative sources together constitute the Fiqh (Jurisprudence), the doctrine that regulates relationships of human beings with the Divine and with each other.[9] Fiqh, for its part, is divided into two sections: (1) Al-Fatawa which is known as the science of decisions, and (2) Al-Mawarith, the science of inheritance law.[10] (see Diagram II) Fiqh was established during the entire era of Prophet Muhammad and his four immediate successors: the well-directed Caliphs (Al-Khulafa Ar-Rashideen, A.D. 611-661) and

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[7]For details, see Abdul-Hamid Mutwalli, Mabadi Nedham Al-Hukm Fi-l-Islam (Principles of Government in Islam with a Comparison to Modern Constitutional Principles), second edition, Alexandria: Munshat Al-Mararef (1974), p. 267.

[8]Sura: Jathia or Bowing the Knee 45:18.

[9]It is important to indicate that the Islamic law is divided into two main parts: one constitutes the service of God or acts of worship (Ibadat). This deals mainly with ritual and personal ethics. The other part represents the larger portion of the corpus of Islamic law namely the human interactions (Muaamalat) or communicable knowledge.

[10]Laws of inheritance set by God can be found in the Quran Sura: Nisaa or The Women 4:7-13.

Islamic Law (Shari'ah)

Private Law

Civil   Penal

Public Law

Internal   External

International Law
(As-Siyar Al-Kabir)

Islamic Jurisprudence (Fiqh)

Al-Fatawa
(Science of
Decision)

Al-Mawarith
(Science of
Inheritance)

Constitutional   Administative   Financial
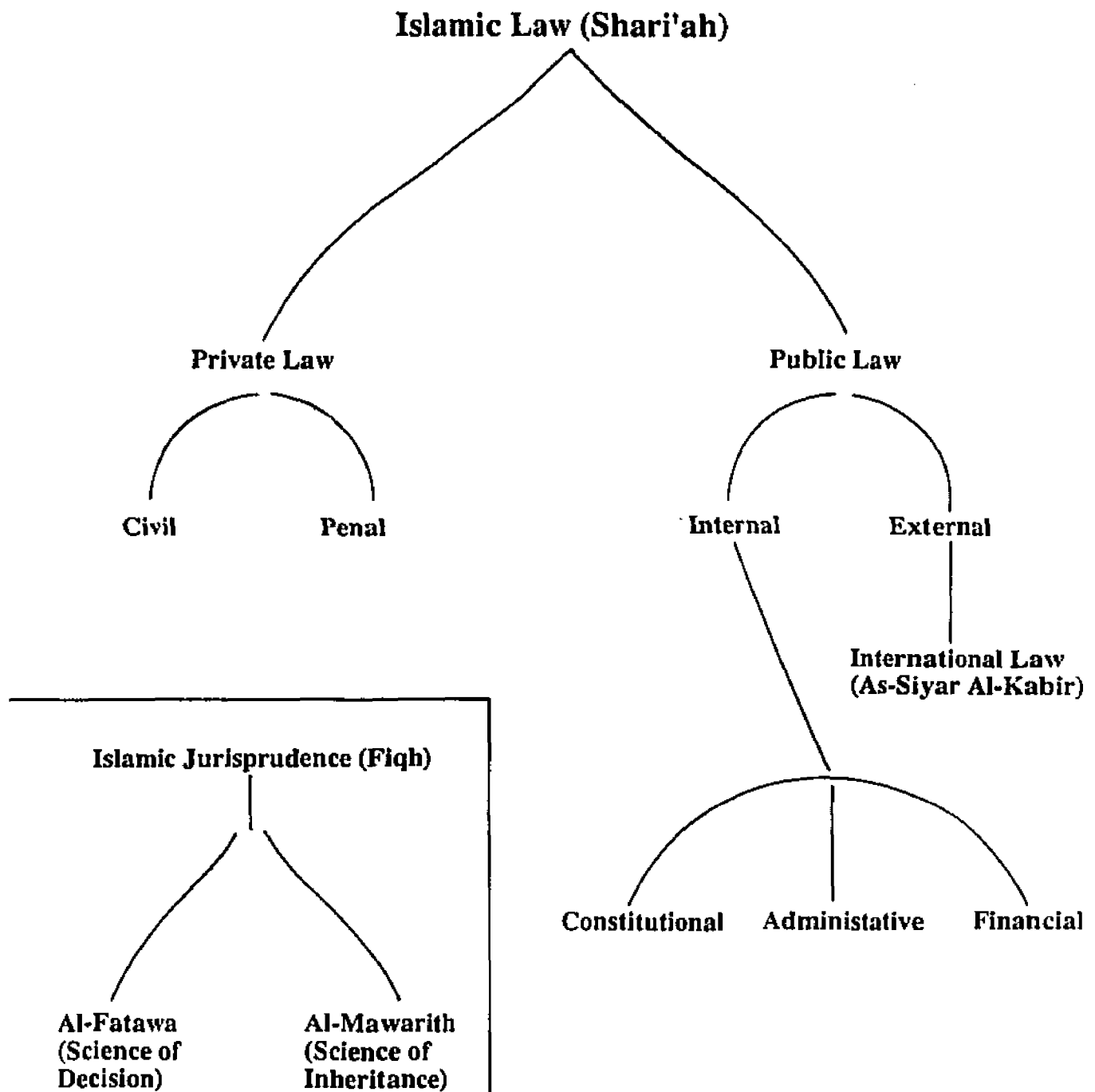
Diagram 2: Islamic Law

developed throughout the Ummayyad (Omawi) and Abbasid

(Abbasi) rule (A.D. 622-750 and 750-1258 respectively).

The Shariah, however, establishes only the basic rules

of society and leaves other matters for the people to deal

with in accordance with the changing times. The process of

adaptation to change is realized through Ijtihad, Qiyas

(deduction by analogy), and Istihsan (juristic preference-

framing rules), if necessary, in nonprohibited matters in

conformity with the spirit of the Islamic legal system.

Therefore, the Islamic state is required to develop a system

of executive laws (Qanun), and executive jurisdiction

(Madhalem), parallel with the Shariah in order to satisfy

the material and spiritual needs of the community.[11]

To illustrate the role of Ijtihad in shaping the

destiny of the community further investigation is needed.

Ijtihad is a process of finding Islamic rules and laws

through deduction (Istintaj)[12] and induction (Istiqra) based

on the general 'suras' of the Quran and the 'Hadith(s)' of

the Sunnah so as to regulate human activities. This

principle, Ijtihad, must be guided by strict observations of

both treatises. The process plays a significant role in the

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[11]For a brief discussion on the system of Madhalem see
H. F. Amedroz, "The Mazalim Jurisdiction in the Ahkam
Sultaniyyah of Mawardi;" The Journal of the Royal Asiatic
Society (July, 1911). pp. 635-674.

[12]Deduction also means Istidlal and Istinbatt in
Arabic.

of the individual, community and state. It is said in the
Quran: "Many were the ways of life that have passed away
before you; travel through the earth, and see what was the
end of those who rejected Truth. Here is a plain statement
to men, a guidance and instruction to those who fear God."[13]
Prophet Muhammad also realized that there would be
circumstances in the future for which the Quran would not
provide solutions. As a result, the exercise of independent
judgment in legal matters would be inevitable. The Prophet
has said, "Differences among members of my community are
blessings."

There are two types of Ijtihad: one is absolute or
independent (Mutlaq or Mustaqqil), the other is limited
(Mahdood or Muqayyad). Ijtihad Mutlaq is not accessible for
individuals because they do not have the encyclopaedic
knowledge and past contact with the old, diligent and
prominent scholars who were the companions of the Prophet
(Sahabah). Unlike the Mutlaq the limited Ijtihad may be
available if the Ulama of high caliber necessitates it.[14]

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[13]Sura: Al-i-Imran or The Family of Imran 3:137-138.
For more details, on the doctrine of Ijtihad by Muslim legal
thinkers, see Bernard Weiss, "Interpretation in Islamic Law:
The Theory of Ijtihad," The American Journal of Comparative
Law, Vol. 26, No. 2 (Spring 1978), pp. 199-212.

[14]See Al-Ijtihad wa At-Tajdid fi-At-Tashriea Al-Islami
(Interpretation and Modernization in the Islamic Juris-
prudence), edited by a group of professors, Tunis: Ash-
Sharikah At-Tunisiyyah (1975); To some scholars there are
three degrees of Ijtihad which are recognized by Muslim
schools of law: "(1) complete authority in legislation

It is not difficult to say, therefore, that what

justifies Ijtihad is the absence of rules and circumstances

that covered the past and are now needed to cover the

present with its new premises and conditions. In Islam the

legal principles, if not mentioned in the Quran and the

Hadith, must rely on the consideration of the human good

(Masslaha).[15] This illustrates the flexibility and simpli-

city of Islamic teachings, both in theory and practice. It

is said in the Quran: "...God intends every facility for

you; He does not want to put you to difficulties..."[16] The

Quran adds,

> on no soul doth God place a burden greater than it
> can bear. It gets every good that it earns, and
> it suffers every ill that it earns. Pray our
> Lord! condemn us not if we forget or fall into
> error. Our Lord! lay not on us a burden like that
> which thou didst lay on those before us...[17]

Examples can be cited as ample proof of this

flexibility and encouragement that Islam provides for the

diligent scholar (Mujtahid). Once Prophet Muhammad sent

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which is practically confined to the founders of schools;
(2) relative authority which is to be exercised within the
limits of a particular school; and (3) special authority
which relates to the determining of the law applicable to a
particular case left undetermined by the founders."
Muhammad Iqbal, The Reconstruction of Religious Thought in
Islam. New Delhi: Kitab Bhavan, 1984. p. 148.

[15]The concept of Masslaha is discussed under the
application of the Shariah in this chapter.

[16]Sura: Baqarah or The Heifer 2:185.

[17]Ibid., 2:286.

Muadh Ibn Jabal as a judge (Qadi) to take charge of legal

affairs in Yemen.

> The Prophet asked him on what he would base his
> legal decisions. "On the Quran," Muadh replied.
> "But if that contains nothing for the purpose?"
> asked Muhammad. "Then upon your tradition,"
> answered Muadh. "But if that also fails you?"
> asked Muhammad. "Then I will follow my own
> opinion," said Muadh. And the Prophet Muhammad
> approved his purpose.[18]

The other example is when the second Caliph Omar wrote

to his judge (Qadi) Abu Musa Al-Ashari of Al-Bassra (Iraq)

the following:

> Verily the dispensation of justice is a posi-
> tive religious duty and an established Sunnah. So
> understand [and analyze the arguments of each
> party] when the litigants plead before you, and
> decide only when the matter is clear to you, for
> not every plea [for the right of something] is
> valid. Consider all the people equal before you,

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[18] Majid Khadduri, War and Peace in the Law of Islam,
Baltimore: The Johns Hopkins University Press (1955),
p. 28; "In the period of the caliphs, the duty of the judge
was merely to settle suits between litigants. Gradually,
later on, the other matters were referred to him more and
more often as the preoccupation of the caliphs and rulers
with high policy grew. Finally, the office of judge came to
include, in addition to the settling of suits, certain
general concerns of the Muslims, such as supervision of the
property of insane persons, orphans, bankrupts, and
incompetents who are under the care of guardians;
supervision of wills and mortmain donations and of the
marrying of marriageable women without guardians to give
them away, according to the opinion of some authorities;
supervision of (public) roads and of buildings; examination
of witnesses, attorneys, and court substitutes, to acquire
complete knowledge and full acquaintance relative to their
reliability or unreliability. All these things have become
part of the position and duties of a judge." See The
Muqaddimah (An Introduction to History) by A. Ibn Khaldun.
Translated from the Arabic by Franz Rosenthal. Edited and
abridged by N. J. Dawood. Princeton: Princeton University
Press, 1981. p. 174.

in your court, and in your attention, so that
neither the noble will expect you to be partial,
nor will the humble despair of justice from you.
Evidence must be produced by the plaintiff; from
the defendant an oath may be extracted. Compro-
mise is permissible between Muslims; yet it is not
valid if it permitted something [which the law]
forbade, or forbade something ordained.

If you have given judgment in the past, and
upon reconsideration, come to the right opinion,
your past judgment should not prevent you from
retracting, for justice preceded and it is better
to retract to justice than to persist in
injustice.

Analyze what perplexes you when you do not
find guidance either in the Book of God or in the
Sunnah; study similar cases and compare the
resemblances and similarities then by analogy
[apply the same rules of law].

Designate a period of time for he who claims
something without presenting evidence. If he sub-
mits his proofs during the limited time, then you
should consider his claim, otherwise you decide
against him. This is a better way to avoid any
uncertainty and to clear up any doubt.

All Muslims are trustworthy as witnesses
against each other, except he who was convicted of
a crime, he who was proven to have given false
testimony before, and he who is suspected of being
partial because of blood or marriage relationship
[with either party]; for God will judge the people
for their hidden thoughts and commands that
punishment should not be inflicted except when
proven by evidences and oaths.

Avoid weariness, boredom, and tediousness at
the litigations. For rendering justice in the
courts of justice, God will grant you a rich
reward in the hereafter and good reputation in
this world.[19]

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[19]A. A. Al-Munifi, "The Islamic Constitutional Theory,"
(unpublished doctoral dissertation, University of Virginia
(1973), p. 447. Also for details on these points see D. S.
Margoliouth, "Omar's Instructions to the Kadi" The Journal
of the Royal Asiatic Society (April, 1910), pp. 307-326.

As a matter of fact, Islam encourages those who work on the path of Ijtihad.[20] The Quran enjoins, "...raise up to (suitable) ranks (and degrees) those of you who believe and who have been granted (mystic) knowledge."[21] Islam emphasizes the continuation of knowledge through the exhaustion of Ijtihad. The Quran explains, "...there is no blame on you if ye make a mistake therein: (what counts is) the intention of your hearts, and God is oft-returning, most Merciful."[22]

The diligent scholars (Mujtahideen) are preferable to God than others. It is said in the Quran: "Are those equal, those who know and those who do not know? It is those who are endued with understanding who receive admonition."[23] The Quran adds, "He...who has sent down to thee the Book...but no one knows its hidden meanings except God and those who are firmly grounded in knowledge..."[24] Moreover, these scholars will be rewarded for their deeds. The Quran emphasizes that, "if one exhorts to a deed of charity

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[20]For other examples on the principle of Ijtihad see S. Muhammad Ali El-Sayes "Origin of Juristic Ijtihad and Its Phases of Development," The Fourth Conference of the Academy of Islamic Research. Cairo: (September, 1970), pp 801-862.

[21]Sura: Mujadila or The Woman Who Pleads 58:11.

[22] Sura: Ahzab or The Confederates 33:5; for a similar reference see types of freedom in the chapter on freedom and Islamic precepts in this dissertation.

[23]Sura: Zumar or The Crowds 39:9.

[24]Sura: Al-i-Imran or The Family of Imran 3:7.

or justice or conciliation between men...to him who does this, seeking the good pleasure of God, We shall soon give a reward of the highest (value)."[25]

Aslam Siddiqi, in his book, Modernization Menaces Muslims, prescribes four steps in conducting the principle of Ijtihad.

> Firstly, a clarification of goals; secondly, an exhaustive evaluation of the situation to be met; thirdly, the selection of a course of action by weighing the probable consequences of various alternatives and, fourthly, the determination of optimum means for carrying out the actions decided upon.[26]

The creation of a solid and dynamic structure that a community can depend upon in solving its national and international problems is considered vital for the survival and stability of the Islamic community. This dynamism springs from Ijmaa and Ijtihad, along with the Quran and the Sunnah. To understand such dynamics, Siddiqi suggests what he calls "structural functional analysis" where means would "be available to carry on Ijtihad on scientific lines so that programs of action may respond effectively to a radically changed environment."[27] (see Diagram III)

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[25]Sura: Nisaa or The Women 4:114.

[26]Published in Lahore by Sh. Muhammad Ashraf (1974), p. 190.

[27]Ibid.

POLICY INPUT

The Hadith (Sunnah)

Ijtihad (Independent Judgement)

Ijma'a (Consensus)

The Quran

Feedback

Feedback

POLICY OUTPUT

Other Communities
(Umam)
(Plural of Ummah)

Community
(Ummah)
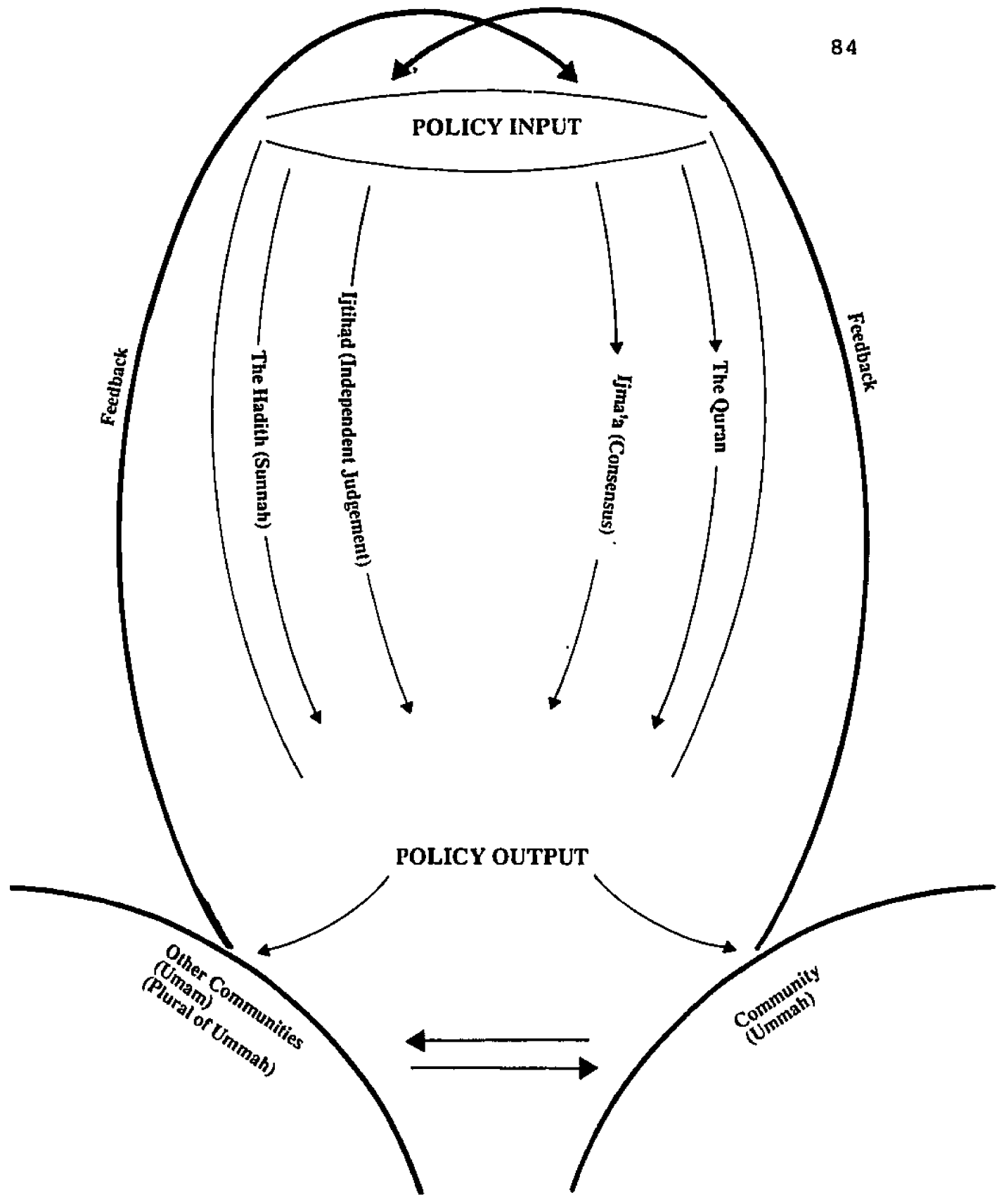
Diagram 3: Ijtihad

Schools of Law (Madhahib)[28]

After the death of the fourth Khalifah in Islam, Ali
(A.H.40-A.D. 661), the Muslims became divided into two major
sects: the Sunnis and the Shiites. The differences between
Sunnah, (which literally means a beaten track), the tradi-
tion of Prophet Muhammad, and the Shiites or partisans of
Ali are determined in the beginning by differences in poli-
tical rather than in doctrinal bases. In general, the main
division in Islam between the Sunnis and Shiites focuses
upon three major issues: The problem of succession after
Prophet Muhammad's death; the interpretations and sources of
the Shariah; and the theory of Khilafah or leadership
accountability.

The Sunni sect believes that the leader, Khalifah, of
the Islamic state should be nominated by the representatives
of the community and confirmed by a general consensus of
allegiance (Bayah, fealty or fidelity).[29] On the other

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[28]Plural of Madh-hab which also means sect and
religious creed as far as the Islamic law is concerned.

[29]On a much broader perspective, specifically Islam vs.
the West, as to the notion of Bayah some Muslim scholars
make a distinctive comparison between the institution of
Bayah which obtains in Islam and that of election which
obtains in democracy; both in their character and working.
See for example, Fateh Sandeela., "Islam and Democracy Are
Poles Apart" Islamic Order, Vol. 2, No. IV (Fourth Quarter,
1980) pp. 52-65. For a historical review on the issue of
Bayah see Fauzi M. Najjar, The Islamic State: A Study in
Traditional Politics. Darien: Monographic Press, 1967, pp.
18-25; Also for a comparative and contemporary view see
Fat-hi Osman, "Elections, bai'a and the people's will"

hand, the Shiites contend that Prophet Muhammad's spiritual authority was passed on by blood relationship to his cousin and son-in-law, Ali, as well as his direct descendants, known as Imams.[30]

Another prominent distinction between these sects concerns itself with the interpretation of the Shariah. For example, there is a problem of what to do with the legal implications of the precepts contained in the Quran which were not self-evident as well as of customary law "'urf" which were neither abrogated nor modified by the Quran. The Sunnis responded that the customary law continued in force unless explicitly amended by the Quran. In the Shiites' opinion, customary law was abrogated unless it was specifically endorsed by the Quran.[31]

A further difference prevails between the sects in the theory of accountability. It produced a concept of law

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Arabia: The Islamic World Review Vol. 4, No. 36, (August 1984) p. 18-19.

[30]The Shiite school of Imamiyyah or the Twelvers indicated that the Prophet stated Ali in name for the position of successor, while Zaydiyyah stated that the Prophet described him without mentioning him by name. It is worth noting here that the word Imam comes from an Arabic root which signifies aiming at and following after. And hence Imam means primarily an exemplar or one whose example ought to be imitated. However in the context of this research it also means a leader and head for Muslims in civil and religious matters.

[31] There are also large numbers of matters concerning the service of God (Ibadat) and human interactions (Muamalat) which constitute differences between the two sects.

which was fundamentally different from one another. For the Sunnis, the Khalifah is simply the political and administrative leader of the Muslim community and the defender of the faith. He is always restricted by the general rules of the Shariah and is fallible. For the Shiites the Imam is divinely inspired. He is the infallible interpreter of divine revelation and the sole repository of all truth and knowledge. Therefore, the Shiites rejected, to a certain extent, the role of Ijmaa and substituted for it an infallible, divinely guided Imam. The Imam is also the authoritative head of Mujtahids or Mujthideen, the eminents of Muslim theologians and jurists.[32]

Because of the aforementioned divisions, the institution of juridical opinion or decision (Fatwa) declined. However, Abu Hanifah An-Noaman Ibn Thabit,[33] a Sunni religious scholar, established in A. H. 120/A.D. 731 the first school of Fiqh in Islam in Kufah, Iraq. It is said that "the age of Abu Hanifah was the age of jurists." He was the first scholar to recognize the necessity of establishing a 'faculty of law' where legal problems were

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[32]According to the Sunni, leadership is called Khilafah while it is known as Imamah to the Shiites. For details, see Muhammad Dh. El-Rayes, An-Nadhariyyat As-Siyasiyyah Al-Islamiyyah (Islamic Political Theories), op. cit., pp. 117-123; Andrea M. Farsakh, "A Comparison of the Sunni Caliphate and the Shi'i Imamate", The Muslim World, Vol. LIX (January-April 1969), pp. 50-63 and 127-141; also see K. Jindan, "The Islamic Theory of Government..." op. cit., p. 13-34.

[33]A.D. 699-767.

debated and then published as authoritative opinion or combined Fatwas or Fatawa. Later in Madina, Abu Abdullah Malik Ibn Anas[34] established the Maliki School while his student Muhammad Ibn Idris Ash-Shafii[35] founded the Shafii School. Shafii's pupil Ahmad Ibn Hanbal[36] founded the fourth and last of the Sunni schools of jurisprudence. (See Diagram IV) These four religious scholars were recognized as Mujtahids or Mujthideen by the Muslims.[37] These schools did not differ on fundamentals. The difference among them concerns minor details such as the application of private

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[34]A.D. 713-795.

[35]A.D. 767-819.

[36]A.D. 780-855.

[37]"The variety of legal schools within Islamic law was the basis for its claim to universal application. Islamic law was successfully applied under a given interpretation in India and under another interpretation in Spain. In both cases, there was no doubt that the rules applied were equally Islamic, however different they might have been. It is even reported that some of the great jurists (particularly Al-Shafii) changed their legal views after moving into other provinces of the Islamic state. It would thus be historically undocumented to allege that Islamic law, as applied to individual cases, was strictly clothed with concepts of divinity or a law of nature 'discovered' by the individual jurists. Rather it was the product of learned men, mainly jurists, reasoning with the guidance of the higher sources--the Quran and the Traditions of the Prophet (the Sunnah). It is probably in this sense that Islamic law was meant to acquire a universal and eternal validity." Ibrahim Shihata, "Islamic Law and the World Community" The Harvard International Law Club Journal vol. 4 No. 1 (December, 1962) p. 105.

Schools of Law

Sunni

Hanafi

Abu Hanifah An-Noaman Ibn Thabit (699-767/150AH) First Faculty of Law in Kufah (Iraq)

Sources of Law

- The Quran
- The Hadith (The sayings and practice of the Prophet Muhammad p.b.u.h.(SAAW)
- Athar (the Companions' legal edicts)

- Qiyas (deduction by analogy)
- Istihsan (Juristic Preference)

- Ijma'a (Consensus of Jurists)
- Urf or the custom and usage

Maliki

Malik Ibn Anas (713-795 A.D.) In Madinah (Hijaz)

- The Quran
- The Hadith

A'mal Ahl Al-Madinah (The Madinese Customary practices)

Athar

Istislah (public utility)

Qiyas

Shafi'i

Mohammad Ibn Idris Ash-Shafi'i (767-819) in Cairo

- The Quran

Ijam'a Al-Ummah (Consensus of the Community)

Athar

Qiyas

Hanbali

Ahmad Ibn Hanbal (780-855) in Baghdad

- The Quran

Athar

Closest to the Shari'ah weak Hadith be applied Qiyas and -Istis-hab (a natural principle of legal evidence)

Shi'ite

Imamiyyah

Ja'afar As-Sadiq (702-765)

- The Quran
- The Hadith
- Ijma'ah (to a certain extent)
- The role of Imam (as the sole interpretor) (Wilayat-i-Faqih Governance of Jurist: the esoteric function of interpreting the inner mysteries of the Quran and the Hadith)

Zaydiyyah

Zayd Ibn 'Ali (5th Imam) 737

- The Quran
- The Hadith

Ismaa'iliyyah

Isma'il (760 d.)

- The Quran
- The Hadith

- Istidlal, Istislah, Istis-hab and Istihsan are all modes of reasoning alternative to Qiyas.

Diagram 4: Schools of Law
SOURCE: A.Al-Munifi., "The Islamic Constitutional Theory" op.cit., p.192-199.

judgment and in the interpretation and exposition of the Quran.[38]

The Shiite sect is divided into three major schools. The first is the Imamiyyah or the Twelvers (Ithna-'Ashariyyah), who believe that the Khalifah starts with Imam Ali following Prophet Muhammad and ends with the twelfth Imam, Muhammad Al-Mahdi Al-Muntadhar (or the expected one). This school is also called the Jaafary school after Jaafar As-Sadiq (A.D. 702-765) who was the sixth Imam. This school is dominant in Iran where it is today the state official organ. The second school is Zaydiyyah which originated with Zayd Ibn Ali, the fifth Imam. And, finally, the Ismailiyyah School or the Seveners which follows Ismail (A.D. 760), the eldest son of Jaafer As-Sadiq who is considered the seventh and last Imam.[39] (See Diagram V)

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[38] The development of law by these four schools can be compared with the rise of the Humanists, the French historical school in the 16th century, or to that of Hygo and Savigny's school of jurisprudence (the Historical School of Law). The Sunni tradition does not recognize other schools; accordingly, the fourth school is described as the last school. They were developed during the Umayyad and Abbasid caliphs. For a summary of the development of legal thought in Islam, see Mohammad Muslehuddin, "Islamic Jurisprudence and the Rule of Necessity and Need," Islamic Studies, Vol. XII, No. 2 (June 1973), pp. 103-120.

[39]For details on Shiism, refer to S. Muhammad H. Tabatabai, Shiite Islam, translated from the Persian and edited with an introduction by Seyyed H. Nasr, Albany: State University of New York Press (1977).

Chronology of the Alids

(The Shi'ite Imams)

Hashim

'Abdul Muttalib

'Abdullah

Abu-Talib

Muhammad (The Prophet)

Fatima _____ 'Ali (The first Imam)

2. Al-Hasan

3. Husein

5. Muhammad (Al-Baqir)

4. 'Ali (Zein Al-'Abidin)
   As-Sajjad

Zayd Ash-Shahid
(Imam of the Zaydiyyah)

6. Ja'afar (As-Sadiq)

*7. Ism'ail
(Imam of the Isma'iliyyah; the
Saba'iyyah or the Seveners)

7. Musa (Al-Kadhem)
(Imam of the Ithna-'Ashariyah)

8. 'Ali (Ar-Riza)

9. Muhammad (Al-Jawad)

Muhammad (Al-Tamm)

[The first in a series of invisible
(master) Imams]

10. 'Ali (Al-Hadi)

11. Hasan (Al-Askari)

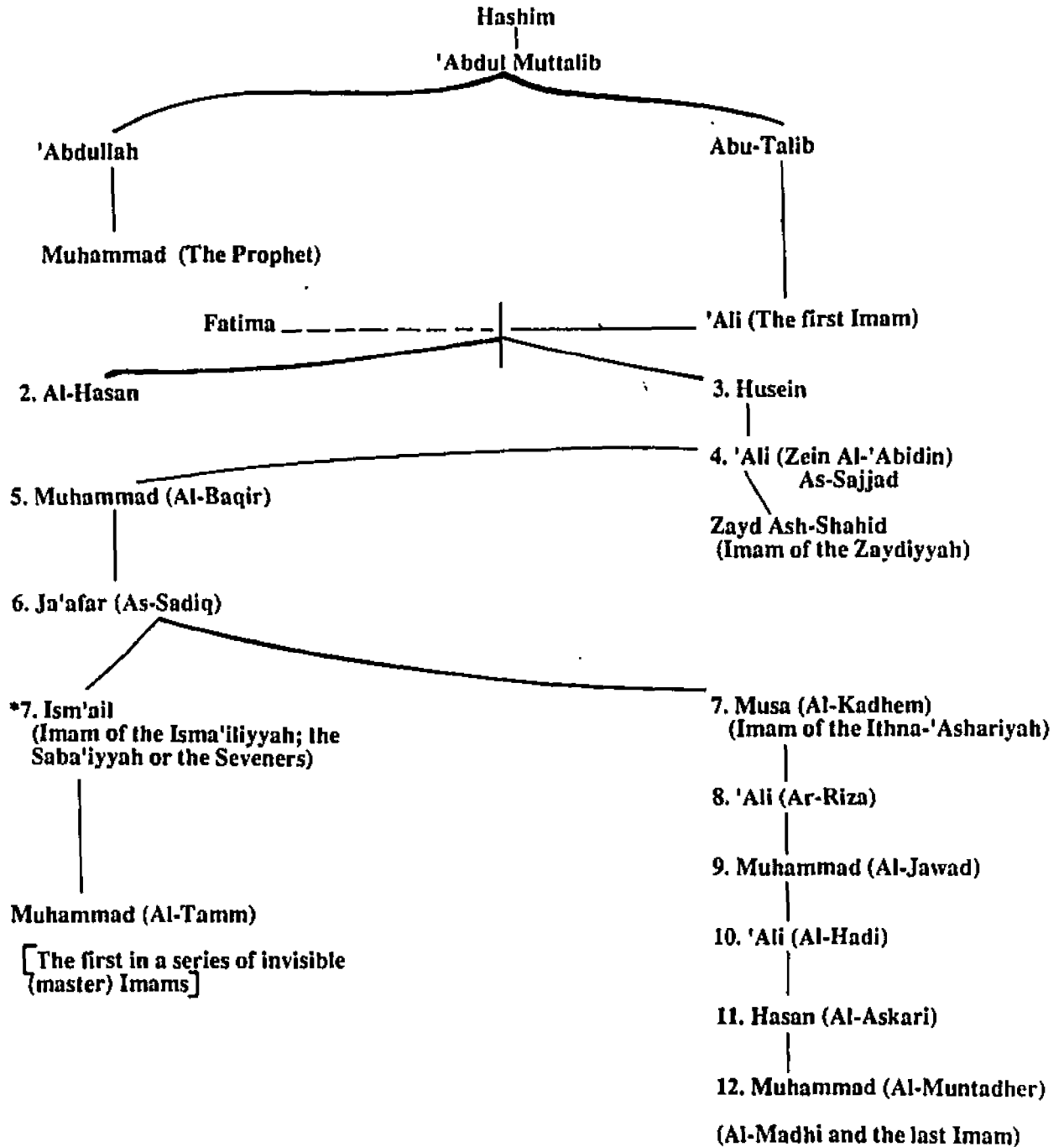12. Muhammad (Al-Muntadher)

(Al-Madhi and the last Imam)

Diagram 5: Chronology of the Alids
SOURCE: A.A.Fyzee., "Outlines of Muhammadan Law"
2nd. ed. Oxford: Oxford University Press, 1955. p. 30.

Application of the Shariah

Due process in Islam requires that life, property, honor, and immunities of individuals be protected by the general rules of the Shariah. The rights of individuals cannot be interfered with except by valid and legal means. On the occasion of the Farewell Pilgrimage, Prophet Muhammad asserted:

> 'Your lives, your property and your honor are as sacred as this day (the day of Haj or pilgrimage).' Continuing further with his speech, the Prophet described that even if life, liberty and honor are demanded by law they must be real-ized in accordance with the prescribed process of the law.[40]

An opportunity must be given to the accused to secure. a defense and, as long as a specific charge is not laid against an individual, such a person cannot be detained or imprisoned. Imam Hamad I. Al-Khattabi, one of the great Muslim scholars, writes in his book, Ma'alim As-Sunan (The Milestones of Traditions), that in Islam detention is of two kinds: (1) detention under the order of the court, i.e., when a person is kept in prison until the expiration of the term of his sentence; and (2) detention for investigation.[41]

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[40]See M. C. Bassiouni, "Islam: Concept, Law and World Habeas Corpus," Rutgers Camden Law Journal, Vol. 1, No. 2 (Fall 1969), p. 184; The Religious law quite generally and wisely emphasizes "five things as necessary: The preservation of (1) religion; (2) the soul (life); (3) the intellect; (4) progency; and (5) property." The Muqaddimah by Ibn Khaldun., op. cit. p. 240.

[41]Abu Daud S. Al-Sijistani, Mukhtasar Sunan Abi Daud Wa Maalim As-Sunan (Summary of Abu Daud and Traits of

Imam Yaaqub I. Abu Yusuf, a great jurist, in his book, Kitab
Al-Kharaj (The Book of Land-Tax), also emphasizes the same
principle when he states that a person cannot be imprisoned
on false or unproven charges.[42]

The basic principle of maintaining the essential rights
of the defendant is illustrated in the following hadith of
the Prophet:

> Avoid the infliction of a penalty as you can; if
> you find any way to release a defendant let him be
> released, because an error of dismissing an
> accusation which may be actually true is better
> than that of inflicting a penalty (on an
> innocent).[43]

Omar Ibn Al-Khattab, the second Khalifah, stated: "In
Islam, no one can be imprisoned without due process of
justice."[44]

The law of evidence occupies a prominent position in
the Shariah. The plaintiff must produce witnesses and the
defendant must take an oath. In other words, since the
infancy of Islam it was accepted that (1) the burden of
proof rests upon the plaintiff, (2) judges may depend upon

Traditions for Al-Khattabi). Narrated by Muhammad H.
Al-Feqa, Vol. 5, Pakistan: Al-Maktabah Al-Athariyyah, 1979,
p. 237.

[42]Narrated by Muhammad I. Al-Banna. Cairo: Dar Al-
Islah, 1981. p. 301.

[43]See Fat-hi Osman, "Remarks of a Muslim Intellectual"
Arabia: The Islamic World Review, Vol. 5, No. 51 (November,
1985). p. 12.

[44]Abul Ala Maudoodi, The Nature and Contents of Islamic
Constitution, Karachi: Jamaat-el-Islami Publications
(1952), p. 21.

their own judgments provided the decision is not against the provision of law, and (3) judges may review their private and previous judgments.

Under the Shariah, it is obligatory upon witnesses when they are summoned to bear testimony before the court to do so. According to the Islamic juristic theory, there are three kinds of hearings. First, the best form of oral testimony is known as Tawatur, a public testimony, e.g., a large body of individuals accurately depose to the same facts. Second, Ahad, a private or isolated testimony. And, finally, Iqrar or confession by the person involved. Direct testimony is of highly probative value, that is, there must be an eyewitness, while in certain cases hearsay evidence is admissible, e.g., paternity, death and marriage, provided that the information was received from individuals of reliable character.

Furthermore, circumstantial evidence, Qarinah, is considered in Islam, provided the case is that of a conclusive nature. Documentary evidence is also accepted and a rule of estoppel does exist in the Shariah.[45] Islamic law, however, does not allow evidence to be given with respect to certain points having regard to the previous conduct of the parties. This is called Bayyinat Adh-Dharurah in Islam.

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[45]For more details on the documentary evidence in Islam see Jeanette A. Wakin., The Function of Documents in Islamic Law. Albany: State University of New York Press, 1972, p. 1-72

For instance, if an individual sells an article in the presence of the owner who keeps quiet, then the owner's subsequent assertion that the person was not authorized to sell will be barred by this rule of estoppel.

If the witnesses in certain cases retract their testimony before the judgment is delivered, such testimony will be rejected. However, afterward it will not affect the court's decision. The witnesses in the latter case will be responsible and liable if their hearings and testimony have caused a miscarriage of justice.

Nevertheless, when a decree has been passed by the court which must be executed, in certain cases the defendant may set up a plea in the nature of avoidance (Dafa). The judge at the hearing of the case must be convinced that the plea for review is justifiable. The same case, however, cannot be tried again and the decision of the judge is conclusive and final.

Islamic jurisprudence defines crime as violation of public and private rights.[46] Wrong is called Maassiah. It provides for certain "substitutory remedies" in the form of punishment, "'Oqubah."[47] The Islamic law of crimes pre-

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[46]For an insightful analysis which deals specifically with Islamic criminal law, see M. Cherif Bassiouni (editor), The Islamic Criminal Justice System, New York: Oceana Publications (1982).

[47] Mahomed Ullah Ibn S. Jung, Administration of Justice of Muslim Law. New Delhi: Idarah-I Adabiyat-I Delli (1977), p. 80.

scribes two types of offenses: (1) offenses against God, and (2) offenses against private individuals. The violation against God is considered a violation against the public which means that the rights of God are public rights, that is to say, the enforcement of the rights of God is the responsibility of the state, while the enforcement of the rights of individuals is the responsibility of both the state and the community.[48]

Masslaha (public good) is the basic principle of determining punishment prescribed by the Shariah for the maintenance of public interest of the community. It is that which

> concerns the subsistence of human life, the completion of man's livelihood, and the acquisition of what his emotional and intellectual qualities require of him, in an absolute sense.[49]

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[48]There are at least six fundamental human rights in Islam: (1) life (Hayah); (2) freedom (Hurriyyah); (3) dignity (Karamah); (4) education (Taalim); (5) property (Mal); and (6) lawful help (Nussrah). There are also private rights in Islam which include: (1) right of safety of individuals (Salamat An-Nafs); (2) right of reputation (Hurmah/Sumah); (3) right of ownership (Mulk); (4) family rights: (a) marital rights (Zawjiyyah), (b) right of guardianship (Wilayah), (c) right of children and poor relatives, (d) right to succession (Khilafah) and inheritance (Wirathah); (5) right to conduct lawful acts (Tasarrufat); and (6) right ex-contracty. For details see the chapter on Freedom and Islamic Precepts in this dissertation.

[49]For details on the concept of Masslaha see Muhammad Khalid Masud, Islamic Legal Philosophy: A Study of Abu Ishaq Al-Shatibi's Life and Thought. Islamabad: Islamic Research Institute, 1977. pp. 149-190 and 225-236.

Muslim jurists have identified five Massalih (singular of Masslaha). Among them is Abu Hamid Al-Ghazali, a distinguished Muslim philosopher, who stresses that

> securing good and warding off harm are the ulti-
> mate aims of mankind. The well-being of mankind
> lies in achieving their aims. ...[What] we mean
> by masslaha [is the] consideration for what is
> aimed at for mankind in the Law, which are five
> things: the maintenance of religion, of life, of
> reason, of descendants and property. Anything
> that insures the maintenance of these five essen-
> tials is considered as a masslaha and anything
> that destroys them is harm and mischief...[50]

Punishment, therefore, is based on 'established Masslaha' in order to achieve the greatest possible benefit for its subjects. Furthermore, in conducting such measures, Islam emphasizes that punishment should not kill personal dignity and that it should develop in its adherents the sense of duty and human conscience.[51]

One of the major punishments in the Islamic penal system is constituted of the following three:

(1) Hadd or a bond which is the sanction specified by the Shariah against individuals who violate the rights of

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[50]For further explanation, see S. M. Abu Zahra, "Punishment in Islam: General Study," The Fourth Conference of the Academy of Islamic Research, Cairo: (September 1970), p. 742.

[51]See Muhammad Salim Al-'Awwa, "The Basis of Islamic Penal Legislation" and Ahmad Abd Al-Aziz Al-Alfi, "Punishment in Islamic Criminal Law," The Islamic Criminal Justice System (editor, M. Cherif Bassiouni), op. cit., pp. 127-147 and pp. 227-236. Also see Fateh M. Sandeela. "The Ethics of Islamic Punishments" Islamic Order, Vol. 6, No. 4 (Fourth Quarter, 1984), p. 58-69.

God.[52] These violations which are considered sins against self and God include: (a) Zina, adultery or whoredom;[53] (b) Khamr, intoxicating drink;[54] (c) Qadhf, slander, for accusing married individuals of committing adultery;[55] (d) Ridda or, apostasy;[56] (e) Sariqa, theft or larceny;[57] (f) Qatia At-Tariq or Harabah, highway robbery;[58] and (g) Baghy, rebellion.[59]

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[52]See Fazlur Rahman, "The Concept of Hadd in Islamic Law," _Islamic Studies_, Vol. IV, No. 3 (September 1965). pp. 237-251.

[53]The Hadd punishment for Zina is found in the Quran Sura: Nisaa or The Women 4:15-16,25 and Nur or Light 24:2-3.

[54]Sura: Baqara or The Heifer 2:219; Nisaa or The Women 4:43; and Maida or The Table Spread 5:93-94.

[55]Sura: Nur or Light 24:4-26.

[56]Sura: Baqarah or The Heifer 2:217. It is unlawful to shed a Muslim's blood except for one of the three following causes: adultery after marriage, life for life, and apostasy. For more details, see Sheikh Mohammad Abu Zahra, "Punishment in Islam: General Study," op. cit. (September 1970), pp. 770-771. Also see Safia M. Safwat, "Offenses and Penalties in Islamic Law," _Islamic Quarterly_, Vol. XXVI, No. 3 (1982), p. 154.

[57]Sura: Maida or The Table Spread 5:41-42. For more details, see Muhammad Sharif, _Crime and Punishment in Islam_, Lahore: Falcon Printing House (1978).

[58]Sura: Maida or The Table Spread 5:36-37.

[59]Sura: Hujarat or The Inner Apartments 49:9; In short, there are three categories of crimes which are punishable by Hadd: 1) crimes against life and limb consisting of a) homicide, and b) physical injury; 2) crimes against family and morality consisting of a)adultery and fornication, b) Qadhf; and 3) crimes against property consisting of a) theft and b) highway robbery.

Islamic law relies upon Hadd as a last resort due to its seriousness and effect upon the community.[60] Therefore, Islam created a law of evidence that is precise and limited. For example, in the event of adultery, the law of evidence requires four male eyewitnesses to prove that the action has indeed taken place. The Quran proclaims, "Those (who) turn (to God) in repentance, that serve Him and praise Him,(who) wander in devotion to the cause of God...and observe the limits set by God...so proclaim the glad tidings to the believers."[61]

(2) Taazir is a discretionary punishment to supplement cases where Hadd was silent. Taazir exists where neither the criminality of the act nor the nature of the penalty is prescribed by law.[62] The main reason why all kinds of punishment are not textually laid down is the fact that texts are limited while the sins committed by individuals are unlimited. Therefore, only punishments for grave crimes constituting infringement of the rights of God are fixed by

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[60]To distinguish the penalties of Hudud (plural of Hadd) from crimes in other systems, see Aly A. Mansour, "Hudud Crimes," Islamic Criminal Justice System, op. cit., pp. 195-201.

[61]Sura: Tauba (Repentance) or Baraat (Immunity) 9:112.

[62]It is called by some scholars 'the Shariah doctrine of deterrence.' See N. J. Coulson, A History of Islamic Law, Edinburgh: Edinburgh University Press, 1964, p. 150.

the Shariah.[63] "The jurists repeatedly stress the fact that the primary purpose of the taazirat (plural of taazir) is to serve as a correction for the offender himself and a deterrent for others."[64] This prevents partiality in the infliction of those punishments for the interest of the community against wrongdoers. The Quran explains, "And did not God check one set of people by means of another, the earth would indeed be full of mischief! But God is full of bounty to all the worlds."[65]

The doctrine of Taazir, therefore, provides a wide discretion to the judge (Qadi) in inflicting the appropriate punishment. Also under special circumstances, Taazir can be substituted for Hadd. Taazir, however, should never exceed the punishments prescribed by Hadd.[66]

(3) The last major punishment in the Islamic penal system is the general theory of Qisass, the principle of talion. There are five crimes deserving Qisass:

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[63]See Abdul 'Aziz M. 'Amir, At-Taazir fi Ash-Shariah Al-Islamiyyah (Discretionary Punishment in the Islamic Law), Cairo: Mustafa Al-Halabi Publishing Co., 1957; see also Ghaouti Benmelha "Taazir Crimes," The Islamic Criminal Justice System, op cit., pp. 211-225.

[64]N. J. Coulson, "The State and the Individual in Islamic Law," op. cit. p. 53.

[65]Sura: Baqara or The Heifer 2:251; also refer to Safia Safwat, "Offenses and Penalties," op. cit., pp. 154, 174-178.

[66]For details, see S. Mohammad Abu Zahra, "Punishment in Islam," op. cit., pp. 794-799.

premeditated murder, manslaughter, unintentional murder, intentional crimes other than homicide, and unintentional crimes other than homicide.[67] Qisass is based upon the view that retaliation is a violation of public and private rights. In fact, Islam emphasizes the application of the broad perception of the Mosaic law: "A hand for a hand, an eye for an eye, a tooth for a tooth, and the like."[68] Islamic law, however, forbids the application of retribution by private individuals because that task is considered as the function and responsibility of the Islamic state to secure the safety of its people by inflicting proper punishment. Deterrence is considered necessary for the preservation of social order. In the same light, Qisass, being the right of private individuals or their heirs, leaves the ground open for settlement between individuals, i.e., it allows the victim to be compensated (Diyah) or that the victim may pardon ('Afw) the offender and therefore the Quran states: "In the law of equality there is (saving of)

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[67]See Safia Safwat, "Offenses and Penalties in Islamic Law," op. cit., p. 171; also see sura Bani Israil or The Children of Israel 17:33.

[68]Mahomed Ullah Ibn S. Jung, Administration of Justice, op. cit., p. 85. Actually, Islam substituted the concept of revenge (Thaar), which was predominant in Arabia before Islam, with the principle of Qisass or just retribution. The Quran states, "On that account, we ordained for the children of Israel 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..." Sura: Maida or The Table Spread 5:35.

life to you, O ye men of understanding; that ye may restrain yourselves."[69]

Shariah prescribes that social justice is based upon good faith, cooperation and sincerity; hence the Islamic law is the ultimate criterion of justice and mercy.[70] The Quran asserts: "The word of thy Lord doth find their fulfillment in truth and in justice. None can change His words."[71] The Shariah courts must have jurisdiction over all civil, criminal and domestic relations cases of the Islamic state. The Islamic state must follow the Islamic legal system where there is no case of law or binding precedent and a judge is not bound by the decision of another judge or of a higher court.[72]

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[69]Sura: Baqarah or The Heifer 2:179; also see Appendix I, The Constitution of Madina, article 21.

[70]For a reference from the Quran as to the concept of solidarity and cooperation, see Sura: Maida or The Table Spread 5:3; also see Sayyed Qutb, Social Justice in Islam, translated from the Arabic by John Hardie, New York: Octagon Books (1970); and Ibrahim A. Tokhais, "Social Justice in Islamic Law" (unpublished doctoral dissertation. Claremont Graduate School, 1982). pp. 50-78.

[71]Sura: An'am or Cattle 6:115.

[72]Justice among nations will be discussed in the chapter on Peace and Islamic Order in this dissertation; also for a reference see M. Khadduri, The Islamic Conception of Justice. op. cit., pp. 161-173.

B. Equality and Islamic Doctrine

The equality (Musawah) of the entire human race is the essence of all human rights in Islam. The Quran affirms and encourages such a principle by stating:

> O ye who believe! Let not some men among you laugh at others: it may be that the (latter) are better than the former: nor let some women laugh at others it may be that the (latter) are better than the (former): nor defame nor be sarcastic to each other, nor call each other by (offensive) nicknames: ill-seeming is a name connoting wickedness, (to be used of one) after he has believed: and those who do not desist are (indeed) doing wrong. O ye who believe! avoid suspicion as much (as possible): for suspicion in some cases is a sin: and spy not on each other, nor speak ill of each other behind their backs. Would any of you like to eat the flesh of his dead brother? Nay, ye would abhor it...but fear God: for God is Oft-Returning, Most Merciful. O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well acquainted (with all things)[73]

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[73]Sura: Hujarat or The Inner Apartments 49:11-13; other translation of the same verses might be useful. It is read as such "O you who believe! let not one group of men among you deride another, for they may be better than them; nor one group of women deride another, for they may be better than them, nor slander each other, nor call each other names - how bad it is to call (each other) by bad names after all of you became Believers. Whoever does not desist (from this), they are the unjust-ones. O you who believe! avoid most suspicion, for some suspicion is sinful, and do not pry into others' affairs and do not backbite each other; would any one of you like to eat the flesh of his dead brother? - how distasteful would it be to you! So fear God - indeed, God is forgiving and merciful. O people! We have created (all of) you out of male and female, and we have made you into different nations and tribes (only) for mutual identification; (otherwise) the

Islam prescribes principles of equality to govern relationships among Muslims, between Muslims and non-Muslims (Dhimmis), and between men and women.[74]

Equality among Muslims: "The people of Prophet Muhammad are large family, brethren in the faith, partners in the sharing of booty, allies against the common foe," said Abu Bakr, the first caliph (Khalifah), addressing the people of Madina. "A corollary of brotherhood is equality. Equal before God, the Muslims are equal among themselves."[75] The Quran states: "The believers are but a single brotherhood..."[76]

In Islam the principle of equality is expressed in the sayings of the Prophet Muhammad. He asserts that "There is no difference between an Arab and a non-Arab, between a white man and a black man except that of faith, 'piety-Taqwa'." The Prophet adds, addressing the Muslim tribe of Makkah, "O Quraysh (the major tribe in Makkah), God has suppressed among you the pride of nobility and the arrogance

noblest of you in the sight of God is the one most possessed of taqwa (not one belonging to this or that race or nation); God knows well and is best informed." Fazlur Rahman., Major Themes of the Quran Chicago: Bibliotheca Islamica, 1980, p.45.

[74]The Islamic theory of equality in regard to the concept of nation-states will be discussed in the chapter on Peace and Islamic Order in this dissertation.

[75]Thomas Arnold and Alfred Guillaume, The Legacy of Islam, Oxford: Oxford University Press (1931), p. 286.

[76]Sura Hujarat or The Inner Apartments 49:10.

of the time of ignorance (Jahiliyyah). All men are des-

cended from Adam, and Adam was built up from clay."[77] In

another incident the Prophet emphasizes that the "people are

all equal as the teeth of a comb."[78]

"For Muslim men and women," states the Quran,

For believing men and women, for devout men and
women, for men and women who are patient and con-
stant, for men and women who humble themselves,
for men and women who give in charity, for men and
women who fast (and deny themselves), for men and
women who guard their chastity and for men and
women who engage much in God's praise - for them
has God prepared forgiveness and great reward.[79]

Superiority, therefore, among the believers is marked solely

by priority in the faith and by observance of its precepts.

In one word, by righteousness.

Equality before the law is the fundamental basis of the

whole Islamic system. 'Omar Ibn Al-Khattab, the second

Khalifa, once said to one of his distinguished deputies, Abu

Musa Al-Ashari, "Let them all be equal before thee in

respect of thy justice and tribunal, lest the powerful put

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[77]Thomas Arnold, The Legacy of Islam, op. cit., p. 286.

[78]Sayyed Qutb, Social Justice in Islam, translated from
Arabic by John Hardie, New York: Octagon Books (1970),
p. 47. Also see C. W. Jenks, Law in the World Community,
London: Longmans, Green and Co. (1967), p. 93; "To give an
historical example [of human equality], Caliph Omar who
belonged to the respectable Arab tribe of Quraish and was
head of the then largest Muslim state of his time used no
address, Bilal, a black slave Muslim of humble means,
saying: sayyidina" (Our Master) See Israr Ahmad, "The Quran
and the World Peace" Islamic Order Vol. 4, No. 4 (Fourth
Quarter, 1981), p. 107.

[79]Sura Ahzab or The Confederates 33:35.

their hope in thy partiality and the weak despair of thy justice...[80]

Nevertheless, Islam recognizes differences in talent and ability among individuals. The Quran states: "It is He who hath made you (His) agents, inheritors of the earth; He hath raised you in ranks some above others: that He may try you in the gifts He hath given you..."[81] The Quran adds:

> Is it they who would portion out the Mercy of thy Lord? It is We who portion out between them their livelihood in the life of this world; and We raise some of them above others in ranks, so that some may command work for others. But the Mercy of thy Lord is better than the (wealth) which they amass.[82]

Islam demands that those who are superior to others by virtue of character or intellect be given the fullest opportunity to develop their talents without being hampered by social class stratification or racial obstacles.[83] The Quran affirms that

> God has bestowed His gifts of sustenance more freely on some of you than on others; those more favored are not going to throw back their gifts to those whom their right hands possess, so as to be

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

[81]Sura Anam or Cattle 6:165.

[82]Sura Zukhruf or Gold Adornments 43:32.

[83]M. Muhammad Ali, The New World Order, Lahore: The Ahmadiyya A. Ishaat-I-Islam (1958), pp. 22-25.

equal in that respect. Will they then deny the favors of God?[84]

The Position of Dhimmis

Dhimmis in Islam are the People of the Book (Ahl Al-Kitab) who enjoy Muslim protection in the Islamic state or dominion (Dar Al-Islam or Dar As-Salam).[85] Islam gives the Dhimmis (the covenanted) freedom of expression, private ownership, right-of-use property and freedom of religion.

A distinguished Muslim scholar, Abul Ala Maudoodi, once indicated

> ...these rights must necessarily form part of the Islamic constitution... The life, property and honor of a Dhimmi is to be respected and protected exactly like that of a Muslim citizen. There is no difference at all between a Muslim and non-Muslim citizen in respect of the civil or criminal law. The Islamic state shall not interfere with the personal rights of the non-Muslims. They will have full freedom of conscience and belief and will be at liberty to perform their religious rights and ceremonies in their own way. Not only can they propagate their religion but they are entitled even to criticize Islam within the limits laid down by law and decency.[86]

Maudoodi continued by stating that these

> rights given in this respect are not limited, but the civil law of the country is to be fully

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[84]Sura Nahl or The Bee 16:71.

[85]The People of the Book are the Christians and the Jews who reside permanently in the Dar Al-Islam and accept Muslim rule. They are mentioned in the Quran, as Ahl Al-Kitab, at least 32 times. In short, a Dhimmi is a non-Muslim citizen of a Muslim state. See Appendix I.

[86]A. A. Maudoodi, Human Rights in Islam, London: The Islamic Foundation (1976), p. 11.

respected and all criticism will have to be made within its framework which would be applicable to all citizens of the state. These, as well as many other rights, have been granted to the Dhimmis in Islam. The rights are of an irrevocable nature. The non-Muslims cannot be deprived of them unless they renounce the covenant which grants them citizenship...[87]

Islam calls for a better relationship between Muslims and non-Muslims.[88] One fundamental principle is equality before law. The Quran commands: "... If thou judge, judge in equity between them. For God loveth those who judge in equity."[89] The Quran wants to create a community in which individuals, regardless of their faith, stand strongly for justice and fairness. "O ye who believe!" states the Quran, "stand out firmly for God, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety..."[90] Islam manifests its peaceful way and its spirit of tolerance in the occurrence of some misunderstanding in the following:

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[87]Ibid.

[88]See Abdur Rahman I. Doi, Non-Muslims Under Shariah (Islamic Law), Brentwood, Maryland: International Graphics (1979), p. 22-54.

[89]Sura Al-Maida or The Table Spread 5:45.

[90]Ibid., 5:9; Further, the touchstone of equal and just community held accountable for its individuals is represented in the following verse: "deal not unjustly, and ye shall not be dealt with unjustly," Sura Baqarah or The Heifer 2:279.

> ...and dispute ye not with the People of the Book
> except with means better (than mere disputation),
> unless it be with those of them who inflict wrong
> (and injury); but say: 'we believe in the
> revelation which has come down to us and in that
> which came down to you; our God and your God is
> One, and it is to Him we bow (in Islam).'[91]

Muslim traditions have emphasized strongly that the

Dhimmis are to be treated kindly and justly. Prophet

Muhammad is reported to have said: "Whoever oppresses the

non-Muslim subjects, shall find me to be their advocate on

the day of the Resurrection (against the oppressing

Muslims)."[92] Abu Bakr, further illustrated the importance

of this relationship when he said, "Do not kill any of the

protected people, for if you do God will require the pro-

tection of them from you and will cast you on your faces in

hell." When the troops started for Syria he is said to have

given these commands:

> When you enter that country, kill neither old man,
> nor little child, nor woman. Do not pull down a
> pillar saint from his place. Do not injure the
> monks, for they have set themselves apart to
> worship God. Do not cut down a tree or uproot a
> plant. Do not rip up any ox, cow or sheep. If a
> province or people receive you, make an agreement
> with them and keep your promise. Let them be
> governed by their laws and established customs and

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[91]Sura Ankabut or The Spider 29:46. Also see sura
Al-i-Imran or The Family of Imran 3:64.

[92]Muhammad Hamidullah, Introduction to Islam, London:
WMH London Publishers (1979), p. 150; Another translation of
the same Hadith states: "Whoever commits an injustice
against a Dhimmi I shall be his prosecutor on the Day of
Judgment." Further examples on the treatment and dealings
with the people of the Book can be cited from the
'Constitution of Madinah' see appendix I.

take tribute from them as is agreed between you. Leave them in their religion and their land.[93]

In addition, the rule of the Shariah about the non-Muslims has been expressed by the fourth caliph, Ali, who said that "they have accepted our protection only because their lives may be like our lives and their properties like our properties."[94] The Dhimmis, however, are not required, for example, to defend the state and its religious belief from aggression. It is assigned to the Muslims. As a result of the exemption from military service, the Dhimmis pay tribute (Jizyah) or poll tax for their protection. It should be noted here, however, that when a Dhimmi in fact participates in fighting with the Muslims this jizyah will be dismissed or dropped.[95]

Moreover, it is very important to point out that this poll tax or jizyah is collected from the people who are

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[93]A. S. Tritton, The Caliphs and Their Non-Muslim Subjects, London: Frank Cass and Co. (1970), p. 137.

[94]A. A. Maudoodi, Human Rights in Islam, op. cit., p. 35.

[95]"In the beginning of Islam, this tax did not exist in the Muslim state, either in Madinah or elsewhere. It was towards the year 9 A.H. (631 A.D.) that the Quran ordained it...It was a question of expediency and not a matter of dogmatic duty in Islam." Muhammad Hamidullah, Introduction to Islam, op. cit., p. 149. It must also be mentioned that this "jizyah was not a right of conquest given the victor over the vanquished; it was rather a benefit in exchange for a benefit, a compensation for a fulfilled task." Abdel Rahman 'Azzam, The Eternal Message of Muhammad, translated by Caesar E. Farah, New York: The Devin-Adair Co. (1964), p. 138.

financially able to earn.[96] In the time of the second

caliph, 'Omar, he once passed a house in Madina

> Where an old blind man was begging. He touched
> him on the arm from behind and said, 'To which of
> the people of the book do you belong?' He said
> that he was a Jew, and begged to provide for his
> daily needs and food and to pay the tribute.
> 'Omar took him by the hand, led him to his own
> house, gave him something from it, and then sent
> him to the keeper of the treasury (Bayt al-Mal)
> with this message: 'See to this man and his like,
> <u>for we have not done right if we devour their</u>
> <u>youth and neglect their old age</u>. The religious
> tax is for the poor and needy. The poor are the
> Muslims; this man is one of the needy of the
> People of the Book.' He freed him from the obliga-
> tion to pay tribute...[97]

It is reported that 'Omar, before his death, said, "I

charge the caliph after me to be kind to the Dhimmis, to

keep their covenant, to protect them and not to burden them

above their strength."[98] It was stipulated, throughout

history, that the People of the Book were protected from

their foes, that they were not compelled to fight for

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[96]"The jizyah as a tax on the non-Muslims,
corresponding to the Zakah (almsgiving) on the Muslims,
ceased to exist only when it was abolished in the Ottoman
Empire in 1839." See Ibrahim Shihata, "Islamic Law and the
World Community," <u>The Harvard International Law Club
Journal</u>, Vol. 4, No. 1 (December 1962), p. 106.

[97]A. S. Tritton, <u>The Caliphs and Their Non-Muslim
Subjects</u>, op. cit., p. 138.

[98]Ibid. Similar stories and eloquent testimonies can
be cited from Muhammad Hamidullah, <u>Introduction to Islam</u>,
op. cit., pp. 148-156.

Muslims that they kept their manners and laws. These laws, of course, apply to both men and women.[99]

Dhimmis who hold the position of judge can only convict fellow Dhimmis. The Dhimmi is allowed to serve in the Islamic government only up to the level of minister[100] and can only carry out the responsibilities of an executive minister (Tanfeed) but not those of a mandated minister (Tafweedh). This distinction is very significant and important due to four reasons, as Ali M. Al-Mawardi explains in his book Al-Ahkam As-Sultaniyyah (The Ordinances of Government):

> An authorized minister can: (1) look upon a case and judge in grievances and complaints; (2) can appoint deputies in the provinces and abroad; (3) can lead the army and manage the battles; and (4) can manage the public treasury, Bayt Al-Mal, while an executive minister is in no position whatsoever to do the previous four functions.[101]

To sum up, a Dhimmi could be a cabinet minister, within the above limitations but could not occupy the post of a ruler.

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[99]For details, see M. Rahmat Allah, The Treatment of the Dhimmis in Umayyad and Abbasid Periods, Baghdad: Times Press (1963).

[100]Abdul Hamid Mutwalli, Mabadi Nedham Al-Hukm fi-l-Islam (The Principles of Government in Islam), op. cit, p. 396.

[101]Ibid, p. 397. A new edition of Al-Ahkam As-Sultaniyyah is published in Cairo by Al-Halabi, 1966.

Finally, since the Dhimmis are in covenant with the Muslims, what would happen if they do not fulfill the prescribed conditions in order to claim protection?

> Malik, Shafii, and Ahmad Ibn Hanbal hold that the failure to pay the poll tax deprives them of protection. This was not the view of Abu Hanifah. Ahmad and Malik hold that four things put the Dhimmi outside the law: blasphemy of God, of His book, of His religion and of His Prophet.

> Abul Qasim said that eight deeds (make) a Dhimmi an outlaw: (if) they are (in) an agreement to fight the Muslims; fornication with a Muslim woman; an attempt to marry one; an attempt to prevent a Muslim from his religion; robbery of a Muslim on the highway; acting as a spy for unbelievers or sending them information or acting as guide to them; and the killing of a Muslim man or woman.[102]

The Status of Women

Islam granted women equal status with men. The Quran commands: "...And women shall have rights similar to the rights against them, according to what is equitable..."[103] The Quran continues that "the believers, men and women, are protectors of one another; they do what is just and forbid what is evil..."[104] Prophet Muhammad stresses this equality

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[102] A. S. Tritton, The Caliphs and Their Non-Muslim Subjects, op cit., p. 16. Professor Muhammad Talaat Al-Ghunaimi writes: "At the present day, the Muslim states have entirely departed from this concept (with the exception of Saudi Arabia) and Dhimmis as well as Muslims are all citizens enjoying full rights of citizenship regardless of their religion." The Muslim Conception of International Law and the Western Approach, The Hague: Martinus Nijhoff (1968), p. 82.

[103]Sura Baqarah or The Heifer 2:228.

[104] Sura Taubah or Repentence 9:71.

when he states "women are partners to men" and "women are the sisters of men."

Shariah provided women dignity, respect and honor like men. "We have honoured the sons of Adam,"[105] meaning both sexes. The Quran adds,

> 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; reverence
> God through whom ye demand your mutual (rights)
> and (reverence) the wombs (that bore you): for
> God ever watches over you.[106]

In Islam women are accorded the unrestricted position of dignity. For instance, the position of the mother is a very exalted one in the Islamic doctrine. The Quran reiterates and stresses the point further in saying that:

> We have enjoined on man kindness to his parents.
> In pain did his mother bear him, and in pain did
> she give him birth. The carrying of the (child)
> to his weanaing is (a period of) thirty months.
> At length, when he reaches the age of full
> strength and attains forty years, he says, "O, my
> Lord! grant me that I may be grateful for thy
> favour which thou hast bestowed upon me, and upon
> both my parents, and that I may work righteousness
> such as thou mayest approve"...[107]

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[105]Sura Bani-Israil or The Children of Israel 17:70.

[106]Sura Nisaa or The Women 4:1. See also Abdul Wahab At-Tunji, "Huquq Al-Marah: [Woman Rights in Islamic Law and Comparative Rules]," Al-'Adalah (Legal Journal of Justice), Abu Dhabi, U.A.E., No. 28 (July 1981), pp. 7-29.

[107]Sura Ahqaf or Winding Sand-tracts 46:15. See also the Quran sura Bani Israel or The Children of Israel 17:23/24 and sura Luqman or The Wise 31:14.

Furthermore, a tradition by Prophet Muhammad states that "even paradise lies underneath the feet of your mother."[108]

With regard to the woman as a wife, the scripture states that "...among His signs is...that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your (hearts)..."[109] "The best among you," states the Prophet, "is the one who is best toward his wife." The Prophet adds: "Be good to your wives, for you have married them on a sacred contract based on honor and honesty guarded by the watchful presence of God." In his last memorable Farewell Discourse, Prophet Muhammad pronounced that, "...there are rights in favor of your women which are incumbent upon you, and there are rights in favor of you which are incumbent upon them...I command you to treat women well..."[110]

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[108]Muhammad Hamidullah, Introduction to Islam, op. cit., p. 134.

[109]Sura Rum or The Roman Empire 30:21. Muhammad Rashid Redha states that the three important pillars in marriage are: (1) psychological, and sexual tranquility; (2) love and affection; and (3) kindness, mercy and compassion. Huquq An-Nisa fi-l-Islam (Women Rights in Islam), Beirut: Al-Maktab Al-Islami n.b., pp. 28-29.

[110]Muhammad Hamidullah, Introduction to Islam, op. cit., pp. 134-135. On another occasion, the Prophet said: "The world is an ephemeral thing, of which one takes temporary advantage; and among the worldly thing nothing is better than a good (pious) wife."

As for the woman as a daughter, the Islamic attitude clearly denounced and condemned the treatment of daughters during the pre-Islamic era. At the birth of daughters, the Quran explains:

> And they assign daughters for God! Glory be to
> Him - and for themselves (sons - the issue) they
> desire! 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 had! Shall he retain it on
> (sufferance and) contempt, or bury it in the dust?
> Ah! What an evil (choice) they decide on.[111]

Islam calls for and encourages kind treatment of daughters. Prophet Muhammad once said, "Whoever had two daughters and took good care of them he and I will be in heaven like these" and he put his two fingers together.[112]

The above cited explanation of the Quran and the Hadith on women's status illustrate two general principles: amity which involves friendship, brotherhood and cooperation in conducting the good work; and the equally obligatory status of every Muslim in commanding goodness (Maaruf) and in prohibiting evil (Munkar).[113]

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[111]Sura Nahl or The Bee 16:57/59. See also the Quran, Sura Zukhruf or Gold Adornments 43:16/17. Some of the pagan Arabs practised female infanticide. "In their state of perpetual war, sons were a source of strength to them; daughters only made them subject to humiliating raids!" A. Y. Ali, The Holy Quran, op cit., p. 670.

[112]Muhammad Rashid Redha, Huquq An-Nisa fi-I-Islam (Women Rights in Islam), op. cit., p. 197.

[113]The bidding unto good (Al-Amr bi Al-Maaruf) and the rejecting of the reprehensible (An-Nahi ani Al-Munkar) can

More precisely, Islam has given and emphasized respective duties for women, their rights, responsibilities, virtues and merits.[114] This includes the right of inheritance,[115] right of consultation,[116] right of ownership and property,[117] right of choosing her husband,[118] as well as

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be found in the Quran. See sura Tauba or The Repentence 9:71.

[114]"One may even say that in certain cases the rights of women are held to be more important. For instance, The Quran (24:4-5) decrees that, if a man accuses a woman of immorality and does not produce proof, he is exposed not only to the penalty prescribed for a false accusation but to be declared for perpetuity as unworthy of giving an evidence before a tribunal (this in addition to the Divine punishment in the hereafter, which however may be effaced in case of repentence)..." Muhammad Hamidullah, Introduction to Islam, op. cit., p. 139. See also M. M. Siddiqi, Women in Islam, Lahore: Institute of Islamic Culture (1952).

[115]The Quran states, "From what is left by parents and those nearest related, there is a share for men and a share for women - whether the property be small or large - a determinate share." Sura Nisaa or The Women 4:7.

[116] See Sura Shura or Consultation 42:38. The example of Hind bint (or daughter of) Abi Ummayyah, known as Umm Salamah, the wife of the Prophet Muhammad, is ample proof of the woman's right of consultation. For the eligibility of women for the office of representative, see S. F. Zahrani, "Political Representation in Islam," op. cit., pp. 240-246.

[117]See Sura Nisaa or The Women 4:32. In this instance, she has an edge because, regardless of her financial status, the man is responsible for his family expenses.

[118]"Marriage, according to Islam, is a bilateral contract, based on the free consent of the two contracting parties. The parents certainly aid by their counsel and their experience in searching or selecting the companion of life for their child, yet it is the couple who have the last say in the matter. In this respect, there is no difference between man and woman insofar as the law is concerned. Illegal practices may exist in varying degrees from region to region and class to class, but the law does not recognize

the right of pursuing her education and intellectual
achievement.[119] Prophet Muhammad says, "The search for
knowledge is incumbent upon all Muslims: men and women."
The Prophet adds: "Whoever exercises his mind and errs, has
earned one unit of merit. Whoever does so and falls on the
truth has earned double." A similar saying of Caliph
Ali Ibn Abi Taleb is quite relevant and significant in this
respect. It was reported that he had wisely stated: "One
who searches for what is right but he misses it, is not
equal to one who searches for what is wrong and he reaches
it." [120]

Finally women are accorded the right to work in any
respectable occupation.[121] The Quran explains, "Whoever

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the customs which contravene its provisions." Muhammad
Hamidullah, Introductionto Islam, op. cit., p. 142.

[119]See Sura Zumar or The Crowds 39:9.

[120]Khalifah Ali, on another occasion, states that
"knowledge is better than wealth. Knowledge guards you but
you are guarding wealth. Knowledge dispenses justice, while
wealth seeks justice. Wealth decreases with expense while
knowledge increases with expense." Abu Hamid Al-Ghazali,
Ihya Ulumid-Din (The Revival of Religious Learnings or The
Book of Worship). Book I. Translated by Alhaj M. Fazlul
Karim. Decca: F. K. Islam Mission, 1971. p. 17-18.

[121]The right to work for women includes her work as a
judge. This is based on past precedents. Women in medieval
Islam used to give advice and were consulted on religious as
well as civil matters. Among the Muslim scholars who
advocated such a right is the great historian Abu Jaafar
Muhammad Ibn Jarir At-Tabari (A.H. 224-310/A.D. 829-923).
He maintained that a woman is fit to administer justice in
all cases. Imam Abu Hanifah, however, indicated that a
woman is competent to exercise the function of a judge only
in cases in which her testimony is legally admissable.

works with righteousness, man or woman, and has faith,
verily, to him will We 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."[122] Therefore, Islam
encourages Muslims to work and make it not only a secular
necessity but a religious duty. "And their Lord," the Quran
states, "hath accepted of them and answered them: 'Never
will I suffer to be lost the work of any of you, be he male
or female: ye are members, one of another...'"[123]

Islam, however, acknowledges differences in vocations
and functions between men and women.[124] Some of these
include the difference in economic status where the man's

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[122]Sura Nahl or The Bee 16:97. See also Sura Ghafer
(Mumin) or The Believer 40:40. Professor Mahmud Brelvi
states, for example, that "in every epoch of Islamic
history, including the time of the Prophet, one sees Muslim
women engaged in every profession that suits them. They
worked as nurses, teachers, and even as combatants by the
side of men when needed, in addition to being hairdressers
and cooks, etc. Caliph 'Omar employed a woman as the
inspector of the market of the capital (Madinah). The
jurists admit the possibility of women working as judges of
tribunals and there are several examples of this kind. In
brief, far from becoming a parasite, a woman could collab-
orate with men in Muslim society to earn her livelihood and
to develop her talents." Islamic Ideology and Its Impact on
Our Times, Karachi: Technical Printers (1967), p. 41.

[123]Sura Al-i-Imran or The Family of Imran 3:195; See
also sura Zumar or The Crowds 39:39; and sura Tauba or The
Repentence 9:105.

[124] The Quran states, "...Establish God's handiwork
according to the pattern on which He has made mankind. No
change (let there be) in the work (wrought) by God: that is
the standard relgion..." Sura Rum or The Roman Empire
30:30.

rights and liabilities are greater than the woman's.
According to the Shariah, the man is responsible for
supporting his family. Thus, he carries the liability of
expenditure in common financial affairs. "This shows that
men have a functional, not inherent superiority over
women"[125] which the Quran recognizes "...but men have a
degree (of advantage) over them (the women)."[126] Islam also
identifies biological differences between male and female.
The Quran asserts, "Men are the protectors and maintainers
of women because God has given the one more (strength) than
the other, and because they support them from their
means..."[127] This protection includes joining the army,
when needed, against any outside aggression. Although this
is a duty of men in Islam, there are many incidents where
women have directly participated in actual battles, such as
the Battle of Hanin in 631 A.D.[128] Muslim women also

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[125]Fazlur Rahman, Major Themes of the Quran, op. cit.
p. 49.

[126]Sura Baqarah or The Heifer 2:228.

[127]Sura Nisaa or The Women 4:34.

[128]Among them were Umm Sulaim, Safiyyah, daughter of
Abdul Muttaleb, in the Battle of Khandaq; Juwairah, daughter
of Abu Sufyam, in the Battle of Yarmuk (13 A.H./633 A.D.),
and Umm Hakim, daughter of Al-Hareth Ibn Hisham, in the
Battle of Qadisiyyah (14 A.H./634 A.D.). Some scholars like
Muhammad Ibn Al-Hasan Ash-Shaybani even suggest that a woman
can fight without her husband's consent in the time of
general call to arms (Nafir 'Amm). For further analysis,
see Dhafir Al-Qasimi, Al-Jihad Wa Al-Huquq Ad-Dawliyyah fi-
l-Islam (Al-Jihad and The Public International Rights in
Islam), Beirut: Dar Al-Ilm Lelmalayeen (1982), pp. 364-376;

participated in battles performing functions of nursing and providing moral support to Muslim soldiers.[129] Finally, a Muslim woman cannot marry a non-Muslim.[130] The Quran states:

> O, ye who believe! When there come to you believing women refugees examine (and test) them: God knows best as to their faith. If ye ascertain that they are believers, then send them not back to the unbelievers. They are not lawful (wives)

Islam), Beirut: Dar Al-Ilm Lelmalayeen (1982), pp. 364-376; Muhammad Hamidullah, The Battlefields of the Prophet Muhammad, Hyderabad-Deccan, (1973), p. 27.

[129]The participation of Muslim women in wars, either directly or indirectly, obviously underscores the superficiality of the 'complete' covering of a woman's body and face known as the veil (Hejab or chadeur) which was originally an extraneous traditional custom and has lasted to the present day in some Islamic states. These traditions developed duirng the Ummayyad and Abbasid eras due to the association of the Muslims with: (a) the Greek culture; (b) the Persian traditions; and (c) the expansion of slavery among women. For details see Mahmoud Salim Zanaty, Iktilatt Al-Jinsain Inda Al-Arab (The Mixing of Sexes Among the Arabs), Alexandria: Dar Al-Jamiat Al-Missriyyah Littibaah wa An-Nashr (1959), pp. 74-108.

[130]Abdullah Yusuf Ali in his commentary states that "...a Muslim woman may not marry a non-Muslim man because her Muslim status would be affected; the wife ordinarily takes the nationality and status given by her husband's law. A non-Muslim woman marrying a Muslim husband would be expected eventually to accept Islam. Any man or woman, of any race or faith, may, on accepting Islam, freely marry any Muslim woman or man, provided it be from motives of purity and chastity and not of lewdness." The Holy Quran, op. cit., p. 241. See also Professor Ahmad Ghunaym, where he adds a comparative study of the three religions, namely Judaism, Christianity, and Islam. He also explains the impact of this marriage on the future of the children. See his book, Mawaniea Az-Zawaj Bayn Ash-Sharaiea As-Samawiyyah Ath-Thalath (Marriage Impediments Between the Three Divine Religions and Positive Laws), Cairo: Dar An-Nahdhah Al-'Arabiyyah (1969), p. 275.

for the unbelievers, nor are the (unbelievers) lawful (husbands) for them...[131]

The Quran adds, "...And never will God grant to the unbelievers a way (to triumph) over the believers."[132]

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[131]Sura Mumtahana or The Woman to be Examined 60:10. Also compare it with Sura Maida or The Table Spread 5:6.

[132]Sura Nisaa or The Women 4:141.

CHAPTER III

FREEDOM AND ISLAMIC PRECEPTS

It is stated in the Quran: "Invite (all) to the
way of thy Lord with wisdom and beautiful preach-
ing; and argue with them in ways that are best and
most gracious. For thy Lord knoweth best who have
strayed from His path, and who receive guidance."

Sura: Nahl or The Bee 16:125

The Quran adds: "On no soul doth God place a
burden greater than it can bear. It gets every
good that it earns, and it suffers every ill that
it earns."

Sura: Baqarah or The Heifer 2:286

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

'Omar Ibn Al-Khattab
The second caliph (Khalifah)
(A.H. 13-23/A.D. 634-644)

The notion of freedom (Hurriyyah) is essentially linked to the notion of rights (Huquq). In the strict sense, freedom means "the status of a person who is not under absolute domination" and hence the possibility of acting without restraint.[1] The Western liberal emphasis upon freedom from restraint is alien to Islam. While in the Western liberal tradition freedom signifies the ability to act, in Islam it is the ability to exist, or more accurately, to become.[2] Accordingly, in Islam, existence is a reflection of the Supreme Being and is paramount.

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[1] "...In this sense, freedom is synonymous with franchise. In the political sphere, freedom means the possibility of acting in the community, according to one's own will, within the limits of defined rules. Civil freedom is the status of the individual who is able to exercise his civil rights. The word "freedom," like the word "right", is often used in the plural in Western societies, which have created these terms out of their history. Western societies have thus endeavored to render compatible these two sets of contradictory requirements, authority and freedom: authority for maintaining the unity of society, and freedom for protecting the individual against authority. The synthesis that characterizes contemporary Western societies has arisen from the search for solutions to these contradictory requirements." See Esat Cam., "Authority, Freedom and Individual Rights in Islam" Islam and a New International Economic Order: The Social Dimension. A symposium, op. cit., p. 47.

[2] Some Muslim scholars indicate that there are two words for man in the Quran; Bashar and Ensan. For instance sometimes the Quran states "I am a Bashar like you," (sura Kahf or Cave 18:110) and other times it states: "Ensan was created impatient" (Sura: Isra or Ascent 17:11). Ali Shariati, for example, explains that Bashar "is that particular being that contains physiological, biological, and psychological characteristics which are shared by all men, regardless of whether they are black, white, yellow, Western, religious or non-religious; it is based upon physical laws that medicine, physiology, psychology and so forth

In Islam, human beings are created in the image of God.[3] However, it regards this image as innate in all men and permanent. They are God's representatives on earth, and are empowered by the Divine Being to govern themselves.[4] It is said in the Quran: "It is He who hath made you (His agents), inheritors of the earth. He hath raised you in ranks, some above others that He may try you in the gifts He hath given you...."[5] God has created human beings who seek perfection (Kamal) by following the perfect (Kamil).[6] Human

have discovered. While man in its second connotation consists of the truth of being Ensan, possessing exceptional characteristics which cause each member of the human race to attain certain degrees of Ensaniat (humanities). Accordingly, we are all Bashar but not necessarily Ensan." In short Shariati concludes by stating that Bashar is a "being" while Ensan is a "becoming." Man and Islam translated from the Persian by Fatollah Marjani. Houston: Free Islamic Ltd. Distributed by Book Distribution Center, 1981.p. 46-47.

[3]The Quran states: "He began the creation of man with (nothing more than) clay and made his progeny from a quintessence of the nature of a fluid despised. But He fashioned him in due proportion, and breathed into him something of His spirit." Sura: Sajda or Adoration 32:9.

[4]The Quran states: "We have indeed created man in the best of molds" (Sura: Tin or The Fig 95:4); "...to man God gave the purest and best nature, and man's duty is to preserve the pattern on which God has made him...But by making him His vicegerent, God exalted him in posse even higher than the angels, for the angels had to make obeisance to him...." See Abdullah Y. Ali, The Holy Quran, op, cit., p. 1759; also see sura: Tagabun or Mutual Loss and Gain 64:3 and sura: A'raf or The Heights 7:11.

[5]Sura: An'am or Cattle 6:165; see also Sura: Yunus or Jonah 10:14 and Sura: Naml or The Ants 27:62.

[6]See Sura: Kahf or The Cave 18:7, which states: "...that which is on earth We have made but as a glittering show for the earth, in order that We may test them as to

beings have certain God-granted rights, and a right, by definition, is the exercise of power. The human being as the reflection of God, who is complete freedom and complete necessity, participates in both this freedom and this necessity. Personal freedom lies in surrendering to the Divine Will and must be sought within oneself.[7] It cannot be realized through liberation from external sources of restraint. Individual freedom is a supreme end; it is not a means to an end only. However, individual freedom ends where the freedom of the community begins.[8]

These principles inform Islamic thought on freedom, but their articulation depends upon the perspectives advanced by jurists, theologians and philosophers in Islamic intellectual history. The jurists see human freedom in

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which of them are best in conduct." Also see Sura: Ha-Mim (Abbreviated Letters) or Ha-Mim Sajda or Fussilat 41:33.

[7]A great Muslim philosopher Abu Hamid Al-Ghazali, for example, explains the meaning of freedom in human action. "He classifies human behavior into three main types: man writes with his hand, man breathes with his lungs and throat, and he penetrates water if he stands on its surface. All three types are essentially the same from the point of view of necessity: The first type - writing - Al-Ghazali calls free action; the second - breathing - an action of the will (iradi); and the third, a physical action....freedom of action then is an expression for a particular kind of will which exists as a product of some knowledge in the heart." Ali Issa Othman., The Concept of Man in Islam in the Writing of Al-Ghazali: op cit., pp. 152-153; also for a comparative study on the theory of human freedom with other schools of thought in Islam see the same reference p. 155-156.

[8]In other words, Islam calls for the harmony between the needs of the community and the freedom of the individual.

terms of personal surrender to the Divine Will. Freedom is
not an inherent right. Human beings are created by God and
have no power to create.[9] They are dependent on God and can
only receive what is given to them by sources of their own
being, the Divine. Human rights exist only in relation to
human obligations. Individuals possess certain obligations
toward God, fellow men and nature, all of which are defined
by Shariah.[10] When individuals meet these obligations, they
acquire certain rights and freedoms which again are pre-
scribed by the Shariah. Those individuals who do not accept
these obligations have no rights. Their claims of freedom
lack justification.[11]

Certain theologians including the Asharites, ninth
century scholastics, negate human freedom almost totally.
They favor a full determinism. Others, including the

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[9]It is said in the Quran that, "He created the heavens
without any pillars that ye can see; He set on the earth
mountains standing firm, lest it should shake with you; and
He scattered through it beasts of all kinds. We send down
rain from the sky, and produce on the earth every kind of
noble creature, in pairs. Such is the creation of God: now
show Me what is there that others besides Him have
created...?" Sura: Luqman or the Wise 31:10-11.

[10]The issue of man and nature will be discussed in
chapter five of this thesis. The Quran states: "A sura
which We have sent down and which We have ordained: in it
have We sent down clear signs, in order that ye may receive
admonition." Sura: Nur or Light 24:1.

[11]"Some He hath guided," states the Quran, "others have
(by their choice) deserved the loss of their way; in that
they took the evil ones, in preference to God, for their
friends and protectors, and think that they receive
guidance." Sura: 'Araf or The Heights 7:30.

Mutazilites, tenth century rationalists, accept human freedom and reject the rigid determinism of the former. The debate on free will and determinism is central to theology and has attracted the majority of theologians.[12]

Muslim philosophers differ considerably from the theologians on this question and emphasize the existence of human freedom. Muslim philosophers, including Al-Farabi, Ibn Sina (Avicenna) and Ibn Rushd (Averroes), from the tenth century to the twelfth century, worked with political philosophy and studied Plato, Aristotle and the Stoics (Ar-Riwaqiyyah).[13] They dealt with the concept of freedom in terms of the Islamicized political philosophy of Al-Farabi

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[12]For an insightful analysis on the debate of freedom and free will among Muslim scholars, see Franz Rosenthal, The Muslim Concept of Freedom Prior to the Nineteenth Century, Leiden: E. J. Brill (1960).

[13]Al-Ghazali, for example, indicates that "the freedom of the individual from obscure and mysterious influences of his environment depends upon the kind of virtues he estab-lishes within himself as determinants of his relatedness to the outside. Freedom in this sense is not freedom to choose and act in a specific instance. The latter...involves a highly metaphysical situation in which, besides the indivi-dual himself, the whole universe and the imminent interfer-ence of God are involved. But freedom in the former sense is a quality or state of being of the whole personality, achieved when, through knowledge and self-discipline, the individual's relatedness to the outside becomes one of insight into possibilities and limitations, and when he attains a knowledge of the importance of everything to his happiness." And therefore, Al-Ghazali adds: "a free individual is not the product of a specific society. Society is only one of the conditions...in his self-development. A free individual is the product of his own understanding." Ali I. Othman, The Concept of Man in Islam in the Writing of Al-Ghazali. op. cit. pp. 109-110 and 192.

rather than in the context of Greek philosophy (anthropo-
centric vs. theocentric philosophy).[14] They accepted the
Shariah and the Islamic community and the legitimacy of
political rule derived from the Quran, Sunnah, Imjaa and
Ijtihad. This interpretation has been endorsed by the two
principal Islamic sects, the Sunnis and the Shiites.[15]
Thus, Muslims recognize human freedom in the context of the
community (Ummah) of Islam, but not in accordance with
Western liberalism.

The concept of freedom in Islam:

> Implies a conscious rejection of a purely liberal
> and individualistic philosophy of "doing one's own
> thing" as the meaning of life or as the goal of
> society. The goal of freedom is human creati-
> vity. Freedom is defined as belonging to the
> community and participating with the people in
> cultural creation. This egalitarian, community-
> oriented approach denies some of the essential
> Western liberal characteristics of freedom.
> Viewed within the Islamic context, individualistic
> liberalism and the cultural anarchy of individual-
> ism are not a seed-bed of culture.[16]

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[14]See Fauzi M. Najjar, "Farabi's Political Philosophy
and Shi'ism," Studia Islamica, Vol. XIV (1961). pp. 57-72;
Seyyed Hossein Nasr, "The Meaning and Role of Philosophy in
Islam," Studia Islamica, Vol. 37 (1973), pp. 57-80; and
Fauzi M. Najjar, "Political Philosophy in Islam", The
Islamic Quarterly, Vol. 32, No. 4 (December 1978), pp. 121-
132.

[15]See Seyyed Hossein Nasr, "The Concept and Reality of
Freedom in Islam and Islamic Civilization," Islamic Life and
Thought, Albany: State University of New York Press (1981),
pp. 16-23.

[16]See Abdul Aziz Said and Jamil Nasser, "The Use and
Abuse of Democracy in Islam," International Human Rights:
Contemporary Issues, coedited by Jack L. Nelson and Vera M.

Societies have so often been repressive, in one way or
another and sometimes nearly completely, that there has
emerged in the West a strong tradition that views the
elimination of repression and want as the goal of society
and humankind. There has thus emerged a false dichotomy
between the individual and society, with the former seen
constantly as the victim of the latter and the ideal task of
the latter defined as the servant of the individual. Too
often, the cultural community, where a major portion of
human realization must take place, has been ignored. It is
true that cultural systems - political, economic and social
- have also usually contained much that impeded human devel-
opment, such as prejudice, chauvinism, competitiveness,
racism and sexism. The Islamic perspective differs from
that of the Western liberal tradition. In Islam, the
cultural community must be served - rather than the other
way around - by the political, economic and social systems.
"Pluralist cultural communities, each one enhancing
creativity, must be developed."17

Types of Freedom

Islam identifies four types of freedom: (1) personal
freedom, (2) freedom of expression, (3) freedom of religion

Green, Standfordville, New York: Human Rights Publishing
Group (1980), p. 75.

17Ibid., p. 75.

(or religious beliefs), and (4) freedom of private owner-
ship.

(1) Personal freedom

While religious scholars, 'Ulama Al-Fiqh, differ in
their definition of personal freedom, the broad constitu-
tional Fiqh, as related to personal freedom, includes:

(a) Freedom of mobility (Intiqal or Tanaqqul)
insofar as place of residence is concerned; there are some
religious scholars who believe that this particular aspect
of judicial statute must include freedom of refuge (Malja),
that is, shelter. Even though freedom is guaranteed in
Islam, nonetheless in some instances it is restricted in
order to serve the interest of the community.[18]

Exile (Nafy) and isolation (Ibaad-Hajr) are viewed as
punishment, as the Quran asserts: "The punishment of those
who wage war against God 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

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[18]Caliph 'Omar is one example in this instance. He did
not allow the chieftains of Quraish to leave Madina or
Makkah, without permission or for a short period of time, to
the newly conquered lands. Omar was afraid that those
people would gain and exercise power and eventually expand
at the expense of Islam. See Muhammad Amara, Al-Islam Wath-
Thawrah (Islam and Revolution). Cairo: Dar Ath-Thaqafa
Al-Jadid, 1979. p. 76.

disgrace in this world and a heavy punishment is theirs in the hereafter."[19]

(b)   The right of security (safety - Aman) describes the sanctions imposed upon offenders or violators of the law.   All Muslim 'Ulamas have agreed that these sanctions may be ratified on the basis of the Quranic statement: "...Let there be no hostility except to those who practice oppression..."[20]   Furthermore, "...if then anyone transgresses the prohibition against you, transgress ye likewise against him.   But fear God, and know that God is with those who restrain themselves."[21]   It is reported that Prophet Muhammad said: "The blood of a Muslim may not be legally spilt other than in one of three (instances): a married person who commits adultery; a life for a life; and one who forsakes his religion and abandons the community."[22]

(c)   Freedom of the dwelling place (Sakan).   The Quran states: "O ye who believe!   enter not houses other than your own until ye have asked permission and saluted those in them: that is best for you, in order that ye may

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[19]Sura: Maida or The Table Spread 5:36.

[20]Sura: Baqara or The Heifer 2:193.

[21]Ibid, 2:194.

[22]See An-Nawawi's Forty Hadith translated by Ezzeddin Ibrahim and Denys Johnson-Davies, Beirut: The Holy Koran Publishing House (1976), pp. 58-59; in a similar hadith, it is reported that Prophet Muhammad said: "The whole of a Muslim for another Muslim is inviolable: his blood, his property and his honor."

heed (what is seemly)...If ye are asked to go back, go back: that makes for greater purity for yourselves..."[23] The Quran adds: "...avoid suspicion as much (as possible): for suspicion in some cases is a sin: and spy not on each other..."[24] It is also advised that, "...It is no virtue if ye enter your houses from the back: it is virtue if ye fear God. Enter houses through the proper doors..."[25]

(2) **Freedom of expression (Taabir) and thought (Fikr-Ray)**

Islam encourages freedom of expression among its followers in order to participate in advancing the common good of the community. The Quran declares: "Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: they are the ones to attain felicity."[26] The Quran adds: "Invite (all) to the way of thy Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious."[27] Prophet Muhammad expresses profoundly the concept of individual freedom of self-

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[23]Sura: Nur or The Light 24:27-28.

[24]Sura: Hujarat or The Inner Apartments 49:12.

[25]Sura: Baqara or The Heifer 2:189.

[26]Sura: Al-i-Imran or The Family of Imran 3:104.

[27]Sura: Nahl or The Bee 16:125.

expression: "The best jihad, according to God, is a word of truth before an authoritarian ruler."

Finally, Islam distinguishes between two important components of human existence: everyday life affairs and religious matters. In the former, an individual has unlimited freedom of personal opinion without being reprimanded: "God loveth not that evil should be noised abroad in public speech."[28] As for religious matters, the well-versed and knowledgeable individuals have the right to offer or express their opinion within the boundaries of religion, so long as the issue in question is not explicitly regulated by the Quran or Hadith.[29] In fact, Islam encourages such a deed. The Prophet, for example, is reported to have said: "The ink of the scholar is more valuable than the blood of the one who fights the holy war."

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[28]Sura: Nisaa or The Women 4:148.

[29]"...The biography of the Prophet leaves no doubt that he and his companions made a clear distinction between his rulings as the Prophet, and his decisions in his capacity as the supreme legislator, administrator, judge and commander-in-chief. In the latter instances the Prophet used to consult and follow the functional and technical experts. Once when his conjectures on a question of agricultural science were proven wrong, he accepted the facts of experience and reportedly said: 'I am but a human being. Only when I order something regarding your religious duties will you have to abide by it. But if I issue an instruction [based] upon my personal opinion, it is a mere guess and I am only a human being. Rather, you may better know your worldly affairs." S. Waqar Ahmed Husaini, Islamic Environmental Systems Engineering. London: The Macmillan Press Ltd., 1980, p. 25.

(3) Freedom of religious belief

It is important to make a distinction between freedom to choose a religious faith and freedom of expression on religious matters. The latter freedom allows a Muslim free expression of thought and is referred to as "freedom of interpretation or hurriyyat al-Ijtihad," while the former concept entails freedom for non-Muslims either to maintain their own faith or, when converting to Islam, to be endowed with all the amenities which other members seem to enjoy, without being discriminated against. A true Muslim has no need to convert to another religion.[30]

Compulsion (Ikrah) is incompatible with Islam, since Islamic teachings are dependent upon faith and free will and cannot be induced by force. Truth and error are clearly expressed through the mercy of God, as it is stated in the Quran: "Let there be no compulsion in religion: truth stands out clear from error..."[31] The Quran asks: "...Shall we compel you to accept it when ye are averse to it?"[32]

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[30]The Quran states: "O ye who believe! If any from among you turn back from his faith, soon will God produce a people who He will love and they will love Him. Lowly with the believers, mighty against the rejectors, fighting in the way of God and never afraid of the reproaches of such as find fault. That is the grace of god..." Sura: Maida or The Table Spread 5:57.

[31]Sura: Baqara or The Heifer 2:256.

[32]Sura: Hud or The Prophet Hud 11:28.

When the Muslim warriors conquered parts of Asia,
Africa and Europe, there was no imposition upon the people
of these parts of the world to convert to Islam. However,
conquered people were given the choice of becoming Muslims
or of paying Jizyah, a poll tax levied on those who did not
accept Islam but were willing to live under the protection
of Islam. This Jizyah is considered a blood tax. The non-
Muslim, during early Islam, did not fight with Muslims for
their religious causes, and yet were protected against
aggression. The Jizyah subsidized the cost of such
protection.[33] In other words, Islam gave the conquered
people absolute equality with the native Muslims, on the
condition that they chose Islam; it gave them their full
human rights if they chose to pay the Jizyah and it gave
them just and humane treatment if they chose war.

(4) Freedom of private ownership

Islam emphasizes moderation in the relationship between
the individual and material possessions.[34] The Quran
addresses the Muslims: "Thus have we made of you an Ummah
justly balanced, that ye might be witnesses over the

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[33]For details, see the chapter on Equality and Islamic
Doctrine in this thesis.

[34]For a concise summary of economics in Islam, see M.
M. Sharif, A History of Muslim Philosophy, Wiesbaden: Otto
Harrassowitz (1963), Chapter 8: also see Studies in Islamic
Economics edited by Khurshid Ahmad, Leicester, United King-
dom: The Islamic Foundation (1980), also see M. B. As-Sadr,
Iqtissaduna (Our Economy) Beirut: Dar Al-Kitab,, 1981.

nations..."[35] Prophet Muhammad asserts: "The best of affairs is their mean." Natural resources have been created by God to follow the law of nature that make them useful for individuals. The latter have no right to be free in acquiring and exploiting these resources according to their will, nor are they entitled to draw a line between the lawful and the unlawful. It is for God to draw this line.[36]

Islam does not recognize the rights of private owner-ship, since all is owned by God alone, but only the right-of-use defined and limited by the norms of the Shariah. The Quran states: "Yea, to God belongs the dominion of the heavens and the earth; and to God is the final goal (of all)."[37] The Quran adds: "To Him belongs what is in the heavens and on earth, and all between them and all beneath the soil."[38] The right-of-use should subscribe to the norm of moderation. The individual has no right to seek wealth indefinitely, because the increase of wealth multiplies need and encourages the commitment of sin. Wealth is a disease in the mind of individuals which arrests the progress of divine attributes of the soul.

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[35]Sura: Baqara or The Heifer 2:143.

[36]For details see chapter five: Ecology and Islamic Tenets in this dissertation.

[37]Sura: Nur or Light 24:42.

[38]Sura: Taha 20:6.

The Quran does not provide for the need to nationalize or collectivize consumption or production of goods. There is no need to nationalize in Dar Al-Islam, the abode of Islam, a term designating the Islamic system, because everything is already nationalized in the hands of God.[39] The leadership of the Islamic system should regulate the right-of-use by individuals and protect the community from excess. 'Omar, the second Khalifah, expropriated part of the wealth of his General Khalid Ibn Al-Walid because of the latter's abuse of the right-of-use.[40] But, if it is the duty of the leadership of the Islamic community to regulate individuals' right-of-use to their possessions, it is also their duty to insure that individuals are granted the right-of-life, that is, the right to have their basic needs met.

The Islamic economic doctrine, however, provides certain restrictions over this right. These restrictions

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[39]The Quran declares: "...For to God belongeth the dominion of the heavens and the earth, and all that is between. He createth what He pleases. For God hath power over all things." Sura: Maida or The Table Spread 5:19; see also Sura: Baqara of The Heifer 2:107 and Sura: Maida 5:43; the term Dar Al-Islam will be discussed in detail, see the chapter on Peace and Islamic Order in this study.

[40]Another example is when Prophet Muhammad had given away a large tract of land to Bilal Ibn Al-Harith Al-Mazani. "Caliph Omar confiscated the portion of the land which Bilal had failed to cultivate himself and distributed it to others. Since then Islamic jurists have believed in the right of the state to confiscate without compensation the excess land in the possession of an owner who cannot cultivate it personally..." S. W. A. Husaini., Islamic Environmental Systems Engineering. op. cit., p. 75.

include: (1) The prohibition of wasted goods and God's punishment of lavish individuals. The Quran proclaims: "And there are those who bury gold and silver and spend it not in the way of God: announce unto them a most grievous penalty."[41] (2) The obligation of almsgiving (Zakat) to the needy once a year by whomever has a certain level of annual income. The Quran stresses, "And those in whose wealth is a recognized right for the (needy) who asks and who is prevented (for some reason from asking)."[42] (3) The inheritance and will of the Muslim also constitutes a limit over the right-of-use. Islam largely encourages the distribution of the wealth of the dead among many people and not solely into a few hands. Muslims cannot bequeath all their properties to a single individual. Islam, however, accepts a bequest to an individual if it does not exceed one third of the wealth. And (4) community interest could sometimes force the leader of the community to take some actions at the expense of individuals. The circumstances of such interference could be economic, political or social.[43]

Islam does not call for the distribution of means of livelihood equally among people. The fact that all persons

[41]Sura: Tauba (Repentance) or Baraat (Immunity) 9:34.

[42]Sura: Maarij or The Ways of Ascent 70:24-25.

[43]See Abdul Hamid Mutwalli, Mabadi Nedham Al-Hukm fi-l-Islam (Principles of Government in Islam with a Comparison to Modern Constitutional Principles), op cit., p. 319.

do not enjoy equality of income is described in the Quran as a feature of God's providence. God has created His bounties for human beings so that they use them for their benefit. However, God desires that they distinguish between things pure and impure, lawful and unlawful, and that in addition they should observe moderation. Wealth should be acquired by only lawful means. The Quran decrees: "O ye who believe: Eat not up your property among yourselves in vanities; but let there be amongst you traffic and trade by mutual goodwill..."[44]

Islam provides two restrictions on any economic activity: (1) there should be no exploitation; and (2) the rich have no power over the poor to deprive them of economic activity. The Quran prescribes certain solutions concerning exploitation. the most important solution is the prohibition of usury (Riba) which was utilized in the pre-Islamic period to amass wealth at the expense of the poor.[45] The main reason that Riba is forbidden is primarily because of the hardship which is imposed on the debtor. The Quran enjoins: "O ye who believe! Devour not usury, doubled and

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[44]Sura: Nisaa or The Women 4:29; for a brief study of Islamic welfare economics, see S. Waqar Ahmed Husaini, Islamic Environmental Systems Engineering, op cit. pp. 120-145.

[45]Riba is defined by Muslim jurists as "any predetermined material consideration for capital loaned;" see Salamat Ali, "The Semantics of Usury," Far Eastern Economic Review (June 12, 1981), p. 85.

multiplied, but fear God that ye may (really) prosper."[46]

The Quran adds: "...that which ye lay out for increase through the property of (other) people will have on increase with God..."[47] Islam also forbids business monopoly since it produces merciless exploitation of the Muslim community. Prophet Muhammad asserts, "Whoever manipulated food supplies at the expense of the community for forty days in order to obtain higher prices is repudiated by God."[48]

Islam encourages all lawful and constructive occupations. The Quran states: "...and say: Work (righteousness), soon will God observe your work, and His Apostle and the believers..."[49] The Quran also proclaims: "...Do whatever ye can: I will do my (part)..."[50] Islam considers work not only as a social and economic factor that provides needs for the community but also as a religious duty. God

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[46]Sura: Al-i-Imran or The Family of Imran 3:130.

[47] Sura: Rum or The Roman Empire 30:39.

[48]Ibn Taymiyyah's economic ethics also share this emphasis on solidarity and the importance of the community. He favors the idea of property, but states that the rich should be the friends and partners of the poor, and substitutes for the idea of competition that of cooperation and mutual help. He disapproved of the authoritarian fixing of prices (tas'ir) and permitted this fixing only after negotiation and agreement. He reminded people that "the revealed Law condemns those who make riches their goal and wish... (Sura: Qasas 28:38-40 and Sura: Dukhan or Smoke 44:31)." See "Ibn Taymiyyah" by H. Laoust, The Encyclopaedia of Islam (1970 Edition), p. 954.

[49]Sura: Tauba or The Repentance 9:105.

[50]Sura: An'am or The Cattle 6:135.

rewards the worker more than the one who stays idle in the community: "...God hath granted a grade higher to those who strive and fight with their goods and persons than to those who sit (at home). Unto all (in faith) hath God promised good: but those who strive and fight hath He distinguished above those who sit (at home) by a special reward..."[51] Prophet Muhammad went far to give religious sanction to personal work when he accepted a hand swollen with constant toil, saying: "This is a hand which is beloved of Allah and His Messenger." The Prophet further adds, "He who in the evening is weary from manual labor shall receive pardon for his sins that very same evening."[52] Evidently, the individuals do differ in their work needs besides their piety (Taqwa). The Quran states, "...to all are degrees (or ranks) according to their needs,"[53] which are all directed towards the interest of the general welfare of the Muslim community (Ummah).[54]

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[51]Sura: Nisaa or The Women 4:95.

[52]Sayyed Qutb, Social Justice in Islam, op. cit., p. 113.

[53]Sura: Anam or The Cattle 6:132.

[54]For details, see Muhammad Abdul Rauf, The Islamic Doctrine of Economics and Contemporary Economic Thoughts, Washington, D.C.: American Enterprise Institute for Public Policy (1979); see also Abul 'Ala Maudoodi, The Basic Rules of Economics Between Islam and the Contemporary Systems, second edition, translated from Urdu to Arabic by Muhammad Al-Haddad, Jeddah: The Saudi Publishing House (1967).

The aim of these restrictions is to make more equitable the sharing of benefits among individuals "...in order that it may not (merely) make a circuit between the wealth among you..."[55] and to create and maintain social justice in the community.[56]

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[55]Sura: Hashr or The Gathering 59:7.

[56]There are three pillars which define the general scheme of Islamic economy: 1) multilinear property; 2) limited economic freedom; and, 3) social justice. See Mahammad Baqir As-Sadr., Iqtissaduna (Our Economy) op cit., p. 257-266.

CHAPTER IV

PEACE AND ISLAMIC ORDER

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

Sura: Maida or The Table Spread 5:17-18

"The best of man is he who does the greatest good
to humanity."

"There is no preference for an Arab over a non-
Arab except for his piety and what God has given
him of love for human welfare and peace."

Hadith or Tradition of Prophet Muhammad (p.b.u.h.)

In this chapter an attempt will be made to shed some light on a few specific theories on the concept of peace by taking into account the general philosophical applications of the theories and the impact these ideas have had in the successive stages through which human societies have passed. For the study of peace, in this sense, one needs to delineate at the outset the historical logic and inference of the philosophical tradition which are, in most cases, the derivatives of the contemporary laws on international relations among nations.

If we take into consideration various scholastic treatises on peace, one will find that scholars, in general, have defined the concept of peace into three broad categories. The first definition is the one that is referred to as "graveyard peace," namely, a pacific situation or condition where all movement and all form of struggle are absent. In other words, it is a definition that views peace as being an eternal entity where silence, imperturbability and quiescence become the norms of the day. Second, there is a "submissive peace" archetype, which in this instance the scholars consider to be an imposed social condition upon a group of subjugated people, namely, the unwilling slaves and colonized people who live under superficial circumstances where their everyday lives are not only confined by the norms of the slave masters and colonizers, but are also strictly controlled by them. And

the third and last concept of peace which will be
scrutinized in this chapter is peace that prevails in
circumstances where social conditions that are permeated in
it promote liberty and harmony amongst independent people
within the confines of a free and dynamic social process,
where freedom of action and thought reign and where a
harmonious social balance and an energized social structure
dominate this system for all to enjoy. This kind of peace,
according to the scholars, primarily requires an individual
to be at peace with himself or herself. It further requires
that societies must be governed by harmony and cooperation
on the basis of justice, freedom and equality. And,
finally, it requires all nations of the world to conduct
their mutual relations in the spirit of understanding and
cooperation and on the basis of law and truth. This kind of
international relations bars any interference of one
another's affairs and accordingly rejects all aggression.

Thus, we find that there has been a number of philos-
ophers, men of thought, and religious scholars all over the
globe who advocated and called for peace on earth based on
variations of the above-cited themes. Their basis, natur-
ally, differs from one school of thought to another. For
example, the ideal philosophy (Mithaliyyah) is reflected by
the work of men like Mahatma Ghandi, the Indian leader, who
spent most of his life fighting for the liberation of his
country through peaceful channels. And within the hierarchy

of the Catholic Church one finds Pope John XXIII issues a
Papal letter entitled Pacem in Terris (Peace on Earth).
However, we can also trace another school of thought on the
issue of peace which comprises the rational philosophy
('Aqlaniyyah). This school of thought calls for peace
through reasoning; the advocates of such a theory contend
that, if human beings utilize their reasoning faculties and
power effectively, most of the problems which have aggra-
vated our human relations would have been resolved by
peaceful means. This school is represented mostly by an
elitist class in the West, amongst whom is the most distin-
guished British scholar and philosopher, the late Bertrand
Russell.

The natural philosophy (Tabieayyah), nevertheless,
argues for its part that the struggle and conflict between
beings is a natural matter and a normal behavior among
humans. That is to say that all the law of the fittest
applies therein as it relates to the normal human inter-
actions and as it applies to the other creatures.

Insofar as the philosophy of utility (Nafaieyyah or
Manfaah) is concerned, it considers peace to be subservient
to some defined interests or, in other words, under the
mercy of certain interests and advantages (Masslaha). Peace
here is envisioned as a means to secure specified interests.
Principles and friendly conduct in international relations
has its values, it argues, as long as it concerns itself

with achieving interest or acquiring utility. Thus, if the prescribed interest is not there, according to this school, these principles and friendships will be forever lost or at least forgotten. And it is within this philosophical trap where we find the merchants of war thriving. To them, war is a natural aspect of human achievement because in wars and for wars, according to this philosophy, human creation and discoveries are encouraged and increased to achieve the noble goal, i.e., victory. And hence, if there is a "power vacuum" in one spot of the world, the other side might attack to fill this vacuum. Consequently, one is therefore expected to be constantly prepared for war and perpetually aware that peace can only be sustained on this basis.[1]

The above-cited synopsis on peace theories entails a sense of confusion, worry and fear of destiny contrary to what the following school of thought, namely, the Islamic philosophical school on peace theory, calls for and advocates. This school, however, looks at the world arena from a positive angle, where it further contends that, if we avail ourselves of the opportunities to harness constructive interaction among the people of the universe on philosophical matters pertaining to global peace, we can undoubtedly, in the end, achieve a secured and peaceful world for

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[1]Most of these points were obtained from an article by Muhammad F. Al-Jamali, entitled "Al-Falsafah Al-Islamiyyah wa As-Salam Al-Alami." (The Islamic Philosophy and World Peace) Asharq Al-Awsat, (July 17, 1984) p. 9.

everyone to thrive. Such a stance possesses a challenge to various contentious dogmas on international relations and provides a sound doctrine of peace based on Islamic precepts which contain effective measures to empathize with the self, society and nations within the existing social dynamics and to pave the way for a holistic and all-inclusive world peace for all. One should bear in mind, however, that this notion of peace is directly connected with the Islamic cooperative spirit and its monotheistic doctrine.

The Islamic philosophy toward peace is a philosophy of peace and security, all of which is culminated in the Quran and the Sunnah, "Let them adore the Lord of this House who provides them with food against hunger, and with security against fear (of danger)."[2]

The Islamic conception of peace

It is always useful, let alone necessary, in dealing with any specific subject for researchers to define the terms they use first and foremost. In this connection, we are dealing with the Islamic definition of peace (salam or silm).[3] It has a wider and deeper significance than that currently adopted by world statesmen. "Peace must imply

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[2]Sura: Qaraish or The Quraish (Custodians of the Kaaba) 106:3-4.

[3]The Quran mentions the word salam or silm in at least 138 passages.

freedom, justice and security for all people."[4] Abdullah Y. Ali, in his commentary, states that peace includes:

> (1) a sense of security and permanence, which is unknown in this life: (2) soundness, freedom from defects, perfection, as in the word salim; (3) preservation, salvation, deliverance, as in the word salama; (4) salutation, accord with those around us; (5) resignation, in the sense that we are satisfied and not discontented; besides (6)the ordinary meaning of peace, i.e., freedom from any jarring element.[5]

In fact, peace is one of God's attributes:

> God is He, than whom, there is no other god; the Sovereign, the Holy One, the source of Peace (and Perfection), the Guardian of Faith, the Preserver of Safety, the Exalted in Might, the Irresistible, the Supreme...[6]

Moreover, Islam is fundamentally a religion of peace; actually, the word Islam in and of itself connotes and is synonymous with the word peace. The Quran states, "O ye who believe enter into Islam wholeheartedly..."[7] When the Quran was revealed, it concluded the Sura of the Night of Power

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[4]Sayyed Qutb, _Islam and Universal Peace_, Indianapolis, American Trust Publications (1977), p. 15.

[5]_The Holy Quran_, op. cit., p. 780.

[6]Sura: Hashr or The Gathering or Banishment 59:23.

[7]Sura: Baqarah or The Heifer 2:208. With this religion, the Muslims did not find a better name than Muslimum, the peaceful believers; the Prophet Muhammad has defined a Muslim as "one from whose hands, tongue and limbs everyone is safe." Another translation defines a Muslim as "one from whose hands and tongue his fellows apprehend no harm." See also the Quran Suras: Hajj or the Pilgrimage 22:78; Baqarah or The Heifer 2:132,133, and 136. In addition, see Muhammad Tayyebullah, _Islam and Non-Violence_, Allahabad: Kitabistan, Vanguard Press (1959), p. 44.

with "Peace!...This until the rise of morn."[8] It is also
worth noting here that the greeting between Muslims and the
angels to believers in general is peace: "Peace unto you,"
states the Quran, "for that ye preserved in patience! Now
how excellent is the final Home."[9] The Quran also adds,
"Their salutation on the Day they meet Him will be
peace..."[10] Furthermore, God has prepared for His good
followers a great reward, "For them will be a Home of Peace
in the presence of their Lord: He will be their friend,
because they practiced (righteousness),"[11] while forgive-
ness becomes part of the character of the devout believers,
"...O my Lord! truly these are a people who will not believe
but turn away from them, and say 'Peace' but soon shall they
know."[12]

The Quran has explicitly stated that faith in God, who
has created this world to good purpose, and ensuring justice
and freedom, equality and accountability are all inevitable
preconditions for one's attainment of peace.[13] The Quran

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[8]Sura: Qadr or The Night of Power, 97:5.

[9]Sura: Ra'd or Thunder 13:24.

[10]Sura: Ahzab or The Confederates 33:44.

[11]Sura: An'am or Cattle 6:127.

[12]Sura: Zukhruf or Gold Adornments 43:89.

[13]Khwaja G. Saiyidain, Islam: The Religion of Peace,
first edition, Bombay, Current Book House (1976), p. 158.
Imam Al-Ghazali states that: "The quest for truth is a quest
for what satisfies the spirit. It is a quest for attainment

states, "It is those who believe and confuse not their

beliefs with wrong that are (truly) in security, for they

are on (right) guidance."[14] As long as God is the embodi-

ment of peace within Islamic traditions; therefore, when a

Muslim is in pursuit of realizing the noble goal of peace,

one is actually trying to spiritually apply one of God's

attributes to one's daily chores and activities. This is

fundamentally the core of Muslim thinking insofar as the

concept of peace in Islam is concerned.[15] The Quran encour-

ages peace and rejoices it in this life and in the hereafter

as the following quotation explains,

> There hath come to you from God a (new) light and
> a perspicuous Book wherewith God guideth all who
> seek His good pleasure to ways of peace and
> safety, and leadeth them out of darkness, by His
> Will, unto the light - guideth them to a path that
> is straight.[16]

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of peace within one's self. This peace is achieved when man
has experienced and known all levels of existence, penetrat-
ing in this process all that which originally obstructed him
from knowing the world of his origin, and which had been the
cause of his deep disturbance while he was alienated from
that world. In his attempt to know the divine world and
achieve peace, man has to know the phenomenal world first,
and liberate himself from it. Every bit of knowledge is
valuable, regardless of its immediate importance in man's
life, for it adds to his knowledge of the works of God,
enabling him to proceed on his journey to happiness..." Ali
Issa Othman, The Concept of Man in Islam in the Writing of
Al-Ghazali, op. cit. p. 74.

[14]Sura: An'am or Cattle 6:82.

[15]As to the place of peace in Muslim international law,
it will be discussed at a later stage in this chapter.

[16]Sura: Maida or The Table Spread 5:17-18. See also
Sura: Baqarah or The Heifer 2:208; Sura: Nisaa or The Women

The Quran further adds, to

>...those who believe and work righteousness will
be admitted to gardens beneath which rivers flow -
to dwell therein for age with the leave of their
Lord. Their greeting therein will be: Peace."[17]
Islam by and large encourages and promotes peace
and harmony among all peoples, "...God doth call
to the home of peace. He doth guide whom He
pleaseth to a way that is straight.[18]

Thus, the call for authentic peace in Islamic doctrine,
as we have already shown, is deeply rooted in the knowledge
of God's ways, by abiding by his commands and by abstaining
from evil deeds. And, hence, Islam requires that, in order
to have a durable peace anywhere, certain conditions must be
met. This includes the:

>peace between the individual and his Creator,
between the individual and his conscience, and
between him and his community. Peace can be
established in the interrelationship of groups, in
the relation between individuals and their
governments, and finally between one state and
another. In order to achieve this end, Islam
extends from the peace of conscience, to peace in

4:90 and 94; and Sura: Mumtahana or The Woman to be Examined
60:8-9.

[17]Sura: Ibrahim or Abraham 14:23.

[18]Sura: Yunus or Johan 10:25. "In contrast with the
ephemeral and uncertain pleasures of this material life,
there is a higher life to which God is always calling. It
is called the Home of Peace. For there is no fear, nor
disappointment, nor sorrow there. And all are called, and
those will be chosen who have sought, not material
advantages, but the Good Pleasure of God. Salam, Peace, is
from the same root as Islam, the Religion of Unity and
Harmony." See A.Y. Ali, The Holy Quran, op. cit., p. 491.

the house, then to peace in society and ends in world peace.[19]

One of the major virtues of Islam as a religion and social order is that it encourages the use of reason, wisdom and scientific thinking. "It is He," states the Quran, "who has sent amongst the unlettered an apostle from among themselves, to rehearse to them His signs, to sanctify them, and to instruct them in scripture and wisdom - although they had been, before, in manifest error."[20] The Hadith further asserts the same point. For example, Prophet Muhammad is reported to have said, "A word of wisdom is the lost property of a Muslim. He should seize it wherever he finds it."[21] Accordingly, it is a doctrine that calls on all human beings to implement reason and wisdom for the attainment of truth and goodness in both sayings and actions.

Abd-al-Rahman Azzam in his book, The Eternal Message, states that:

> Following all the Prophet's preachings, at both al-Madina and Makkah, Islam relied solely on reason and resorted to the sword for defense only. This is amply borne out in the long history of the

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[19]Sayyed Qutb, Islam and Universal Peace, op cit., p. 15; Also see Israr Ahmad where he deals with the issue of peace on three different levels: a) peace of an individual person; b) socio-political peace of a group; and c) world peace, "The Quran and World Peace" Islamic Order, Vol. 4, No. 4 (Fourth Quarter), p. 99-107.

[20]Sura: Jumu'a or The Assembly (Friday) Prayer 62:2.

[21]Another translation for the same Hadith is, "Wisdom is the believer's quest, he picks it up wherever he finds it."

diffusion of the Message in the world. According to Sir Thomas Arnold, the spiritual conquests of Islam were not affected by the decline of the Islamic state or the decrease in its political strength. Sir Thomas maintains that in the days of its political defeats Islam achieved its greatest spiritual victories.[22]

Azzam further adds that:

in the annals of Islam there are two important events which testify to this. First, when the Mongols and Seljuk Turks trod on the necks of the Muslims, Islam conquered their hearts, for although they were the conquerors they adopted the religion of the conquered. In this transformation Islam was assisted by neither sword nor authority. Second, if we turn...to the Truce of al-Hudaybiah, which distressed some Muslims because the terms called for the sheathing of the sword for ten years, we discover that it was in this period that Islam achieved its greatest spiritual victory. [This]...paved the conquest of the Makkan' hearts and the conversion of all Arabia.[23]

[Hence] The military triumphs of the Muslims were not the product of an organized standing army. [The great conquests (634-644 A.D.) were made by tribes fighting as separate units of volunteers, which destroyed the two greatest empires of the world in that era.] The idea of an organized army was not considered until the Muslims had common boundaries and frontiers established with their enemies. Only at that time (685-705 A.D.) did an organized standing army come to be regarded as essential to the safety of Muslim lands. This was more than half a century after the death of Muhammad.[24]

Islam calls for the liberation of the soul and the

avoidance of oppression, extortion, injustice and aggres-

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[22]Ar-Risalah Al-Khalida, translated from the Arabic by Caesar E. Farah, New York, Devin-Adair Company (1964), pp. 173-174.

[23]Ibid.

[24]Ibid, p. 174.

sion.[25] Further evidence, in letter and in spirit, that
Islam commands purity and refinement of the individual and
society, in general, in avoiding war and confrontation can
be illustrated in the following verses of the Quran:

> O ye who believe! give your response to God and
> His Apostle, when He calleth you to that which
> will give your life; and know that God cometh in
> between a man and his heart, and that it is He to
> whom ye shall (all) be gathered.[26]

> [And] if two parties among the believers fall into
> a quarrel, make ye peace between them; but if one
> of them transgresses beyond bounds against the
> other, then fight ye (all) against the one that
> transgresses until it complies with the command of
> God; but if it complies, then make peace between
> them with justice, and be fair: For God loves
> those who are fair (and just). The believers are
> but a single brotherhood so make peace and recon-
> ciliation between your two (contending) brothers;
> and fear God, that ye may receive mercy.[27]

Therefore, there should prevail "thorough arbitration,
equity and justice not suppression and force...for equity
and justice constitute the scales on which the conditions of
reconciliation are weighed."[28] After that, "It may be that

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[25]The Quran states, "If it had been thy Lord's will,
they would all have believed - all who are on earth! No
soul can believe, except by the Will of God, and He will
place doubt (or obscurity) on those who will not under-
stand." Sura: Yunus or Johan 10:99-100.

[26]Sura: Anfal or The Spoils of War 8:24. Also see
Sura: Araf or The Heights 7:35.

[27]Sura: Hujarat or The Inner Apartments 49:9-10.

[28]Abd-al-Rahman 'Azzam, The Eternal Message, op. cit.,
p. 134.

God will grant love (and friendship) between you and those whom ye (now) hold as enemies..." [29]

The Quran has extrapolated the inter-relationship between individuals thus that "...the servants of (God) most Gracious are those who walk on the earth in humility, and when the ignorant address them, they say: Peace."[30] The Quran's statement that "Muhammad is the apostle of God and those who are with him are strong against unbelievers, (but) compassionate among each other"[31] must be fostered. These and other verses aim at securing people against terror, tyranny (Tughyan), and injury. "We have not sent thee but as a universal messenger to men giving glad tiding and warning them (against sin), but most men understand not."[32]

There is, however, an epigrammatically worded tradition which says, "Help your brother (Muslim) whether he is an

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[29]Sura: Al-Mumtahana or The Woman to be Examined 60:7.

[30]Sura: Furqan or The Criterion 25:63. The believers' humility "is shown in two ways: (1) to those in real search of knowledge, they give such knowledge as they have and as the recipients can assimilate; (2) to those who merely dispute, they do not speak harshly, but say: Peace, as much as to say, 'may it be well with you, may you repent and be better' or 'may God give me peace from such wrangling' or 'peace, and good-bye; let me leave you.'" A. Y. Ali, The Holy Quran, op. cit., p. 941. See also sura Nahl or The Bee 16:125.

[31]Sura: Fat-h or Victory 4829. The Quran adds, "tell those who believe, to forgive those who do not look forward to the Days of God. It is for Him to recompense (for good or ill) each people according to what they have earned." Sura: Jathiya or Bowing the Knee 45:14.

[32]Sura: Saba or The City of Saba 34:28.

aggressor or a victim of aggression." The Prophet was asked by the early Muslims, while they could obviously help the aggressive party, how can they help the aggressor? The reply was "By doing your best to stop him from aggression."[33] This tradition, however, does not exclude other non-Muslims. We can discern from the following that "the whole mankind is God's family. He holds him the dearest who does the most good to His family,"[34] This advice is not addressed merely to Muslims but to all mankind.

By the same token, "the same kind of decent treatment, which a good Muslim is expected to extend to other Muslims, must be extend to all other men and women."[35] The tradition adds, "Do not disrupt your relations with your fellow men and women; do not live away from one another; entertain no spite or envy and let all men (and women) live like brothers (and sisters). [36]

However, it is noteworthy that the responsibility for attaining and maintaining peace in Islam is both individual as well as collective.

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[33]The Arabic text is the following, "Onssor Akhaka Dhaliman aw Madhluma." Also see K. G. Saiyidain, Islam: The Religion of Peace, op. cit., p. 159.

[34]Ibid, p. 160. Also see Sura: Maida or The Table Spread 5:47.

[35]Ibid.

[36]Ibid.

This being the case it is incumbent on every
individual Muslim and every Muslim community not
only to maintain peace but to strive for its main-
tenance all over the world, to ally and identify
itself with all the movements and forces working
for the abolition of the course of war and the
establishment of the blessings of peace on earth
and goodwill toward all men. In fact, it is the
primary duty of all men of religions to join in
this holiest of crusades. No one can be [an]
unconcerned and neutrally curious observer of the
world scene.[37]

The Quran further illustrates that "if any one does a

righteous deed, it insures to the benefit of his own soul;

if he does evil, it works against (his own soul). In the

end will ye (all) be brought back to your Lord." [38]

Islam inculcates in the individual's conscience what

Qutb called "the positive peace" that exalts and enriches

life in contrast to "negative peace which means the cowardly

sacrifice of principles and ideals for the sake of safety

and security." Positive peace, he adds,

is harmonious and flows systematically because it
frees the constructive force and potential in man.
Peace does not issue from ignorance and stagna-
tion. Positive peace acknowledges the individual-
ity of each person's instincts, ambitions and
desires as well as the interests and goals of
society. It acknowledges humanity with its needs,
feelings, religion, morals and ideals...all acting
in harmony.[39]

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[37]Ibid., pp. 172-173.

[38]Sura: Jathia or Bowing the Knee 45:15.

[39]Sayyed Qutb, Islam and Universal Peace, op. cit.,
p. 16; For a study on the issue of positive/negative peace
vs. violence see Burns H. Weston "The Role of Law in Promot-
ing Peace and Violence: A Matter of Definition, Social
Values, and Individual Responsibility" in Toward World Order

The Quran states "when My servants ask thee concerning Me, I am indeed close (to them): I listen to the prayer of every supplicant when he calleth on Me; let them also, with a will, listen to My call, and believe in Me, that they may walk in the right way."[40]

War versus Peace and the Role of Jihad in Islam

It is viewed (therefore) that, through the spirit of fraternity in Islam, peace can prevail between individuals, groups and nations. One of the means through which this goal can be effectively realized is the implementation of the doctrine of Jihad.[41] This, however, does not

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and Human Dignity edited by W. M. Reisman and B. H. Weston, and others. New York: The Free Press, 1976. p. 114-131.

[40]Sura: Baqarah or The Heifer 2:186.

[41]The word "jihad" literally means striving; it also means struggle and perseverance. See M. K. Nawaz, "The Doctrine of Jihad in Islamic Legal Theory and Practice", The Indian Yearbook of International Affairs, Vol. 8 (1959), pp. 32-48. "According to the Islamic legal theory, the term "jihad" connotes a wide range of activities such as fighting in the cause of Islam, saying the truth under difficult circumstances, charity in the name of God, and the strife against all forms of evil; including the controlling of one's passions." Saleh Zahrani, "Political Representation in Islam," op. cit., p. 347. In other words, jihad could be realized in one or all of "the five stages: sacrifice in thought, word, deed, money, and life or limb" and there-fore...mere brutal fighting is opposed to the whole spirit of jihad." See M Tayyebullah, Islam and Non-Violence, op. cit., pp. 38-39. It is also reported that the Prophet described man's struggle against his own passions as the "greatest jihad." In the words of Professor Abdul Hamid Abu-Sulayman, Jihad is "a Muslim's striving to fulfill his Islamic responsibility, both in outward actions and in inward correction of his own mistakes..." "The Islamic Theory of International Relations: Its Relevance, Past and Present." (Unpublished doctoral dissertation, University of

necessarily mean the classical military war (Qital) but rather it includes other fronts such as economic pressure, political or moral suasion, psychological pressure and public relations, all of which can be utilized to defuse war. However, if the term "jihad" is used in its military sense, one would find that it is considered to be applicable and just in only "three cases: self-defense against aggression ('Udwan), redress of an inflicted injustice (Dhulm) or suppression of... sedition (Fithan) which aims at undermining the unity cf the Ummah."[42] The Quran states, "those who believe, and suffer exile and strive with might and main in God's cause, with their good and persons, have the highest rank in the sight of God. They are the people who will achieve (salvation)."[43]

Pennsylvania, 1973) p. viii and 187-190. Also for a series of articles on the concept of jihad written by S. Abdullah Schleifer and published in The Islamic Quarterly see the following: "Jihad: Definition and Methodology" Vol. 27, No. 3, 1983. pp. 117-131; "Jihad and Traditional Islamic Consciousness," Vol. 27, No. 4, 1983. pp. 173-203; "Jihad: Modernist Apologists, Modern Apologetics," Vol. 28, Nos. 2 and 3, 1984. pp. 87-102 and 135-149.

[42]S. Zahrani, op. cit., p. 348, and K. Jindan," The Islamic Theory of Government," op. cit., pp. 158-159. Edward J. Jurji states that "under three conditions was the legality of war recognized: first, against apostates; second, against perpetrators of unrighteousness; third, against aggressors", "The Islamic Theory of War," The Moslem World, Vol. 30, No. 4 (October 1940), p. 335.

[43]Sura: Tauba (Repentance) or Baraat (Immunity) 9:20.

Therefore, it is toward achievement of peace and justice that all human effort must be sincerely directed.[44] Islam not only urges Muslims to eliminate wrongs from society but also encourages and compels them to offer help to anyone who, because of one's weakness, cannot prevent oppression. The Quran has explicitly addressed itself to that effect by addressing those who cry for help and saying:

> ...why should ye not fight in the cause of God and of those who, being weak, are ill-treated (and oppressed)? Men, women and children whose cry is: "Our Lord! rescue us from this town, whose people are oppressors; and raise for us from Thee one who will protect; and raise for us from Thee one who will help.[45]

Against this background and since all local and available remedies have been exhausted, Muslims are advised to strengthen their power and be prepared to launch a just fight wherever the circumstances demand.[46] The following noble passages of the Quran stress such methods:

> Against them make ready your strength to the utmost of your power, including steeds of war, to strike terror into (the hearts of) the enemies of

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[44]Suras: Baqara or The Heifer 2:190; Al-i-Imran or The Family of 'Imran 3:103; and Anfal or The Spoils of War 8:61.

[45]Sura: Nissaa or The Women 4:75.

[45]War in this condition, i.e., to deter aggression, is a social necessity as indicated in Ibn Khaldun's Muqaddimah (The Introduction). See M. 'Afifi, Al-Mujtamaa Al-Islam Wal 'Ilaqat Ad-Dawliyyah (The Islamic Society and International Relations), Cairo, Maktabat Al-Khanji (1980), p. 225; Also for a brief review of how Muslim and non-Muslim scholars treated the concept of Jihad see Farooq Hassan, The Concept of State and Law in Islam Lanham: University Press of America, 1981 p. 202-210.

God and your enemies, and others besides, whom ye
may not know, but whom God doth know. Whatever ye
shall spend in the cause of God, shall be repaid
unto you, and ye shall not be treated unjustly.[47]

Be not weary and faint-hearted, crying for peace,
when ye should be uppermost: For God is with you,
and will never put you in loss for your (good)
deeds.[48]

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

Condemns war based on racialism as contrary to the
principle of the oneness of humanity. Second (it)
condemns war caused by ambition and exploitation.
The Islamic creed does not permit war which aims
at capturing markets, acquiring materials or ex-
ploiting human labor and resources. In fact,
Islam looks at humanity as one big cooperative
family and as part of a universal unity. It
ordains all believing people to cooperate in real-
izing universal welfare and in abstaining from
doing wrong. Islamic jurisprudence promises all
humans absolute equality and justice regardless of
race, sex or creed. Third, Islam prohibits wars
of ostentation which purpose to magnify the pride
and pomp of kings. Islam also prohibits the loot-
ing which usually follows conquest. A man once
asked the Prophet: 'One fights for gain or for
commemoration (or fame) or simply for ostentation.
So, when is he considered to be fighting in the
cause of God?' The Prophet replied: 'When he
fights in order that the word of God prevails.'[49]

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[47]Sura: Anfal or The Spoils of War 8:60.

[48]Sura: Muhammad (The Prophet) 47:35.

[49]Op. cit., p. 9. Another version of the tradition
states the following: "Bukhari related that a man approached

Professor Muhammad T. Al-Ghunaimi, for his part, as well as that of many other writers on Muslim international law, has categorized:

> Five successive periods in the policy of the Quran regarding warfare against unbelievers:
> (i) a period of trust, forgiveness and withdrawal;
> (ii) a second period summoning them to Islam;
> (iii) a third period of fighting in self-defense;
> (iv) a fourth period of aggressive fighting at certain times; (v) a fifth period of aggressive fighting in general or absolute terms.[50]

It should be noted here, however, that the message of maintaining peace at all costs, within the Islamic traditions is of utmost importance to all believers.[51] Nonetheless, one must also pay attention to the primacy of what we will refer to as the notion of "defensive war" in Islam whereas believers are permitted indeed to engage in such a war, if need be, provided that a situation may arise to put one's fundamental rights to one's religious faith and

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the Prophet and said: 'There is the man who fights for gain, the man who fights for fame, and the man who fights for status, but who fights for the way of God?' The Prophet replied: 'He who fights for the word of God to become supreme' - not worldly gains or ambition - 'fight for the way of God.'" See A. Azzam, The Eternal Message of Muhammad, op. cit., p. 170.

[50]The Muslim Conception of International Law and the Western Approach, op cit., p. 74.

[51]Professor Wahbah Az-Zuhaili in his book Athar Al-Harb fi-l-Fiqh Al-Islam: (The Effects of War in the Islamic Jurisprudence) states that Islam prefers the conduct of peace as the rule and whenever possible. Declaring war, however, should be considered as only the last resort in order to cure the illness which effected and disruped the interest of the human community. Beirut: Dar Al-Fikr, 1965. p. 90.

practice in jeopardy. In such a situation, therefore, a

believer is compelled by Islamic laws and traditions to

defend one's faith accordingly.[52] Such a view once again

affirms that the idea of engaging in a war situation by

believers must be construed as only a means of attaining

certain prescribed noble ends, beneficence (Birr) and

justice ('Adl).[53] "Think not of those who are slain in

God's way as dead," states the Quran.

> Nay, they live, finding their sustenance in the
> presence of their Lord. They rejoice in the
> Bounty provided by God: and with regard to those
> left behind, who have not yet joined them (in
> their bliss), the (martyrs) glory in the fact that
> on them is no fear, nor have (cause to) grieve.
> They glory in the Grace and the Bounty from God,
> and in the fact that God suffereth not the reward
> of the faithful to be lost (in the least)[54]

The sayings and practice of Prophet Muhammad do also

emphasize that aspect of a "defensive war" by explaining

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[52]Muhammad Asad, in his book The Principles of State
and Government in Islam, addresses the question of jihad.
He states that "applied to actual warfare, the term jihad
has been used in the Quran exclusively to denote a war of
defense - defense of man's freedom of religion, of his
country, and of the liberty of his community," Gibraltar,
Dar Al-Andalus (1980), p. 71. See also Gulzar Ahmed,
"Concept of War in Islam," International Islamic Conference
of February 1968, Vol. 1, edited by M. A. Khan, Islamic
Research Institute, Islamabad, (1970), pp. 48-56.

[53]For a study on peace as a fundamental right, see, for
example, Richard Bilder, "The Individual and the Right to
Peace," Bulletin of Peace Proposals, Vol. II, No. 4
(December 1980), pp. 387-389. See also in the same journal
Philip Alston, "Peace as a Human Right," pp. 319-330.

[54]Suras: Al-i-Imran or The Family of 'Imran 3:169-171,
and Tauba (Repentance) or Baraat (Immunity) 9:3.

that Muslims should not fight for the love of fighting and dying. It is reported that the Prophet once warned that: "Do not desire to meet the enemy [in battle], and ask God to preserve the peace." Thus, the Prophet has "discouraged hopes for war, even with the worst of enemies, and besought God to perpetuate the blessings of peace."[55]

Furthermore, in the early days of Islam, the believers (the Muslims) had to defend themselves in Madina against the attack of Al-Ahzab (the confederates), during such times the Prophet would help move dirt while they dug trenches, reciting:

> O Allah, were it not for You we would not have found the path, nor believed, nor prayed. Send down Your calm and strengthen our stand once we meet them [in battle]. It is they who covet this [war] upon us, for they desire the hostility which we refused.[56]

Had it not been for such aggression, which had to be met, peace, which constitutes the rule, would have prevailed.[57]

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[55]Abd-al-Rahman Azzam, The Eternal Message of Muhammad, op. cit., p. 170.

[56]Ibid., p. 171.

[57]In war, "it has been the tradition of the Muslims not to fire first. This tradition is said to have been held by the Ottomans even in their wars of the 19th century" M. Al-Ghunaimi, The Muslim Conception of International Law, op. cit., p. 210. For further details, also see Muhammad Zafrullah Khan, Islam: Its Meaning for Modern Man, New York: Harper and Row Publishers (1962), pp. 164-175.

Further examples may be cited here to show how Muslims conduct their wars with their opponents in conformity to the precepts of a defensive war. Imam Ali Ibn Abi Talib, the fourth Caliph, once laid down the following rules:

1. Never begin a war yourself. God does not like bloodshed. Fight only in self-defense.

2. Never be first to attack your enemy. Only repulse his attacks but do so bravely.

3. When reciting the Rajaz (declaration before actual fighting), do not waste your time and, instead of speaking about yourself and your deeds, speak about God and the holy Prophet.

4. Never follow and kill those who run away from the battle or an encounter. LIfe is dear to them; let them live as long as death permits them to do so.

5. Never kill wounded persons who cannot defend themselves.

6. Never strip naked a dead man for his coat of arms or dress.

7. Never cut the nose and ears of the dead to humiliate them.

8. Never take to loot (or commit arson).

9. Never molest or outrage the modesty of a woman.

10. Never hurt a woman even if she swears at you or hurts you.

11. Never hurt a child.

12. Never hurt an old or an enfeebled person.[58]

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[58]K. G. Saiyidain, Islam: The Religion of Peace, op. cit., p. 174. On another occasion on the day of Siffin, Caliph Ali said in one of his speeches: "Straighten out

When one investigates the Quranic injunctions relevant to the issue of war and peace, one comes to the conclusion that war as described in the Quran is a conflagration.[59]

> [War] is not aimed at ambitious or lucrative ends. War in the Islamic theory seeks to attain one or more of the following objectives: (i) to repel acts of aggression against the Islamic community; (ii) to redress violation of law, with a view to setting right injustice committed to the detriment of the Muslims; (iii) to allow the followers of revealed religions to practice their faith freely; (iv) to cooperate in establishing an operable system of peace and security.[60]

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your lines like a strongly constructed building. Place the armed men in front, and those who are not armed in the rear. Bite on your molars. This makes it harder for sword blows to harm the head. Keep something wrapped around the tips of your spears. This preserves the sharpness of their points. Keep your eyes down. This keeps the soul more concentrated and gives greater peace to the heart. Do not hold your flags inclined and do not remove them. Place them in the hands only of those among you who are brave. Call upon truth and endurance for aid, for 'after endurance there is victory.'..." See The Muqaddimah (The Introduction to History), by Abdul Rahman Ibn Khaldun, translated from the Arabic by Franz Rosenthal, edited and abridged by N. J. Dawood, Princeton: Princeton University Press, 1981. pp. 228-229.

[59]See M. Z. Khan, Islam: Its Meaning for Modern Man, op. cit., pp. 176-183.

[60]Muhammad T. Al-Ghunaimi, The Muslim Conception of International Law and the Western Approach, op. cit., p. 208. Al-Hasan Ibn Abdullah in his book, Athar Al-Uwal Fi Tartib Ad-Duwal, "regards wars as casual social diseases and gives seven reasons for the recurrence of war in society: first, for the establishment of a new state (dawla) or dynasty; second, for the consolidation of an already established state or dynasty; third, the wars of a just state (dawla 'adila) against rebels and dissenters; fourth, wars between two nations or tribes in the form of raids; fifth, the annexation of one state by another regardless of whether the latter was just or unjust; sixth, wars for the purpose of mere robbery, not for any political reasons; seventh, inter-tribal warfare as those which existed in pre-Islamic Arabia," p. 75. Ibn Khaldun, for his part, maintained in

On the other hand, "Islam makes it obligatory on Muslims to help their co-religionists when they ask for help in a just cause."[61] But, in order to attain this end, a significant provision is added. The Quran explains:

> Those who believed, and adopted exile and fought for the faith, with their property and their persons in the cause of God, as well as those who gave (them) asylum and aid - these are (all) friends and protectors, one of another. As to those who believed but came not into exile, ye owe no duty of protection to them until they come into exile; but if they seek your aid in religion it is your duty to help them, except against a people with whom ye have a treaty of mutual alliance, and (remember) God seeth all that ye do.[62]

Sayyed Qutb states:

> In the Islamic faith, peace is the rule while war is the exception. Peace emerges as the preamble to the principle of harmony. Peace means harmony in the universe, the laws of life, and the origin of man, while war is the result of violations of harmony as injustice, despotism and corruption.

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his _Muqaddimah_ (Introduction to History), p.224, that "war has existed in society since creation..." Wars, according to him, are of four kinds: "first is the tribal warfare as that which existed among the Arabian tribes; second, feuds and raids which are the characteristic of primitive people; third, the wars prescribed by the Shariah, i.e., the Jihad; fourth, wars against rebels and dissenters." Ibn Khaldun contends that the first two are unjustified because "they are wars of disobedience, the other two are just wars," M. T. Al-Ghunaimi, p. 75. On another occasion Al-Hasan Ibn Abdullah states "among the happenings of a certain time a war is like sickness in contrast to peace and security which resemble health. It is necessary to take steps against warlike activities to preserve peace as it is necessary to fight against disease," see Muhammad Hamidullah "Jurisprudence" in _A History of Muslim Philosophy_, edited by M. M. Sharif, op. cit., p. 1241.

[61]K. G. Saiyidain, _Islam: The Religion of Peace_, op. cit., p.163.

[62]Sura: Anfal or The Spoils of War 8:72.

> War is permitted against atheism which is the
> worst kind of injustice. Such a peril should be
> checked by temporary drastic measures in order
> that peace be maintained.[63]

The Quran commands "and fight them on until there is no more tumult or oppression, and there prevail justice and faith in God; but if they cease, let there be no hostility except to those who practice oppression."[64]

Our discussion offers enough quotations from the Quran and the Hadith and other sources to make it quite evident that Islam is constructed or built upon peace in every aspect of its religious teachings. This, however, does not mean that Islam is a pacifist doctrine. The Islamic view of Peace, according to Professor Muhammad 'Afifi, is based on two pillars: (1) the comprehensive structure which revolves around the world system of universal brotherhood as advocated in the Quran and Sunnah, to uplift the level of human rights and to establish the bases for social justice, including the spreading of social solidarity (At-Takaful Al-Ijtimaai) and community welfare; and (2) the Ummah which believes that such order should uphold, protect and call for the realization of the noble goals, i.e., peace and fear of almighty God.[65] "O Apostle! proclaim the (Message) which

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[63]Sayyed Qutb, Islam and Universal Peace, op. cit., p. 9.

[64]Sura: Baqara or The Heifer 2:193.

[65]M. As-Sadiq 'Afifi, Al-Mujtamaa Al-Islam, op. cit., p. 224.

hath been sent to thee from thy Lord," states the Quran.
"If thou didst not, thou wouldst not have fulfilled and
proclaimed His Mission. And God will defend thee from men
(who mean mischief). For God guideth not those who reject
Faith."[66]

Islam and World Peace: A Legal Perspective

From the point of view of world peace, Islam condemns
the act of aggression and upholds the principle of peaceful
settlement through mediation, conciliation and arbitra-
tion.[67] This, in fact, is based on the Islamic theory of
equality as a precondition for peace between and among
peoples.[68] It is laid down quite clearly in the Quran from
the verse which reads:

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[66]Sura: Maida or The Table Spread 570. Also see the
same sura, verse 51.

[67]The Quran states: "But God doth call to the Home of
Peace. He doth guide whom He pleaseth to a way that is
straight;" Sura: Yunus or Jonah 10:25. The Quran adds: "O
ye who believe! when ye go abroad in the cause of God,
investigate carefully, and say not to anyone who offers you
a salutation, 'Thou art none of a believer!', coveting the
perishable goods of this life: with God are profits and
spoils abundant. Even thus were ye yourselves before, till
God conferred on you His favors: therefore carefully
investigate. For God is well aware of all that ye do;" Sura:
Nisaa or the Women 4:94.

[68]For further analysis of equality, see the chapter on
Equality and Islamic Doctrine of this dissertation.

> Say: O people of the Book! come to common terms
> as between us and you: that we worship none but
> God; that we associate no partners with Him; that
> we erect not, from among ourselves, lords and
> patrons other than God...[69]

So, in agreeing with the three aforementioned propositions,
undoubtedly peace should and must prevail. In fact, the
term "common terms" or "agreement" in the verse is the
translation of the Arabic text (Kalimatun Sawaa) which
literally means "a word on the basis of equality."[70] "The
Arabic text, thus, connotes that the agreement to which the
scriptures are called is based on the principle of legal
equality since the only condition (existing to that effect)
is to admit the oneness of God, not to become Muslims" and
hence from "the Islamic point of view the acknowledgement of
the oneness of God is the preliminary prerequisite for
establishing peaceful relations among the Muslims and the
non-Muslims."[71] Accordingly, the Quran commands: "and
dispute ye not with the People of the Book except with means
better (than mere disputation)..."[72]

In other words, for the Islamic state to have mutual
relations with other states based on the right of legal

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[69]Sura: Al-i-Imran or The Family of 'Imran 3:64.

[70]M. T. Al-Ghunaimi, The Muslim Conception of International Law and the Western Approach, op. cit., pp. 196-197.

[71]Ibid.

[72]Sura: Ankabut or The Spider 29:46. See also sura: Hujarat or The Inner Apartments 49:11.

equality, the latter should acknowledge and recognize

voluntarily and convincingly the idea of the unity of God

(Oneness or Wahdaniyyatu-Allah).[73] "Who is better in speech

than one who calls (men) to God (and) works (for)

righteousness..."[74]

International relations in Islam are based on the

concept of a lasting and universal peace.[75] The unders-

tanding of the conceptions of fraternity, equality, justice

and peace is fundamental to understanding the norms of law

among nations in Islamic traditions. And, therefore, Muslim

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[73]"This attitude may be compared to the Western theory which divides the world into civilized and uncivilized nations and recognizes the application of international law only to the civilized nations. The Western theory adopted adherence to Christianity as a criterion of civilization while the Islamic theory, more tolerantly, advocates the oneness of God." See M. Al-Ghunaimi, op. cit., p. 197. Also see sura: Al-i-Imran or The Family of Imran 3:64; for a referemce on conducting just wars in the path of God see Appendix I, articles 17 and 19.

[74]Sura: Ha-Mim Sajda or Fussilat 41:33. On another occasion, the Quran states: "Who can be better in religion than one who submits his whole self to God, does good and follows the way of Abraham the true in faith?", Sura: Nisaa or The Women 4:125.

[75]For an insightful analysis of Islam and international relations, see Abdul-Hamid Abu Sulyaman, "The Islamic Theory of International Relations: Its Relevance, Past and Present." op cit.; Zafrullah Khan, "Islam and International Relations," The Islamic Review, XLIV, No. 7 (July 1956), pp. 7-11; "The Islamic Theory of International Relations," Journal of South Asian and Middle Eastern Studies, Vol. II, NO. 3 (Spring 1979), pp. 84-92; and Islam and International Relations, edited by J. Harris Proctor, New York, F. Praeger (1965).

international law, according to Professor Muhammad T.

Al-Ghunaimi,

> was a great advance on both the Greek and the
> Roman systems of international law. First, Muslim
> international law attaches much more importance to
> ethical values because, though the study of inter-
> national law evolved into an independent branch of
> law, yet it continued to be subservient to the
> religion. Second, in Muslim international law we
> find, for the first time in recorded history, a
> full fledged notion of recognized rights for the
> enemy, in peace as much in war. Moreover, Muslim
> jurists were the first to develop the science of
> international law as an independent branch of law
> in general, and distinct from political science in
> particular.[76]

Al-Ghunaimi further adds that:

> it is worthy of noting here that Islam influenced
> modern international law in an indirect way.
> Europe, obsessed by the fear of Islamic expansion,
> for the first time since it embraced Christianity,
> was united under one banner to fight its common
> foe. To us, this unity marks the remote origins
> of the present notion of international
> organization.[77]

Then later he concluded by stating that, "the legal theory

of Muslim international law is capable of contributing to

further developments of modern international law."[78]

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[76]The Muslim Conception of International Law and the
Western Approach, op. cit., p. 84.

[77]Ibid. p. 84.

[78]Ibid, p. 85. On p. 78-81 Al-Ghunaimi also analyzes
the Muslim international legal theory in dealing with the
people of Dhimma (guarantee of security and protection). He
describes three types of conduct with them: (1) the aman
(self-conduct); (2) hudna (truce); and (3) the muwadah or
sulh (covenant). Professor Al-Ghunaimi further states that,
"In the course of time, the institution of aman was preceded
by state treaties granting privileges to foreigners. These

Schools of thought concerning the Islamic conception of
world peace

The religious jurists (Ulama) and other scholars of
Islamic law and philosophical history are not in agreement
as to how the Islamic conception of world peace is to be
realized.[79] Rather, they have presented us with two main
theories. The first theory, to which most Muslim scholars
and jurists subscribe, considers peaceful means as the only

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treaties developed into what we know as the 'system of
capitulations.' The retreat of the Turks in Europe, the
restoration of Christianity in Spain, the Portuguese activi-
ties in the Indian Ocean and the discovery of a new route to
India via the Cape, all these factors threatened trade in
the Mediterranean. Whereby, the Turkish and Mamluk sultans,
endeavoring to save their trade, adopted a liberal policy
toward Western subjects, sanctioned by the famous treaty of
1535 between Turkey and France. Iran, in the seventeenth
century, resolved to assume the same attitude on the assump-
tion that this would establish it in the international comm-
unity. The rivalry between the Shi'ite Iran and the Sunnite
Turkey was quite conspicuous at that time. Hence, Shah
'Abbas, in 1600, issued an imperial Firman announcing that
this empire is open to all the Christian nations and guaran-
teeing for aliens liberty of trade and religion..."; op.
cit., pp. 80-81. See also Muhammed Abul Hasan Ash-Shaybani,
Kitab As-Siyar Alkabir (The Islamic Law of Nations),
translated from the Arabic by Majid Khadduri, Baltimore: The
Johns Hopkins University Press (1966). pp. 60-67 and
158-194.

[79]For a review of the classical theory of Siyar (Muslim
Law of Nations) by the major medieval Muslim jurists and
thinkers such as Ash-Shaybani, Ash-Shaftii, Al-Mawardi,
Al-Ghazali and Ibn Taymiyyah see Abdul Hamid Abu-Sulayman.,
"The Islamic Theory of International Relations," op. cit.,
p. 32-99. In this study Abu-Sulayman offered three views
with regard to the study of Islam and international affairs.
The first view he called the classical or traditional; the
second is the modernist or secularist approach and the third
is the modern dynamic framework. p. 197-204.

legal method through which Islamic ideals may be fulfilled.
This peaceful theory is based on precise injunctions of the
Shariah principles which constitute the sound bases for the
establishment of world justice, the protection of human
rights and the achievement of a durable peace.

Among these scholars of Islamic thought is Abd-al-
Rahman 'Azzam who states that:

> ...men of vision and intelligence cannot fail to
> draw upon the Islamic Shariah in laying the
> foundation for international relations and world
> peace, for in the light of the noble and practical
> principles advocated by [Prophet] Muhammad, it is
> possible to reinforce the pact of the United
> Nations and to avoid the utilization of war as a
> means of fulfilling human aims and ambitions:
> [Let there arise out of you a band of people
> inviting to all that is good, enjoining what is
> right and forbidding what is wrong..][80] ...Undoub-
> tedly, this order prescribed for the believers can
> form an order for all peoples. It is possible for
> Islamic states to enter into pacts to that effect,
> to fight, to win respect for this order, and to
> turn back those who violate it.[81]

In this connection, we cite two verses from the Quran.
The first one says:

> To thee We sent the scripture in truth, confirming
> the scripture that came before it and guarding it
> in safety: so judge between them by what God hath
> revealed, and follow not their vain desires, di-
> verging from the truth that hath come to thee. To
> each among you have We prescribed a Law and open
> way. If God had so willed, He would have made you
> a single people, but (His plan is) to test you in
> what He hath given you: so strive as in a race in
> all virtues. The goal of you all is to God. It

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[80]Sura: Al-i-Imran or The Family of Imran 3:104.

[81]Ar-Risalah Al-Khalida (The Eternal Message),op. cit.,
pp. 157 and 170.

is He that will show you the truth of the matters
in which ye dispute.[82]

This verse illustrates that the world is molded as an arena
where human beings will compete and strive toward the noble
objective of attaining good deeds throughout their lives.
If one relates this verse with the words of the Charter of
the United Nations in order "to practice tolerance and live
together in peace with one another as good neighbors,
and...to employ international machinery for the promotion of
the economic and social advancement of all peoples,"[83] one
can easily empathize with this dimension as it is enunciated
in Islamic thought and practice on the issue of peace.

The second verse reads:

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)...[84]

The Quran says that God has divided mankind for "greater
facility of intercourse."[85] Professor M. Al-Ghunaimi
explains that the term "that ye may know each other"

is the translation of the Arabic text 'Litaarafu'
which derives from the word 'urf. It connotes
besides knowledge what people rationally accept in

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[82]Sura: Maida or The Table Spread 5:51.

[83]Charter of the United Nations and Statute of the
International Court of Justice. New York: U.N.: Office of
Public Information, 1974. p. 1-2.

[84]Sura: Hujarat or The Inner Apartments 49:13.

[85]M. Z. Khan, Islam: Its Meaning for Modern Man,
op. cit., p. 141.

their conduct as the right pattern of behavior. Admittedly, maintaining peace in mutual relations enters under the connotation of 'urf. Hence, the verse states that peace should be one of the basic aims of states in their mutual intercourse."[86]

Again, the term 'Urf reaffirms the utmost purpose of the Charter of the United Nations as mentioned in Article I/1, 2, 3, which reads:

The purposes of the United Nations are:

(1) to maintain international peace and security...;

(2) to develop friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; [and]

(3) to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian characters, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion...[87]

Other scholars and advocates of this peaceful theory include Professor Muhammad Abu Zahrah in his two books, Al-'I Laqat Ad-Dawliyyah fi-L-Islam (International Relations in Islam), and The Conception of War in Islam;[88] Muhammad Asad, The Principles of State and Government in Islam;[89]

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[86]Op. cit., p. 199.

[87]Charter of the United Nations op. cit., p.3.

[88]Cairo, Dal Al-Fikr, Al-Arabi, n.d.; Cairo: Supreme Council of Islamic Affairs, 1961.

[89]Op. cit., p. 71.

Muhammad Talaat Al-Ghunaimi, The Muslim Conception of International Law and the Western Approach;[90] Dhafir Al-Qasimi, Al-Jihad wal Huquq Ad-Dawliyyah Al-Ammah fi-L-Islam (Al-Jihad and the Public International Rights in Islam);[91] Wahbah Az-Zuhayli, Athar Al-Harb fi-l-Fiqh Al-Islami (The Effects of War in the Islamic Jurisprudence: A Comparative Study);[92] and Muhammad Hamidullah, The Muslim Conduct of State.[93] Furthermore, a review of the classical writers of Islamic thought, such as Abu Hanifah, Al-Thawri and Ibn Taymiyyah, and further discussion on the theory of war are found in the following dissertations by Professor Abdul Hamid Abu-Sulayman, "The Islamic Theory of International Relations: Its Relevance, Past and Present,"[94] and by Saleh F. Zahrani, "Political Representation in Islam".[95]

All of these writers concur, without any objection, that peaceful means are the only permissible methods for mutual cooperation between Muslims themselves and the non-Muslim world as well. This, nevertheless, must be achieved

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[90]Op. cit., p. 195.

[91]Beirut: Dar Al-Ilm Lelmalayeen (1982).

[92]Op. cit.

[93]Lahore, Sh. Muhammad Ashraf (1968).

[94]Op. cit., pp. 22, 120, 170-172.

[95]Op. cit., pp. 344-367.

on the basis of justice, respect and human dignity. [96] This not only benefits all nations but rather fulfills the aspirations of human brotherhood and all peoples around the world.

The second theory of the Islamic conception of world peace is the classical (traditional) theory. According to this theory, Shariah or Islamic law, as being the seal of all divine codes enjoined for all mankind, should rule the world.

Based on this theory, the world is divided into two categories: Dar Al-Islam (The Abode of Islam) and Dar Al-Harb (The Abode of War).[97] Some scholars even devised a third temporary division called Dar As-Sulh (the Abode of Reconciliation) or Dar Al-'Ahd (The Abode of Covenant). Hence, the state of war, according to this theory, is the normal state of relations between these domains.[98]

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[96]Concerning the promotion of mutual cooperation with the non-Muslim world, there are several divine provisions in the Quran, including Suras: Maida or The Table Spread 5:3; and Mumtahana or The Women to be Examined 60:8; This fulfils the message of Islam; a message of peace and cooperation rather than war and confrontation.

[97]Professor Muhammad Abu Zahrah illustrates the reason behind what the Muslim scholars agreed to call Dar Al-Harb. He states that wars in the neighboring areas continuing were present at the time of the Ijtihad era (the eighth and ninth centuries). Continuous aggression and hostile environment was predominant and surrounding the Islamic territories. Al-Ilaqat Ad-Dawliyyah fi-1-Islam (International Relations in Islam) op. cit., p. 51.

[98]"In the context of the prevailing misconceptions, if we agree on this distinction, it might be wise to employ the

The proponents of the traditional theory include such classical writers as Muhammad Ibn Al-Hasan Ash-Shaybani in Kitab As-Siyar Al-Kabir (The Islamic Law of Nations);[99] and Muhammad Ibn Ahmad Al-Sarakhsi, Sharh Kitab As-Siyar Al-Kabir (Commentary on the Shaybani's Book of Siyar).[100] They also include contemporary writers such as Majid Khadduri in War and Peace in the Law of Islam.[101]

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term Dar As-Salam [Pax Islamica] in place of Dar Al-Islam." According to the traditional or classical theory the term Dar Al-Islam corresponds to the area under Muslim rule while the term Dar Al-Harb corresponds to the non-Islamic world. Nevertheless the term Dar Al-Harb, as designated to an aggressor state, also includes "those territories wherein aggression is committed against human freedom and dignity in such forms as a denial or unacceptable infringement of the basic human right of freedom of religious belief and worship...[however] If insecurity disappears, according to Abu Hanifah then the country is no longer Dar Al-Harb despite the fact that the inhabitants still do not profess faith in Islam." For details on this issue plus a review of certain Orientalists who have contributed to a most mistaken and a totally false conception of Dar Al-Islam and Dar Al-Harb see Imran N. Hosein, "War and Peace in Islam" Islamic Order Vol. 6, No. 2 (Second Quarter 1984), p. 91-104; Also see Mahmoud I. Ad-Deek, Al-Muaahadat fi Ash-Shariah Al-Islamiyyah (Treaties in the Islamic Law and Public International Law) Dubai; UAE: Matabieaa Al-Bayan At-Tijariyyah. n.d. p. 64-67; For an interesting comparison of this particular issue see footnote number 73 in this chapter.

[99]Op. cit.

[100]He is a Hanafi jurist in conformity with Shafi'is school. This book is narrated by Salah Ad-Din Al-Munajjid in five volumes, Cairo: Matabiea Sharikat Al-Iealanat Ash-Sharqiyyah (1971).

[101]Baltimore: The Johns Hopkins University Press (1955). See also "International Law," Law in the Middle East, edited by M. Khadduri and Herbert J. Kiebesny, Washington: The Middle East Institute (1955), p. 351. Here Khadduri states that "on the assumption that the aim of Islam was the world, the Dar Al-Islam was always, in theory,

A proper assessment of these two schools of thought is presented by Professor Muhammad T. Al-Ghunaimi. He states that:

> The confusion we rebuke about the classical doctrine is due to the fact the jurist-theologians who developed the theory had not been practically invited to discuss a case relevant to a genuine state of peace between the Islamic state and a non-Muslim state since the Islamic state was almost in a state of constant war. Hence, they did not have a suitable opportunity to tackle the conditions of a genuine treaty of peace. The treaties they meant are rather truces and not genuine treaties of peace.[102]

In another respect, however, the Islamic injunctions stress the respectability of treaties by emphasizing the well-known principle Al-Aqd Shariat Al-Mutaaqidin which is the Arabic equivalent of the rule pacta sunt servanda.[103]

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at war with Dar Al-Harb" and hence, according to Khadduri's interpretation, "peace...was not a definite term to mean entirely normal relations under Muslim law," p. 360. A refined response to this issue plus other interpretations, which give different views on the compatability of religious doctrine and historical experiences, is provided by Professor A. H. Abu-Sulayman "The Islamic Theory of International Relations." op. cit., p. 36-46.

[102]M. T. Al-Ghunaimi, The Muslim Conception of International Law and the Western Approach, op. cit., p. 212; For a discussion of the compatibility of Islam with the prevailing system of nation-states and international law including the three approaches namely that of modern developments; traditional thought; and a combination of Islamic principle and historical fact see James P. Piscatori, "Islam and the International Legal Order: The Case of Saudi Arabia." (unpublished doctoral dissertation, University of Virginia, 1976) p. 188-224.

[103] Pacta sunt servanda has a sacred religious basis in Islam. See the Quran where it says: "Fulfill the covenant of God when ye have entered into it, and break not your oaths after ye have confirmed them. Indeed, ye have made God your surety; for God knoweth all that ye do;" Sura:

in this respect, Islam does not innovate a new principle. However, this principle was recognized by municipal laws only. It had no validity in the inter-state relation. Islam is to be accredited with its strong adherence to the principle and its strict implementation of it in the international intercourse to the extent that if Islam did not create the principle yet it brought it up and introduced it to international law in a way that made it a well-established principle in the international legal theory.[104]

In the Islamic legal doctrine, treaties are of great importance due to the theory of obligation.[105]

God, in the Islamic theory, considers Himself a third party in every treaty the Muslims conclude.[106] Any breach of a treaty is an unforgivable sin since it is also a renouncement of an obliga-tion toward Allah. In this respect, we believe that the Islamic theory is rather an advance over the Western theory in giving a satisfactory basis of obligation. Writers on international law could not for long fail to perceive that international law was being undermined, if one based contracts on the will of the state. They, therefore, tried to find a basis which would leave unaltered the principle of

Nahl or The Bee 16:91. Also see M. T. Al-Ghunaimi, Ahkam Al-Muaahadat fi Ash-Shariah (The Rules of Treaties in the Islamic Law), Alexandria: Mansha-at Al-Maarif (1977); Al-Muaahada fi Ash-Shariah Al-Islamiyyah (Treaties in Islamic Law and Public International Law) by Mahmoud I. Ad-Deek, op cit., p. 114-130. Also see Appendix I, articles 25,37b and 47.

[104]M. T. Al-Ghunaimi, The Muslim Conception of International Law and the Western Approach, op. cit., p. 211.

[105]For a brief note on the similarity between la theorie de l'obligation in French law and the theory of contract in Islam see Ibrahim Shihata, "Islamic Law and the World Community," op. cit., p. 112-113.

[106]See, for example, suras: Ahzab or The Confederates 33:15; Raad or Thunder 13:20-25; and Bani Israil or The Children of Israel 17:34.

> sanctity of contracts, in spite of combined
> adherence to the will of the state as a foundation
> of international law. The Islamic theory amply
> provides this foundation.[107]

And, hence, the obligatory character of Muslim international law is based on its divine origin.[108] Islam

> combines the rule of law to that of morals in a
> balanced way that engenders a better juridical
> international society and more conformable to the
> needs of the development of international law. For
> this Islam insists on complete conformity of conduct to declaration and profession of intent.[109]

The Quran stresses this point further when it states: "O ye who have believed! Why do ye say what ye do not do?"[110]

Finally, "the objective of Islam in the international sphere is an association of strong and stable states allied together in pursuance of the maintenance of peace, freedom of conscience and promotion of human welfare."[111]

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[107]M. T. Al-Ghunaimi, The Muslim Conception of International Law op. cit., p.212.

[108]A contrasting view on the basis of obligation in the Western model of international law may be found in J. L. Brierly, The Law of Nations: An Introduction to The International Law of Peace sixth edition, edited by H. Waldock. Oxford: The Clarendon Press, 1980. p. 49-56.

[109]M. T. Al-Ghunaimi The Muslim Conception of International Law, op. cit. p. 200.

[110]The translation is that of W. M. Watt, The Faith and Practice of al-Ghazali, London: G. Allen and Unwin (1953), pp. 88-89.

[111]M. T. Al-Ghunaimi, op. cit., p. 200. Also see Norman Bentwich, The Religious Foundations of Internationalism, London: George Allen and Unwin (1959), pp. 159-180.

CHAPTER V

ECOLOGY AND ISLAMIC TENETS

"Behold! In the creation of the heavens and the
earth, and the alternation of night and day, - There
indeed (are) signs for men of understanding.-"

The Quran sura: Al-i-Imran or

The Family of Imran 3:190.

This chapter will deal primarily with ecology and the study of Nature as related to Islam and Islamic studies. To achieve this, the study attempts to raise some questions and hopefully provides some answers as to the following: What is the Islamic conception of ecology? What are the relational elements that make ecology compatible with Islamic environmental ethics? And how have ecology and the study of Nature been treated by Muslim scholars throughout history to the present day? Finally, this research attempts to shed some light on the ecological interdependence of man, nature and environment from an Islamic perspective. Consequently this part constitutes the fifth and last value of the proposed world order model discussed earlier in this work.

Islam and Nature: A Theoretical Framework

An ecological review of the Islamic doctrine requires at the outset that one establish a precise definition of ecology. Webster's Third New International Dictionary gives three meanings:

1. "A branch of science concerned with the interrelationship of organisms and their environment;

2. The totality or pattern of relations between organisms and their environment; and

3. Human ecology, (that is) a branch of sociology that studies the relationship between a human community and its environment; specifically, the study of the spatial and

temporal interrelationships between men and their economic, social, and political organization."[1]

The scope of this study will focus only on the third definition provided that - the meaning of 'human ecology' embraces "the totality of man's relationships with his physical and living environment..."[2] and bases its interrelationship between things on the vision of the whole. It is in this sense that this work will employ such words as ecology and Nature.

Nature (Tabieah) occupies a prominent position in Islam.[3] A very large portion of the Quran deals seriously

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[1]Published in Springfield, Mass. by G. and C. Merriam Co., 1976. p. 720 and 1100.

[2]William Ophuls. Ecology and the Politics of Scarcity. San Francisco: W. H. Freeman and Co., 1977, p. 5; also see Amos H. Hawley, "Human Ecology" International Encyclopaedia of the Social Sciences. Edited by David L. Sills, Volume 4. (New York: Crowell Collier and MacMillan, Inc., 1968), pp. 328-337.

[3]On the word Tabieah see Seyyed Hossein Nasr., An Introduction to Islamic Cosmological Doctrines: Conceptions of Nature and Methods used for its Study by the Ikhwan al-Safa, al-Birun:, and Ibn Sina. Cambridge, Mass.: Belknap Press of Harvard University, 1964. Nasr states that "for the word 'Nature' itself, corresponding to the Latin natura and Greek physis, and the Arabic word tabiah from the root (tb') came to be used but with a somewhat different meaning from that in the classical languages..." Nasr further adds that "Muslim authors in the later centuries have usually distinguished between taba as the essential attribute of something, or, in other words, that which makes a thing behave and manifest itself as it does, and tabiah as that which gives movement or rest to a thing without possessing a will of its own." p. 8; Professor Muhsin Mahdi, for example, looks at the history of the Arabic expressions tabia (nature) and sunna (convention). He indicates that "in the prephilosophic usage, the abstract from tabia is not

with nature and, as Professor Ismail Al-Faruqi, for example,
illustrates the Islamic concept of nature is determined by
five major principles: profanity, createdness, orderliness,
purposiveness and subservience. He distinguishes between
religions that see nature as sacred (the naturalists) and
those who see nature as profane (the transcendentalists).
Taoism, Mahayana Buddhism, Hinduism, and Archaic religions
fall in the first category. Hinayana Buddhism, Judaism,
Christianity and Islam fall into the second. He further
adds:

> It is only in Islam that the profanity of nature
> is complete and absolute. Nothing is sacred but
> the sacred, namely God; and everything else is
> profane, totally profane in all its aspects. That
> is the meaning of the Islamic profession of faith,
> La ilaha illa Allah.[4] To attribute sacredness to
> nature or to anything in it is to commit shirk or
> association of other beings with God. Islam,

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common, and the other forms of the expression (such as
tabaa, tab', which means stamping, making an impression or
an imprint, and hence temper or character as something
stamped or imprinted in men's souls in consequence, for
example, of food and drink), are hardly distinguishable from
sunna, "tradition" "custom" or "way;" in fact, tab' can in
some cases be understood as subordinate to sunna, which can
have a more comprehensive and permanent connotation than
tab', especially when sunna is used to refer to the form or
conduct of life, the "way of the ancients" or the "way of
God." The Political Orientation of Islamic Philosophy.
Occasional Papers Series by the Center for Contemporary Arab
Studies, Georgetown University, Washington, D.C. 1982.
p. 10-11.

[4]The Quran states "There is no god but He: That is the
witness of God, His angels, and those emdued with knowledge,
standing firm on justice..." Sura: Ali-i-Imran or The
Family of Imran 3:18.

condemned the prediction of sacredness to nature in no uncertain terms...[5]

Nature in Islam is a creation of God, created

ex nihilo,

> By the sheer commandment of God for it to be. It is absolutely different and other than God, Who is defined as 'the totally other' or 'laysa Ka-mithlihi shay'...[6] The otherness of God i.e., that reality is dual, one realm being occupied exclusively by God, the transcendent Creator, and the other includes all else, the creation, is the most emphatic lesson Islam had taught...[7]

Orderliness comes as the third principle that consti-

tutes the Islamic conception of nature. Islam holds nature

to be an orderly realm and thus "a complete and integral

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[5]"Islam and the Theory of Nature," The Islamic Quarterly, Vol. 26 no. 1, 1982. p. 16-18. This profanity, however, is explained differently by another Muslim scholar, namely, Professor Seyyed Hossein Nasr who, in illustrating the intimate connection between man and nature, indicated that: "In Islam...nature has never been considered as profane nor have the sciences of nature considered as natura naturata ever been studies without the remembrance of natura naturans. The presence of metaphysical doctrine and the hierarchy of knowledge enabled Islam to develop many sciences which exerted the greatest influence on Western science without these sciences disrupting the Islamic intellectual edifice." The Encounter of Man and Nature: The Spiritual Crisis of Modern Man. London: Allen and Unwin, 1968. p. 97.

[6]"He is the Creator of the heavens and the earth... there is nothing whatever like unto Him and He is the One that hears and sees (all things)" Sura: Shura or Consultation 42:11.

[7]I. R. Al-Faruqi. op. cite. p. 19.

system of causes and effects without flow, without gap, perfectly patterned by its Creator."[8]

Fourth; purposiveness. Nature constitutes objects which are assigned to fulfill a purpose. It is said in the Quran: "...It is He Who created all things, and ordered them in due proportions."[9] This purpose pervades all creation through knowledge of Divine unity and through action of worshiping Him and doing good. The Quran affirms such a stand when it states: "We created not the heavens, the earth, and all between them, merely in (idle) sport. We created them not except for just ends..."[10] It is the purpose of establishing truth and value and eliminating evil and error. And here Professor S. H. Nasr provides an interesting analysis of this purposiveness. He states as follows:

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[8]Op. cit., p. 20. The Quran states "For God surely accomplishes His purpose. Verily, for all things has God appointed a due proportion." Sura: Talaq or Divorce 65:3; "...all things We [have] taken [into] in a clear book (of evidence)" Sura: Ya-Sin (being Abbreviated Letters) 36:12. The Quran further adds: "He Who created death and life, that He may try which of you is best in deed...He who created the seven heavens one above another: No want of proportion wilt thou see in the creation of (God) most Gracious. So turn thy vision: Seest thou any flaw?" Sura: Mulk or Dominion 67:2-3.

[9]Sura Furqan or The Criterion 25:2; the Quran further adds: "[God] Who hath created, and further, given order and proportion: Who hath ordained laws and granted guidance." Sura: A'La or The Most High 87:2-3. For further verses see Sura; 80:19; 13:9; and 33:38.

[10]Sura: Dukhan, or Smoke (or Mist) 44:38-39; also check Sura: Anbiyaa or The Prophets 21:16.

The purpose of man's appearance in this world is, according to Islam, in order to gain total knowledge of things, to become the Universal Man (al-Insan al-Kamil), the mirror reflecting all the Divine Names and Qualities. Before his fall man was in the Edenic state, the Primordial Man (al-Insan al-Qadim); after his fall he lost this state, but by virtue of finding himself as the central being in a Universe which he can know completely, he can surpass his state before the fall to become the Universal Man. Therefore, if he takes advantage of the opportunity life has afforded him, with the help of the cosmos he can leave it with more than he had before his fall.[11]

Later Al-Faruqi stresses that:

as object in nature man is equally purposive. He is an integral part of the final-istic system that is creation. He is, therefore, the purpose of all finalistic chains of nature and they are of him. This is his ecological interdependence with all that is in nature.[12]

The last principle which constitutes the Islamic theory

of nature is subservience. In Islam nature is to be

essentially good and should be led to man's goodness in

order to achieve felicity (falah).[13] As a matter of fact

The fundamental doctrine presented in the Quran is that human felicity, in this and the other world,

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[11]The Encounter of Man and Nature: The Spiritual Crisis of Modern Man. op. cit. p. 96.

[12]Op. Cit. p. 21-23; The aspect of ecological interdependence will be discussed later in this chapter.

[13]Including the most important part, namely the ethical felicity; "The Muslim's apprehension of the purpose of his earthly life as the outreach for felicity, saada, through service, 'ibada, has shaped the fundamental aspirations of his civilization both on the political and on the epistemological level." See Gustave E. Von Grunebaum, Islam: Essays in the Nature and Growth of a Cultural Tradition, op. cit., p. 111.

is possible only through the understanding of the
will of God manifest in the laws of human nature
and science and their proper application through
ethical, social action and an ethically
constrained technology...[14]

The Quran pinpoints this by stating "that which is on earth,
We have made but as a glittering show for the earth in order
that We may test them - as to which of them are best in
conduct."[15] The Quran further adds: "He it is Who created
the heavens and the earth in six days...that He might try
you, which of you is best in conduct..."[16] This conduct is
not just in the physical or material activities but also in
the moral works of man for the ultimate purpose of creation:
the fulfillment of divine will. "This divine final purpose
confers upon nature great significance and dignity..."[17]
And therefore man being the master and custodian of nature
is the center of the ethical responsibility and moral con-
sciousness that constitutes the essential part of under-
standing the Islamic conception of nature.[18]

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[14]S. W. A. Husaini. Islamic Environmental Systems
Engineering. Op. cit., p. 9-10.

[15]Sura: Kahf or The Cave 18:7.

[16]Sura: Hud (The Prophet Hud) 11:7.

[17]Al-Faruqi. op. cit., p. 25-26.

[18]The lesson needed in order to effect change in modern
times.

<u>Man and Nature</u>:

Islam looks at man and nature as an essential and complementary part of harmonious existence. This view is rooted in the following inferences from the Quran.

1). God has created human beings in consonance with His Nature;
2). Religion is not the name of a collection of external rites and traditions, but is the result of the internal natural demands of man;
3). Similarly, the religion is not a combination of some rules and regulations changeable according to the changes in circumstances, but is the embodiment of unalterable principles based on human nature; and
4). Religion is another name of the effort at compatibility with Nature. Therefore, obedience to religion actually entails obedience to human nature.[19]

Islam postulates an inseparable link between man and nature. He [mankind] is;

The channel of grace for nature; through his active participation in the spiritual world he casts light into the world of nature. He is the mouth through which nature breathes and lives. Because of the intimate connection between man and nature, the inner state of man is reflected in the external order...Man sees in nature what he is himself and penetrates into the inner meaning of nature only on the condition of being able to

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[19]Mahmud Brelvi. <u>Islamic Ideology and Its Impact on Our Times</u>. op. cit., p. 32. He further adds that "except human beings, all other creatures and creation of God are strictly obedient to the Laws of Nature. The sun, the moon, other planets and stars as well as animals, all, act according to the dictates of Nature. It is only the man who revolts against the laws of Nature. Therefore, his religion can only be complete when he refrains from this rebellion, and follows the demands of Nature. According to the Quran, ignorance of the Laws and mysteries of Nature is the biggest source of human vices and the greatest cause of the denial of the guidance of God."

delve into the inner depths of his own being and to cease to lie merely on the periphery of his being...[20]

This is also true between the sciences of nature and religion which are based on the divine book, the Quran. It

[is] both the source of the revelation which is the basis of religion and that macrocosmic reve- lation which is the Uni-verse. It is both the recorded Quran (al-Quran al-Tadwini) and the 'Quran of creation' (al-Quran al-Takwini) which contains the 'ideas' or archtypes of all things."[21]

In this connection, repeated references in the Quran make it quite evident that;

The creation has three general purposes in the human existence; firstly, as portents and signs (Ayat) for man to reflect upon and to enhance his faith; secondly, as a book of knowledge to be eternally deciphered; and thirdly, as a benevolent gift whose value is in its utilization toward the enhancements of the art of life within the coordinates of the Islamic ideal. With such a fundamental dimension as freedom and will distinguishing man and nature they still remain deeply dependent on each other and together on the Mercy, Benevolence and Directive (Amr) of their Creator.[22]

A great Muslim scholar and poet Muhammad Iqbal reflects on the two Arabic words Khalq and Amr. He states that they express the two ways in which the creative activity of God reveals itself to us. Khalq is 'creation' and Amr is

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[20]S. H. Nasr, <u>The Encounter of Man and Nature</u>, op. cit., p. 96.

[21]Ibid., p. 94-95.

[22]Gulzar Haider, "Man and Nature" <u>Afkar-Inquiry</u>, Vol. 2 no. 8, (August 1985), p. 48.

'direction.' God's creation may be perceived as the composite of three intimate factors; man, nature, and the Divine Wisdom.[23] The Quran says: "...everyone acts according to his own disposition, but your Lord knows best who it is that is best guided on the way."[24]

The Quran holds that to understand Nature is to understand the Book of Revelations and vice versa both of which are full of signs (Ayat). It states:

> Behold! in the creation of the heavens and the earth, in the alternation of the night and the day, in the sailing of the ships through the ocean for the profit of mankind, in the rain which God send down from the skies, and the life which He gives therewith to an earth that is dead, in the beasts of all kinds that He scatters through the earth, in the change of the winds and the clouds which they trail like their slaves between the sky and the earth; (here) indeed are signs for a people that are wise.[25]

The Quran further proclaims:

> Soon We will show them Our signs in the (furthest) regions (of the earth), and in their own souls, until it becomes manifest to them that this is the Truth. Is it not enough that thy Lord doth witness all things?[26]

Therefore to know these signs constitutes in Islam a Divine Service (Ibada). Muslims are encouraged, consequently, to

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[23]The Reconstruction of Religious Thought in Islam, op cit., p. 103.

[24]Sura: Bani: Israil or The Children of Israel, 17:84.

[25]Sura: Baqarah or The Heifer 2:164.

[26]Sura: Ha-Mim (Abbreviated Letters) Sajda or Fussilat 41:53; see also Sura: Anam or Cattle 6:95-99.

be constructive in this world and to build and establish
what some would call the service of construction ('Ibadat
At-Taameer) or what Ibn Khaldun called ('Umran).[27] Nature
to Muslims, then;

> Is not a mass of pure materiality occupying a
> void. It is a structure of events, a systematic
> mode of behavior, and as such organic to the
> ultimate self. Nature is to the Divine Self as
> character is to the human self...Nature, then must
> be understood as a living, ever growing organism
> whose growth has no final external limits. Its
> only limit is internal, i.e. the immanent self
> which animates and sustains the whole.[28]

As the Quran concludes "that to thy Lord is the final
goal."[29]

This idea, therefore, conforms with what Muslim
scholars claim, namely, that nature has no meaning without
reference to God. In other words "without Divine purpose it

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[27]See the chapter on the Muslim scholars and the
concept of Ummah in this dissertation; "all that Ibn Khaldun
has said about the influence of food and climate upon
civilization has been worked out, from the modern point of
view, by Buckle in his History of Civilization. What the
Arab thinker has divided, the British publicist has proven.
Between them, however, there is a gap of five hundred years.
One wrote in the metropolis of the modern world on the
Thames; the other in North Africa, in an old castle (qalat
Ibn Salamah) the ruins of which are still to be seen in the
Province of Oran (Algeria) on the left bank of Mina." Alfred
F. Von Kremer, Politics in Islam, Lahore Sh. Muhammad
Ashraf, 1961. p. 70.

[28]Muhammad Iqbal, The Reconstruction of Religious
Thought, op. cit., p. 56.

[29]In another transliteration it is like this "and
verily unto thy Lord is the limit" Sura: Najm or The Star
53:42.

simply does not exist.[30] It is for this reason therefore that;

> Throughout Islamic history, apart from a small number of investigators inspired by Greek philosophic ideals, the Muslims who engaged in the pursuit of science did so, like the Hebrews, in order to discover in the wonders of Nature the signs or token of the glory of God.[31]

A brief review of the conception of nature by some classical Muslim scholars is useful. Nature is described by Abu Bakr Ar-Razi, for example, as passion or life force[32] Man, being the material creature not only can live in harmony with the life force of nature but that life force of

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[30]S. Parvez Manzoor, "Islam and the Challenge of Ecology," Afkar-Inquiry Vol. 2 no. 2, February 1985. p. 37.

[31]See S. H. Nasr, An Introduction to Islamic Cosmological Doctrines. op. cit., p. 6. For further insightful analysis on man and nature in Islam see by the same author, The Encounter of Man and Nature... op. cit. p. 95, where he states "by refusing to separate man and nature completely, Islam has preserved an integral view of the Universe and sees in the arteries of the cosmic and natural order the flow of divine grace or barakah. Man seeks the transcendent and the supernatural, but not against the background of a profane nature that is opposed to grace and the supernatural. From the bosom of nature man seeks to transcend nature and nature herself can be an aid in this process provided man can learn to contemplate it, not as an independent domain of reality but as a mirror reflecting a higher reality, a vast panorama of symbols which speak to man and have meaning for him."

[32]Ar-Razi's full name is Abu Bakr Muhammad Ibn Zakariyya Ar-Razi. He is a celebrated physician, alchemist and philosopher (b. 250 - d.313 A.H./869-925 A.D.). For a biography of him see Encyclopaedia of Islam 1936 edition, p. 1134; also see Chere Ardine Winnek Shawer, "Abu Bakr Muhammad Ibn Zakariya Al-Razi: on Reason and Nature." (unpublished doctoral dissertation, University of Missouri-Columbia, 1973.)

nature is necessary for the species of man to continue. Abu
Al-Rayhan Al-Biruni[33] analyzes nature as "a process of
becoming."[34] It is "neither 'dead matter' possessing
motion, nor 'primary matter' nor the hyle. On the contrary,
the hyle is the intermediary through which the forces of
nature act on matter."[35] As with relation to man Al-Biruni
emphasizes that:

> It is for man to use his sight to see the 'signs
> of God in the horizon', and to use his reason in
> order to journey from the company of creatures to
> that of the Creator. Only in this way does he
> realize his noble nature and the purpose for which
> he was created.[36]

Ibn Sina or Avicenna looks at nature as "the domain
where everything possesses a meaning and an end and where
the wisdom of the Creator is everywhere manifest." He, like

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[33]Abu Al-Rayhan Muhammad Ibn Ahmad Al-Biruni was born
at Khawarizm (now Khive, Iran) in 973 and died at Ghazna
(now Ghazni in Afghanistan) in 1048. Muslim philosopher,
mathematician, astronomer and geographer, his main works
were (1) the Chronology of Ancient Nations or Vestiges of
the Past; (2) An Account of India; (3) An Astronomical
Encyclopaedia, and (4) a Summary of Mathematics, Astronomy
and Astrology. Al-Biruni gave a clear account of Hindu
numerals; For Al-Biruni's thought and work see S. H. Nasr,
An Introduction to Islamic Cosmological Doctrines. op. cit.
p. 107-176.

[34]Muhammad Iqbal, The Reconstruction of Religious
Thought in Islam, op. cit., p. 142.

[35]S. H. Nasr, An Introduction to Islamic Cosmological
Doctrines, op. cit., p. 122; "Material forms" is called in
Arabic hayulaniyyah or tabieah. The first word comes from
the Greek term hyle: substance, matter, stuff; the second
means physical or natural.

[36]Ibid., p. 150.

Al-Biruni, concentrates attention on the source of motion in an account of becoming instead of on the source of being. Nature moves all things according to a natural purpose (Qasd Tabieai). "The ends and purpose which nature intends are always toward goodness and perfection if obstacles are not placed in its way." And hence, according to Ibn Sina, the study of nature "in which the purpose and wisdom of God is manifested, leads ultimately to the knowledge of the sources of all beings."[37]

Ikhwan As-Safa or The Brethren of Purity describe nature as:

> None other than one of the faculties of the
> Universal Soul of the spheres which is propagated
> in all the bodies existing in the sublunary region
> beginning from the sphere of the ether until the
> center of the world...In the language of religion
> (Shari) it is called the Soul in charge of
> maintenance and organization or order in the world
> by permission of Allah...Those who deny the action
> of nature have not understood the true sense of
> these denominations...[38]

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[37]Ibid., p. 231; see also Osman Bakar, "Ibn Sina's Methodological Approach towards the Study of Nature in His 'Oriental Philosophy'" Hamdard Islamicus Vol. 7 No. 2. Summer 1984. p. 33-49.

[38] S. H. Nasr, An Introduction to Islamic Cosmological Doctrines, op. cit., p. 60; Dr. Omar A. Farrukh describes At-Tabieah (nature) according to Ikhwan As-Safa as "one of the powers of the World-Soul, the energy diffused throughout the sublunary world and affecting all bodies therein, organic and inorganic. It is the cause of motion, life and change. It works wisely and uniformly. In this sense, it is the philosophical term for the religious concepts of divine will and Providence. Here, with nature, ceases the influence of the intellect, since all subsequent emanations will tend to be more and more material, defective, and consequently unworthy of its care." "Ikhwan Al-Safa"

The study of nature by Ikhwan As-Safa acts as "a support for spiritual realization as conversely, the study by man of himself leads to his understanding of the inner aspects of nature."[39]

At the time of Imam Al-Ghazali many scholars believed that nature means expression "and natural beings are those beings that express or expose themselves as they are to our eyes and reveal what they are to our mind's eye."[40] He, however, preferred to follow the notion that:

> The world has no nature, but only a convention, habit or custom. Atomism and the denial of inner causality was a rational effort to elaborate systematically the notion that nothing in the world has a nature of its own: it merely has a convention external to it. Everything has a sunna, which means that everything is prescribed, or sanctioned from outside itself and by something else.[41]

Hence Al-Ghazali perceived the visible world as "a natural world whose parts have a natural order and whose highest principle is a supreme intelligence: The Creator, Knower, and Sustainer of this order." Man's actions too must be "understood in terms of his nature, his place in the natural

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A History of Muslim Philosophy, edited by M. M. Sharif, op. cit., p. 295.

[39]S. H. Nasr, An Introduction to Islamic Cosmological Doctrines, op. cit., p. 66-67.

[40]Muhsin Mahdi, Political Orientation of Islamic Philosophy, op. cit., p. 11.

[41]Ibid.

whole, and the ends of his nature as a being within this natural whole which is the visible world."[42]

Islamic Environmental Ethics:

In Islam, there are some metaphysical and philosophic principles which govern the environmental ethics. These

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[42]Ibid. Two other great Muslim scholars explain their notion of nature. One is Abu Yusuf Alkindi who considers nature as "the principle (Ibtida) of motion and of rest after motion" It is the way that leads to rest (At-Tariq ilal Sukun) and rest coincides with the final state, the realization of actuality or the last fulfillment." Ibn Rushd or Averroes, on the other hand, states when commenting on the definition of nature that it "is applied first to the substance (jawhar) that is the form (sura) and is the principle of motion in things that are essentially and fundamentally natural." R. Arnaldez, "Haraka Wa-Sukun" The Encyclopaedia of Islam Vol. III. 1966 edition. op. cit., p. 170; Also see Steven Harvey, "Averroes on the Principles of Nature: the 'Middle Commentary' on Aristotle's Physics I-II" Ph. D. Dissertation, Harvard University, 1977. A brief biography on these two great philosophers might be useful. The full name of the first philosopher is Abu Yusuf Yaqub Ibn Is-Haq Ibn al-Sabbah Ibn Imran Ibn Ismail Ibn Ashath Ibn Qais Al-Kindi (185/801 -260/872). He was the first Muslim philosopher. Being the first Arab Muslim to study science and philosophy, Al-kindi was rightly called "the Philosopher of the Arabs." He directed Muslim philosophy towards an accord between philosophy and religion. This accord is based on three arguments: "(1) that theology is part of philosophy; (2) that the Prophet's revelation and philosophical truth are in accord with each other; and (3) that the pursuit of theology is logically ordained." The other great scholar is Abu Al-Walid Muhammad Ibn Ahmad Ibn Muhammad Ibn Rushd Al-Hafid (the grandson). He was born in Cordova (Qurtuba) in 520/1126 and died at Marrakush in 595/1198. He is called the "Commentator of Aristotle;" scholar of the Quranic sciences and the natural sciences, jurisconsult and philosopher. See "Al-kindi" and "Ibn Rushd" by Ahmed Fouad El-Ehwany, A History of Muslim Philosophy, edited by M. M. Sharif. op. cit., p. 421-434 and 540-564. In addition for a reference on Ibn Rushd's life and works see "Ibn Rushd" by R. Arnaldez The Encyclopaedia of Islam, 1971 edition, Vol. 3. p. 909-920.

include: Tawhid (unity); Rububiyyah (divine arrangement for nourishment); Khilafah (vicegerency and custodianship); Amanah (trust); 'Adl (justice) and I'tidal (moderation) (See Diagram VI).

The principle of Tawhid is considered by Muslims as the most important factor.[43] They have called it Tawhid or unization, meaning the three unities of God, truth and life.[44] "God forgiveth not (the sin of) joining other gods with Him" states the Quran, "but He forgiveth whom He pleaseth other sins than this: one who joins other gods with God, hath strayed far, far away (from the Right)."[45] Tawhid, as S. Parvez Manzoor explains,

> is the metaphysical and theological principle par excellence which gives the religion of Islam its unique profile and its distinctive morphology... The identity of personal piety and ritual devotion, of theology and law, of politics and religion, of faith and deeds in Islam are all manifestations of the same all-pervasive principle of Tawhid.[46]

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[43]For an insightful analysis of Tawhid as the principle of ethics, see Ismail R. Al-Faruqi, Tawhid: Its Implications for Thought and Life, op. cit. p. 70-97.

[44]"This principle of unity underlines causality, creativity and movement in the whole universe..." Ali I. Othman, The Concept of Man in Islam in the Writing of Al-Ghazali, op. cit., p. 150.

[45]Sura: Nisaa or The Women 4:116.

[46]"Environment and Values: The Islamic Alternative" in The Touch of Midas: Science, Values and Environment in Islam and the West. edited by Ziauddin Sardar. op. cit., p. 155.
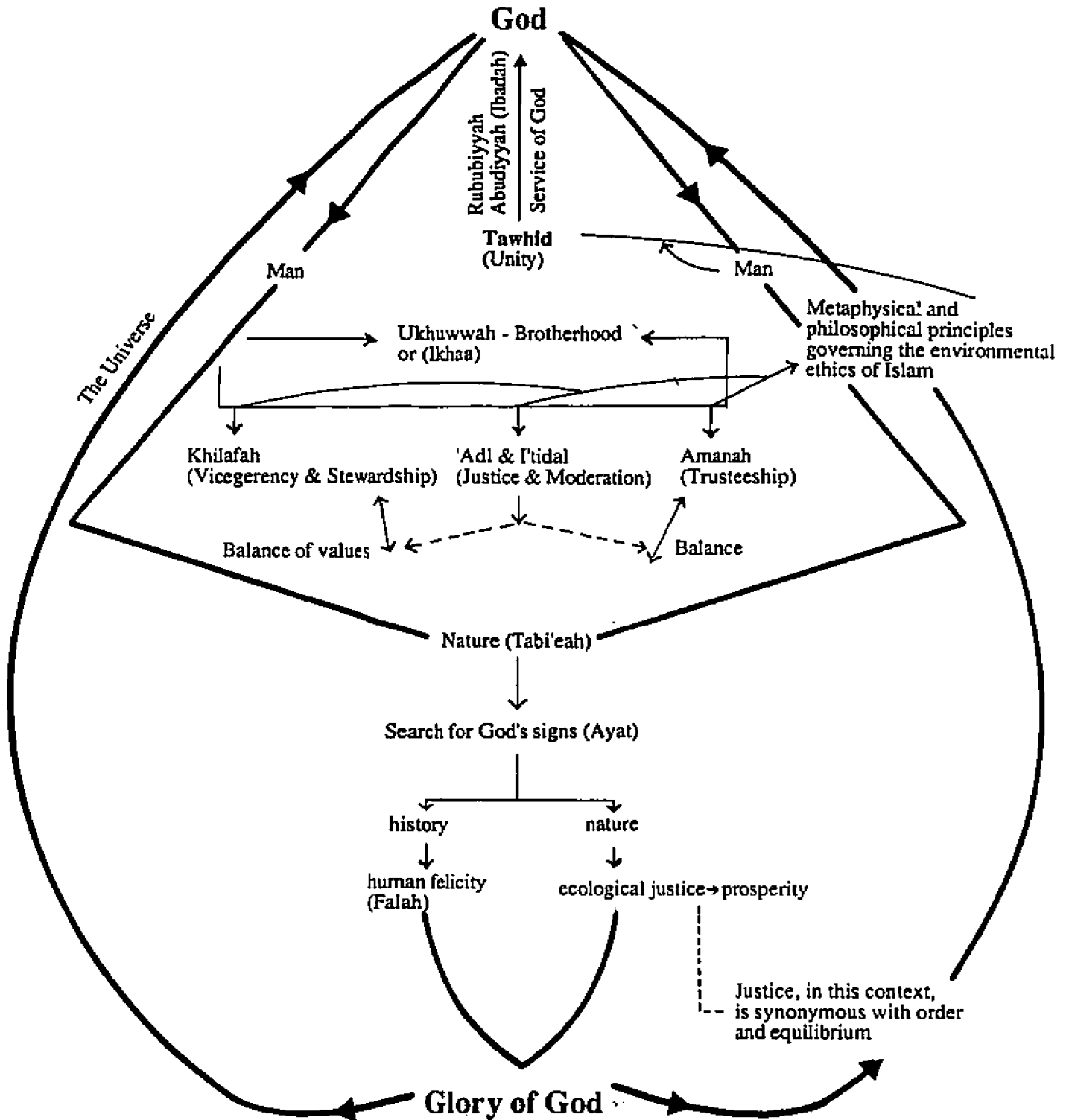
Diagram 6: Ecological Principles

The Quran underscores this principle:

O ye people! Adore your Guardian-Lord Who created
you and those who came before you, that ye may
have the chance to learn righteousness. Who has
made the earth your couch, and the heavens your
canopy; and sent down rain from the heavens; and
brought forth therewith fruits for your suste-
nance, then set not up rivals unto God when ye
know (the truth).[47]

Therefore, Tawhid is the Muslims' representation of reality, of their collective mind, action and hope. It is within this context that Tawhid establishes the rules of relation- ships of human beings with God and each other.

The second principle which governs the Islamic environmental ethics is the divine arrangement for nourish- ment (Rububiyyah). This is a fundamental law of the universe which constitutes investment and sharing of avail- able resources, and mutual support and cooperation among individuals. This will eventually lead human activities to their perfection. "...so eat and drink of the substance provided by God and do no evil nor mischief on the face of the earth."[48]

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[47]Sura Baqarah or The Heifer 2:21-22; Seyyed Hossein Nasr, for example, states that "it is a general feature of all medieval cosmological sciences that they seek to express the unity of all that exists. This is especially true in the Islamic natural sciences, such as natural history, where this goal has been central, and the idea of the unicity of nature and the interrelatedness of all parts of the Universe has remained complementary to and a necessary consequence of the Oneness of the Creator." Islamic Life and Thought, Albany: State University of New York Press, 1981. p. 124.

[48]Sura: Baqarah or The Heifer 2:60; also see Sura: Ahqaf or Winding Sand-tracts 46:3.

Third, Khilafah or vicegerency on earth under God's
sovereinty; "He it is that (who) has made you inheritors in
the earth..."[49] The Quran further adds: "Behold, thy Lord
said to the angels: 'I will create a vicegerent on
earth...'"[50] Khilafah does not reside in any person or
community, but in believers who perform good deeds. The
Prophet states: "everyone of you is a caretaker and is
accountable for that which is committed to his care." Man,
being the highest of God's creation, has been gifted with
discursive intellect ('Aql), moral realm and divine guid-
ance. It is for this that he is God's vicegerent (Khalifah)
on earth who only can realize the higher ethical values and
the whole realm in its totality. Moreover, this illustrates
the unique Islamic concept of the individual's trusteeship
and behavior. As one Muslim scholar once put it:

> Man is a two-dimensional creature who must possess
> a two-dimensional religion which can continually
> exert a force upon him in the opposite direction -
> upon his society as well as upon his soul - so
> (that) he can retain his equilibrium.[51]

The fourth principle which guides the Islamic
environmental ethics is Amanah (Trust). In Islam trust
implies that the giver of the trust believes and expects
that the trustee would use it according to the wishes of the

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[49]Sura: Fatir or The Originator of Creation 35:39.

[50]Sura: Baqarah or The Heifer 2:30.

[51]Ali Shariati, Man and Islam, op. cit., p. 8.

Creator, and not otherwise. From the point of view of
nature it "has been made amenable to the discriminatory
judgment of Divine Will, and man, the instrument of Divine
purpose, has a mandate and responsibility to treat nature as
a trust."[52] This trust is clearly mentioned in the Quran
when it says: "The believers must (eventually) win
through...those who faithfully observe their trusts and
their covenants."[53] The Quran further emphasizes the great
importance of trust and the role that it plays in this life
by stating: "O ye who believe! betray not the trust of God

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[52]S. Parvez Manzoor, "Islam and the Challenge of
Ecology", op. cit., p. 37.

[53]Sura: Mu-minun or The Believers 23:1,8; Sura: Maarij
or The Ways of Ascent 70:32; see also Sura: Ahzab or The
Confederates 33:72 where it states: "We did indeed offer the
trust to the heavens and the earth and the mountains; but
they refused to undertake it, being afraid thereof: but man
undertook it..." In the interpretation of this verse A.
Yusuf Ali states that "such parables are put forth in order
to aid men to reflection. We may therefore take the
mountains, the earth and the heavens as symbolical. The
mountains stand for firmness and stability: they have been
created for this quality, and they are always true to that
quality. An earthquake or a volcano has to do with
movements within the earth's crust: it has nothing to do
with the mountain's will. In fact it has no free-will of
any kind. There is no question of any trust here. If we
take the earth as a whole, as a part of the solar system, or
a compendium of the terrestrial Nature we see around us, it
obeys the fixed laws of God, and there is no Will or Trust.
If we take the heavens either as celestial space, or as
symbolical of the Angels, they absolutely obey God's Will
and law: they have no will of their own." The Holy Quran op
cit., p. 1130; for the various kinds of trust see p. 421.

and the Apostle, nor misappropriate knowingly things entrusted to you."[54]

The above cited principles of Khilafah and Amanah could be illustrated by the following story. It is narrated that:

> A man once came to the Prophet with a bundle and said: 'O Prophet. I passed through a wood and heard the voice of the young of birds, and I took them and put them in my carpet and their mother came fluttering around my head.' And the Prophet said: 'Put them down;' and when he had put them down, the mother joined the young. And the Prophet said: 'Do you wonder the affection of the mother towards her young? I swear by Him Who has sent me, verily, God is more loving to his servants than the mother of these young birds. Return them to the place from where you took them, and let their mother be with them'[55]

The last principle of the Islamic environmental ethics concerns justice and moderation.[56] "The goal of justice, Muslim consciousness affirms, is reached by treading the path of moderation." The Quran confirms it "thus have We made of you an ummah justly balanced, that ye might be witnesses over the nations and the Apostle a witness over yourselves."[57]

> The Prophet has directed his followers over extended rituals of worship, against celibacy, against exaggerated fasting, against pessimism and the morose mood. He ordered them to break the

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[54]Sura: Anfal or The Spoils of War 8:27.

[55]S. Parvez Manzoor, "Islam and the Challenge of Ecology," op. cit., p. 38.

[56]For details on the subject see the chapter on Justice and Islamic Jurisprudence in this study.

[57]Sura: Baqarah or The Heifer 2:143.

fast before performing the sunset prayer, to keep
their bodies clean and their teeth brushed, to
groom and perfume themselves and wear their best
clothes when they congregate for prayer, to marry,
to take their time to rest and to sleep and
recreate themselves with sports and the arts.[58]

Ecological Equilibrium and Interdependence

The principle of Adl or justice is synonymous with

order (Nedham) and equilibrium (Tawazun)[59] and the harmony

of knowledge (Maarifah) and values (Qiyam) could best be

attained through the balance of values that deal directly

with man and nature and thus "the attainment of equilibrium,

viewed both statistically and dynamically, constitutes the

Muslim answer to the problem of ecological ethics. The path

of ecological justice, Islam shows, is paved with the

ethical restraints of moderation."[60] Man has;

lived in equilibrium with his environment because
he has submitted himself to the universal laws
which dominate all levels of existence and which
are the metaphysical source of the laws governing
the natural world. He has lived in peace and
harmony with God and His Law and therefore with

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[58]Ismail Al-Faruqi, "On the Metaphysic of Ethics in
Islam", Listening: Journal of Religion and Culture, Vol. 14
No. 1, 1979, p. 38.

[59]It is of great importance to indicate here that the
Islamic order is based fundamentally on this justly balanced
principle (Tawazun). Its midmost approach (Wasatt) includes
the balance between reason (Aql) and transmitted knowledge
(Naql), between spirit (Rouh) and body (Jasad), life (Hayah)
and the hereafter (Akhira), wisdom (Hikman) and lawful
standards (Shara) and between individual (Fard) and commun-
ity (Ummah/Jamaah).

[60] S. P. Manzoor, "Environment and Values..." op. cit.,
p. 160.

the natural environment which reflects on its own level the harmony and the equilibrium of the Universal Order.[61]

The idea of ecological equilibrium, however, is not a new one. Nevertheless, what makes it so relevant to the present day is the lack of attention being paid to nature and the environment in general.

> Modern science has grown during the past few centuries by forgetting the interrelation between things, by isolating a particular phenomenon, by analyzing and finally generalizing the results of this analysis. In contrast, the tradition of cosmological sciences, especially those of Islam, are based on the interrelation between things, on the unicity of nature, on synthesis and the vision of the whole within which alone the parts have meaning. This is precisely what ecology aims to study, even if it limits its scope to the physical world. That is why it is so closely related to the philosophy of nature embedded in Islamic philosophy and science and so alien to the prevalent 'philosophy of nature' in the West.[62]

From the Islamic perspective, therefore, the debasement of nature by man leads to man's own debasement which drives toward a revolt against the Creator (Al-Khaliq).[63] From

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[61]Seyyed Hossein Nasr, Islamic Science: An Illustrated Study, Published by the World of Islam Festival Publishing Company, Ltd., 1976. p. 234.

[62]Ibid., pp. 227-228.

[63]S. Parvez Manzoor argues that "in the early days of Islam, this environmental ethic permeated the entire Muslim society, as can be seen from such products of Muslim technology of that era as irrigation schemes, the physical layout of classical Islamic cites like Fez, Sanaa and Isfahan, and the arts and crafts of that age. In fact, the Muslim respect for nature is so deep that scholars like Hossein Nasr have argued that the development of technology under Islam was deliberately stifled when technology becomes

this outlook, therefore, one concludes that there is no

peace among men in Islam unless:

> There is peace and harmony with nature. And in
> order to have peace and harmony with nature one
> must be in harmony and equilibrium with Heaven,
> and ultimately with the Source and Origin of all
> things. He who is at peace with God is also at
> peace with His creation, both with nature and with
> man.[64]

What is needed today therefore is one particular issue

of great importance: that of raising environmental con-

sciousness to a much higher level of intellectual sophisti-

cation and human participation. Julian Huxley once argued

that:

> We need to develop a new ecology, an ecology of
> the human evolutionary enterprise. This means
> thinking out a new pattern of our relations with
> each other and with the rest of our environment,
> including the mental environment which we both
> create and inhabit.
>
> Psycho-social ecology must aim at a right balance
> between different values, between continuity and
> change, and between the evolutionary process for
> whose guidance we have responsibility and the
> resources with which we have to operate. Those
> resources are of two kinds - material and
> quantitative, for maintenance and utility; and
> psychological and qualitative, for enjoyment and
> fulfillment...Planned human ecology must balance

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a threat to the natural environment." "Environment and
Values..." op. cit., p. 161-162.

[64]S. H. Nasr, The Encounter of Man and Nature, op.
cit., p. 136; On another occasion Justice Hamoodur Rahman
once wrote: "Islam teaches man to live in peace as a member
of a family, a community and a nation by the harmonious
blending of religious principles with the laws of nature."
"National and International Security in Islam," Islamic
Order Vol. 3 No. 3 (Third Quarter, 1981), p. 100.

and, where possible, reconcile the two kinds of resources.[65]

Naturally, one could and should learn a great deal from the Islamic ecological doctrine and experience. As a matter of fact, Islam can provide mankind with a healing vision of harmony between man and nature. Islam emphasizes an ethically constrained technolgy, ethical responsibility toward nature, and moral consciousness. These aspects, among others can furnish a platform from which today's world problems could be tackled and solved. The Islamic platform, as well as other platforms of human experience, would lead eventually in creating a harmonious, balanced and peaceful world.

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[65]The Humanist Frame: The Modern Humanist Vision of Life, London: Allen and Unwin, 1961, p. 47. For a background on the historical evolution of ecological awareness see Lloyed Timberlake, "The Emergence of Environmental Awareness in the West," in the Touch of Midas; Science, Values and Environment in Islam and the West, edited by Z. Sardar, op. cit., p. 123-133; Also for a future look at the Islamic theory of environment see Ziauddin Sardar, Islamic Futures: The Shape of Ideas to Come. London: Mansell Publications Co. 1985.

CHAPTER VI

CONCLUSION

In the preceding chapters an attempt was made to brief-
ly present the foundations of constructing an Islamic model
of reform as is envisioned within the confines of the world
order approach. This exercise has allowed the researcher to
delve into a multifaceted inquiry of the subject matter
which led to the application and further development of four
basic facets of this study, namely: normative, systemic,
futuristic and multi-disciplinary.

A few preliminary points of fact must first be clari-
fied here to avoid any attendant misunderstanding. First,
in the realm of normativity, the researcher has utilized the
normative imperative by putting more accent on the concept
which lays greater emphasis on the community orientation.
In other words, this approach defines that:

> the basic relationships of power and authority
> must become increasingly contractual and voluntary
> in character. Such goals mean that the problems
> of human existence on the planet must be approach-
> ed without deference to artificial boundaries,
> whether of states, races, classes, or castes.
> This kind of problem solving means that issues of
> poverty, pollution, and oppression are essential
> concerns of world order reformers who are guided
> by a vision of human community in which men live
> in harmony with each other and in relation to
> their natural habitat...

> [Moreover] the permanent elements in the
> normative imperative are the insistence on think-
> ing of welfare in terms of wholes, the human
> species, the earth, the overall pattern of linkage

between man and earth, as well as between the present and the future...[1]

In point of fact, the research has been carried out with a particular set of values in mind, a criteria that enabled us to maximize the ethical inquiry of these values in order to construct an objective alternative paradigm to the world order.

Secondly, the study has used the system analysis with a clear view that the "scope of its investigations is coextensive with the dimensions of our endangered earth."[2] It is through the recognition of global interrelatedness that certain problems must be addressed and solved.

The study as related to the world order approach is also futuristic in the sense that it aims at perceiving other future alternative sets of values and their relationships to the world order by exploring the change of systems and their overall implications. In this research an alternative world order, namely the Islamic order, has been examined with its variants and evaluated by applying the four basic values: peace, social justice, economic welfare, and ecological balance.

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[1]Richard A. Falk, "Reforming World Order: Zones of Consciousness and Domains of Action" Planning Alternative World Futures: Values, Methods, and Models. edited by Louis R. Beres and Harry R. Targ. New York: Praeger Publishers, 1975. pp. 199-200

[2]Louis Rene Beres, People, States and World Order. Itasca, Ill.: F. E. Peacock Publishers, Inc. 1981. p. 16.

Finally, the study has utilized a multidisciplinary approach by taking into account many ethical insights from a number of disciplines which embody a range of scholarship, specifically by putting more emphasis on the system of values with which the study is concerned. It is through the utilization of historical, philosophic, legal,economic, sociological as well as political specifications and terminologies that this study has been dependent on for its objective analysis.

At the outset of this study the reseacher has surveyed the doctrinal aspect of the order, its historical development, and the overall implications of such an order by postulating the key operational concept of Ummah and its foundations. This approach was taken with a view that, in order to give an objective stance to such a conceptual framework one needs first to make a thorough examination of the dynamics of Islam by reviewing the past, the present and the role this concept can play in future Islamic scholarship, specifically in its relevance to the existing concepts and beliefs of the Islamic community (Ummah) vis-a-vis those of the world communities (Umam), at large.

For the sake of analysis, we have proposed four value systems as they are embodied within the matrix of the Islamic world-view so as to discern and articulate effectively the bases of the alternative model of world order, namely: economic equity, social and political dignity,

peacefulness and ecological balance. The reason for doing this is to re-emphasize the face that there exists a very important interconnection between these systems of values from the standpoint of Islam.

In our analytical attempt to illustrate the foundations of the Islamic model of world order we have uncovered the following findings:

a) The Islamic public order is deeply rooted in the Shariah and is regulated by its Law and, at the same time, guided by its past centuries of experiences, while conversely the Occidental notion of order represents solely centuries of development of human political thought and action.

b) The World order in Islam often provides values for the collective good of the community and thus prescribes a cooperative order, unlike the Western international public order whose central theme emphasizes more self-interest and thereby becomes in essence a competitive paradigm.

c) The concept of Ummah is probably the single most important and influential concept in the lexicon of Islamic thought. It is a fiber through which any projected model of the Islamic order must build upon. Thus the study has demonstrated that it is through the understanding of such a key operational concept that other concepts can be fully recognized, tackled and studied objectively.[3]

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[3]For details on this point see the summary of Chapter I in this study.

d) This study has also stressed the major and significant role the scholars ('Ulama), philosophers (Hukama), and jurists (Fuqaha or Qudhah) have played in the development of the authentic Islamic thought, i.e., within the realm of social, economic, ecological as well as political knowledge and disciplines. They have sustained and provided a consistent intellectual contribution even when the Islamic domain was disintegrating on the political arena.

e) The variety and the entire spectrum of legal thought within Islamic law have been, fundamentally, the basis for the legal schools' claim to a universal application of an alternative paradigm. The notion of universalism, however, as illustrated in chapter IV, is made more relevant in Islam in order to express a:

> ...universalism of principles and not of sovereignty. In other words, universalism in Islam embarks, in the first place, on ideological [and] not political lines...The affinity between the [United Nations] Charter theory and the Islamic theory lies in the fact that both theories consider the universalization of certain principles for the welfare and furtherance of humanity [per se, and thus] to be the proper concern of a particular entity. In brief, universalism here means ideological propagation by peaceful preaching [i.e. persuasion] and not through forcible domination...[4]

Concurrently, it is in this sense, therefore, that through the principles of cooperation (Taawun), moderation

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[4]Mohammad T. Al-Ghunaimi, The Muslim Conception of International Law and the Western Approach. op. cit., pp. 202 and 205-206.

('Itidal), balance (Tawazun) and toleration (Tasamuh) that the universalism of Islam prevails. Thus Islamic order calls for not only peaceful interchange on the religious and intellectual levels but on the cultural levels as well.

As in the words of Professor Khurshid Ahmad, a perceptive analyst of contemporary Islamic studies, the Islamic world order:

> does not speak the language of the interests of the east or the west, of the north or the south, of the developed or underdeveloped. It wants the new order to be established for all human beings in all parts of the world. Through this universal appraoch Islam wants to bring about a new consciousness of the ideals and principles on which the house of humanity should be rebuilt and invites them to spell out its implications for the reconstruction of human througt and policy.[5]

f) World order in Islam is built upon a universal concept of man as the trustee of God's bounty, a concept which is determined not only by the kind of life individuals lead but also by the role they play in promoting good deeds in the community. It is precisely faith (Iman) which offers guidelines for such a universal brotherhood. Consequently, the comprehensive structure which evolves around the world system of universal brotherhood, as advocated in the Quran and the Sunnah, is fundamental for uplifting the level of human rights and to establish bases for social justice

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[5]Khurshid Ahmad, "A Muslim Response" World Faiths and the New World Order edited by Joseph Gremillion and William Ryan. Washington: Interreligious Peace Colloquium, 1978, p. 190.

('Adalah Ijtimaieayyah) including that of social solidarity (Takaful or Tadhamun) and community welfare.

g) The Islamic paradigm of world order is based on the balance between moral principles and material acquisition of the community so as to reflect its spiritual and material needs. It is in this purview that Islam is very much dependent on that principle of social fraternity (Ikha Ijtimai'ea) which encompasses, among other things, economic justice and political freedom.[6]

h) The Islamic model of world order does provide a great contribution to the field of international law; a rather controversial issue with regard to the concept of sovereignty (Siyada or Hakimiyyah) among states. In Islamic politics sovereignty belongs solely to God since power is conferred by God alone who is the true Sovereign. Thus, power in the Islamic model is the ability to make peace in order to meet the variegated needs of our contemporary world and the purpose of peace in Islam is therefore the creation of harmony.

Moreover, the foundations of the model provide us with the cardinal principle of obedience (Taah) which in essence entails obedience by conducting the good and abstaining from

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[6]High morality and spiritual conduct occupy a prominent pedestal in Islamic doctrine. While there are approximately eighty-eight verses in the Quran that illustrate the position of the material aspect, there are about two hundred ninety seven verses explaining the spiritual and moral status of human beings.

wrong; this notion was aptly extrapolated by the well-known Hadith which states that : "There can be no obedience to any creature which involves disobedience to the Creator."[7]

i) The discussion of peace and Islamic order in Chapter V of our study led us to conclude that the division of the world community into separate political entities is the normal state of affairs in Islam and not as suggested by a few scholars a retreat from the original principle that Islamic order should be under its universal domain. Ultimately, "if Islam tolerates the division of the Islamic community into different states, Islam a fortiori, must accept the division of the world community among differnt states."[8]

j) The Islamic theory of warfare seeks, unequivocally, to promote stability and in the same breath condemns the acts of aggression when (they are) committed gainst human freedom and dignity, as manifested in such forms as a denial or an unacceptable infringement of the basic human rights or suppression of freedom of religious belief and worship.

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[7]The Islamic concept of Taah is wider than the Western concept of political obligation. Taah in Islam is not limited to the political aspects of life but also entails God's fundamental pillar of worship (by word and deed). Taah lies in the individuals' use of things in accordance with the best purposes they serve.

[8]M. T. Al-Ghunaimi, The Muslim Conception of International Law and the Western Approach. op. cit., p. 195.

k) The ideological orientation of the Islamic world order may be characterized as that of Ummatist humanism with divine legalism. The former criterion is represented by eternal values while the later one by scriptural rules.[9] And,

l) The primary goal to which the Islamic world order is aspiring to accomplish is peace, justice, freedom and ecological well-being of the world community at large.

A contemporary scholar of Islamic studies once asked the following question: What could Islam's centuries of experience contribute to an expanding world order..." His answer was:

> First, the conflict and competition between Islam and Christendom, which endured over a long period, demonstrated that diverse systems could coexist and ultimately become integrated into a world-wide system, whenever both parties were prepared to accommodate themselves to changing circumstances. In the emerging world community, diverse systems of public order, the Islamic included should be closely studied so as to draw upon the historical experiences of the nation that had lived under those systems, for every matured system records the stored experiences of its people in coping with the problem of the maintenance of a stable public order.
>
> Secondly, in the Islamic experience of international relations the individual was viewed as a subject of the law governing external relations, and central authorities dealt with him directly, apart from the state. In the past, Islam recognized the individual as a subject because its sytem was personal, but in a shrinking world it would seem that the individal's claim to protection under the modern law of nations has become a

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[9]The spiritual values and inner consciousness of the community are both derived from the complete code of the revealed faith of Islam.

pressing necessity. It can be taken for granted that Muslims would welcome the adoption of such a principle in the modern law of nations, as reflected in their acceptance of the Declaration of Human Rights, since traditionally Islamic law recognized the individual as a subject on the international plane.

Thirdly, Islam as a way of life stresses moral principles, apart from religious doctrine, in the relations among nations...The historical experiences of Islam, indeed the historical experiences of all mankind, demonstrate that any system of public order, on the national as well as the international plane, would lose its meaning were it divorced completely from moral principles.[10]

To a very large extent, the notion that is expounded and elaborated in this thesis has one clear objective, i.e., to ensure its relevancy to both the contemporary and future conditions of Islam and the world. This research has attempted to demonstrate the compatibility of the Islamic doctrine with its precepts and tenets, and the contributions that the Islamic experience have made throughout the centuries to the new emerging world order. Concurrently, it has illustrated the quintessential role Islam has played and could play in the development of a peaceful and more stable world order. This was achieved by applying the four-value criterion developed by the World Order Models Project (W.O.M.P.) as represented by the work of Professor Richard Falk. The plan for such a study is delineated in diagram VII. Moreover, this study is an attempt to further

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[10]Majid Khadduri (ed. and trans.) Introduction to The Islamic Law of Nations: Shaybani's Siyar. Baltimore: The Johns Hopkins University Press, 1966. p. 68-69.

facilitate the process of integrating the Islamic public

order into the worldwide order through the utilization of

the Warrd System method introduced by the Muslim scholar

Ziauddin Sardar.[11] He summarizes the main steps of the

Warrd system of research as the following:

(1) identification of an area of the active bond
for study;
(2) isolation of the key concepts and a dynamic
description of the features of the concepts;
(3) a consideration and dynamic description of the
Non-Shariah Equivalent Concept;
(4) screening of the Non-Shariah Equivalent
Concepts and filtration of knowledge from error
and probable opinion. Evaluation of the probable
opinion;
(5) A dynamic description of the mix;

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[11]Professor Sardar states that the "model construction
in the Warrd system is carried out by following a regular
step rose-cycle--the 'warrd' of the system. Two of the
steps (Numbers 1 and 4) are concerned with holistic composi-
tion and the other two are concerned with evolving a termi-
nology and a symbolic language. At the centre of the rose-
cycle is the Absolute Reference Frame, to which everything
is referred at each stage. Step 1. The mix is first dynam-
ically described and then this description is checked with
the ARF to ensure that every idea expressed in the mix is
wholly in agreement with the fundamental universal concepts
of Islam. Historical parallels are now drawn by analogy
between the ARF and the mix. These parallels generate a
concept field containing patterns, theories, paradigms et
cetera. Step 2. Here a terminology is developed to express
and handle the concept field developed by Step 1. This
terminology must evolve from the ARF itself. Step 3. In
certain epistemological and theoretical considerations, it
may be necessary to develop a symbolic language capable of
handling all field configurations implied by Step 1.
However, for a great many cases it may not be necessary to
develop a symbolic language. Step 4. Here the concept
field is manipulated to develop models and to filter the
especially implausible segments of the field. A prose
description of the model and its comparison with the ARF
places a certain level of confidence on the model(s)." The
Future of Muslim Civilization, op. cit., p. 160-161.

(6) Step 1: generation of patterns and paradigms
by analogy with the Absolute Reference Frame.
This is achieved by drawing historical parallels.
Step 2: development of a terminology which
must evolve from the Absolute Reference Frame; and
description of paradigms derived in Step 1 using
this terminology.
Step 3: development of a symbolic language, if
necessary.
Step 4: manipulation of concept fields to
construct coherent models; filtration of
implausible segments of the model;
(7) refinement of the model;
(8) a descritpion of the existing physical and
social setting into which the model has to be
introduced, including evaluation of available
human, intellectual, physical, natural, financial,
informational and organisational resources;
(9) formulation of strategies and programs by
which the model is to be introduced into the
available frameowrk;
(10) representation of the results - models and
the program(s) to Muslim scholars for ijma;
(11) if the results are accepted, operational
systems are set up and detailed plans are made for
implementation of the program;
(12) if the results are rejected the concept study
must be reformulated for another attempt.[12]

The researcher has, then, taken the analysis further by

combining the Warrd system withe the four-value criterion to

produce the bases for constructing an Islamic model of world

order. This process is described in diagram VIII.

The integration of such an Islamic order into the

worldwide order would not in any way eliminate the distinc-

tive character or trait of each order in the name of creat-

ing one unified, homogenous and responsive world order.[13]

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[12]Ibid., p. 163-164.

[13]With regard to this point the Islamic theory of world
order is grounded on divine unity (Tawhid). This unity is
considered to be "the unifying force which could accommodate

Nor does it mean the complete adaptation of one order at the expense of another, particularly when such an order is not integrated fully on an equal basis. What the process of integration may do, however, is help in eliminating the phenomena of alienation, separation and seclusion from the other paradigms. It attempts to instill the sense of belonging to different orders by allowing them to share and react to common grounds and by making them learn and respond to each other's experiences. This exchange, for example, can take place through active participation in conferences, round-table debates, seminars and publications. All of which would precipitate in creating responsive institutions that would facilitate the transtition toward the intended worldwide order. This task is of tremendous magnitude and would require a serious effort and positive attitude of all the concerned scholars so that it may ultimately lead to an active interaction for a better world community.

It is a step toward gaining momentum for further studies, in the right direction, to achieve a more equitable, just and peaceful order that would ensure a better living for the individual, the Islamic community and the

divergent elements of society without eliminating their distinctive traits...a league of nations is recognized in Islam for 'facility of reference' [mutual identification] and co-operation. This view is in complete accord both with the tenets of the Quran and historical tradition..." See Shameem Ahktar, "Iqbal's Concept of World Order" Pakistan Horizon vol. 30, nos. 3 and 4 (1977) pp. 65-69.

world community at large. And in order to attain this objective:

> The new order would encompass a set of regulations that are universally applicable, and would acquire in time the force of tradition and common law; it would thus become acceptable to all people, and would be observed throughout the world.[14]

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[14]Abd-al-Rahman 'Azzam, The Eternal Message of Muhammad (Ar-Risalah Al-Khalida). op. cit., p. 179.
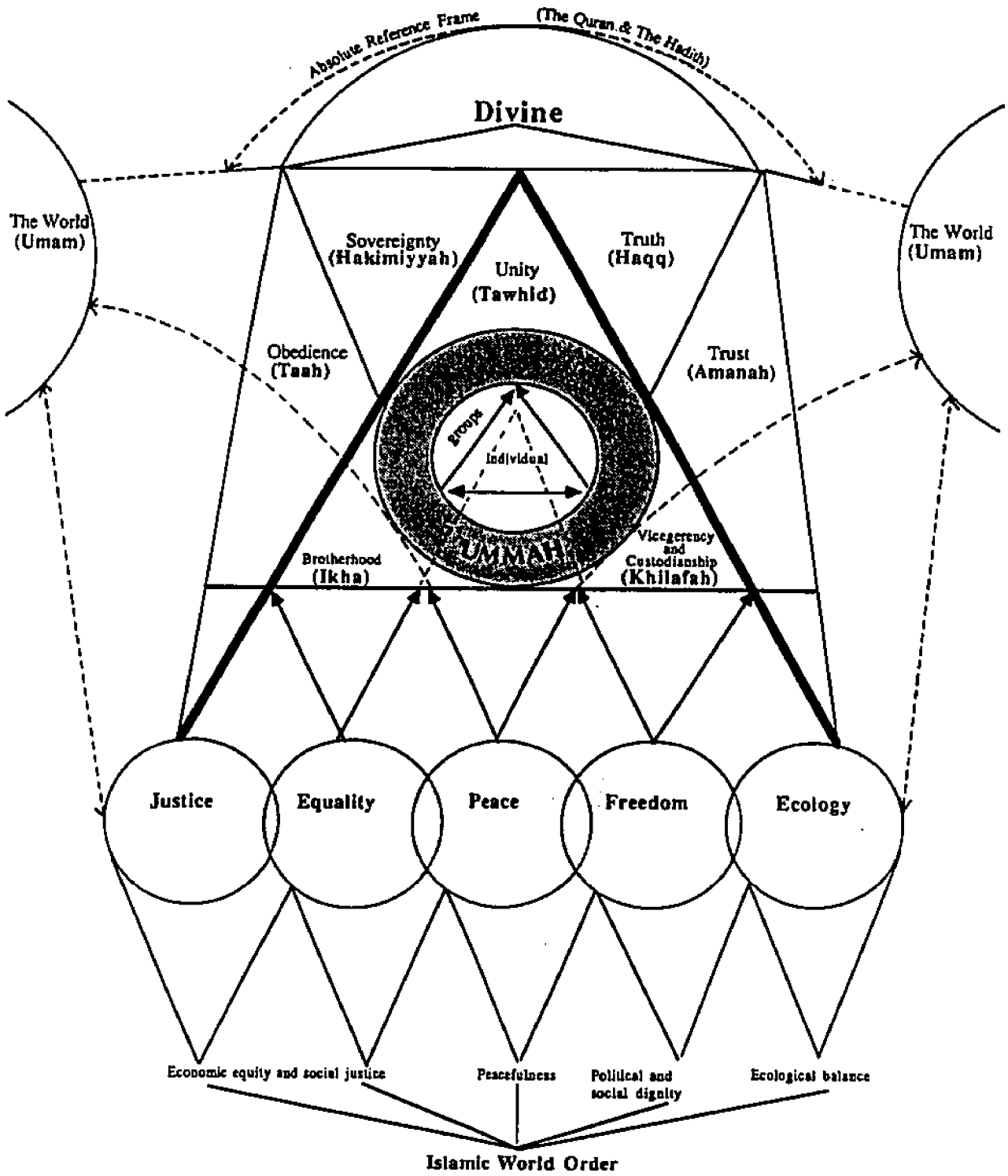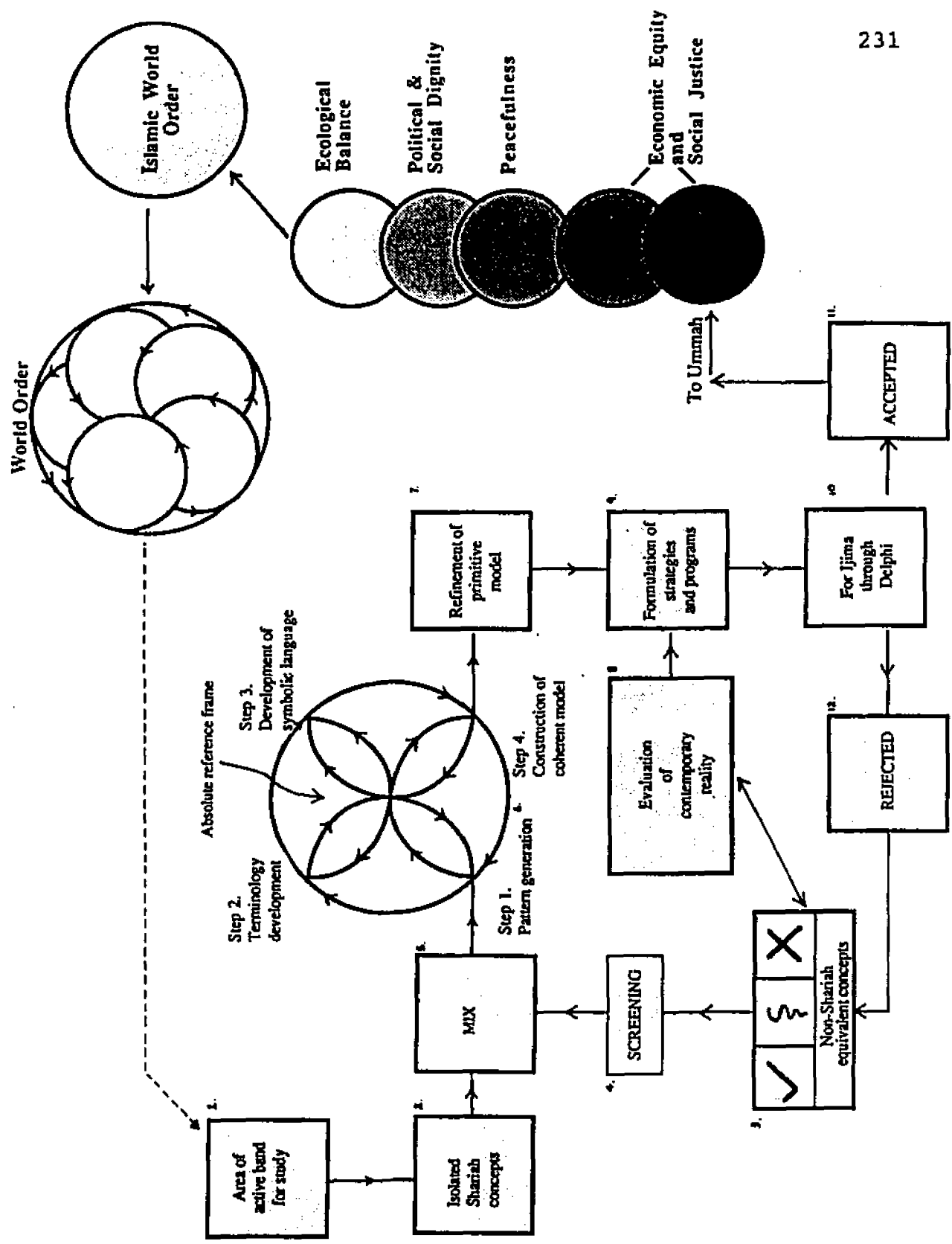
Diagram 7: Islamic World Order

Diagram 8: Warrd System and World Order

APPENDIX I

.

TRANSLATION OF THE TEXT OF

THE CONSTITUTION [1]

With the name of God, the Most Merciful, the All-Merciful

1.   This is a prescript (kitab) of Muhammad, the Prophet [the Messenger of God[2]] to operate among the Faithful Believers (mu'minin) and the Submissive to God (muslimin) from among the Quraish and [the people of[3]] Yathrib and those who may be under them and join them,[4] and take part in wars in their company.

2.   Verily they constitute a political unit (ummah) as distinct from all the people (of the world).

3.   The Emigrants from among the Quraish shall be (responsible) for their ward (rab'ah); and shall pay[5]

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[1]Muhammad Hamidullah, <u>The First Written Constitu-tion in the World</u>, Lahore: Sh. Muhammad Ashraf (1968). pp. 41-54.

[2]Added from Abu 'Ubaid.

[3]Added from Abu 'Ubaid.

[4]Instead of "join," Abu 'Ubaid's version is: "settle among."

[5]Abu 'Ubaid adds: "as heretofore." But that is the mistake of the copyist.

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their blood-money in mutual collaboration, and shall secure the release of their prisoners by paying their ransom themselves, so that the mutual dealings between the Believers[6] be in accordance with the principles of recognized goodness (ma'ruf) and justice.

4. And the Banu 'Awf shall be responsible for their own ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[7] shall secure the release of its own prisoners by paying their ransom themselves, so that the dealings between the Believers be in accordance with the principles of recognized goodness and justice.

5. And the Banu'l-Harith[8] shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[9] shall secure the release of its own...

6. And the Banu Sa'idah shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[10] shall secure the release of its own...

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[6]Abu 'Ubaid adds: "and the Submissive."

[7]Abu 'Ubaid adds: "of them."

[8]Abu 'Ubaid adds: "of the Khazrajites."

[9]Abu 'Ubaid adds: "of them."

[10]Abu 'Ubaid adds: "of them."

7. And the Banu Jusham shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[11] shall secure the release of its own...

8. And the Banu'n-Najjar shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[12] shall secure the release of its own...

9. And the Banu'Amr ibn 'Awf shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[13] shall secure the release of its own...

10. And the Banu'n-Nabit shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[14] shall secure the release of its own...

11. And the Banu'l-Aws shall be responsible for their ward, and shall pay their blood-money in mutual collaboration as heretofore; and every group[15] shall secure the release of its own...

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[11]Abu 'Ubaid adds: "of them."

[12]Abu 'Ubaid adds: "of them."

[13]Abu 'Ubaid adds: "of them."

[14]Abu 'Ubaid adds: "of them."

[15]Abu 'Ubaid adds: "of them."

12/a. And verily the Believers shall not leave anyone hard pressed with debts, without helping[16] him in recognized goodness with regard to ransom or blood-money.

12/b. And no Believer shall oppose the client of another Believer against him (i.e. this latter).[17]

13. And verily the [hands of[18]] pious Believers shall be raised against [every[19]] such person as rises in rebellion or[20] attempts to acquire anything by force, or is guilty of any violation of pledge or excess or attempts to spread mischief among the Believers; and verily their hands shall rise all together against such a person, even if he be son of anyone of them.

14. And[21] no Believer shall kill (yaqtulu) another Believer in retaliation for an unbeliever (kafir), nor shall he help an unbeliever against a Believer.

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[16]So according to Abu 'Ubaid; in Ibn Hisham: "giving" (i.e. the requisite).

[17]So according to Ibn Hisham: missing in Abu 'Ubaid. The following isolated report of Ibn Hanbal (iii:342) may be a variant of the same clause: Jabir says: the Messenger of God prescribed for each clan its blood-money, and then wrote: Verily it is not permitted that a contract of clientage of a Muslim individual should be entered into without the permission of his patron (wali)." Maybe the word yukhalifu (oppose) by Ibn Hisham is to read yuhalifu (enter into contract).

[18]Abu 'Ubaid adds this.

[19]Abu 'Ubaid adds this.

[20]In Ibn Hisham: "or;" and in Abu 'Ubaid: "and."

[21]Abu 'Ubaid omits the word "and."

15. And verily the protection (dhimmah) of God is one; the humblest (adna) of them (i.e. of the Believers) can, by extending his protection to anyone, put the obligation on all of them[22]; and verily the Believers are brethren to one another (mawali) as against all the people (of the world).

16. And verily those who will obey us from among the Jews will have help[23] and equality; neither shall they be oppressed nor shall any help be given against them.

17. And verily the peace of the Believers shall be one; [and[24]] if there be any war in the path of God, no Believer shall make any peace (with the enemy) apart from other Believers, unless it (i.e. this peace) be the same and equally binding on all.

18. And verily every detachment that will fight on our side will be relieved by turns.

19. And verily the Believers as a body shall take vengeance for each other of the bloodshed in the path of God.[25]

20/a. And undoubtedly the pious Believers are the followers of the best and the straightest guidance.

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[22]Abu 'Ubaid omits the first part of the clause.

[23]In Ibn Hisham: "help;" in Abu 'Ubaid: "recognized goodness."

[24]Abu 'Ubaid adds this word.

[25]Abu 'Ubaid omits the entire clause.

20/b. And no Polytheist (mushrik Arab subject) shall give any protection to property and to life of any Quraishite, nor shall he come in the way of[26] any Believer in this matter.

21.And verily if anyone intentionally murders a Believer and it is proved, he shall be killed in retaliation, unless the heirs of the murdered person agree [to blood-money[27]]; and verily all the Believers shall actually stand for this, and nothing else shall be lawful for them to do.[28]

22. And verily it shall not be lawful for any Believer, who has accepted the contents of this document (sahifah) and has faith in God and in the Last Day, to give help or protection to any murderer (muhdith[29]); and verily whoever gives help or protection to such a person, God's curse and wrath shall be on him on[30] the Day of Resurrection, and no expense or compensation will be accepted from him (i.e. from the protector of the murderer to exonerate him).

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[26]In Abu 'Ubaid: "shall he help against."

[27]Added from Abu 'Ubaid's version.

[28]The phrase: "and nothing...to do" is omitted by Abu 'Ubaid.

[29]For this sense of the word muhdith, see Ibn Hisham, pp. 344 and 690-1; Baladhuri, Futuh, p. 173, among others. Cf. also #43 below.

[30]In Abu 'Ubaid: "till the day."

23. And whenever ye differ about anything, its reference[31] shall be to God and to Muhammad.[32]

24. And verily the Jews shall bear (their) expenditure along with the Believers so long as they fight in conjunction.

25. And verily the Jews of the Banu 'Awf[33] shall be considered as a community (ummah) along with[34] the Believers, for the Jews being their religion and for the Muslims[35] their religion, be one client or original member of the tribe; but whosoever shall be guilty of oppression or[36] of violation (of treaty), shall be put to trouble none but his own person and the members of his house (ahl bait).

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[31]Abu 'Ubaid: "its decision."

[32]Abu 'Ubaid: "the Messenger may God bless him and protect."

[33]Abu 'Ubaid adds: "and their clients and their original members." Note that these words come later in this clause, where Abu Ubaid has omitted them.

[34]So in Ibn Ishaq (Ibn Hisham): "along with" (ma'a): In Abu 'Ubaid: "of" (min). It may not be out of place to add that Ibn Hajar has attacked one of the narrators of the text cited by Ibn Ishaq, saying that he invented things. He gives no other details to justify his accusation. It would be permissible to suppose that Ibn Hajar was shocked by this phrase, which says that the Jews form a community along with the Believers (i.e. Muslims), or even a community forming part of the Believers. But as we have suggested above, the clause even in its most "shocking" form means nothing more than this that the Jews are also believers in God, monotheists. So there is nothing therein for a pious Muslim to be shocked at.

[35]Abu 'Ubaid: "for the Believers."

[36]Abu 'Ubaid: "and."

26. And verily the Jews of the Banu'n-Najjar shall have the same rights as the Jews of the Banu 'Awf.

27. And verily the Jews of the Banu'l-Harith shall have the same rights as the Jews of the Banu 'Awf.

28. And verily the Jews of the Banu Sa'idah[37] shall have the same rights as the Jews of the Banu 'Awf.

29. And verily the Jews of the Banu Jusham[38] shall have the same rights as the Jews of the Banu 'Awf.

30. And verily the Jews of the Banu'l-Aws[39] shall have the same rights as the Jews of the Banu 'Awf.

31. And verily the Jews of the Banu Tha'-labah shall have the same rights as the Jews of the Banu 'Awf[40]; but whosoever shall be guilty of oppression and violation of treaty shall put to trouble none but his own person and the members of his house.

32. And verily the Jafnah is a branch of the (tribe of) Tha'labah, even like them.[41]

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[37]Abu 'Ubaid: "Banu Jusham;" cf. next footnote.

[38]Abu 'Ubaid: "Banu Sa'diyah;" cf. foregoing footnote.

[39]Abu 'Ubaid: "Jews of al-Aws."

[40]The whole clause up to this word is omitted by Abu 'Ubaid.

[41]The clause is missing in Abu 'Ubaid.

33. And verily the Banu'sh-Shutaibah shall have the same rights as the Jews of the Banu 'Awf; and verily there shall be fulfillment and not violation.[42]

34. and verily the clients of the Tha'labah shall have the same rights as the original members.[43]

35. And verily the sub-branches (bitanah) of the Jews shall have the same rights as the principal members.[44]

36/a. And verily none of them shall go out (on a military expedition) except with the permission of Muhammad.

36/b. And verily no obstruction shall be placed in the way of (anyone's) retaliation of a wound; and whosoever sheds blood shall be personally responsible for it even as the members of his house, or else (i.e. to do otherwise) it will be injustice; and verily God is along with those who observe this most scrupulously.[45]

37/a. And verily the Jews shall bear their expenses (of war) and the Muslims shall bear their expenses; and verily there shall be aid between them as against[46] those who fight the parties (ahl) to this document (sahifah), and there shall be sincere counsel and well-wishing between

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[42]The clause is missing in Abu 'Ubaid.

[43]The clause is missing in Abu 'Ubaid.

[44]The clause is missing in Abu 'Ubaid.

[45]Missing in Abu 'Ubaid.

[46]The first part is missing in Abu 'Ubaid, which beings: "there shall be aid against," etc.

them; and there shall be fulfillment (of pledge) and not violation.

37/b. And verily no one shall violate the pledge of his ally (halif); and verily help[47] shall be given in favour of the oppressed.

38. and verily the Jews shall bear (their) expenditure along with the Believers so long as they fight in conjunction.[48]

39. And verily the valley (jawf) of Yathrib[49] shall constitute an inviolable territory[50] for the parties to this document (sahifah).

40. And verily the protected person (jar) shall be considered just like the original member (i.e. who has given protection); neither shall he (the protected person) be harmed, nor shall he himself violate the pledge.[51]

41. And verily no refuge will be given (i.e. by the protected person to others) without the permission of the original people of the place.[52]

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[47]Abu 'Ubaid: "and between them good counsel and help," etc.

[48]Missing in Abu 'Ubaid: in fact a repetition of #25 above.

[49]Abu 'Ubaid: "Madinah."

[50]"Haram" by Abu 'Ubaid; and "haram" by Ibn Hisham.

[51]Missing in Abu 'Ubaid.

[52]Missing in Abu 'Ubaid.

42. And verily if any murder (hadath) or quarrel[53] takes place between the parties to this document (sahifah), from which any trouble may be feared, it shall be referred to God and to Muhammad, Messenger of God, may God bless him and protect;[54] and verily God is the guarantee of the most faithful and scrupulous observance of the contents of this document.

43. And verily the Quraish shall be given no protection nor those who help them.[55]

44. And verily there shall be aid between them (i.e. the Muslims and the Jews) against those who invade Yathrib.[56]

45/a. And if they (i.e. the Jews) are invited to a peace to participate in and to adhere to it, they shall participate in and adhere to it; and verily if they invite likewise, the same shall be incumbent upon the Believers in their favour, excepting one who fights for the cause of religion.[57]

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[53]The words "or quarrel" missing in Abu 'Ubaid.

[54]Abu 'Ubaid: "to Muhammad the prophet" only; the rest of the clause is missing.

[55]Missing in Abu 'Ubaid.

[56]Missing in Abu 'Ubaid.

[57]Abu 'Ubaid: "If they [the Muslims] ask the Jews to make peace with any ally of theirs, they shall make peace with him; and if they ask us for a similar thing, the same shall be incumbent upon the Believers, except one who fights for the cause of religion."

45/b. On every group shall rest the responsibility for the part[58] [of the city?] which faces them.

46. And the Jews of al-Aws, clients as well as original members, shall have the same rights as the parties to this document (sahifah), with the purest fulfillment with regard to the parties to this docu-ment; and verily there shall be fulfillment and not violation;[59] no evil-doer earns anything except against his own self; and verily God is the guarantee of the most truthful and most scrupulous observance of the contents of this document.

47. And verily this prescript (kitab) shall not protect any oppressor or violator of pledge; and verily whoever goes out (on a military expedition) shall have security, and whoever stays in Madinah shall have security, except one who commits oppression and violation of the pledge; and verily God is the protector of those who fulfill and observe the pledge scrupulously, even as Muhammad, Messenger of God - may God bless and protect him - is (i.e. the protector).[60]

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[58]Abu 'Ubaid: "part of expenditure;" he omits the rest of the clause.

[59]Abu 'Ubaid: "And the Jews of al-Aws and the clients and the original members shall have the best fulfillment from the parties to this document; and verily the Banu'sh-Shutaibah are a branch (batn) of the Jafnah; and verily there shall be fulfillment and not violation, therefore no evil-doer," etc.

[60]Abu 'Ubaid, instead of the last phrase "God is protector," etc., gives the following version: "the most fitting to be the parties to this document are those who observe it with scruple and equity."

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