

The Islamic State

An English Translation of

**Islāmī Riyāsat by
Amīn Aḥsan Iṣlāḥī**

Translated by
Tariq Mahmood Hashmi

AL-MAWRID
51-K Model Town, Lahore

Contents

Preface	7
Part I: Some Fundamental Discussions.....	9
1. The Islamic Concept of State.....	9
1.1 Difference between <i>Khilāfah</i> and <i>Amārah</i>	9
1.2 Institution of <i>Khilāfah</i> and Human <i>Fiṭrah</i>	9
1.3 Implications of <i>Khilāfah</i>	10
1.4 Sunnah of God and <i>Khilāfah</i>	11
1.5 Who Deserves <i>Khilāfah</i> ?	12
1.6 Corrupt form of <i>Khilāfah</i>	12
1.7 <i>Khilāfah</i> and an Ordinary State	12
2. Fundamental Principles of the Islamic State	13
2.1 Dominion on the Earth is God's alone.....	13
2.2 Status of the Rulers	14
2.3 Role of Majority	16
2.4 Mutual Consultation in the Prophetic Time.....	17
2.5 Consultation during the Rightly Guided Caliphate	18
2.6 Nature of the <i>Shūrā</i> and Qualification of its Members	25
2.7 Islamic and Conventional Systems of Government	26
3. Qurayshite Descent, a Condition for the <i>Khalīfah</i>	28
3.1 Context of the Prophetic <i>Ḥadīth</i>	29
3.2 Further Clarification of the Issue	30
3.3 Viewpoint of Ibn Khuldūn	37
4. Formation of Nation in Islam	38
4.1 Factors Contributing to the Creation of a Nation	38
4.2 Modern Theory of Nationality	39
4.3 Demerits of these Factors	40
4.4 Evils of a Nation-State.....	41
4.5 Islamic Critique on these Foundations of a Nation.....	44
4.5.1 Role of Race and Descent.....	44
4.5.2 Language and Literature	45
4.5.3 Culture and Customs	46

The Islamic State	
4.5.4	Country 47
4.5.5	Religion 47
4.6	The Basis of Nationality in Islam..... 48
4.7	Examples and Teachings of the Messengers..... 48
4.7.1	Example set by Noah 49
4.7.2	Abraham's Disavowal of his Nation..... 50
4.7.3	The Prophet Muhammad's Example 51
4.8	Why Islam the only Basis of Nationality?..... 55
4.9	Islamic Nationality and Non-Muslims 57
Part II: Rights and Obligations of Citizens 58	
5.	Conditions of Citizenship 58
5.1	Right of the Noncitizen Muslims 60
5.2	Rights of Citizens 60
5.3	Protection of Life, Wealth and Honour 60
5.4	Protection of Private Property..... 61
5.5	Protection of Personal Freedom..... 62
5.6	Right to Religious Freedom..... 68
5.7	Legal Equality 71
5.8	Social Justice..... 74
5.9	Equal and Just Distribution of <i>Fay</i> 75
5.10	Financial Protection of the Needy 76
5.11	Paying off the Unpaid Debts..... 77
5.12	Right to Absolute and Free Justice 78
5.13	Right to Education..... 79
5.14	Subjecting the Citizens to Unbearable Burdens..... 80
5.15	Commands Violating the <i>Sharī'ah</i> 81
5.16	Right to Petition and Criticism..... 81
6.	Duties of Citizens..... 85
6.1	Obligation to Obedience..... 86
6.2	Sympathy with the State and the State Officials 87
6.3	Cooperation with the Rulers..... 88
6.4	Monetary Contribution..... 89
6.5	Sacrifice of Life 89

The Islamic State

7.	Rights and Obligation of Women.....	90
7.1	Western Theory of Equality of Sexes and Islam.....	90
7.2	Superiority of Men	91
7.3	Collective Responsibilities and Women	92
7.4	Women and Armed Services.....	93
7.5	‘Ā’ishah’s Offensive.....	94
7.6	Character of Woman and the State.....	95
7.7	Rights of Women.....	96
7.8	Obligations of Woman	97
	Part III: Rights of Non-Muslims.....	99
8.	Status of Non-Muslims in the Islamic State:	99
8.1	Islamic Stance on the First Question	99
8.2	Islamic Stance on the Second Question	102
9.	Rights of Ahl al-Ṣulḥ or Mu‘ā’ids.....	103
9.1	Introduction.....	103
9.2	Treaties with the Non-Muslims	103
9.2.1	Treaty with the People of al-Fidk.....	104
9.2.2	Treaty with the Christians of Banū Taghlab	104
9.2.3	Treaty with the People of Najrān	105
9.3	An Important Clarification	106
9.4	Abrogation of a Treaty	109
9.4.1	Abrogation of the Treaty with the People of ‘Arab al-Sūs.....	109
9.4.2	Abrogation of the Treaty with the People of Jabal al-Lubnān.....	110
9.4.3	Abrogation of the Treaty with the People of Qabraṣ.....	110
10.	Rights of Ahl al-‘Anwah.....	113
10.1	Land and <i>Kharāj</i>	114
10.2	Jizyah	115
10.3	Right of the <i>Dhimmīs</i> over the <i>Bayt al-māl</i>	117
10.4	Protection of Life for the <i>Dhimmīs</i>	117
10.5	Protection of the Assets of the <i>Dhimmīs</i>	118
10.6	Religious Freedom.....	119
10.7	Personal Law	120
10.8	Clarification of some Misconceptions	120

The Islamic State

11.	Legal Status and Rights of the Non-Muslim Pakistanis.....	125
11.1	Exemption from <i>Kharāj</i>	126
11.2	Exemption from <i>Jizyah</i>	126
11.3	Religious Freedom.....	127
11.4	Cultural Freedom and Personal Law.....	127
11.5	Civil Rights	127
11.6	Participation in Legislation	127
11.7	Rights to Offices	128
11.8	Employments and Welfare	128
	Part IV: Conditions and Boundaries of Obedience to the Authorities	129
12.	Obedience in Islam	129
12.1	The Hallmarks of the Rightly Guided Caliphate	129
12.2	Restricted Obedience to the Rulers.....	132
12.3	Conditions of Obedience.....	132
12.4	Deviations from the prophetic Model of Governance.....	135
12.4.1	The First Form of Deviation.....	135
12.4.2	The Second Form of Deviation.....	136
12.4.3	The Third Form of Deviation	139
12.5	Two Relevant Questions and their Clarification	141
12.5.1	The First Question	142
12.5.2	Conclusion	145
12.5.3	The Second Question.....	146
12.6	Another Doubt and its Clarification.....	147
	Part V: Responsibilities of the State Officials and their Characteristics	149
13.	Islamic Concept of Public Offices	149
13.1	Introduction.....	149
13.2	Positions are Trusts of God	150
13.3	Coveting Public Offices is Betraying God	151
13.4	Coveters of Public Offices lose God's Help.....	152
13.5	Duty Consciousness.....	152
14.	Necessary Characteristics of State Officials	159
14.1	Basis Responsibility of Public Officials	159
14.2	State Officials are Exemplars	161

The Islamic State

14.3	Absolute Justice.....	163
14.4	Fulfilment of Responsibilities and Self-Accountability	165
14.5	Politeness, Tolerance and Generosity	165
14.6	Encouraging and Promoting Criticism	166
14.7	Feeling for the Subjects and Compassion for them	168
14.8	Avoiding Bad Temper and Ignorant Behaviour.....	168
14.9	Inflexible Adherence to the Truth	169
14.10	Seeking Guidance from God Alone.....	169
14.11	Strong Adherence to the Book and the Prophet's Example	170
14.12	Modesty.....	170
14.13	Remaining aware of Subjects and Sympathizing with them	173
14.14	Accountability of the Officials	174
14.15	Leniency to the Righteous and Strictness to the Evil.....	175
14.16	Contentedness on Subsistence	176
14.17	Guarding the National Assets	179
14.18	The Ruler and the Ruled are Equal	179
14.19	Voluntary Service for the Sake of God	180
14.20	Avoiding Nepotism.....	181
14.21	Avoiding Unconditional Adherence to Party Line.....	182
14.22	Distancing the Subjects	183
14.23	Advocating and Protecting Falsehood.....	184
14.24	Avoiding Bribery.....	184
14.25	Accepting Gifts and Presents	185

The Islamic State

Preface

When I was a student, I studied some books on political science with my teacher, ‘Allāmah Ḥamīd al-Dīn Farāhī. Among the works we studied I liked most the book, ‘*Theory of the State*’ by the famous Philosopher Johann Kaspar Bluntschli (d. 1881). It was then I conceived the idea of writing a book on the fundamentals of the Islamic State on that model. I was primarily motivated by the fact that all internationally recognized works on political science, including the above mentioned work of Johann Kaspar Bluntschli, do not either discuss the fundamental principles of Islamic state or, if some do, they dub the Islamic state as theocracy grounded in Papacy. To consider Islam a model of theocratic states not short of committing academic dishonesty.

I continued cherishing the idea of writing the conceived book. To this end I started gathering relevant data. However I did not find time to complete the work. I could only occasionally write different chapters of the book. Some of these chapters were published as independent articles in journals. Some others, however, were published in the form of small booklets. In doing so, my intention was to first complete the discussions as independent articles and then revise the material and publish it as a complete work. However, my work on *Tadabbur-i Qur’ān* (Pondering over the Qur’ān)¹ absorbed all my attention. I could not put all the chapters in the format of book chapters. And today I do not think I would be able to accomplish this in future. On the other hand, those who appreciated the book insistently demanded that it should be published as it is. I have been forced to concede to their desires on the stake of the completion of the book. Though, I believe, in its present form too, the book will add a very useful source to this field of study- in that the readers will obtain new light on the path of contemplation on these issues. I would request those who have shown appreciation for the book to exonerate its shortcomings. Who knows that some pious servant of God compiles a complete book on these lines on this subject in coming times? Nothing is difficult for God Almighty.

Amīn Aḥsan Iṣlāhī.

October 6, 1976.

¹ Amīn Aḥsan Iṣlāhī, *Tadabbur-i Qur’ān*, Lahore: Fārān Foundation, 1985.

The Islamic State

Part I: Some Fundamental Discussions

1. The Islamic Concept of State

The true Islamic concept of state can be gleaned from a critical study of the terms Islamic sources use for the state system. Students of Islamic literature know that the Islamic Sources do not employ the terms like state, kingdom or government for a political organization based on pure Islamic principles. These sources, quite distinctly, use the terms *khilāfah*, *imāmah* or *amārah*. This conscious deviation from the convention invites us to understand important implications of this innovation even before delving on the question of the Islamic concept of state.

1.1 Difference between *Khilāfah* and *Amārah*

The terms, *khilāfah*, *amārah* and *imāmah*, have been used interchangeably in some works on the Islamic *fiqh* (jurisprudence) and *kalām* (scholastic theology). This has blurred the true Islamic concept of state. If we attempt to determine the meaning of these terms in the light of the Qur'ān and the *ḥadīth* literature we learn that these terms have different significations. The term *khilāfah*, we learn, connotes a state founded on the principle guidance of Islam. *Imāmah* or *amārah* signifies a government which enforces the rule of *khilāfah*. It is, therefore, an organ of rule that fulfils the purpose of the Islamic state. In other words, difference between *khilāfah* and *amārah* can be compared with difference between the state and government.

The above preliminary discussion, it is hoped, shows that if we intend to gain a proper understanding of the Islamic concept of state, we have to appreciate that in Islam the state has the qualification of being a *khilāfah*. It is also equally important to consider that a true and correct perception of a thing can only be attained by a full understanding of its ideal manifestation. We, therefore, by *khilāfah*, mean the ideal form of the institution. Various corrupted forms of *khilāfah*, examples of which may be found in the Islamic history, are not meant, being of no use for our purpose.

1.2 Institution of *Khilāfah* and Human *Fiṭrah*

It is important to begin the study of *khilāfah* by finding the traces of the concept of *khilāfah* in the human *fiṭrah* (nature/orientation) and the Islamic society. Fortunately, Islam has not left us in the dark regarding the initial political ideas of man. We have not been left to the mercy of wild guesses and conjectures after the manner of the doctors of political science. The Almighty has put before us the shining lamp of the divine revelation which can guide us to the starting point of *khilāfah* and help us understand, in its light, the basic concepts of the institution. In the following paragraphs I wish to put my understanding of the relevant divine guidance contained in the Qur'ān.

The Qur'ān introduces the concept of *khilāfah* in the context of the story of creation of Adam. It means that history of *khilāfah* is as old as man. The Almighty Allāh, before creating human beings, put his plan before the angels. He announced to them that he intended to place his vicegerent on the earth. The angels, unaware of the complete divine scheme, were led to

The Islamic State

think that the new creation was created only in order to serve God and exalt and sanctify him. They believed that, in that case, there was no need to create a new creature. They maintained that they were already fulfilling this duty in the best possible manner. This led them to conclude further that God would not do a purposeless work. He must therefore, be thinking over creating some entity which would be taking care of the divine affairs on the earth. His being a *khalīfah* entails, they concluded, that God would grant him certain powers. This in turn led them to fear that a creation with power and freedom to exercise its will would create nuisance in the land and would shed blood instead of establishing a culture of justice and peace. They expressed their apprehension before the Lord couched in the form of a question. God Almighty responded to the angels that this fear was a product of their lack of knowledge of the complete scheme. They were then made to observe some people from among the progeny of Adam. They were asked to identify those people if they thought their apprehension about Adam and his progeny was valid. Were all those people supposed to create bloodshed on the earth? Or they would be spreading good and virtue? With utmost humility, the angels confessed their lack of knowledge of the names and characters of those personalities. Then the Almighty Allah, commanded Adam –who was already been informed about those personalities – to tell the angels their names. This he did. He introduced to the angels the names of the Prophets, Messengers, reformers and the virtuous personalities among his progeny. The angels learnt that though the vicegerency granted to Adam and his progeny involved freedom of choice and grant of power, something that could be misused by them, yet, God Almighty would reveal his *sharī'ah* and the Books to them. He would send Messengers and Prophets in order to train and guide them. This made the angels stand in light on the whole scheme of the Almighty Allah. They were satisfied.

1.3 Implications of *Khilāfah*

The story of Adam and Eve, marking start of human history, has not been recounted in the Qur'ān merely for the sake entertainment. Quite the contrary, it has been afforded in the divine revelation to point towards the genesis of some realities bearing implications on collective and political life of humans on the earth. The whole phenomenon uncovers the following facts regarding the nature of *khilāfah* and its implications.

First, the human nature acquires the concept of *khilāfah* by default. This concept is not imposed on the human nature from within outwards. God has created man only in order to be raised to the status of *khalīfah*. He has himself created awareness and consciousness of this reality in man. Man will not lose this awareness as long as he is here on the earth. It is only this awareness where genesis of human's social and political life is found. Man, therefore, has not designedly adopted political life on his own. It was rather a requirement of his very nature. His personality is not fulfilled without exercising his political life.

Second, the natural status of man on the earth does not grant him absolute freedom and complete sovereignty. He is only the vicegerent of God. There is no denying the fact that he has been granted freedom of choice and he can exercise free will to a certain limit. However, this freedom is not his necessary characteristic. It is God's endowment. All dominion is God's alone. This makes entails that he uses this freedom of choice and exercise of his will within the limit demarcated by the bestower of this power. Man cannot legitimately act beyond God's limits. It follows from this fact that all his acts done in violation of will and law of God, the bestower of the limited freedom, are to be accounted for.

Third, sovereignty on the earth belongs to God not to man. The power granted to man to exercise freedom of choice in making laws, and doing actions accordingly, is either subject to God's revealed laws or within the spheres where man has been left with complete freedom. In

The Islamic State

other words, Islam does not recognize a republic where the general will of the people is sovereign.

Fourth, according to the initial design of human vicegerency, the power of sovereignty and freedom to choose and exercise on will, has been bestowed upon the entire humankind. Everybody has been granted the right to choose and exercise his will. Man can, therefore, in the process of rule and arbitration, potentially follow the designs of God or ignore it. It will not affect his status as vicegerent of God whether he obeys the path set by God or disregards it completely. This can be compared to the following fact. We know that God has created man only in order that he worships him. Yet man has not been cosmicly subjected to do so. He has been left with a choice either to serve God or ignore his commands in this worldly life. Similarly he has also been left with a choice to either follow God's design of rule and arbitration or devise his own rules contradictory to God's.

Fifth, if man's political affairs are not directed by God's commands he is quite sure to fall in creating disorder on the earth and causing bloodshed.

Sixth, God has not left the issue of his liking and disliking unclear regarding political matters. The nature of the status of *khilāfah* of man demands that God reveals to man his liking and disliking fully and provides the laws and guidance whenever needed. Therefore, we see that the doubts in the minds of the angels regarding the possible bloodshed of mankind were cleared by letting them know that God would continue sending his Messengers and Prophets showing right path to the people. He would reveal books containing the divine laws.

Seventh, *khilāfah* is not limited to a nation, country, or race. It is universal by nature.

Eighth, *khilāfah* is based on justice. The right of exercise is not specifically granted to a certain group, person or a class. It is, by its nature, potentially endowed to every person. However, we observe that not all can avail this right. Only a limited number of people can be made rulers. Their right to rule is not their birthright. The selection of the rulers in the world, on the contrary, can only be done considering the political insight, leadership ability and potential enjoyed by the candidates. These things, in turn, can only be determined through mutual consultation.

1.4 Sunnah of God and *Khilāfah*

In the above discussion I referred to the fact that *khilāfah* is based on freedom of choice and not coercion. This freedom of choice demands that God grants different nations rule on land and tests them whether they follow the will of God in their rule or pursue their base desires disregarding the commands of God. Nations, enjoying power and authority, are criminalized if they rebel against God and ignore his commands. After the expiration of the set span of test and trial they are brought to naught. The Almighty has explained this *sunnah* of his in the following words:

We destroyed nations before your time when they committed oppression; their apostles came to them with veritable signs, but they would not believe. Thus, do we reward the guilty! Then we made you their successors in the land, so that we might observe how you would conduct yourselves. (Q 10: 13-4)

1.5 Who Deserves *Khilāfah*?

The right of *khilāfah* is potentially accrued to all human beings. It can only be endowed upon those able to discharge the corresponding duties. God declared David his vicegerent on the earth with clear command to conduct the right in accordance with his commands.

David, we have made you our vicegerent in the land. Therefore, judge men justly. (Q 38:26)

Only the Prophets and Messengers of God and their followers rightfully deserve the right of *khilāfah*. Others enjoy this right only as followers of the example of the Prophets and Messengers in exercising the political power entrusted in them. People organized for the sake of serving God, and following him in their worldly matters are rewarded with the special blessing in the form of *khilāfah* of God. The Qur'ān mentions this in the following words:

God promises those of you who believe and do good works to make them rulers in the land as he granted rule to those who went before them, to strengthen for them the faith he chose for them, and to change their state of fear to safety. They shall worship me and shall take no partners with me. (Q 24:54)

1.6 Corrupt form of *Khilāfah*

Depicted above is the pristine form of *khilāfah*. It is a manifestation of God's mercy on the earth as long as its basic characteristics are maintained. With shedding any of its characteristics, the *khilāfah* exposes itself to corruption. Anything less than the original will be a pseudo-*khilāfah*, a corrupted form. Various corrupt forms of *khilāfah* exist ranging from recession from its pristine form to perfect worldly rules. At this last stage it would be more befittingly called corruption in the land. It is not more *khilāfah*.

1.7 *Khilāfah* and an Ordinary State

The above discussion helps us see clearly in what aspects a *khilāfah* (which can be termed the Islamic state for practical purposes) differs from a mundane state system and what characteristics are shared by both. An example will help us grasp this issue more clearly. Aristotle defined man as "a speaking animal". This definition applies to all men including Muslims and non-Muslims. All have the same physical and psychological form. Both Muslims and non-Muslims need means of survival. In spite of this, everybody knows that there is a great difference between a Muslim and a non-Muslim. Both are governed by different ideological foundations. Quite analogically, the Islamic state too corresponds to ordinary states in form and constituents. Just like an ordinary state, the Islamic state is the politically organized national institution of a definite country. Seen in this perspective, there is no difference between the two. As for principles working behind a state and the ends and objectives it is formed to achieve, there is a gulf of difference between the Islamic State and the common models.

2. Fundamental Principles of the Islamic State

2.1 Dominion on the Earth is God's alone

While discussing the implications of the term *khilāfah*, in the foregoing paragraphs, I mentioned that dominion on the earth is God's alone. The Islamic State is founded on this fundamental reality. That the whole universe is subject to the divine will and that nothing happens without his will is an established fact, whether it is acknowledged or not. Islam, however, requires that God is acknowledged not only as the runner of the universe but also as a law giver. Therefore, one has to acknowledge that the whole universe is run by him and dominion is exclusively his. None other than God has the absolute right to form laws about human affairs. He can legislate the laws of our private as well as collective life. This is why, in Islam, we acknowledge not only oneness of God but also the Prophethood of Muhammad. One's belief in the oneness of God and his omnipotence does not carry any meaning unless he believes in the Prophethood of Muhammad. Unless one does not believe in the Prophethood of Muhammad he will not be recognized the true believer. This is because he does not recognize the right of God as the law giver, the necessary corollary of his rule. The declaration of faith, which epitomizes our religious beliefs, is two parts. By declaring that "there is no God but Allah" one acknowledges the cosmic rule of God and by declaring that "Muhammad is the Messenger of God" one submits to that God has given the law through the Prophet Muhammad. This divine law has to prevail. Negation of either parts of the formula of declaration of the faith necessarily negates the other. Belief in prophecy is a necessary part of belief in unity of God. Acknowledging God's dominion over the whole universe and declaring that he is the creator and owner loses all meaning if the believer subjects himself to the rule and law coming from a creation. God's dominion over the universe is set by default. In other words the whole universe has been set to follow the rules devised by him. The whole universe is subject to predestination. On the contrary, God's role as the law giver has not been forcefully imposed on all. He has left the humans with a choice in this regard. God has indeed made the litmus test of choice and free will the criterion for the final fate of peoples and nations. They are free to choose either the rule of God's law, make themselves worthy slaves of the Almighty and merit great reward from him or rebelliously disregard his commandments and follow Satan. This later choice, however, is bound to earn them curse of God in this world and an inflicting punishment in the one to come.

As a law giver, God reveals himself through the agency of Prophethood. The Prophets of God work as his representatives on the earth and explain to people what God commands them to do and what He prohibits them. They teach their addressees the manner of life God prescribes for personal and collective life of man. The Prophets are a very secure and impeccable source of knowing the divine will. They cannot be expected of committing even a slightest error in delivering God's message. God watches over them and makes sure that they communicate his messages to the world without failure. These Prophets are also guides to mankind in their personal capacity. In this capacity too they drive command. One cannot expect to be included among the faithful servants of God until and unless he obeys the Prophets unconditionally. To register oneself as a faithful servant of God one has to demonstrate true submission before the Prophets and Messengers of God.

The Islamic State

The practical form of obeying God, therefore, is obeying the Prophets and Messengers. It is only the Prophet who informs us of God's commands and implements them. This is why the Qur'ān, in almost all instances, pairs the command to obey God with the directive to obey the Prophets and Messengers. This makes it abundantly clear that a believer has not been left with an option to differentiate between obeying God and following his Messenger. Those who ostensibly acknowledge the rule of God and practically negate the right of the Messenger as a law-giver and a guide can be compared with those who acknowledge a king while refusing to subject themselves to the authority of his representatives. Hypocritical submission to a sovereign does not work in any political system of the world. Nor can it be tolerated in the law of God.

2.2 Status of the Rulers

After the death of the Prophet Muhammad, the responsibility to administer the state affairs and to implement the *sharī'ah* of God in the land was transferred to the rulers. They were, then, obliged to implement the law of God in his land: to follow the *sharī'ah* and make others follow it. These rulers are indeed the successors of the Prophet. Therefore, obeying them too is mandatory. The following verse of the Qur'ān refers to those vested with authority:

Believers, obey God and obey the Messenger and those in authority among you. (Q 4:59)

Failing to obey the rulers is in fact failing to obey God and his Messenger. The following *ḥadīth* sheds further light on the issue:

Whoever obeys me follows God; whoever obeys the ruler obeys me; whoever disobeys me disobeys God; whoever disobeys the rulers disobeys me. (*Muṣannaf Ibn Abī Shaybah*, No: 32529)

The Islamic State grants this extraordinary status and authority to the rulers on the basis of the fact that the rulers work as the divine representatives. They enforce God's laws in the land. The rulers have to obey the laws of God first of all. They enforce only and only his law on the subjects. They must cherish the ideal that the law given by God and his Messengers is obeyed in the land, just like the Prophet made it a point that the divine will was carried out. Similarly they must not tolerate that under their rule the people abandon God's commandments. The Prophet too would despise such a transgression.

Another thing that follows from the fact that the rulers are the divine representatives is that they must not ignore and disobey the law of God nor should they subject their people to commit a similar transgression. The command of God to the believers to obey him is based on the fact that He is the ruler of the whole universe. Man, has to obey the real sovereign of the universe. Whatever power of rule man enjoys is in fact bestowment of God. It is not man's personal right. All the rights accrue to man only because of his status as a divine representative. This entails that the rulers do not legislate rules that contradict the commands of the original authority. If a ruler ignores this principle and commands his subjects to violate the supreme authority in fact abolishes his status as the divine representative acknowledged by Islam.

The above discussion shows that the rulers among the Muslims should develop certain characteristics. They must have firm faith in God and his Messenger. They must always consider the Book of God and the *sunnah* of his Messenger as the final religious and legal

The Islamic State

authority. They must be practicing Muslims, strictly following all the laws of Islam. They should follow all the cultural and social principles set by the *sharī'ah*. They should also observe the divine laws which define the lawful and the unlawful. A Muslim ruler is, similarly, obliged by the law to enforce whatever laws and guidance has been provided by the Almighty Allah through his Messenger without putting anything in abeyance. Failing to implement the divine law can render a ruler guilty of creating hindrances in implementation of the divine laws. Even in matters where the divine law is silent he may not apply his whimsical inclinations. Here again he needs to exercise *ijtihād*. By *ijtihād*, in *sharī'ah* parlance, is meant that one, setting aside his personal inclinations, follows, in a given situation, the view based on the available guidance on similar issues concluded after careful consideration of various indications and implicit intent of the textual sources. He will, therefore, after this exercise, reach to a conclusion that matches with or is closer to the divine will. This he should follow himself and make others to follow it. This is what the first caliph Abū Bakr Ṣiddīq meant when he said:

I am obliged to follow (God). I am not an innovator. If I do the right, help me. If I deviate from the right, straighten me up.²

Only statesmen are given the responsibility to rule. A ruler must show great wisdom and skill in the handling of the affairs of government. A very pious Muslim scholar, Imām Aḥmad b. Ḥambal, held that while deciding on the question of selection of a ruler, one should consider the statesmanship of the prospective candidates. Thus, if one has to choose between a pious person with no political insight and another relatively less religious person with sound political background then one should vote for the less religious more politically sound person against the pious one lacking political acumen and experience. Similar view was held by Imām Ibn Taymiyyah.

Similarly, circumstances may force the Muslims to elect a sinner character but they may not elect a woman into office no matter of how pious and sound moral character. The Prophet of God has said:

A nation which puts its affairs in the hands of a woman never prospers. (*Bukhārī*, N0: 4163)

A ruling group is characterized by dominance and activeness not passiveness. It must be marked by masculine character not femininity. Woman is naturally impressionistic – something more fitting to her responsibilities. Therefore, she is, by nature, not fit for the duty to rule and lead. This responsibility requires somewhat passive role. If a nation takes a woman as their ruler, they will, over a period of time, assimilate femininity. All their abilities will be despoiled. Famous political scientist, Johann Kaspar Bluntschli has argued, both in philosophical and political terms, that a women's interference in the governmental affairs spoils the true disposition of the state. This explains the fact that American public, in spite of their advocacy of gender equality and women's rights and their uncompromising faith in popular democracy, has never voted a woman into presidential office. The British, however, are sometimes forced to enthrone a royal woman owing to the hereditary character of the monarchical rule. Yet a king, in the British political system, is nothing more than a symbol. The real authority in British system lies with the parliamentary leaders. Islam has a natural basis and so has the Islamic State. That is why Islam puts the responsibility of governing the

² Muhammad Ibn Sa'd, *Al-Ṭabaqāt al-Kubrā*, 1st ed., vol. 2 (Beirut: Dār al-Fikr, 1994), 170.

The Islamic State

nation on the shoulders of man. Islam has not made woman leader of the family nor of the nation.

2.3 Role of Majority

Secular states are founded on the principle of popular sovereignty. Supreme authority resides in the consent of the people. In the Islamic state, as explained above, sovereignty is God's alone. The Islamic state, therefore, is not a truly national republic where every citizen takes a share in power. The Islamic state, on the contrary, is a state based on defined principles in which the responsibility of formation of the state and running its institutions is entrusted to a people who believe in Islam and follow the Islamic code of life. The Muslim public does not enjoy the right of absolute power. They have to implement God's *sharī'ah* and for this purpose, acting within the limits set by God and following principle guidance provided by him, they can devise a suitable political system. They may not claim anything beyond this. Neither can they formulate a law ignoring the duty to find out the will of God concerning the matter at hand and following their personal inclinations, nor can they devise a political system putting aside the limits set by God. An endeavour to carve such an ungodly system would, for them, amount to rebellion against God. Legal and religious status of the citizens of the Islamic State is defined by their servitude to God. They are mere servants of God. God has allowed them to take someone of their own as their head to govern them in discharging their duty of servitude of God in a well organized fashion. The most salient trait of such a candidate is his outmatching others in his service to God because, in Islam, the original source and referent of authority is God alone. As regards the freedom of choice between following God and disobeying him there is no doubt in that Allah has not forced the humans, by default, on adhering to his *sharī'ah*. This, however, does not mean that God has given man complete authority and unlimited sovereignty. Had he transmitted complete authority and sovereignty to man he would not have considered human manipulation in the *sharī'ah* and their adopting for themselves laws which violate divine commands as transgression, rebellion and corruption in the land. Assuming that God has given them complete authority in this regard would mean that man can do whatever he deems fit without considering God's guidance in any matter. They may not, then, be deemed incurring any sin at all for they, after all, are free to use their power of legislation. In fact delegation of discretionary power to man is something different than giving him the right to choose for him an entirely different possible course of action. It, however, does not even mean, as some people have come to hold, that people do not enjoy the right to any kind of legislation in the Islamic State. This assumption is based on a sheer misunderstanding of Islam. There is no denying the fact that the basic sources of law in the Islamic state are only the Qur'ān and the *sunnah* of the Prophet. In matters on which the Qur'ān and the *sunnah* provide clear and unambiguous guidance, the role of the Muslim rulers and the authorities is limited to implementing such directives. They may not introduce a slightest change in these divine laws. Nor are they to replace them. The citizens of the Islamic State, however, have been given a right to legislate in issues which have not been dealt with in the Qur'ān and the *Sunnah*. Such issues are not limited to a few. There is a vast area of legal issues which are subject to human legislation. The Qur'ān and the *Hadīth* provide only principle guidance in most cases. Details and implications of these principles have not been dealt with in these sources. An exhaustive legislation is not indeed possible in every matter. This void has to be filled with in accordance with the circumstances and needs of the people. In all unprecedented individual, national, political and personal issues the state authority has been left with a choice to exercise *ijtihād* and introduce laws in accordance with the intent of the

The Islamic State

sharī'ah and the spirit of Islam. The divine Book, the Qur'ān, has, in this regard, introduced the golden rule of consultation so that this right is exercised fairly and properly. The principle of *shūrā* (consultation) is indeed far better than the western model of democracy.

It is not possible here to detail the system of *shūrā* introduced by Islam. However, the way this Islamic model of mutual consultation in collective political affairs of the Muslims have manifested during the lifetime of the Prophet, the rule of rightly guided caliphs and the age of the great jurists cannot be left out completely. We will, therefore, try to depict this history and hint towards the textual evidence which worked as a basis of this system.

2.4 Mutual Consultation in the Prophetic Time

The Prophet was in direct communication with God through revelation. He did not, therefore, need to seek human advice in running the collective affairs. Still, however, the divine command of exercising mutual consultation in the process of making laws and devising system of implementation of the same required that the Prophet himself set a model to be emulated by the later generations. The divine wisdom reflected in the following Qur'ānic command to the Prophet :

Therefore, pardon them and implore God to forgive them. Take counsel with them in the conduct of affairs. (Q 3:159)

This verse commands the Prophet to take counsel with the companions in the conduct of collective affairs. Was this command merely a hollow demand revealed in order to make the companions realize that they were being given due importance in the affairs of the state or it had some legal force compelling the Prophet to seek their counsel and give it due regard? The following passage from *Aḥkām al-Qur'ān* by the great Hanafite jurist Imām Abū Bakr Jaṣṣāṣ's answers this question:

It is not valid to say that the command to seek companions' counsel was issued merely in order to appease them and stress their importance. Nor was it merely meant to provide the *ummah* with an example to follow. Had the companions known that their opinion would not be duly considered nor would it be given any practical value, once they would have cudgelled their brains and formed an opinion on the issues concerning which they were being consulted, it would not have added to their confidence and satisfaction. It would rather have made them abandon exerting their efforts in forming an opinion. They, on the contrary, would have read the implied message that their opinions and views were neither acceptable nor worthy enough to be put in practice.³

Abū Bakr Jaṣṣāṣ, clearly states that, according to him, the command to seek counsel from the companions was not merely an expedient political move. Rather it required that their opinions and views were to be taken seriously and acted upon if found worthy.

He has further explained the spheres in which such consultation was to be sought. Findings of his research on the issue led him to believe that the Prophet consulted the companions in all such matters as were not discussed in the divine revelation regardless of the fact such issues were religious in nature or not. He writes:

Some others have opined that the Prophet was obliged to consult the companions in

³ Jaṣṣāṣ, Abū Bakr, *Aḥkām al-Qur'ān*, 1st ed., vol. 2 (Beirut: n.p., 1994), 49.

The Islamic State

deciding only the religious issues and situations where God had not revealed any clear directives and also in worldly matters which are usually decided in the light of personal opinion based on reasoning. We see that the Prophet sought their counsel concerning the captives of Badr, a purely religious matter.⁴

The way the Prophet actively followed this command of consultation can be gleaned from the following testimony of one of his lifelong companions. Abū Hurayrah says:

I have never known anyone consulting his companions more than the Prophet. (*Musnad Ahmad*, No: 18948)

The Prophet would seek the companions' advice concerning military, political, economic and social affairs. In the following paragraphs we offer some examples of the prophetic conduct in this regard.

1. During the Battle of Badr the Prophet pitched his camp in a place that was not strategically favourable to the Muslim army. Some of the companions asked the Prophet whether his decision was based on divine revelation or it was his personal observation. The Prophet explained to them that it was his personal decision based on consideration of better war strategy. One of the companions differed with him. He suggested that the army should camp at the well. After mutual consultation the view of the companion was adopted.⁵

2. During the Battle of al-Aḥzāb the Prophet decided to offer one third of the entire yearly produce of the fruits yields of Madīnah to the Jewish tribe Ghaṭfān on the condition that they refrained from siding with the polytheists and fighting against the Muslims. A contract was drafted to the effect. When the Prophet discussed this issue with the leaders of the Anṣār in particular and the companions in general they strongly objected to this plan. They said that they would love to talk to the Jewish tribe in terms of arms. Eventually the Prophet accepted their opinion and had the document of contract torn off.⁶

3. We have already referred to the issue of war captives of the Battle of Badr. The detail can be found in *Ṭabaqāt al-Kubrā*.⁷

The above mentioned incidents depict the conduct of the Prophet in this regard. These sufficiently prove that the Prophet would ask the companions to give their view on important matters. He adopted their advice in most cases.

2.5 Consultation during the Rightly Guided Caliphate

The rightly guided caliphs had two sources of guidance before them, the above mentioned examples set by the Prophet and clear and unambiguous directives of the Qur'ān and the prophetic *Ḥadīth*. These sources guided them as to how to found their political system and make laws. We will first refer to the Qur'ānic verses which provided a basis of the political system set up by the companions followed by the relevant prophetic traditions and the example set by the rightly guided caliphs.

The Qur'ān says:

Their system is based on mutual consultation. (Q 42:38)

⁴ Ibid., 49.

⁵ Ibn Sa'd, *Al-Ṭabaqāt al-Kubrā*, 1:355.

⁶ Ibid., 394.

⁷ Ibid., 360-1.

This Qur'ānic injunction has been explained by the Prophet in the following words:

Abū Salamah has narrated to me that the Prophet was asked how to dissolve an issue not discussed in the Qur'ān and the Sunnah. He said: "The pious among the Muslims should ponder over it [and decide what to do.] (*Sunan al-Dārimī*, No: 117.)

This question has been further explained in another tradition:

Narrated 'Alī: I asked the Prophet how I should decide upon a matter presented to me if it has neither been discussed in the Qur'ān nor preceded in the Sunnah. He responded: "Discuss the issue with pious individuals and the people of understanding (*ahl al-fiqh*). Do not base your decision on your personal understanding alone."⁸

This principle of consultation assumed the central position in the political system, evolved by the rightly guided caliphs. Public opinion was, therefore, not only considered necessary in the formation of the political system but also in running the state affairs. Abū Bakr, the first caliph of Islam, was elected with the active will of the Muslims after due consultation. After assuming the chair of *khilāfah* he discharged his political responsibilities and decided the collective affairs, not dealt with in the Qur'ān and the Sunnah, by consulting the companions who enjoyed the confidence of the majority Muslims and who surpassed their peers in knowledge and piety. The following tradition recorded in *Sunan al-Dārimī* depicts Abū Bakr's attitude in this regard:

Maymūn b. Mahrān narrates: When a dispute would be brought before the caliph Abū Bakr first looked for guidance in the Book of God and then decided it in the light of relevant divine commands if he found one. If he found out that the matter was not discussed in the Qur'ān but the Prophet had set an example he would decide it in the light of the prophetic Sunnah. If, however, he did not find guidance in the Sunnah as well, he would broach the matter before the Muslims. He would ask them whether any among them knew if the Prophet had said something concerning the issue at hand. Sometimes many people came forward and told him that the Prophet had in fact decided such a matter. At this he would say: "All gratitude is due to God. There in the *ummah* are men who have preserved the prophetic knowledge." If, however, he did not find any prophetic Sunnah dealing with the issue, he would call upon the leaders of the people and the prominent persons among them and seek their opinion. When all of them reached a unanimous decision he would implement that. (*Sunan al-Dārimī*, No: 161)

⁸ *Ṭabarānī al-Awsaṭ*. The author has not provided the full reference. I have tried to search through the work but could not find the narrative in this wording. Ṭabarānī has, however, the following version of the narrative:

'Alī narrated that he asked the Messenger of God: "How do we decide upon a matter facing us if the sources do not mention whether it is allowed or prohibited? What do you guide us to?" The Prophet said: "You shall discuss the issue with pious individuals and the experts of Islamic law. You shall not adopt the view of certain individuals." (*Mu'jam al-Awsaṭ*, No: 1618) (translator)

The Islamic State

During the rule of ‘Umar all the political and other unprecedented matters were resolved through consultation. The process of consultation and discussion adopted by the caliph has been explained by Shāh Walī Allāh in the following words:

‘Umar would consult the companions and continue discussing the issues with them until the differences were removed and the people were convinced of validity of a decision. It is only because of this vigorous process that all the (political and administrative) decisions and religious rulings issued by him have been followed by (future rulers) all over the Muslim world.⁹

According to Shāh Walī Allāh this institution of consultation was not operative only during the reign of the first two caliphs. Caliph ‘Uthmān too ran political and administrative affairs through consultation with the companions. In his treatise *Izālah al-Khafā* he writes:

My research in this issue shows that juristic disputes did not surface until the end of the rule of ‘Uthmān. Whenever difference of opinion arose people would refer that to the Caliph who would decide on the issue after consultation with the people. A decision concluded through this process was followed by all as a collective decision.¹⁰

This system of consultation developed largely during the rule of ‘Umar. ‘Allāmah Shiblī Nu‘mānī, a meritorious scholar of Indian Sub-Continent, has devoted many pages to the subject in his biography of the caliph ‘Umar, entitled *al-Fārūq*. Since the entire discussion he has offered is based on the authentic primary sources like *Ṭabaqāt* of Ibn Sa‘d, *Kanz al-Ummāl*, *Tarīkh Umam wa al-Mulūk* of al-Ṭabarī, *Kitāb al-Kharāj* of Imām Abū Yūsuf etc and is well argued, parts of it are reproduced verbatim here.

While discussing the details of procedure adopted to hold consultations during the rule of caliph ‘Umar he writes:

The principle of principles in this regard was to call a session of the *shūrā*. Whenever the caliph faced some administrative problem he called a meeting of the members of the Council of the *shūrā*. No issue could be decided without being discussed by the council and approved through consensus or majority vote. The whole Muslim community had two categories of leaders who truly represented the entire Arab nation. They were the *Muhājirūn* (emigrants) and the *Anṣār* (hosts). Participation of the members from both groups was mandatory. *Anṣār* were further divided in two major tribes, *Aws* and *Khazraj*. Therefore, members of both these tribes also attended these meetings. We cannot mention names of all the members of the *shūrā*, nevertheless, we all know that the prominent companions including, ‘Uthmān, ‘Alī, Mu‘ādh b. Jabal, Ubayy b. Ka‘b, Zayd b. Thābit were member of the council. A herald would call, “*al-ṣalātu jāmi‘ah* (a formulaic expression used to call for prayer.) When all would have gathered in the mosque, the caliph would lead them in two *raka‘ah* optional prayer. Then he would rise on the pulpit and briefly introduce to them to the issue at hand. Day to day affairs of less political significance were decided by this council. When, however, some crucial matter arose, the whole community of the Emigrants and the Hosts would be called for. Only after unanimous approval of the both parties the matter

⁹ Shāh Walī Allāh, *Hujjatullāh al-Bālighah*, 1st ed., vol. 1 (Lahore: Maktabah al-Ṣalafiyyah, 1975), 132.

¹⁰ Shāh Walī Allāh, *Izālah al-Khafā*, vol. 1 (Karachi: Qadīmī Kutub Khānah, n.d.), 509.

The Islamic State

would be decided. For example, when Iraq and Syria were conquered, some of the companions insisted that all the conquered lands should be distributed among the warring soldiers. The gravity of the issue called for a grand meeting. All the early converts among the Emigrants and the Hosts, ten senior tribal chiefs of the Anṣār, five from Aws and five from Khazraj, participated in the meeting. The meeting was prolonged for many days. People spoke expansively and expressed their views boldly. We quote certain sentences from ‘Umar’s speech delivered at the occasion in order to acquaint the reader with the essence of the responsibility of *khilāfah* and the power and authority vested in the caliph at that time: “I have bothered you only because I wanted you to help me carry out the responsibility you have burdened me with. I am only a human being like you. I do not want you to follow my desires in matters like these.”

In the Battle of Nahāwand the Persians gathered a large and well-equipped army. Some Muslim leaders thought that the level of their extensive preparations demanded that the caliph himself commanded the army. A general meeting of the Council of the *shūrā* was called again. Many prominent figures among the companions including ‘Uthmān, Ṭalḥa b. ‘Ubayd Allāh, Zubayr b. al-‘Awwām, ‘Abd al-Raḥmān b. ‘Awf etc expressed their views. All of them viewed that caliph’s participation was not affordable. Then ‘Alī rose and spoke for these people. At last, it was decided that the Caliph would not command the army. Similarly, the issues like salaries of the soldiers, set up of the administrative offices, appointment of the governors, the trade rights to for non-Muslims, taxes imposed on them and many other issues of the nature, as recorded in the books of early Islamic history, were determined after thorough discussion in such consultative meetings of the Council.

The meetings of the Council of the *shūrā* were not held merely for the sake of entertainment. Nor were the people of opinion consulted only for the sake of show off. On the contrary, ‘Umar made it clear to all, on various occasions, that no one enjoys the right to rule without consultation. He said: “*Khilāfah* without mutual consultation is meaningless.”

The sessions of the *shūrā* were held whenever an important issue surfaced. There was, however, side by side, another institution, a council, which worked as a forum of discussion over the everyday administrative matters. This council would meet daily in the Mosque of the Prophet. Only the emigrant companions would participate in it. Dispatches from different provinces and the far off districts reaching the capital would be presented by the caliph before this council. If anything called for discussion people were invited to give their view and vote for or against some view. The issue of imposing *jizyah* (tax) on the Zoroastrians was discussed and determined in this council. The historian, Balāzurī, in one of his chronicles, discusses the proceeding of one of such meetings. “There was a council of the Emigrants of which meetings were held in the Mosque. ‘Umar used to attend its meetings. He would put before the council dispatches from far flung areas. One day he said: “I do not know how to decide the issue of *jizyah* on the Zoroastrians?””¹¹

During ‘Umar’s rule not only the important national affairs were decided in such consultative meetings of the council of the *shūrā* but also the appointment of the provincial governors and administrators were made according to the wishes of the respective towns. In this connection, Shiblī writes:

¹¹ Shiblī Nu‘mānī, *al-Fārūq*, 1st ed., (Karachi: Dār al-Ishā‘at, 1991), 180-2.

Before appointing governors in Kūfah, Baṣrah and Syria, ‘Umar asked the people of the respective lands to name individuals of outstanding character, piety, honesty and sound understanding from among themselves to be appointed as their ruler. Consequently, ‘Uthmān b. Farqad from Kūfah, Ḥajjāj b. ‘Ilāṭ from Baṣrah and Ma‘n b. Yazīd from Syria were elected by the people of the respective towns. Accordingly ‘Umar appointed these persons as the governors of their respective centres.¹²

A *khalīfah* can no doubt insist on his personal opinion in some important and crucial political affair if he is convinced of the soundness of his understanding and opinion. At times he believes that abandoning his personal view for an alternative would threaten the existence of the state. However, he has to be clear that he is not infallible. Therefore, he should never insist on his personal opinion and understanding. He should never impose his view over the view of the majority of the people of opinion or their consensus in issues subject to *ijtihād* and particularly those which relate to the public good. If a *khalīfah* considers his view, on an issue subject to *ijtihād*, to be absolutely correct that means he claims infallibility on his part.

That the *khalīfah* must always pay heed to the views of the majority or the consensus of the members of the council of the *shūrā* can be proved by a number of arguments.

First and the most important arguments in this regard is the one pointed out by Abū Bakr Jaṣṣāṣ, the author of *Aḥkām al-Qur’ān*. He says that the process of consultation by its very nature requires that the views expressed by the majority should rule. To say that the *khalīfah* was obligated to consult the matters with the people of the opinion only in order that the people consulted might feel encouraged is not sound. According to the author of *Aḥkām al-Qur’ān* such empty consultation would hurt the feelings of the members of the *shūrā* instead of dressing them. It borders with insult and is heartrending.

The second argument is that the opinion of a group is less prone to error. Therefore, it would be only prudent that the *khalīfah* does not reject the opinion of the majority in favour of his personal view. He cannot be sure of the impeccability of his view in an issue which is subject to difference of opinion. All other participants of the discussion cannot necessarily be wrong. Both the views are equally exposed to error. In this case the view of the majority is more likely to be correct than that of the individual. The *sharī‘ah* always gives express preference to the view of the majority against that of an individual. That is why a ruling reached at through *ijmā’* (consensus) decisively prevails over personal opinions.

The third argument for the case of consultation is based on the practice of the rightly guided caliphs. Whenever an issue was brought before the members of the *shūrā* they exercised their minds and intellect and reached at a conclusion by majority vote or through consensus. This view would always prevail. We do not find a single instance where the view of the members of the *shūrā* was not adopted. It can be confidently stated that the Prophet himself never ignored the views of majority of the companions in spite of the fact that neither did he need consultation with them to that level (being a prophetic Messenger) nor was he bound by the *sharī‘ah* to consult them in all matters.

Some scholars believe that the caliph is not bound by the *sharī‘ah* to follow the majority opinion. The caliph can veto the decision of the *shūrā* be it based on majority vote or consensus. These scholars plead to two examples from the practice of the first caliph Abū Bakr. They refer to the fact that Abū Bakr used force against those who refused to pay the *zakāh* to the state treasury. Another pertinent example, they hold, is the issue of the Syrian

¹² Ibid., 182.

The Islamic State

expedition under the headship of ‘Usāmah b. Zayd. I believe that the viewpoint of Abū Bakr, in both cases, has been misunderstood. It calls for an explanation which follows.

First we take up his decision to fight those tribes who had refused to pay the *zakāh*. A party of the tribes, who had denounced the religion of Islam after the death of the Prophet, did not convert from Islam completely. They agreed to offer the *ṣalāh* but refused to pay the *zakāh*. Abū Bakr decided to force them into paying the *zakāh*. This, according to him, was a clear and unambiguous directive of Islam. Therefore he did not put the matter before the *shūrā* for discussion. He, on the contrary, considered it his religious duty to implement, as the caliph, the rule of the law in this regard just like he had to make the citizens of the state obey other manifest *sharī‘ah* directives like the prayer, fasting, penal laws, and the like. He decided on the basis of his understanding of the relevant *sharī‘ah* directive to fight those who did not pay the *zakāh*.

When people came to know about this decision of the caliph, some of them approached him and said that Islam was in infancy and the number of its enemies was so great and therefore powerful that it would be impossible for the nascent state to fight them all. They held, that considering this ground reality, it would be better that the caliph did not fight the people who at least agreed on offering the *ṣalāh*. He should thus show lenience to them and let them practice whatever part of the religion they afford. These people also presented a prophetic saying in support of their viewpoint:

I have been directed to fight these people until they declared that there is no god but Allah. When they have, they would have saved their life and wealth except what is legally due. The accountability of their inner faith is upon God.¹³

Abū Bakr, in response to this argument, stated that the *zakāh* is one of the corollaries of the declaration they make. This, according to him, the caliph should force them to pay.

When the people found that Abū Bakr would not desist from his decision and that he was firm they approached ‘Umar and persuaded him to talk to the caliph on the topic. At this, ‘Umar spoke to the caliph. In response to his objections the caliph explained the narrative referred to above in the light of another one on the same subject. The Prophet said:

I have been commanded to fight these people on three issues, declaration of God’s unity, establishing the *ṣalāh*, and paying the *zakāh*.¹⁴

Abū Bakr then said. “By God, besides whom there is no God, I will not accept anything less than that. If these people will hold back a rope that they used to give to the Prophet in *zakāh*, I will continue fighting them until God, the best of judges, decided among us. If I do not find any support in my war against these people I will fight them alone.”¹⁵

This explanation from the caliph and his commitment and determination satisfied the people. At last they marched on those who refused to pay the *zakāh*. They successfully forced the defiant tribes in making them pay the *zakāh* to the state treasury. Later on this step from the caliph was greatly appreciated by the people. Abū Rajā’ ‘Uṭāridī narrates:

I observed ‘Umar kissing the forehead of Abū Bakr in a large gathering. He repeatedly

¹³ *Ṣaḥīḥ* of Ibn-i Hibbān, No: 3926.

¹⁴ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, vol. 1 (Cairo: Sharikah Maktabah wa Matba‘ah Muṣṭafā al-Bābī al-Ḥalabī wa Awlādiḥī, 1969), 17.

¹⁵ *Ibid*.

The Islamic State

said: "May my life be sacrificed for your sake. If it were not for you we would have been ruined."¹⁶

The above quoted incident, a deep analysis would show, leads to certain conclusions which follow:

1. The question of fighting with the factions who had refused to pay the *zakāh* after the demise of the Prophet was not presented before the *shūrā* in the first place. It was not a disputed issue among the *shūrā* members and the caliph. Only those issues may be presented before the *shūrā* for discussion which pertain to independent judgment and over which the *sharī'ah* is silent. The *sharī'ah* stance on the question of fighting those who refused to pay the *zakāh* was clear to the Caliph. According to the *sharī'ah*, in the Islamic state, one no longer enjoys the right of citizenship when he refuses to pay the *zakāh*. This is a clear directive of the *sharī'ah*. That is why it was not incumbent upon Abū Bakr to present the issue before the *shūrā* for discussion before forming a view on the matter. As a caliph of the Muslim state his only responsibility was to implement the *sharī'ah*, and so did he impose the will of God without hesitation. A caliph is, for example, not supposed to seek the advice of the *shūrā* before taking such rebels to task who start openly massacring innocent citizens of the state. The caliph, in such situations, has to implement the Qur'ānic penalty prescribed for the recalcitrant and those who create law and order situation in the land.

2. Those opposing him were indeed not been able to fully understand a relevant prophetic saying. When he explained the real implication of that relatively less clear narrative with the help of another fuller narrative all were satisfied. It goes without saying that there could be no source of the prophetic knowledge more authentic than Abū Bakr himself.

3. Abū Bakr's view that he would fight those who refused to pay the *zakāh* even he found himself deserted by all, does not signal his desire to overrule the *shūrā*. It, on the contrary, expresses his determination to fully enforce the clear and express *sharī'ah* injunctions, the most important responsibility of a caliph in the Islamic state. The ruler is expected to be ready to lay his life in the enforcement of the commands of the Almighty Allah. He is bound to follow the decision of the majority only in issues over which the *sharī'ah* is silent and are, therefore, subject to *ijtihād*.

The expedition to Syria, it is clear, was decided by the Prophet [pbuh] himself. He had, in fact, selected the soldiers of the army and supervised all necessary preparations for it. He had hoisted the flag of the army, a formal expression of commencement of an armed offensive. Had it not been for his severe illness the army would already have been on its way to Syria. The Prophet's unfortunate death hindered the departure. Once Abū Bakr assumed the office of *khilāfah*, the first responsibility on his shoulders was to implement the will and order of the Prophet regarding the expedition he had carefully planned. He, therefore, proceeded with sending the army as decided by the Prophet. One can easily understand that, as a successor of the Prophet and his trusted companion, Abū Bakr would not have considered otherwise. What could be more demanding and dearer for Abū Bakr than to fulfil the wish of the Prophet and carry out his express orders? He was not obliged to bring this matter before the *shūrā* for consultation because the issue had already been decided by the Messenger of God. Therefore, when some people expressed reservation concerning the caliphal decision to launch the offensive at that crucial juncture, for they did not see it feasible, he boldly refused to listen to them saying that he would not untie the flag hoisted by the Prophet himself.

Neither of these decisions by Abū Bakr proves that a caliph can ignore the will of the majority and veto the decision of the *shūrā*. These examples show that the caliph cannot

¹⁶ This discussion is entirely based on Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, vol. 1, 17-19.

The Islamic State

suspend clear and express directives of the *sharī'ah*. In such matters, therefore, the caliph does not follow the opinions of the member of the *shūrā*, he enforces the will of God.

The above discussion shows that Islam gives the institution of *shūrā* a well defined form. Rulers are obliged to submit to the decisions of the *shūrā* council. However, it needs to be appreciated that during early days of Islamic rule all the people of opinion lived in the main capital. In the tribal Arabian society leaders of different parties and tribes were selected in a way remarkably different from the present conventions. This made the system of consultation simple and easy. Since then world has gone through great cultural and civilizational changes. In the present day society any setup of the institution of *shūrā* can be introduced which not only matches the needs of the time but also facilitates the accomplishment of the ideals of *shūrā* in an effective manner. Modern methods of election can be adopted and new reforms can be introduced into the system. Interrelation of the public representatives in the council of *shūrā* and the rulers can be redefined. Legislation in this process would be perfectly in line with the intent of the *sharī'ah*.

2.6 Nature of the *Shūrā* and Qualification of its Members

People have developed certain misconceptions on the question of basic qualification for the members of the *shūrā* and their necessary characteristics. Some people believe that during the formative period of Islamic political system only scholars and jurists were admitted as members of the *shūrā* to the exclusion of all other people. Some people think that the system of the *shūrā* is not even identified and well defined. To them the caliph could seek counsel from anybody he likes for there has never been a specific body of the *shūrā*. Exposure to and consideration of the following facts will hopefully clear away these misconceptions.

The Qur'ān provides the following guidance regarding the characteristics of the members of the *shūrā*:

When they hear any threatening or comforting news, they spread it immediately; whereas if they reported it to the Apostle and to the men in charge, those bestowed with understanding could better grasp it. (Q 4:83)

This verse identifies two basic characteristics of the people of opinion in the Islamic State. First, they are the leaders of the community. Second, they are prominent individuals with a good political sense. They are able to assess the situations and circumstances shrewdly and draw sound conclusions. Qur'ānic exegetes have offered the same interpretation of the last part of the verse.

Author of, *al-Kashshāf*, writes:

This refers to the senior companions and the people of understanding.¹⁷

Imām Nisāpūrī and Imām Rāzī have also offered similar interpretation of this part of the verse in their commentaries.

Some of the historical reports tell us that the trusted leaders of the tribes with deep understanding of religious and worldly matters especially those with the will to actively participate in the collective affairs of the Muslims were consulted. In this matter the age of people was not considered at all. In other words it was not mere gerontocracy. Youngsters as

¹⁷ Zamakhsharī, *al-Kashshāf*, 1st ed., vol. 1 (Beirut: Dar al-Aḥyā al-Turāth al-'Arabī, 1997), 572.

The Islamic State

well as the elders were consulted. Imām Bukhārī has ascribed the following statement to Ibn ‘Abbās:

The consultative meetings arranged by ‘Umar included the knowledgeable people, young as well as old. (*Bukhārī*, No:)

We have already seen that Abū Bakr would consult the leaders of the Muslims and the best people among them. The narrative quoted above (page 28) reads: *Jam‘a ra’ūsa al-nāsi wa khiyārahum* (He would gather the leaders of the people and the best personalities among them for consultation). In another version of the narrative the word *ṣāliḥīn* (the pious/sound) has been used for those consulted.

Books of history and *sīrah* mention the following names among the members of the *shūrā*: Abū Bakr, ‘Umar, ‘Uthmān, ‘Alī, ‘Abd al-Raḥmān b. ‘Awf, Mu‘ādh b. Jabal, Ubayy b. Ka‘b, Zayd b. Thābit, Sa‘d b. Mu‘ādh and Sa‘d b. ‘Ubādah.

These people were not the representatives and leaders of their tribes in the modern sense. The modern conventions of election were introduced much later. They were, however, trusted leaders of their tribal groups. That a certain person held such a position among his clan could be ascertained through the fact that members of their tribal groups would turn to them for help and guidance in their collective affairs. Some of the members of the *shūrā* were raised to the status because they had vast knowledge in the religion. For example Abū Bakr and ‘Umar enjoyed the confidence of the Emigrants because they had unparalleled religious knowledge and political insightfulness. Sa‘d b. Mu‘ādh and Sa‘d b. ‘Ubādah were the leaders of the two major tribes of the Hosts namely Aws and Khazraj. ‘Uthmān was the leader of the Umayyad tribe. Mu‘adh b. Jabal, Ubayy b. Ka‘b and Zayd b. Thābit were experts in the Qur’ānic disciplines and *fiqh*.

2.7 Islamic and Conventional Systems of Government

Having acquainted ourselves with the Islamic system of government we can compare this blessed system with the other conventional systems including presidential and parliamentary democracies. A little study shows that none of these systems can replace and take the stead of the Islamic system. Though both of the conventional systems have certain merits and demerits yet neither of them has an affinity with the Islamic system. The major defects inherent in these systems, which render them incapable to be adopted into the Islamic system of government, are discussed below:

First we take the parliamentary system.

In the parliamentary system all power is vested in the prime minister and his cabinet. It also attaches with it a figure-head, a titular president or a king [as in England for example] who discharges the responsibilities of the appointment of the ministers etc. In the Islamic system there is no place for such titular show boy. The *khalīfah* enjoys authority required for the smooth running of the government. Islamic system does not admit of any such unnatural dualism.

Another major flaw in this system, in the view of Islam, is that it is based on party system. The party which enjoys majority in the legislature is invited to form the government. The leader of the party with majority in the legislature is appointed the prime minister of the state. He continues leading the government as long as he enjoys majority vote in the parliament. In absence of this party system the parliamentary system cannot work.

The Islamic State

Contrarily, the Islamic system is never dependent on party system. The truth of the matter is that the party system is, in principle, negation of the essence of any sound government system. Islam aims at correcting and developing it not encouraging it.

Most democracies, owing to their constitutional and legal complications, have turned out to be puzzles. When some crucial affair of emergent nature surfaces in the political scene of the country the inherent weakness of the system is exposed. They are then compelled to violate their constitutional and legal norms in order to save the state. The Islamic system of government based on consultation is simple and target oriented and works in times of peace as well as war. Because of the blessings of the system of consultation even in the most crucial of times its power to operate survives and the authority of the government remains stabilized. It can react in time to emergency situation. The Islamic *khalīfah* is never compelled to ignore the process of consultation and suspend the *shūrā*. Abū Bakr and ‘Umar ruled during a very crucial and eventful time of the Islamic history. They faced the gravest issues imaginable. Yet they never suspended the system of consultation.

Similarly the presidential democracy like the one operative in the United States is also not acceptable in Islam for the following reasons.

First, separation of powers between executive, legislative, and judicial branches of government, the necessary characteristic of the presidential system, is at variance with the nature of the Islamic system. In the Islamic system the *khalīfah* can fully take part in the legislative process in all such matters the *sharī‘ah* allows men to legislate for themselves. He can propose before the *shūrā* any law which he considers indispensable and which he can defend in the *shūrā*.

Secondly, the presidential democracy does not recognize the system of recall in the true sense. The voters have no right to remove their elected president from office by means of a petition till the end of the tenure prescribed in the constitution. Immune from accountability the president enjoys excessive freedom. Islamic *khalīfah* does not allow this liberty to the rulers even for a moment. In the presidential system the president cannot be removed from his post even each and every voter in the country demands his removal. The legislature cannot investigate even the most outrageous decision by the president. It can at best create some hurdles in his way but such hindrances erected by the legislature can hardly affect his sovereignty. On the contrary they create difficulties and imbalances in the national political framework. Islam does not ascribe to the *khalīfah* such unlimited independence and does not consider him beyond impeachment. If the people of the country elect a *khalīfah* today and very soon find out that he is not able to discharge his duties fully they can revoke his selection. There is no legal hindrance in the removal of the *khalīfah*.

3. Qurayshite Descent, a Condition for the *Khalīfah*

We have seen in the above discussions that the Islamic State is an ideological state. It is founded on well defined principles and beliefs instead of race, tribe or family. All the Muslims believing in and following God and his Messengers are equal citizens of the state and as such enjoy equal rights. None among them bears superiority over his fellow citizens. The only thing that raises the status of some of the believers over the rest is their piety, understanding of religious sources and ability to reach at conclusions using independent reasoning. In the Islamic society it is only excellence on the basis of *taqwā* (God-consciousness) that earns some of the people the authority to rule others and run the collective affairs. No one enjoys the right to rule because of his superior race or noble descent.

The above represents a very conspicuous directive of the Qur'ān. We do not think it necessary to quote the divine commands in this regard from the Book. Yet, unfortunately, having misinterpreted a *ḥadīth*, some people believe that only a qurayshite may be elected as *khalīfah*. No other person can be elevated to the position of *khalīfah*. The text of the *ḥadīth* follows:

The *imāms* (rulers) are from among the Quraysh. (*Musnad Aḥmad*, No:)

The most common interpretation of the above prophetic *ḥadīth* violates the fundamental Islamic doctrine in this regard. It also provides the disputants with a basis to label objections on Islam. To explain our point fully we need to refer to some of the objections against Islamic system of government.

The most favourite objection raised against the common faulty conception of the Islamic system runs as follows. Islam very vociferously claims that all humans are equal. Such claims are in fact hollow. When it is believed, based on the consensus of the Muslim, that only a qurayshite may assume the chair of *khilāfah*, the Islamic claim of equality of mankind loses all meaning. What kind of equality can exist along such marked discrimination? This doctrine grants the Quraysh a status no less than that the Levites held among the children of Israel or that the Brahmans hold among the Hindus. Just like Hindu religious law does not allow a vaisya or a shudra to participate in the social and political affairs, Islam too considers the non-qurayshites inherently ineligible for the post.

Another objection against the common conception of Islamic system of state claims that, God forbid, the Prophet Muhammad failed to found the state in accord with his teachings. The whole life he propagated equality and justice and condemned racial discrimination only to hand over the state and political authority to his family just before his death.

It will not be out of place to mention that it was this *ḥadīth* which, during the British rule in India, some English Orientalists and political leaders employed in misguiding the Muslims. They intended to realize their political programs regarding the Muslim movement of *khilāfah*. They tried to make the protesting Muslims realize that they were going out of the way in order to protect and help out the Turkish *khilāfah*, whereas their religion recognizes the right to rule only for the Qurayshites. How can they consider helping the Turkish *khalīfah* a religious obligation in spite of such pronounced judgment by the Messenger? It was on the contrary a violation of the *sharī'ah*.

The Islamic State

In present times some ‘intellectuals’ have endeavoured to establish, on the basis of the above mentioned *ḥadīth*, that some of the basic and fundamental teachings of religion can be abandoned if the wise consideration of the circumstances demands such an expedient suspension of the *sharī‘ah*. Though equality is one of the fundamental teachings of Islam underscoring many a Qur’ānic commandments and the prophetic teachings, yet, they maintain, it was only wise to abandon such teachings in those crucial circumstances as prevailing around the death of the Prophet when the right to rule was held exclusive for the Quraysh. That is why the Prophet, before his death, made it clear to the people that only the Quraysh would be chosen as political leaders of the state after him.

3.1 Context of the Prophetic *Ḥadīth*

These and other similar objections levelled at the political teachings of Islam, owe themselves to erroneous interpretation of the *ḥadīth* mentioned above. The prophetic saying has been divorced from its context. It has erroneously been taken as an order or commandment rather than expression of the hard political reality of the time.

We believe it was neither a command nor a testamentary will left by the Prophet. It was a judgment pronounced on a dispute undercurrent in that political context. There is no denying the fact that the issue was not presented before the Prophet as a dispute between prospective candidates for the *khilāfah*, yet, it was there in the minds of the people and manifested itself in different forms. It was not difficult for the Prophet to read the real implication of the question and that after his death it would translate into a serious dispute, leading to dissension among the *ummah*. Therefore, the Prophet considered it only wise to decide the issue in his life. He stated that considering the political condition of Arabia at that time it was only the Quraysh who could assume the authority.

One party of the claimants to the *khilāfah* were the Quraysh. The only contestants besides them were the Anṣār. During the Prophet’s lifetime only these two groups wielded political influence. Though Islam had purified them of bias of the *jāhiliyyah* (pre-Islamic) period, yet, they kept alive the lawful flare of the tribal solidarity. Their mental race would not reveal itself in much serious forms during the lifetime of the Prophet. However, after his death such a dispute could be intensified. Though it was not feared that their lust for power would generate political dissension, for both the groups aspired to serve the religion of God more actively, yet, their enthusiasm for service of God’s religion could create contention and problems in the nascent state. This did not leave the Prophet but to decide the matter during his lifetime.

Both the groups were contesting for the political leadership of the Muslim world. It was not a battle for a position for the *imām* in a mosque. A just decision, therefore, would be based only on the services of the contestant parties to the religion and their political influence.

Both the parties had rendered equal services to Islam. Both were true followers of Islam. If the Quraysh had rendered certain important services to the religion, the Anṣār had other equally important ones to their credit. Therefore, we see, that whenever the Qur’ān counts services of the earliest believers to the religion, it praises both the groups in equal terms. We cannot, therefore, base ourselves on the Qur’ān in claiming that either has been given more importance. Similarly the Prophet too always considered the services of both the parties equal and neither of the parties lost significance in his sight. Therefore, none among them could be given superiority over the other on the question of their religiosity and service to Islam.

The Quraysh, however, outmatched the Anṣār in that they exercised more political influence over the Arabs. Taken alone, the political supremacy a group wields does not mean anything. However, when added to the sound religious grounding of the group, it renders

The Islamic State

them competent enough to successfully run the Islamic State and guard the public and religious interests of the nation. It, therefore, adds to the qualities of that group and makes it more deserving of political power than the others. In Islam, the responsibility of *khilāfah* is allotted to a group keeping in consideration its religiosity as well as its political status. The Quraysh were considered a dominant political power in Arabia even before the advent of Islam. They did not lose this position after the rise of Islam. Their rule was not, therefore, an unfamiliar and unacceptable thing for the Arabs who could readily recognize the rule of the Quraysh in Islam for they were accustomed to obey the clan in the pre-Islamic period. The only thing that could legitimately render their rule unacceptable could be a religious commandment. We know that there is no such divine command. By the grace of Almighty Allāh, the Quraysh had, by serving the religion of God, attained prominence among the believers too. Thus they were equipped with both the qualities necessary for political leaders; political dominance and service to Islam. The Prophet decided the issue in favour of the Quraysh against the other claimant party namely the Anṣār on the basis of this fact. He explicitly stated that considering the political reality of the time, the leadership would go to the Quraysh. Consequently, this timely verdict of the Prophet, later on, helped greatly in removing the conflict among the Emigrants and the Hosts that did not take long to appear. It has been reported that just after the demise of the Prophet, the Anṣār gathered in the *Saqīfah Banī Sā'idah* and claimed their right to rule.

It is utterly wrong to claim that the Prophet decided in favour of the Quraysh merely because of their racial origin. This is because if there were a third political group outmatching the Emigrants and the Hosts in its service to Islam, wielding more political influence than these two parties, the Prophet would have decided the issue in its favour.

3.2 Further Clarification of the Issue

Though the explanation of the *ḥadīth* we have offered is very plain, yet, some people may have some questions in their minds in this regard. We will first of all try to determine such possible confusions and then provide our response to them.

First, it may be asked what determines the difference between a decision pronounced on a dispute and an independent ruling. Why not both translate into a principle? One may also hold that the preference the Prophet gave to the Quraysh in this regard should be taken as it is. It does not make any difference whether they were given preference over the Hosts or all the nations of the world. One thing, however, is certain. The Prophet preferred the Quraysh over the others.

Second, one may seek to know how it can be established that it was a judgment on a dispute rather than an independent ruling especially when no historical proof can be cited to the fact that any such contention between the Emigrants and the Hosts existed during the lifetime of the Prophet.

Third, how can one be sure that it was really a judgment on a dispute between the two groups? Did the Prophet make it clear that he was deciding a dispute? Are there some other indications in the related historical material which provides sufficient proof to the fact that it was a decision and not an independent ruling?

Fourth, many scholars have stated that there is a consensus of the *ummah* on that none other than the people of Qurayshite origin be made rulers. How can a dissenting view be validated then?

We believe that none of these questions poses a serious problem, yet, they can lead people into confusion. We, therefore, consider it desirable to explain them.

The Islamic State

As regards the first confusion, we wish to explain that there is a difference, though subtle, between a decision pronounced on a dispute and an independent ruling. This requires a little elaboration. It is, however, upon the interlocutors to seriously try to understand it. A decision pronounced on a disputed issue between two parties applies only to the contestants alone. It cannot be extended to a third group. It means that when a third party which is more deserving than the first two appears it would be considered rightful owner of the position allotted to any two of the original contestants. In other words considering it a decision pronounced on a dispute entails that the right will accrue to any third contestant with more solid qualification. If, therefore, the Prophet gave an independent ruling to the effect that no non-Qurayshite has the right to rule Muslims then it will be considered a general and an absolute ruling applicable to all groups for all times. None will be able to lawfully rule the Muslims till the Day of Judgment save for the Quraysh. Then the Muslims will have to search for a Qurayshite to appoint as the head of the state whenever they have to form one. If there is nobody of the Qurayshite origin in the Muslim state it has to import one. If, on the contrary, it was just a judgment on a dispute then it would mean that the Quraysh were given preference over the Hosts alone. It does not then entail that this preference was universal and that the Quraysh were given preference over all the people of the world. It does not mean that none else could lawfully rule the Muslims no matter how clearly competent and remarkably deserving.

As regards the difference the nature of the prophetic command creates, it can be ascertained through careful analysis of the basis of the preference. In order to know the basis we have to see the nature of the dispute first. We will see what the issue being contested was and what were the factors which contributed to the dispute. Suppose we come to know that the dispute was among the Emigrants and the Host on the issue of *khilāfah* on the basis of their racial origin. The Prophet preferred the Quraysh on that basis alone. This finding would take us to the conclusion that in the matter of right to rule in Islam the basic criterion is the racial origin. It was, therefore, the racial origin of the Quraysh based on which the Prophet preferred them over the Hosts. Our investigation into the issue may reveal that the dispute was over the right to rule. Both the parties considered themselves more deserving for the honour on the basis of their religious services and their political power. And the Prophet decided in favour of the Quraysh. This finding would mean that in Islam, the issue of right to rule is decided considering the religious services and the political status of the contesting parties. The right to rule, then, accrues to the group, which wields more political power, is recognized by all the factions of the society as political leaders and outshines others in their services to the religion. Racial origin does not play any role in this second case.

Now, we believe, it is clear what difference does it make to consider the prophetic saying a decision on a dispute rather than an independent judgment.

The answer to the second question consists of certain points which follow.

First, the dispute between the Emigrants and the Hosts did not necessarily relate to the issue of *khilāfah* because the question of ascendancy to the *khilāfah* could not have been manifested until after the death of the Prophet. However, we know that the Hosts considered themselves equal to the Quraysh in their political status and their religious services. On the basis of this fact we can conclude that a contest between the both parties in fact existed. This feeling had generated in their minds a sense of competition with the Quraysh. There is no denying the fact that the Hosts considered themselves a dominant political power at least in Madīnah. They were no way wrong in this estimation of their political power in their hometown. We also know that their services to Islam were no less important than that rendered by the Quraysh. That is why they considered themselves equal to the Quraysh both politically and religiously. The presence of such a spirit of contest was so pronounced that no

The Islamic State

student of their history can deny it. Let us, for example, consider the following speech of their leader Sa'd b. 'Ubādah delivered in the meeting of the Hosts in the Saqīfah Banī Sā'idah:

O party of the Hosts, your excellence with regards to your services to Islam is not the share of any other tribe in the whole Arabian Peninsula. The Prophet stayed among his folks for more than a decade. He continued calling them to worship God. He pleaded them to abandon the idols. None believed in his call except for a few. These few, however, did not have the power to protect the Messenger. Nor were they able to propagate his religion. They could not even defend themselves. This state of affairs prevailed until God decided to grant you excellence. He granted you respect and specifically chose you for his bounty. He gave you the ability to profess faith in him and in his Messenger. He chose you for the protection of his Prophet and the companions, for helping the religion grow and for fighting the enemies of God. You have been most hard on those among you and others who turned away from the religion of God. You continued rendering services to the religion till its enemies had been made to bow before the will of God willingly or unwillingly. Those from the far flung areas were compelled to follow. God conquered the land for the Prophet through you. He subjected the Arabs before the Prophet through your swords. Now, the Messenger of God has left for the next world while he was pleased with you. This is why you deserve the right to succeed him more than any other group. Hold this (*khilāfah*) firmly. Then all those present among the Hosts said: "What you have opined and expressed is right."¹⁸

It is no way possible to hold that these feelings of competition sprouted instantly among the group of Anṣār. One cannot deny that traces of this contest reflected in their attitudes before this event. And granted that such a spirit of contest was there in the minds of the Hosts, one may say, the Prophet had to address the issue. He felt compelled to guide the people in right direction so that they could amicably solve the dispute when it arose.

That such feelings indeed were there in the minds of the Hosts can be gleaned from the fact that the hypocrites tried to take advantage of this group feeling during the lifetime of the Prophet. At a number of occasions the hypocrites incited the group feelings of the Emigrants and the Hosts and made the people from both the parties draw out their swords. One such incident happened during the expedition of Muraysī'.

The incident of Saqīfah Banī Sā'idah did not accidentally happen. There were various factors which worked behind such bold expressions from the Hosts. There is no doubt in that in every such dispute the hypocrites had their role. It was, however, never possible for the hypocrites to incite the group feeling of the Hosts if there was nothing supportive in minds of the latter to be aggravated. Who could have been more sensitive to all these affairs than the Prophet? It was only he who could devise a proper solution to the problem and curb the ensuing difficulties. I find it perfectly understandable that the Prophet realized the feelings of competition underlying various expressions from both the groups. He, therefore, decided on the matter before it could be aggravated after his passing away. Thus the Prophet curbed the conflict between the Hosts and the Emigrants before it was fuelled by the hypocrites in his absence.

Second, it is utterly wrong to say that during the lifetime of the Prophet Muslims had never imagined that the Prophet would depart or that the issue of *khilāfah* would be raised after his

¹⁸ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, 1: ٥.

The Islamic State

death. Such assumptions clearly negate the influence of the Prophet's teaching over the companions and misrepresent the views and beliefs of the Muslims of the time. Had the Prophet left this *ummah* in dark regarding such basic issues they would have fallen in more grievous kind of ignorance, the Prophet's prediction that "the nights (i.e. future) of this *ummah* are as bright as its days (i.e. the prophetic era)" would have been proved wrong. Every Muslim living during the time of the Prophet fully appreciated the fact that the Prophet was a human being and that he would depart this world one day. They knew that they had to establish a government after him. Somebody would succeed him. The principles and basis of the *khilāfah* were also clear to them. They knew what would be the nature and characteristics of the caliphate in the beginning. They also appreciated the deviations which were expected to creep in the institution later on. All these things had clearly been explained by the Prophet himself. The companions have reported them all as recorded in the *ḥadīth* works.

How could the companions ignore the issues facing them? They could certainly not remain oblivious to the matters which directly related to them and which affected their lives and faith. They knew that thinking over these realities and forming an opinion in this regard was no sin. If it were not for fear of length we could afford all the traditions which enlighten us regarding this issue and which help us know that the Hosts had in their minds the issues and the problems expected to surface after the death of the Prophet.

In response to the third question, we maintain that text of the *ḥadīth*, "The *imāms* (rulers) are from among the Quraysh" does not contain any textual indication to the explanation we have offered. It has not been explicitly stated that the Prophet passed a judgment on a disputed matter. However, the text does not either indicate that it was an independent universal directive. Nor does it guide us to that we can abandon the basic teachings of Islam in wise consideration of circumstances.

The text, therefore, is not decisive in ascertaining any of the explanations given it. In such cases the scholars of the science of *Ḥadīth* opt for *ta'wīl* (re-interpretation).

Re-interpretation in this case is usually done according to the principle that a *khbar-i wāḥid* (the individual report) cannot contradict the basic categorical teachings of Islam. An individual report contradicting the categorical teachings of Islam has to be re-interpreted in such a way that it is shown in conformity with the basic principles of Islam. This re-interpretation should then be corroborated by the help of external and textual indicators and contexts.

Now we discuss the factors which force us to take the *ḥadīth* as a decision over a dispute based on the criterion of religious services of the groups involved and their political power.

The first thing that substantiates our interpretation is that, as stated above, there existed a spirit of contest and competition between the Emigrants and the Hosts. Such a spirit was, at occasions, exploited by the hypocrites to sow difference among both the major groups even during the life time of the Prophet. This could have made the Prophet see that after his death this feeling, though positive, could be misused by the hypocrites in a well planned manner. It could prove destructive for the unity and solidarity of the nascent state. This sense of apprehension required that the Prophet decided the most crucial issue of succession in his lifetime so that at the hour of need his decision could guard the community from possible dissonance.

Secondly, a claim over the *khilāfah* could only be made by the Hosts. In the whole of Arabia, at that time, there was no other group, besides them, with such great services to the religion and political influence over other tribes, except for the Quraysh, on the basis of which that group could claim to be the rightful heir to the Prophet's political leadership. The other groups, therefore, were not considered claimants for the post of *khilāfah* on this ground.

The Islamic State

There was also no other compelling connection of those groups with the question so that we can also consider them a party in the dispute and therefore subject to the prophetic judgment.

Thirdly, according to the most fundamental teachings of Islam no individual or group can rightfully be given priority over the rest except on the basis of their services to Islam and the political dominance in the public. None can, therefore, lay any kind of preference over the others on the basis of their racial or tribal origin. The Qur'ān says:

O People, we have created you from a male and a female and made you into nations and tribes that you might get to know one another. The noblest of you in God's sight is he who is most righteous among you. (Q 49:13)

Similarly the Prophet made it clear that no Arab enjoys superiority over the non-Arabs and no non-Arab has preference over the Arabs. The only thing that can lend excellence to one is god-consciousness (*taqwā*). Keeping in the view the above mentioned clear Qur'ānic teachings and also the prophetic clarifications we cannot correctly take the *ḥadīth*, "The *imāms* (rulers) are from among the Quraysh" to mean that the Quraysh were given preference over the rest of the world in this regard on the basis of their racial origin. Seen in the light of the Qur'ānic teachings and prophetic explanations it can only be interpreted to mean that the Prophet considered the political power wielded by the Quraysh over Arabs and their unparalleled services to the religion of God. Even the Hosts did not match them in this regard.

Fourthly, the text of some of the relevant prophetic *aḥadīth* indicates that the question of superiority of the Quraysh was in fact created in relation to the Hosts. They also make it clear that the basis of the preference attached to the Quraysh was not their origin but the confidence of the majority of the Arabs in them. Consider the following narratives. While arguing against the claim of the Host regarding the *khilāfah*, Abū Bakr Ṣiddīq said to Sa'd b. Mu'ādh:

Sa'd, you know very well that the Prophet said in your presence that the Quraysh are rightful owner of this thing (the *khilāfah*). The righteous Arabs follow the righteous among them (i.e. the Quraysh) and the evil factions among the Arabs follow the evil among them (i.e. the Quraysh). (*Musnad Aḥmad*, No: 18)

Another saying ascribed to Abū Bakr says:

The Arabs do not acknowledge this (i.e. rule) for any group other than the Quraysh. (*Musnad Aḥmad*, No: 391)

‘Alī says:

The Prophet said: "The people (of Arabia) follow the Quraysh. The righteous Arabs follow the righteous among the Quraysh and the evil Arabs follow the evil among them." (*Musnad Aḥmad*, No: 790)

This theme has been discussed in various other narratives. All these prophetic statements do not make sense unless they are taken to mean that the Prophet wanted to make it clear to any clamant of the *khilāfah* that the only group which could fulfil the responsibilities of the *khilāfah* were the Quraysh for the Arabs would not accept the rule of any other group. A little deliberation over the political circumstances of the time shows that only the Hosts could lay

The Islamic State

such a claim on the right to *khilāfah* besides the Quraysh. We must also consider the fact that it was the political influence of the Quraysh over the Arabs during the days of ignorance and also after Islam that is being discussed as the basis of the preference in this regard. Nothing in the text of the relevant narratives indicates that it was the qurayshite origin that worked as the basis of the prophetic decision. Just like the democratic cultures in which the party that enjoys confidence of the majority is given the right to rule, the Quraysh were given the responsibly to run the government after the Prophet because of the confidence of the majority Arabs they enjoyed and the services they had rendered to the religion of God.

Now we come to the upholders of the view that the condition of Qurayshite origin is based upon the general consensus on this point obtained in the *ummah*. If the view refers to the consensus established among those participating in the meeting called by Anṣār in the Saqīfah of Banī Sā'idah then it is recognize by all. It is a known historical fact. However, they did not agree on that the Quraysh are the superior race and therefore rightful owner of the *khilāfah*. If, however, the reference is towards some other kind of consensus then the claim is unfounded. Such a consensus is not known by the Muslim scholarship. Perhaps it was only limited to Imām Nasfī and Shahrastānī. As stated above the consensus of opinion among the elders of the Hosts and the Emigrants in the Saqīfah of Banī Sā'idah did not violate any principle of Islam. It was perfectly in accord with the Islamic teachings. Not only the consensus under discussion but all consensuses held in the entire history of Islam were in accord with the Islamic teachings. Never ever the *ummah* gathered over a view which violates the principle teachings of Islam. We believe that no consensus is considerable and valid unless it is in accordance with the Islamic teachings. If the *ummah* or the scholars of the *ummah* unanimously hold a view contradicting the Islamic teachings their consensus is not valid. It lacks the basic conditions of consensus in Islam. Such a violation is utterly wrong and should never be heeded to.

The elders among the Hosts and the Emigrants did not agree on the opinion that only the Quraysh would enjoy the right to rule after the Prophet because they were a superior race. They reached at a consensus on that the Quraysh enjoyed the confidence of the majority Arabs and that they had rendered great services to Islam and, on that account, they would be given the right to rule in those particular circumstances. Had the Quraysh lacked any of these qualities and had there some other group with these qualities the Quraysh would never be given that priority. The negation of this right to rule would not have, however, removed their Qurayshite origin. Had the companions known that the basis of such preference was the Qurayshite origin, the Emigrants would have argued that according to the Prophet's teachings no non-Qurayshite would be taken as the ruler. They would have brought the discussion to end simply by proving this point. When a scholar well versed in the history of Islam reads through the reliable works on the subject he learns that the arguments of the Hosts and the Emigrants in the meeting held in the Saqīfah were not based on the racial origin of the Quraysh. They, on the contrary, pleaded to their political competence and the services to the religion as the basic criterion.

If the racial origin and tribal affiliation would decide this issue then only the Tribe of Banū Hāshim could have been the most prominent claimant of *khilāfah*. They were the noblest race. But the crucial question in this regard was the political competence and influence over the subject. This quality was possessed by the Quraysh collectively. No clan among the Quraysh individually wielded that political power over the Arabs which they wielded collectively. That is why we see that holy Prophet did not say that it was necessary for a caliph to be of Qurayshite origin. On the contrary he said that the leaders would be from among the Quraysh. This sufficiently proves that the basis of decision in this regard is their political power and not their racial origin.

The Islamic State

Had the companions taken the prophetic saying to mean that the qurayshite origin was a necessary condition for a caliph and that this principle is a major clause of Islamic political directives and had the Hosts and the Emigrants agreed on this understanding of the Prophet's saying it would not have been possible for 'Umar to wish to transfer the *khilāfah* to someone who was not a qurayshite. Every student of Islamic history knows that, on his death bed, the caliph 'Umar was requested to nominate his successor. He sorrowfully said that if Mu'ādh b. Jabal would be alive he would have nominated him as his successor. He said:

Then, if my Lord would ask me: ["Whom have you handed over the affairs of the *ummah*?"], I would be able to say: "In the hands of Mu'ādh b. Jabal. I heard your Prophet say that Mu'ādh would be walking in front of all the scholars on the Last Day."¹⁹

Similarly regarding Sālam he said:

If Sālam would be alive, I would not have been forced to form this council asking it to select a caliph from among them. I would have nominated him instantly.²⁰

One wonders how the caliph 'Umar expresses his grief over the loss of Mu'ādh, one of the Hosts. How did 'Umar remain ignorant of the *Ijmā'* these people so vociferously claim over the condition of qurayshite origin for the caliph when we know that he was present in the meeting of the elders among the Hosts and the Emigrants? Do we have to believe that nature of that *Ijmā'* was more clear to Nasfī and Shahrastānī than it was to 'Umar? We have noticed that 'Umar expressed his desire to appoint a non-qurayshite even in those political circumstances. The Quraysh still enjoyed, in their collectivity, the confidence of the Arabs. They were still united and organized. Great leaders like 'Uthmān and 'Alī were still alive.

'Umar's wish to appoint Sālam is even more enlightening. Sālam was not a qurayshite. Nor even an Arab. He was an '*ajamī*', a freed slave. Not even a free '*ajamī*'. He was freed by Abū Ḥudhayfah or his wife. 'Umar says that if Sālam were alive he would have appointed him as his successor. So ponder.

The crux of the matter is that it was not the qurayshite origin that determined the status of the Emigrants rather the basic criterion was confidence of the people in them. The confidence of the people the Quraysh enjoyed was taken into consideration by the Prophet. This made them competent enough to fulfil the responsibilities of the *khilāfah*. Considering their political power they could have nominated a slave, any from among the Hosts, or even a non Arab. Their nominee could have run the government with them on his back. Minus this political power and influence and none could have been competent enough to be burdened with the responsibility. This explains the prophetic saying: "The *imāms* (rulers) are from among the Quraysh." Would it be possible to believe that appointing a group or a party as rulers considering their political mandate would violate any of the fundamental teachings of Islam? Such preference for the majority parties against the minority is considered the real beauty and apex of democracy. But unfortunately some of the Muslim scholars have interpreted this virtue to be a violation of the basic Islamic principles of justice and equality and have toppled one of the pillars of Islam opening the door of deterioration of other principles too.

¹⁹ Muhammad b. Aḥmad b. Uthmān, *Siyar A'lām al-Nubalā*, 8th ed., vol. 1 (Beirut: Mu'assasah al-Risālah, 1995), 10.

²⁰ Ibid., 170.

3.3 Viewpoint of Ibn Khuldūn

It would not be out of place to mention the viewpoint of Ibn Khuldūn in this regard. Students of Ibn Khuldūn's *Muqaddama* (Prolegomena) know that he founds his political theory on group-feeling and political unity developing from blood relation. People of a race, he argues, develop a sense of unity. The individual members of the group feel for and help one another. This mutual help and care creates, in turn, the courage to protect the interests of the community and seek for it the opportunity to self-rule. This last mentioned urge culminates in formal government.

According to Ibn Khuldūn, the group-feeling which engenders government initially develops out of common descent. However, the common descent works only when the sense of unity among the group is strong enough to create the feeling of help and protection of the group members. The stronger this feeling for others and the desire to help and protect the members of the group the more productive this common descent is. Minus this and it is not enough to be considered a firm basis for the establishment of a rule. In that case it would only be an illusion.

According to Ibn Khuldūn the Quraysh were able to wield political power and supremacy among the Arabs only on the basis of this group-feeling. This group-feeling, strengthened by their religious affiliation, made them rightful heirs of the political legacy of the Prophet. No other Arab tribe was their rival in this regard. They were rightful owner of the right to rule as long as their group-feeling and the resultant political power was intact. Once the Quraysh lost this basic competence to rule the other nations, which had developed their group-feeling and earned them political power, they were replaced by the new political powers.

The above is a summary of Ibn Khuldūn's political theory. According to him, the Quraysh were made the rulers of the Arabs and the rightful owners of the *khilāfah* only because of their group-feeling and the resultant political power over the other factions in the Arabian society of the time. This view does not suspend any basic Islamic principle. One may, however, accept or reject this explanation on the basis of sound proofs but one cannot maintain that Ibn Khuldūn has come up with a theory which violates any of the basic teachings of the Qur'ān. If Ibn Khuldūn lived in the modern age he would have put his theory differently. He would have said that since the Quraysh were the most powerful party among the whole Arabian tribes both in terms of their religiosity and political power, they were granted the right to rule by the Prophet Muhammad.

4. Formation of Nation in Islam

According to the scholars of political science, a state is developed gradually in the following way. A society is first formed by the union of families. Passing through certain phases it develops into a nation. When that nation develops its political sense to the stage that all the individuals of that nation show obedience to a sovereign among them the state is formed.

A student intending to study the characteristics and traits of the state has to begin from analyzing the essence of the society and the nation built upon it. One must be able to understand fully the components of nation, the forces that bind different components of the society and the motives which unite and make them sacrifice for the benefit of the whole society. It would then help one understand the essence of the state, its components and the factors uniting these individual components. The state is related with the nation in the way a building is related with its foundations. If one is clear on the overall plan of the building he can fully and easily understand the kind and nature of the building. When strength and the purpose of the building have to be specifically investigated, the basic thing to be concentrated upon is the foundations and not the structure of the building. We therefore start our discussion from an analysis of the formation of nation and an examination of the factors that contribute to its creation and investigation into the role played by each of these factors in creating and maintaining it. We have to deal with the difference between the ancient and the modern theories on the formation of a nation. We also need to discuss the difference between Islamic and common concept of nation and analyze the difference between the nature and structure of states built upon these two independent concepts.

4.1 Factors Contributing to the Creation of a Nation

Many forces and factors are at work in the formation of a nation. Unity of race, religion, region, customs, culture and language has been identified as the ground of nationality.

A group of people united by these factors, the individual members of which are conscious of such a unity among them, is naturally inclined to help and protect their members. They understand the feelings of each other, share grief and happiness and discuss their approaches to the problems facing them in this worldly life.

Unity of descent is the most prominent cause of solidarity in a group. Common language is helpful both in expression, reception and transmission of the ideas and feelings. Living in the same geographical region generates the impulse for protecting and guarding oneself and the fellows from the foreigners. Common civilization and shared customs join the group in their manners of living and mental approach most affectively.

When these factors in a community work to hold its members together a sense of solidarity and mutual help develops in its members. The community tends to seek for itself a distinct unity and develops a sense of superiority over other communities. When all the above factors are found in a community it, quite naturally, wants sovereignty for itself and requires complete freedom from the influence of foreign groups. It wants to manage its affairs independently.

We do not mean that in presence of all these factors, working to unite the community, there remains no point of difference and conflict among the members of the community. In practical life personal and familial benefits of different people continue colliding. But a more

The Islamic State

superior authority always works to settle such disputes and people submit to its decisions. Such obedience before a superior power does not mean that the people are forced to subdue themselves before that power against their will. It, on the contrary, reflects that national and communal interests are protected against personal benefits. All the factions of a nation must remain ready to give up their interest for the protection of the national interests. If an individual is not ready to sacrifice his petty personal interests he would eventually be compelled to give up all his rights. This is a real political sense and it is this sense that lends a community the status of a political nationality.

4.2 Modern Theory of Nationality

The above mentioned factors have contributed towards the creation of a nation in human history. There is no denying the fact that these factors are only natural bonds of a nation. However, the scientific progress has rendered some of these factors obsolete. Now geographical boundaries are given primary credence. The concept of nationality based on geographical boundaries is more commonly referred to as nationalism. Though geographical identity has been a main factor of creation of a nation from the beginning but now it is considered sufficient factor of unity in a community. It is held that all other factors are important but the only thing that determines the origin of a nation is the single geographical boundary. Therefore, all the other factors, joined together, cannot found a nation in absence of the common country. Country is thus considered sufficient foundation for a nation. In the absence of other factors it is considered a foundation and others factors are created out of it artificially.

As mentioned above, common country is one of the basic natural foundations of a nation. However, the importance now generally attached to this factor, to the exclusion of the rest, is not justifiable. It is more of a product of necessity than a natural position. Scientific progress has indeed, in nations, rendered the feeling of security and protection more crucial than all other feelings. Consequently nations today attach more importance to their geographical boundaries. We see that, now, race, language and civilization are not as important as rivers, seas, mountains and other natural deterrent forces working to protect a nation from foreign aggression.

In earlier times nations would naturally consider it necessary to have a geographical region under their control as it helped them sustain their race, retain their culture and practice their customs. Only the extraordinarily courageous nations, aspiring to govern other nations, would go for annexing more territory. In these times, however, every nation determines its geographical boundaries keeping in consideration their economic and defensive needs. These nations want their occupation on the area they need to secure their economic and defence purposes no matter how small their original abode in relation to the territory they intend to occupy is. Instead of fashioning their attire corresponding with their body they tend to swell their body to the boundaries they have artificially designed for themselves. In order to enlarge its body to fit into the occupied region a nation has to assimilate the other nations living in that area. Thus the subjected nations are forced to part with their original identity. Their racial, lingual and religious ideals are curbed. They are forced to imbibe the ideologies of the occupant nation and revere them at the stake of their original ones. All these measures serve to force the oppressed nations to submit before the occupants ideologically and culturally.

4.3 Demerits of these Factors

As stated earlier the above mentioned are the natural factors contributing towards formation of a nation. However, a nation founded and built on these factors alone finds numerous faults in the national disposition of its people.

First and most prominent shortcoming in the nation emerged on the basis of these factors is its fortified mentality; racial and national discrimination marks their attitude towards everything. Their attention is directed at a single line among the whole human kind. They think that no other race is human in the true sense. This inevitably makes them incapable of taking the whole mankind as single community in any respect, issuing forth from a single couple, Adam and Eve; parts and limbs of a single body; members of a single family; branches of a single clan. Instead of maintaining relations they, mostly, exhibit envious and antagonistic attitude towards the other nations. Any relations they maintain, at all, are directed by expediency and political objectives. In reality such a nation cannot wish good for any except themselves. Their feeling of envy and enmity for others is taken as a merit in itself, rather than a blemish. This attitude, to them, is the virtuous trait, nationalism.

Second marked deficiency of such a nation is that it gradually assumes the status of criterion of good and evil. Bias for the nation is augmented by the personal needs of its members to the state that one does not feel any qualm at declaring: "My country, right or wrong." Whatever goes in their favour is considered the right. Whatever threatens their interests is an awful wrong. If seen expedient, the most outrageous lie, the cruellest form of oppression, and worst kind of disruption can turn out to be an excellent model of justice; if found in opposition to the national interest, the most manifest truth and clearest example of justice can be punished as recalcitrance and rebellion. No member from such a community dares to speak of and follow another criterion of right and wrong than this one. Those daring to go a little far meet the fate of Socrates.

Third shortcoming of such a nation is that it does not allow natural growth and expansion by winning others through force of arguments or beauty of character. It has only two choices, either to remain limited within its original shell or oppress the vulnerable. Having no third option, it falls into extinction; dies its death if it is, by nature, shy and passive or meets destruction if of aggressive and militant nature. It has no credit to win the hearts of others and conquer their minds, a power characteristic of ideas and principles based on nature and intellect. For people can be attracted to intellectual heritage of nations founded on sound ideologies. Only nations which possess good qualities and promote them attract others. How can a nation founded on mere racial basis attract other races? In response to its bias the others have nothing but prejudice to offer. Other nations cannot respond to the national pride of a nationalist people except through the same pride. Nobody can shower love in response to antagonism. Natural and rational principles, on the contrary, can conquer the whole world. All the differences of race, colour, language and culture give way to the powerful appeal of reason and nature. There is no reason why people should submit before a racist movement. Geographical nationality, because of this inherent problem, can never establish a state comprising of different races and cultures. Whenever such a nationalist state has, spurred by its national pride and excessive power, tried to conquer the world, it has spread like a storm and has vanished from the scene even quickly. How rapidly Alexander, Napoleon, Genghis Khan and Timur expanded their empires is a known fact. It is, however, no less known that their dominion receded into oblivion in the same pace.

Fourth shortcoming in such a nation springs from the fact that unity of origin and descent is not a very strong and lasting bond. It can actively work to create a nation as long as the

The Islamic State

people are conscious and aware of their common origin. Such awareness, no doubt, lives through a couple of races. However, it weakens and fades into mere phantom later on. It is hardly tenable to say that a certain race is perfectly guarded against any kind of mixture. Such a claim can only be laid regarding a few tribal races which are more conscious of preserving their racial identity and which put conscious efforts to keep such a sense alive in order to meet their parochial political motives. Apart from them, generally, this sense is a mere illusion. This makes it incumbent upon a people not to give much weight to this factor. It cannot engender a relatively stronger and larger nation.

Fifth shortcoming in such a nation is that it is largely indebted to the common race. Language, civilization, customs, literature and other factors are either absent or subjected to the major feeling of racial unity. Subsequently, religion can only play a subjective role, if any, in unifying such a people. Instead of correcting the inherent problems of a racial nation it adds to them. By religion, in this context, we do not only mean the man made polytheistic faiths. Such religions are, by nature, based on racial foundations. We, on the contrary, refer to religion in the true sense. A perfect religion too fails to maintain its intellectual and natural qualities when working subjectively under a racial environment. The most perfect example of such a religion is Judaism. Since the Jews never tried to look out of their racial shell they cut their religion, which was a revealed religion, to fit in their racial limits. The most frequent expressions found in the Torah like “Lord, God of Israel” and “O Israel, you are God’s firstborn” are expressive of such racial pride. Instead of treading in the light of the religion and removing their racial pride and prejudice, the Jews changed their religion to fit into their racial ideals. They made it biased and, in this corrupt form, it worked as invisible hand helping them show the evil racial discriminations as virtues.

Sixth shortcoming of such a nation is that its natural demands and necessary requirements are not in line with the dictates of reason and nature. Most of its demands collide head on with the interests of humanity, universal moral values and principles of justice and equity. The exponents of nationalism, in order to circumvent this objection, do not acknowledge these values and try to carve a unique philosophy of humanity, ethics and justice based on the interests of the nation. Such philosophies are not difficult to invent. Learned scholars and intellectuals in a group can do anything they target. But such philosophies are never appealing to people of sound nature and intellect. Writings of sixteenth century philosopher, Machiavelli provide the best example of the kind. Such philosophies no doubt serve as a means of fulfilment of temporary desires of some political figures but humans – who are not basically a species marked with its racial origin and who possess a stronger and usually dominant aspect of personality reflected in their intellectual and moral existence – generally feel averse to them. True nature of an idea of philosophy, disapproved by the more rational and intellectual factions of a society, cannot be kept hidden from the human eye.

4.4 Evils of a Nation-State

We intend to devote a separate discussion to the evils of a nation-state because it contains unique problems. Before we come directly to the issue we think it indispensable to stress the difference between holding the common county a valid factor of founding a nation and founding a nation primarily on the basis of political boundaries. The former is only natural. We know that everybody loves his home and is attached to each and every corner of his abode. He is always willing to sacrifice all his possession in guarding his home. He maintains his right over it at all costs. It would be only just to consider this attachment with one’s home a virtuous act worthy of praise. Similarly, every nation loves its homeland. Nations call their country motherland and cradle of their civilization and culture. Different heroic works of

The Islamic State

their forefathers are seen imprinted on every inch of the land and it is taken as the original history book which contains memories of their great ancestors. Its rivers and mountains and its plains and steppes house and express their traditions and lore. Its mountains are sources of the national life. Its orchards and agricultural fields are their economic and financial resources. Its hills and the wadis are the springs of their happiness. They consider the country a collective asset. This feeling and common attachment with the country creates the sense of nationality in all the people. This sense, in turn, binds them together in protection of the common asset, the state, and also in sharing the benefits equally. This phenomenon is but natural. It goes neither against reason nor religion and ethics.

However, founding a nation only on the basis of a shared country and binding different nations in this manipulated nation is a different phenomenon marred with obvious flaws.

The united nationalism highlights the factor of common abode and founds the nation alone on it. It doing so, it naturally, targets curbing all other factors working behind formation of a nation like race, language, culture, customs and religion, which work to attach distinct identities to these different nations and lend to those people a sense of individuality. They are then forced to give up their identity of race, language, culture, customs and religion and to replace these with a mixed origin, a common artificial race, culture and religion. This superimposed idea of a mixed nation is absurd when stated as it is quite impossible to be materialized. This point is not lost upon the originators of this idea. They, therefore, put it differently as follows.

Different member nations can preserve their identity only to a certain limit. They have to emerge as a single nation at a large political and collective level. They may not let their individuality interrupt in the process of realization of a grand nation.

Before the eighteenth century, this ideal was possible for the dominant nations. For in those times such dominant powers were able to erase all the national identities of the subject nations which could keep their sense of individuality and national pride alive. After the Napoleon's conquests, the First World War, dealt with elsewhere in the discussion in detail, strengthened the impulse of nations to retain their national identity and their individuality to the extent that the dominant powers were no longer able to deprive them of such a national sense. Now, though, it is an established theory that every nation has the right to retain their identity, language, culture and religion, and this seems quite appealing, yet, all its beauty is limited to the books on political theories. In practice it loses all its attraction and all the shortcomings in it spring forth clear and naked. Here we will allude to some of the shortcoming inherent with the theory of a geographic nation or a nation-state consisting of originally different national identities.

First, nation-state is a blend of mutually opposing components. These components are apparently forced together by a common binding force. Yet the individual identities of the components continue operating in the minds of the people who continue cherishing their original identity. A hidden battle between these factions goes on. In the face of these grave racial, lingual, civilizational, cultural and religious differences, common country, the only cohesive force, fails to keep the different peoples together as single national entity. Different factors of dispute and dissention among them continue to operate as opposing forces and never let the nation work for a national target with complete solidarity. Such a nation can be successful only in case when the above mentioned factors of opposition and dispute are very superficial and are curbed completely. Another situation when nationalism can survive is when the opposing factors are so insignificant that they can never rise against it and find it convenient to accord with its demands.

Second, the different components of such a geographical nationality are forced to abandon rich heritage of their national customs, literature and religion from their social and political

The Islamic State

life. They are forced to let this heritage die its own death and replace it with a superficial one. It is not only these oppressed minority components which have to give up these things. Rather, the majority which has overpowered the small and minority factions too has to sacrifice its customs, culture, literature and language in order to appease the minority. Literary tendencies change, language is jeopardized, customs are amalgamated, traditions are mixed, history takes a new turn, mere figures are considered heroes, and heroes of the past are erased from not only the books but also minds of the people. This confusion exposes the religion to the gravest kind of distortion. Religion, we know, is one of the most powerful factors of founding a nation. It seldom bows before the threatening temporary and superficial benefits of its adherents. Therefore, it has been considered the most stubborn hindrance in the way of a nation-state. However, a cure has been devised. Religion is to go into exile from the social and political life of a people. It has to be limited to the temples, churches and mosques. For without toppling the religion the edifice of nation-state cannot be erected.

Third, if religious and racial feelings have firm roots in the dominant nation, it, even after disguising itself in the garb of a nation based on country, continues to guard its interest in all spheres of collective and political affairs and to dominate the other minority partners in the national alliance. If the minority groups try to protect their rights, give importance to their language, preserve their civilization or adhere to their religion, their pleadings are considered dissension, discrimination, and rebellion against the interests of the nation while the dominant nation goes on doing all these things without impunity. No one is allowed to criticize it.

Fourth, in some cases the dominant nation too gets hurt. This happens when the dominant nation, though great in terms of number, lacks inner unity and organization and suffers from economic crisis and political dissonance. Its political leaders are purblind and timeserving. With the emergence of many political parties, with divergent interests, the political power of the nation is greatly injured. Such parties, in order to secure their short interests and to get to power, can even work as quislings collaborating with the enemies of the nation. In this state of affairs the dominant nation can easily work as a puppet in the hands of a courageous and well organized minority nation of the country. A united and politically well organized minority can exercise influence over the dominant nation through political manoeuvres and can attain its goals through them which it cannot attain on its own. It can do so with great convenience when the dominant nation is docile and can be influenced and blackmailed at the time of national election.

Fifth and the worst shortcoming of such a nationality as composed of different small nations is that it proves extremely weak and hollow in the face of difficulties and crisis. Generally a national crisis proves to be the most powerful factor uniting small nations and binding them together as a nation. But it can work only when all the participant nations are ensured equal share in the intellectual and material gains of the county. If it is not possible (we have already pointed out that such an example is a rarity) oppressed factions consider this common crisis a blessing and at times do not hesitate to join hands with the foreign powers. If the foreign powers are clever and apply mind they can take great advantage of the inner dissension and disruption of the state. Therefore, we see that, when during the First World War, the coalition forces declared that their war was a war against oppression fought for the oppressed people, they secured great benefits. However, after successfully using this slogan they disregarded what it entailed altogether. Seen in this perspective a nation founded on the notion of common country is awfully hollow and weak and cannot fulfil the basic purpose of its creation. It however, proves to be an optimal place of growth for the fifth column, namely the hypocritical factions. We would here reiterate the fact that, if all the components of such a nation are kept satisfied being granted equality of opportunity whereby they have share in the national assets and resources and are given chance to participate in the

The Islamic State

national affairs, this limitation can be easily mended. However, this limitation is inherent in the nation formed of different small nations bound together merely by their common habitation and this makes removing the limitation a practical impossibility.

4.5 Islamic Critique on these Foundations of a Nation

Let us now proceed to study and analyze the Islamic stance on the role and importance of the common foundations of nations and states. We can begin with the question whether Islam recognizes contribution of these factors in the formation of a nation and, if yes, to what extent.

Islam, we believe, does not reject the role of these factors in the process of founding a nation. Nor does it accept that only one or more of these factors could be valid foundations of a nation. Islam has not only adopted those among these factors as are consonant with the dictates of human nature and reason but has also considered them part of the religion. However, when unchecked role has been given to these factors in defiance of the dictates of nature and reason Islam points out the problem and seeks a correction. Islam has clearly explained that this practice, in reality, amounts to transgressing boundaries set by the Almighty, something which borders with causing corruption in the society and creating disorder in the land, ultimately affecting the whole system of collective life. Now we proceed to discuss Islamic stance on each of these factors as basis of nationality.

4.5.1 Role of Race and Descent

The racial link among humans has always been considered a very important social connector. In Islam, too, common descent has been considered the basis of the institutions of family and society. The Qur'ān says that severing the blood ties is creating corruption in the society. It is a major sin. At the same time Islam targets at purifying the bond of descent of narrowness and discourages partisanship on its basis. To this end Islam stressed the following facts:

First, all men are offspring of a single man, Adam. They all are creation of a single creator, Allāh. Therefore, though many rights are allotted and fulfilled on the basis of relation, the interests of one's family or tribe may never be considered the criterion of good and evil. One may not be blinded by the tribal or familial affiliation and led to show discrimination and abandon truth and virtue in the interests of one's family and tribe.

Second, human institutions of family and tribe as well as language and colour do not serve as a mark of distinction and superiority. They only serve the purpose of identity. It may also not be taken as an indicator of the degree of one's nearness to God. In the sight of God only the most pious, the God-conscious and law abiding men are superior. They command respect and reverence in the society.

Third, only those laws and regulation are worthy in collective and political life of Muslims which have been enacted by God and which are completely in accord with the human nature, not those which are devised by humans on the basis of racial and tribal affiliation.

The above mentioned facts have been explained in the Qur'ān and the prophetic traditions in different styles. For our purpose we will restrict this discussion to only two verses and a relevant *ḥadīth* narrative. The Qur'ān says:

O people, fear God who created you out of a single entity. He created his wife from the same entity. Then He scattered many men and women from these two. Fear God by whose sake you seek help from one another and respect blood relations. God is indeed

watching over you. (Q 4:1)

This verse lays out the principles of foundation of an Islamic society and, in other words, an Islamic nation. Two things have been mentioned as the basis of mutual help and sympathy. First of these things is human relation with God, the creator of all. The second thing is the blood relation. Though blood relation works within a certain limit and recedes in a broader context yet it is the thread that binds all humanity. Another important fact highlighted in this verse is that woman too has been considered equal partner in such a society though her role is quite different than that assigned to man.

Now consider another Qur'ānic verse:

O People, we have created you from a male and female and have made you clans and tribes so that you know each other. Indeed in the sight of Allāh the best among you is the one who is more God-conscious among you. Indeed God is all-knowing, omniscient. (Q 33:13)

The following prophetic saying emphasizes the importance of blood relation. Abū Hurayrah narrates:

The Prophet of God said: God created all his creation. When he had created them all, *rahīm* (blood relation) stood up and said, "Is it the place of a person who seeks your refuge against falling into severing blood ties?" God Almighty said, "are you not pleased with that (I ordained) that I sever (ties with that) who severs you and attach to the one who maintains you?" He said, "I am satisfied." God Almighty then said, "You have been granted this." [The Prophet of God then said]: You may recite the following Qur'ānic verse if you want. [It will establish this theme]: "So, you can only be expected to do this if you continued turning away, sowing corruption in the land and severing ties. Such are the people cursed by God, their ears made deaf and their eyes made blind." (Q 22:3) (*Muslim*, No: 2554)

This *ḥadīth* testifies to that fact that severing blood ties is a crime that incurs God's wrath. He curses those who do not maintain blood ties and makes them deaf and blind.

4.5.2 Language and Literature

Islam recognizes the role of language and literature in the formation of a people. It does not reject the legitimate political role of these factors. Islam, however, does not accept that they alone are considered unharnessed factors of founding a nation. It gauges them on ethical values and differentiates between what is sound and unaffected and what is pure and contaminated. It would therefore, not be correct to accept whatever comes in our hand dubbed as national literature. We may not gather all pure and impure pieces of literature, considering them of equal level, and respect all good and evil part of it as a national asset. It would also not be possible to religiously protect and guard all good and bad elements of literature reckoning it a national duty. Unfortunately some people spend millions merely in preserving and passing on folk songs and traditional lore. Islamic view, as hinted above, in this regard is decidedly moral and rational. It gives the status of national literature only to those things as are springing forth from pure moral and religious sources, are productive for minds and cultivate right attitude. If this issue is seen in purely literary and nationalistic view then Amānat Lakhnawī, Shawq, the author of *Zehr-i Ishq*, Hālī and Iqbāl, in the Indian

The Islamic State

Subcontinent, would equally be respected and revered. However, in Islamic view the works of the first two poets would rather be considered an evil mark on the literary heritage of the nation. It would never be considered a literary contribution.

Imr' al-Qays was given the lofty title of Poet of Poets in the pre-Islamic Arabia. However, the Prophet referred to him as Poet of the Poets and their leader on the path to Hell. Had the Prophet seen him as a national poet he would have declared him as the most exalted and famous poet. The Prophet would never take the matters that casually. He always gauged things on moral and religious scale. That is why he rejected the status attached to such a poet and disregarded his literary contributions. Literary contributions of Imr' al-Qays were no doubt unparalleled. But he was also a model of indecency and immodesty. Poetry of other poets however, was recited before the Prophet which he liked. He praised the works of great poets and orators of the pre-Islamic period. While commenting over works of some of the orators he said that they had almost reached the truth. 'Umar particularly liked the poetry of the famous *jāhili* poet Zuhayr because his poetry does not contain immodesty and indecency like of which is abundantly found in Imr' al-Qays's works. Zuhayr's poetry, on the contrary, is marked by profound wisdom. He expresses wise sayings in such beautiful manner that they directly strike the hearts and minds of the listeners. This fact provides the most pronounced evidence to that Islam recognizes the role of language and literature as a factor of founding a nation with the clear condition that the literature is pure and productive. Mere otiose literary activity is denied recognition.

4.5.3 Culture and Customs

Islam also recognizes the role of culture and customs in the formation of a nation. However, just as it recognizes the literature only after scrutinizing it on the yardstick of morality and accepts only productive material and rejects all evil, it also gauges the cultural customs and traditions on the criterion of morality and ethics. After such an examination of the contents it adopts whatever of the customs and traditions is found good and casts off whatever part of it is proved evil. The Qur'ān repeatedly enjoins its adherents to follow the *ma'rūf* (what is good and customary). The most clear meanings and implications of the verses commanding this is that the customary practice of the audience is acceptable to Islam. That is why Islam has raised the status of *ma'rūf* from merely being customary and included it among the religious rulings. On the contrary the unfounded and immoral practices and customs of the Arabian society were declared *munkar* (evil) and were banned. Similarly the Qur'ān positively mentions the names of the pious personalities among the famous historical figures of the pre-Islamic Arabia like Luqmān and his son. The Qur'ān considers them role models and exemplars for the young and old members of the society. Islam honours the wise advices of Luqmān by quoting them in the revealed text of the Qur'ān. We know that Luqmān was not a Messenger or a Prophet. (At least I do not find anything in the Qur'ān which proves otherwise.) He was only one of the wise sages of Arabia. Similarly the Qur'ān mentions Dhū al-Qarnayn as a just and God-fearing king despite the fact that he belonged to a foreign nation. This proves that Islam does not advocate adhering to the cultural customs and traditions merely because they are national customs. On the contrary it wants us to follow what is right and well founded. Islam has, therefore, its own criterion of accepting or rejecting a custom. The criterion it applies has moral and rational basis. Mere nationalism is not acceptable in Islam. Nationalistic view, with regards to national customs and traditions, sometimes tends to show extreme bias. Nationalists in Egypt, for example, are blind enough to accept Pharaoh as their Leader merely because he belonged to their nation. They would not see that he was a despot and a tyrant. It was only his oppressive and biased nature that

The Islamic State

ultimately caused his nation to face the wrath of God which in turn brought them to destruction. Such people would reject Moses only because he did not belong to them and was a foreigner. They would disregard the fact that Moses was justice incarnate. It was he who saved his nation from the oppressors.

4.5.4 Country

Islam attaches great importance to the homeland. Those killed in defending the country are considered martyrs (*shuhadā'*). However, here again it wants the interests of one's country subject to the moral and religious rulings. Nothing, according to Islam, can govern truth. According to Islam the real worth of man lies in his ability to reason and see good from evil. It does not lie in his nationality. Islam gives preference to the dictates of human's moral and rational self over all other things. Therefore, in a given case, while deciding between national interests and dictates of reason and morality, a believer has to go for what reason and morality demands from him ignoring the national interests. When, in a country, a man is not able to fulfil his religious and moral obligations, is forced to disregard his religious ideologies, is made to kill his moral self and cross the bounds he has vowed not to surpass, he has to migrate from the country. If a believer remains indifferent to this state of affairs considering that his material needs are satisfied in that country he commits ill-treatment of humanity. In such conditions a true believer has only two options before him. He should either try his best to straighten the state of affairs in the country he lives in and turn the society conducive to his moral and religious life or migrate to some other state where he can save his religious self. He should not hesitate to take the latter step if necessary even he is forced to abandon material benefits and is compelled to live a poor life. If he fails to do so and prefers to live in those parlous circumstances he may ultimately let himself abandon his faith. The Qur'ān states:

Surely to those whose souls are taken by the angels while they are wronging themselves (by remaining content under the rule of unbelief) they (the angels) ask: "In what state have you been lying?" They respond, "We were weak and oppressed in the land. They (the angels) say to them: "Was not Allāh's earth spacious, so that you could have migrated therein?" Such are the people whose abode is Hell, and it is an evil resort. (Q 4:97)

4.5.5 Religion

According to Islam, religion is the most powerful and the most effective factor involved in the process of formation of a nation. However, it must remain clear, that Islam does not recognize manmade unfounded religions. A religion, for example, based on polytheism is not recognized nor is the nation developed on the unity of adherents of such a faith. Similarly Islam does not recognize religious traditions which, though divine in origin, under the excessive influence of national prejudice and bias, have abandoned principles of justice and equity and do not teach determining the rights and obligations of people on the basis of sound moral and religious foundations. It also rejects the originally divine religions which have receded to an expression of whimsical desires of a people. Such religions admit of all evils characteristic of the nations formed on the basis of a particular race, language or colour. A careful study of all the polytheistic religions would reveal that they have been originally found to protect the national biases and prejudices of the adherents. Jewish religion, though monotheistic in nature and divine in origin, was changed into a national religion. It no longer

The Islamic State

remained a universal divine religion after passing through excessive Jewish manipulation. This evil is rampant inflicting almost all the religions. Islam does not, therefore, consider any of these religions a valid basis of a balanced nation.

4.6 The Basis of Nationality in Islam

The above discussions evidently prove that in the eyes of Islam all the traditionally recognized factors of founding a nationality involve notable limitations and flaws. It, therefore, does not accept any of these as a primary basis of a civilization and a society. It negates their role as a basis of political system too.

What is then the basis of the Islamic nation? What would replace the traditional factors that are denied unmediated role here? In Islam, the foundational principle of a nation is Islam itself. With embracing Islam one becomes the part of the Islamic community. And no unbeliever is admitted into the Islamic nation.

This is an indubitable fact. It does not call for much debate. However, modern nationalism has gripped the minds to the extent that even the Muslims (not to say of the non-believers) have come to doubt the fact that basis of an Islamic nation is the religion; until and unless a person pronounces the formulaic expression, “there is no god but Allāh”, he is not recognized as a member of the Islamic community. Even the Arabs who were selected to carry the last divine religion to the world have lost sight of these teachings. They were expected to be the first to declare to the world that, in Islam, the basis of nation are beliefs and principles and not race, language, county, etc. Islam does not differentiate between man and man except on natural and rational principles it teaches. But, to our dismay, now, we see that some factions of the Arab people have actively opposed the division of the Arab nation, precisely the Arab race and Arabic speaking people, on the basis of religion.

This situation is very grave. It demands that we, in order to make plain the reality, furnish sufficient arguments to prove why Islam does not recognize an unmediated role for the conventional factors in this regard. These arguments are grounded both in revealed knowledge and rationality in order that they can, on the one hand, serve to satisfy the Muslims and, on other, remove the concerns of those who reject the role of any religion in founding a nation. We therefore draw upon the following facts.

4.7 Examples and Teachings of the Messengers

All the divine Prophets including the Prophet Muhammad have set the best examples in this regard. The entire salvation history, starting from Noah to the Last Messenger, as recounted in the Qur’ān evidently proves that though all of the Messengers were raised among nations founded on races, countries, cultures and languages, yet they never accepted these factors as valid foundation of their nation. Rejection of the role of these factors does not imply that the Messengers totally negated the natural and positive role of these factors altogether. Natural role of these factors is fully recognized. Rather Islam attaches to them more importance than the other theories. Love and sympathy for the people of one’s race and country is only natural. The Prophets of God always loved their countrymen and race most of all. They were exemplary well-wishers of their national brothers. They have always addressed their nation in expressions like: “O my people”. This and the similar expressions are more loving and reflect great care. However, none of them ever claimed that his nation was limited only to the people of his race disregarding differences between the adherents of different religions among his race. Similarly the Prophets never propagated that such and such people are a single nation because of their common language. They should organize themselves against the interests of

The Islamic State

those who speak different languages. The Prophets of God never identified their people with a given geographical boundary. They never proclaimed that creating dissension between people living within that geographical limit and boundary would equal creating disorder in the society. None of the Prophets ever showed such nationalistic views. Neither did any Prophet raise slogans such as: “My country, right or wrong.”

A nation is attached emotionally with their great personalities, language and race. This makes them feel for everything ascribed to and associated with these objects. The Prophets of God were aware of such natural feelings of a people. They have indeed made use of these feelings in their propagation at some point in their preaching mission. However, they always observed ethical and moral limits. For example, they used national feelings of their addressees to call them to independently proven intellectual and moral precepts. We know that a moral and intellectual fact obtains added importance when it involves national character. The Messengers have, it must remain clear, never considered national attachment or national history of a thing as the basic quality and criterion of judgment on its worth. For example, while calling the Arabs to Islam, the Qur’ān claimed that it was the religion of their progenitor Abraham (*millata abīkum Ibrāhīm*, the faith of your father Abraham). (Q 22:78) Regarding the Prophet Muhammad the holy Qur’an says that he was of Arab origin; that he was among the unlettered ones (*ummiyyūn*). The Qur’ān itself has pleaded to its language. It said that it was the Arabic Qur’ān (*Qur’ānan ‘arabiyyan*). There is no denying the fact that all these things have been referred to in order that the Arabs may feel inclination to their own *millah* (nation), their own Messenger, and their own language, not merely because of their affiliation with these things but on independent grounds. They were not thus required to follow Islam because it was the religion of their progenitor or that Muhammad who presented it was one of their own leaders or the Qur’ān was their own literary masterpiece. The credentials and validity of the religion have been explained elsewhere in the Qur’ān in most decisive fashion. All the arguments for the veracity of the religion were sound and natural. It was only to reinforce the appeal to these natural and intellectual pieces of evidence that the attention of the Arabs was drawn to the fact that they should consider these things because these commanded their respect and care on the basis of national feelings too.

Not only did the Messengers of God avoid seeking to unite and organize their people on the basis of common race, country or language etc, they also tried actively to dismantle the national organizations which called for unity on the basis of race and language etc. They, after successfully dismantling such forces, tried to organize their nation on the basis of religion and creed. If, however, they did not succeed in achieving this goal they abandoned their countries and nations and migrated to other places and looked for opportunities to found a community, a nation on the basis of religion and faith. This fact is evidenced by the life of almost all the Prophets and Messengers of God. Here we will discuss few examples from the lives of three great Messengers of God, Noah, Abraham and Muhammad.

4.7.1 Example set by Noah

According to the Qur’ān the Prophet Noah called his people in the following words:

He said, “O My People, I am an open warner to you, inviting you to worship and fear God alone, and listen to my advice.” (Q 71:2-3)

The Qur’ān depicts the warmth, care, and zeal which this call was made and gives us a clear picture of the response of his addressees.

He [Noah] prayed, “My Lord, I have called my people night and day, but my calling them has only made them flee [from me] all the more; and every time I called them that You might forgive them, they put their fingers into their ears, and wrapped close their garments around them, and showed arrogance and pride. Then, I called them openly and then preached to them in public, and appealed to them in private. I said, “seek forgiveness of your Lord; for He is the oft-relenting.” (Q 71:5-10)

The Messenger made this call to faith in profound sympathy and ruth. The prophetic speech, every word of it, is evidently full of love and affection. The nation rejected the message and responded to love and care with renunciation and disavowal. The Messenger was, then, forced to dissociate himself from the affairs of the nation. He let them face the divine wrath. He set up a community of his followers united by faith in God. This newly set community inherited his intellectual and religious heritage after the Noachian flood. All the subsequent nations find their origin in this community.

The Qur’ān says:

Noah prayed saying: My Lord! Do not let any of these rejecters walk upon the earth, for surely if you leave them they will lead astray your servants, and will not beget any but immoral, ungrateful children. My Lord! Forgive me and my parents and him who enters my house believing, and the believing men and the believing women; and do not increase the unjust in aught but perdition! (Q 71:26-8)

The nation of the Prophet Noah had all the elements of a territorial and racial nationality. All the people had common descent. They spoke one language and lived in a distinct country. Their economic and political interests were common. They believed in their ancestral religion, based on the worship of the deities like, Wadd, Suwā‘, Ya‘ūq and Nasr. There were many influential leaders among them possessed of great wealth. They had powerful families on their back. *Sūrah Nūh*, in the Qur’ān, shows that they were experts in political strategies. Noah’s people were, in brief, a perfect specimen of a nationalist community united by the necessary elements nationalism. The words the Prophet Noah used in his call to his people reveal his profound love for the nation. Here a question arises. Why did he cherish ideals unachievable for his nation? If he truly loved them then why did he follow a course that led to the destruction of his nation? Why would one work for the destruction of one’s people?

We believe that he did not consider nationalism important. Had he aimed the material progress and prosperity of his people as a nation he would have incited and manipulated their national feelings. He could have easily appealed to any of the national ideals his people loved most. After all, his opponents among his national brothers employed all these tactics. They would tell their fellows that Noah was creating dissension among them by dissuading them from worship of gods of the nation including Wadd, Suwā‘, Yaghūth, Ya‘ūq and Nasr. Thus they pleaded to their religious affiliation against the call of their Prophet. Noah too could have opted to similar tactics if he willed. He, on the contrary, quite straightforwardly called them to the religion of God. When a few gathered around him and agreed to follow the new religion, he adopted the believers and abandoned the rejecters.

4.7.2 Abraham’s Disavowal of his Nation

Abraham belonged to a nation founded on common race, descent, language and habitation. He, quite naturally, felt emotional attachment with his people. However, he was not

The Islamic State

overwhelmed by his love for his nation to the point of ignoring the call of his faith. He did not continue living among them seeking to become a leader. He, on the contrary, endeavoured to remove these mundane foundations of the nation and remodel his nation and found it on monotheism and service of God. When his nation did not pay heed to his call he abandoned it. He did not hesitate to migrate to another land. He settled one of his children, Ishmael, in the barren Arabian Desert. He beseeched God to raise a God-obedient nation from among his progeny which could be founded on pure monotheism and service to God instead of race, descent, language or habitation. The words he uttered before leaving his nation have been recorded in the Qur'ān. 60:4 reads:

In the attitude of Abraham and his comrades is a best example for you. When they said to their nation, "we denounce you and the idols you worship. We reject your religion and permanent enmity between you and us has fully manifested [and this will remain] till you believe in God alone. (Q 60:40)

Abraham not only repudiated the religion of his nation but renounced the nation itself. He made it very clear to them that the only way of their reunion was that his nation believed in God. This makes it abundantly clear that neither did Abraham have any regard for a nation which is founded on common race and common country to the exclusion of religion nor did he think it right to found a nation on such an erroneous religious tradition.

4.7.3 The Prophet Muhammad's Example

The nation in which the Prophet Muhammad was raised rightly boasted of their racial solidarity. They took pride in their language and country and loved their customs and religious tradition, idol worship. These were the main elements of which the nation was composed. All these things were deeply rooted in every Arab. No reformer could introduce any good for the society unless and until he pleaded to these affiliations. But we see that the Prophet Muhammad, despite his great love for his people, never pleaded to these ideals in his call. Contrarily his very first call threatened the very foundations of the Arab nationalism.

The religion of his nation was idolatry. The role of this religion was central to their national identity. By declaring "there is no God but Allāh and Muhammad is his Prophet" he falsified their religion and put serious blows to it.

His nation took pride in their noble descent and pure language. These things too greatly contributed towards the building of their nationality. Through various proclamations the Prophet ripped into this belief. We have already presented Qur'ānic verses dealing with this issue. Here we confine ourselves to some prophetic traditions.

No Arab has any superiority over any non-Arab and no non-Arab has any such supervisory over an Arab. All of you are equal, progeny of Adam.²¹

No Arab has any superiority over a non-Arab, nor does any non-Arab have any superiority over an Arab. Neither does a white have any superiority over a black nor does any black have any superiority over a white. If someone has any excellence over

²¹ The author has mentioned that this narrative is found in *Bukhārī* and *Muslim* but both the books do not contain this narrative or its variants. Nor is it mentioned in any other famous *ḥadīth* work in this wording. (translator)

The Islamic State

the others, that is only on the grounds of their *taqwā* (i.e. God-consciousness).²²

O Quraysh, God has brought to naught your *jāhili* (belonging to the age of ignorance) sense of honour and your pride in your ancestry.²³

The nation of the Prophet loved their country very much. Their national identity owed much to their common habitation too. He himself had great love for his country. However, he left his country for the sake of Islam. While leaving Makkah he said:

O City of Makkah, you are dearer to me than any other place on the earth. But alas, your sons would not let me live here.²⁴

This self-imposed exile for the sake of the religion was a practical expression of the fact that though the country means a lot to one, yet, however, it must not be loved on the price of one's religion and faith. One must not subject the faith and religion subservient to one's love for country by preferring living in the homeland and endangering one's faith.

Similarly the nation of the Prophet loved their national customs which too had a great role in their national unity. The Prophet dismantled this attachment by the following declaration on the occasion of the last pilgrimage:

Bear in mind, all the expressions of pride and the claims of nobility of blood and opulence, characteristics of the time of ignorance (*jāhiliyyah*), are under my feet. (*Abū Dāwūd*, No: 4588)

Nationalities founded on bloodline, race, language and countries attach all importance to these things. Every nationalist cherishes love of these ideals to the extent that he is never ready to tolerate even a slight expression of dislike for their nation. Whenever he sees something encroaching walls of this parochial nationalism he is ready to kill in order to defend his nation risking his life. In Arabic this quality is called '*aṣbiyyah* (esprit de corps, group spirit). Strength and prosperity of a nation state is dependent on this '*aṣbiyyah*. But the Prophet put a decisive blow to it by declaring that:

Whoever fights for the cause of '*aṣbiyyah* (ignorant group feeling) is not from among us. Whoever dies showing '*aṣbiyyah* is not one among us. (*Abū Dāwūd*, No: 5121)

It needs to be appreciated that the Prophet's opponents, the advocates of the racial and territorial nationalism, were greatly upset by such prophetic declarations. They continually charged the Prophet with that he created dissension among them. They declared him a traitor. They warned him of the possible unpleasant consequences of his stance. The Prophet did not listen to their warnings. He continued his struggle to found a new community on the basis of creed and faith.

His teachings and preaching in Makkah were dubbed by the opponents as dissension and discord. When he migrated to Madīnah, the Quraysh declared him as a traitor who, according to them, had left his people and joined the enemy rank. Whoever abandons his nation gets cut

²² Ibn Qayyim Jawziyyah, *Zād al-Ma'ād*, 28th ed., vol. 5 (Al-Kuwayt: Maktabah al-Manār al-Islāmiyyah, 1995), 158.

²³ Ibid., 407.

²⁴ Shiblī Nu'mānī, *Sīrah al-Nabī*, 1st ed., vol. 1 (Lahore: al-Faiysal Publishers, 1991), 170.

The Islamic State

off from roots. This is why the Quraysh would call him *abtar* (cut off). To this the Almighty responded saying that whoever leaves his nation for the sake of God is not *abtar*. Only those are really *abtar* who abandon God for their nation. Later on, at the occasion of Battle of Badr, the Quraysh could see that the question of faith had indeed separated the tribe apart. The Quraysh were facing the Quraysh. Abū Jahl, the most prominent advocate of Qurayshite nationalism felt perturbed at this sight. It was then he asked God to defeat the man who had created dissension among the Quraysh. As stated above God does consider the blood relations but only to some extent. For the rights of God are far more important than the rights of the blood relations. Therefore, God granted victory to those who had ignored their blood and other national ties for the sake of God. Those who fought for their race in the name of national pride and ignored God faced exemplary defeat.

To conclude, the Prophet Muhammad, even on the face of all the measures of his opponents, succeeded in setting up a society, which relied on, as its foundation, the religion and faith instead of race and country. This society allotted a Negro slave the highest rank if he adopts the religion of God and ejected out the nobler, such as the Quraysh, if they disbelieved God. In the foundations of this society, belief, faith, *hijrah* (migration in the way of God) and *nusrah*, (help for the religion of God) were in force in stead of race and country. Those who were not allowed to discharge religious duties in their motherland were directed by God to migrate to some other country where they could practice the religion of God freely. Those who had accepted religion, illuminated their hearts with the light of faith and shaped their community in accordance with this divine light were directed to welcome their oppressed brothers seeking refuge with them. They were required to help the Emigrants in every manner. The Emigrants had left their beloved ones, near relatives, and their homeland where they had become strangers merely because of adopting the new faith. They took their co-religionists as their brothers and friends. The Helpers too dissociated themselves from those of their relatives and families who adhered to the unbelief. They lovingly made all kinds of sacrifices for those who had now united with them on the basis of belief in Islam even though the latter were not their relatives or countrymen. Religion worked as the unifying force. Bloodline and country lost their role as foundation of a nationality.

This migration by one group and the help by the other founded a new community. A very strong bond of *mawākhāt* (mutual help and brotherhood) was established between the Emigrants and the Helpers. The Helpers set such unparalleled examples of sacrifice and support for the Emigrants that could hardly be found in the people of common country and descent. People shared their assets and businesses with their Emigrant brothers. Those who had more than one wives volunteered to separate one so that their Emigrant brother could take her in marriage. This brotherhood was not merely an expression of moral excellence rather, in a certain time period, it was a legal requirement. The Emigrants were granted a share in the inheritance of a deceased helper.

Muslims who were besieged in surroundings unfavourable for their religious life were required to abandon their abode and join the newly formed righteous community. Those facing such situations, if refrained from migrating to the Muslim community without any compelling reason, were considered hypocrites. Muslims were not religiously and legally obliged to lend help and protection to such delinquents. Some related Qur'ānic directives follow:

Believers, do not befriend and endear your fathers or your brothers if they choose unbelief in preference to faith. Those that befriend them are but wrongdoers. Say, "If your fathers, your sons, your brothers, your wives, your tribes, the property you have acquired, the merchandise you fear may not be sold, and the homes you love, are dearer

The Islamic State

to you than God, his Apostle and the struggle for his cause, then wait until God fulfils his decree. God does not guide the evil-doers. (Q 9:23-4)

Those that have believed and left their homes, and fought for the cause of God with their wealth and with their persons; and those that have sheltered them and helped them, are friends to each other. Those that have believed but have not migrated, shall in no way become your friends until they have migrated. (Q 8:72)

Even the Quraysh who had intimate kinship with the Prophet and who shared a common country with him were not admitted in the new community until they corrected and reformed themselves and declared their commitment to the principle teachings of Islam.

However, if they repent and establish the *ṣalāh* and pay the *zakāh* they are your brothers in the religion. (Q 9:11)

The Muslim community attached all importance to values based on belief and faith. It did not accept everyone trying to enter it for any other reason than faith. It admitted only those people who were truly attracted to the faith and who were ready to offer their lives for the sake of it.

Believers, when believing women migrate to you, test them. God best knows their faith. If you find them true believers, do not return them to the disbelievers; they are not lawful for the disbelievers, nor are the disbelievers lawful for them. But hand back to the disbelievers what they spent on them. It would not be an offence for you to marry such women, provided you give them their dowries. Do not maintain your marriages with unbelieving women. (Q 60:10)

The community founded on the basis of religion awarded a tradable believing slave girl a status higher than the free infidel woman.

And do not marry polytheist women until they embrace the faith. A believing slave girl is better than a free polytheist woman however she may attract you. And do not marry your women to polytheist men until they accept faith. And a believing slave is better than a polytheist however he may attract you. (Q 2:221)

This society set up by the Prophet founded the relations of brotherhood and mutual help on the basis of Islam and faith instead of tribe or country.

Believers are brothers to one another. (Q 33:10)

Believers are defined by the characteristics of mutual love, compassion and sympathy for each other. For the disbelievers, however, they are strict. They do not let any to enter into the rank and spoil it neither do they befall to the intrigues of the infidels working for their cause.

Muhammad, the Apostle of God, and those who follow him are ruthless to the unbelievers but merciful to one another. (Q 48:29)

Islam was impressed on every stone placed in this construction of love and brotherhood. Un-Islamic stones or pebbles did not find a place in it.

A Muslim, in relation with another Muslim, works as each stone in a wall strengthens the others.²⁵

The Islamic community has been held analogous to a body. The parts of the community are the building blocks of the body. Each part shares the feelings of the rest.

Muslims are like a body in mutual love, care and sympathy. When a part of the body suffers, the whole body feels the hurt and catches fever and sleeplessness. (*Muslim*, No: 2586)

When this community acquired political sovereignty and the state was established, those enjoying the rights of citizenship were called *muslim*. The word *muslim* has been used in the Qur'ān and the *Ḥadīth* to connote two meanings, a, for someone who completely and unconditionally surrendered before the will of God and the command of the Prophet and b, for a citizen of the Islamic state regardless of his sincerity to the religion.

Allāh's Apostle said, "Whoever prays following our way and faces our *qiblah* and eats animals slaughtered by us is a Muslim and is under the protection of Allāh and his Apostle. So do not betray Allāh by disregarding the protection he has granted (them)." (*Bukhārī*, No: 384)

Maymūn b. Yassār asked 'Anas b. Mālik, "O Abū Hamzah! What makes the life and property of a person inviolable?" He responded: "Whoever declares that there is no God but Allāh, faces our *qiblah* (in prayer), prays like us and eats flesh of animals slaughtered by us is a Muslim citizen of the Islamic state. He will enjoy the rights granted to Muslims and will be burdened with obligations similar to the ones put on them." (*Bukhārī*, No: 385)

The Islamic State raised the status of a Muslim to the extent that on being appointed as the head of the state, he has to be obeyed regardless of his caste, tribe, consanguinity or country. He drives the command of all as far as he commands good and virtue. Non-Muslims however noble and exalted in social status can never rise to this status in Islam.

Listen and obey (those in authority) even if a Negro slave, like a *raison*, is made your commander. (*Bukhārī*, No: 661)

4.8 Why Islam the only Basis of Nationality?

The above mentioned clear and conclusive arguments prove that Islam does not consider anything but itself as the only valid foundation and basis of nationality. No reasonable person is left with solid grounds to contest this position. However, an undisciplined mind can still doubt this stance. He may be led to hold that this position ascribed to Islam is an expression of religious bias common to all the creeds. Adherents of any religion cannot even think of a

²⁵ The author has claimed that this narrative appears in the *Ṣaḥīḥ* of Muslim. He has not provided full reference. I have not been able to find the narrative in the referred to book. The book, however, contains the following narrative which the author may have intended to refer to: Believers are like a building, each part strengthens the rest. (*Muslim*, No: ٢٠٨٥) (translator)

The Islamic State

political set up which guarantees basic rights to all its citizens without discrimination. All the religions promote discrimination. The adherents of the other religions are always denied the rights enjoyed by the followers of the state religion. Since, in the present age, religious and political dualism has been fully impressed on the minds of the people many Muslims, needless to mention the non-Muslims, entertain such doubts. We therefore feel it necessary to explain why does Islam not consider any other factor as valid basis of founding a nation. There are, in our opinion, three reasons for it:

First, Islam does not believe in the dichotomy of religious and worldly affairs. It does not, consequently, differentiate between religion and the state. Islam has not left any sphere of human life, individual or collective, unattended. It directs our personal as well as communal and political life. The latter, however, has to be implemented in certain circumstances. Once the conditions which activate these directives are met they instantly become as much important religious obligations for Muslims as are the directives commanding personal life. A religious tradition, of such universal and comprehensive nature, of necessity considers itself and only itself as valid basis of founding a nation. If collective life of a people professedly following Islam is based on worldly principles that would clearly mean that the collective conscience of the community is disinclined to the religious rulings pertaining to their communal and political life.

Second, Islam does not allow any kind of differentiation between human beings except on the natural and rational principles. Family of Adam may not be treated discriminately merely on the basis of colour, race, language, or country. Therefore, according to Islam, there is no difference between black and white, German and Greek, Turkish speaking and Arabic speaking, native and foreigner. Why after all, arbitrary and superficial factors of human classification, which are either circumstantial or product of climatic conditions, be imposed over the progeny of Adam while all of them cherish similar intellectual and natural ideals, possess similar tendencies and inclinations and have similar goals both at individual or collective level? Reason and intellect is the defining characteristic of human beings. They have been blessed with a marked nature by the Creator. Islam claims to be perfectly congruous with the human nature. This is why it maintains that its adherents are on the straight path. Those who divert from this path are stray folk, deviants from the dictates of reason and human nature. They are indeed following their whimsical desires and are utterly biased. It is also on this very reason that Islam binds in unity and brotherhood all those who accept it as a code of life, regardless of their race, bloodline, language and country. It places them quite distinct from those who reject it. It does not recognize any measure of differentiation between humans other than their response to the faith. Islam recognizes only this classification as reasonable and true one. It rejects any other criterion employed for the purpose.

Third, due role of all the ordinary factors of founding a nation including bloodline, country etc have been recognized by Islam. It affirms their natural role in this process of nation building. Islam fulfils the rights based on these factors in most befitting manner. All such human rights as derived from these factors have been in fact made part of the rulings of the religion. A true believer, for example, is supposed to fulfil these rights diligently in the same spirit as he fulfils duties owed to the Almighty Allāh like prayer and fasting. Those who want to attach to these things more than what is naturally due to them in fact fail to recognize their natural role and intend to attach to these things the rights exclusive for God. To make the factors like ancestry and country the basis of nationality warrants unreasonable classification of human beings in different groups and parts. This leads them into irreconcilable differences. Bias and prejudice distance them. Enmities and antagonism surge up. Then every nation considers fighting with the other nations a corollary of their love to the country and feelings of

The Islamic State

patriotism. Every race considers it their most compelling national duty to prove its superiority over other races. Speakers of every second language consider it their birth right to group together as a distinct nation. Geographical boundaries marked by mountains and rivers not only set apart two different regions they rather insulate humans from humans. Islam on the contrary is the religion of peace and tranquillity. It aims at drawing together the human kind and not to disintegrate them. A religion espousing such ideals cannot tolerate nuisance in the world merely on the basis of illusionary biases. Islam, in order to organize the human kinds, suggests excellent rational and natural principles. It invites the humans to transcend parochialism, a product of racial and regional differences. It calls them to unite on these principles so that the world of God is populated with loving members of a household. It should shelter the entire human race. It should not look like a chaotic abode of opposing factions. The community envisaged by Islam excludes only those who are in bondage of racial and regional parochialism and who are out to sacrifice the wellbeing of the entire human race in order to protect their group interests.

4.9 Islamic Nationality and Non-Muslims

The above discussion abundantly proves that non-Muslims can never get an entry into an Islamic nation. It has also been explained that this differentiation is not based on religious bias. Rather the basic reason of the exclusion of the non-Muslims from the Islamic nation is that they reject the all-encompassing and universal principles promulgated by Islam and insist on adhering to parochial principles. These parochial principles instead of causing peace to prevail create nuisance and confrontation. Islam intends to draw them out of such narrow racial and regional tubes. It sets them on the vast highway of unicity of God and human nature. When they insist on their narrow-mindedness and parochialism, Islam lets them follow their path and unfetters itself from the chain of such mundane limits.

If non-Muslims are not admitted in the Muslim nationality what place does Islam awards them in the Islamic State. This question takes us to the next chapter.

Part II: Rights and Obligations of Citizens

5. Conditions of Citizenship

The Islamic state is based on the principles teachings of Islam. Only such people can rightfully be considered full citizens of the state as have faith in Islam. The citizens must declare belief in the unicity of God and Prophethood of Muhammad. They should offer the *ṣalāh*, pay the *zakāh* and make the *Ka'bah* their *qiblah*. They are required to follow the edicts of the *sharī'ah* in social issues including *nikah*, divorce and other divine commands concerning the lawful and the unlawful. To sum up, they must express themselves as Muslims at least apparently.

The following Qur'ānic verse sums up this prerequisite for the citizenship of the Islamic State.

However, if they repent, persist in offering the *ṣalāh* and pay the *zakāh* they are your brothers in the religion. (Q 9:11)

What this verse puts in brevity has been explained by the Prophet in detail. He has said that, as for as the Islamic State is concerned, it only deals with the external behaviour of the individuals. The internal state of one's belief may not be investigated by the state. It cannot deprive any individual of the basic rights of citizenship until and unless he practically proves his disbelief. The Prophet says:

'Abd Allāh b. 'Umar narrates that the Prophet of God said: "I have been commanded to continue fighting these people until they declare that there is no God but Allāh and that Muhammad is the Messenger of God, persist in the Prayer and pay the *zakāh*. When they do these things they will have saved their lives except if (they are killed) rightfully. Accountability of their inner faith rests upon God. (*Muslim*, No: 22)

Another narrative explains the same theme in slightly different words.

I have been commanded to fight these people until they declare that there is no God but Allāh, offer the prayer following our way, face our *qiblah* and slaughter animals as we do. Then their lives and wealth would be inviolable for us except what is legally due. Their accountability is upon God. (*Bukhārī*, No: 385)

Another prophetic narrative further explains that violating rights of citizens, in fact, amounts to violating the guarantee God has given to them concerning their rights.

Whoever prays like us and faces our *qiblah* and eats animals slaughtered by us is a Muslim and is under the protection of Allāh and his Apostle. So do not betray Allāh by betraying those who are under his protection. (*Bukhārī*, No:384)

The Islamic State

Another narrative stresses the point that all citizens have the right to equal treatment by the state. No discrimination may be observed with regards to the rights and obligations of the citizens. All have equal rights as well as duties.

Maymūn b. Yassār asked Anas b. Mālik, “O Abū Ḥamzah! What renders the life and property of a person sacred?” He said: “Whoever says that there is no God but Allāh, faces our *qiblah* (in the prayer), offers prayers like us and eats animals slaughtered by us, is a Muslim;²⁶ he will enjoy the rights granted to Muslims and will be burdened with their obligations.” (*Bukhārī*, No: 385)

²⁶ In this context, the word *muslim* has been used as a term. It refers to a citizen of the Islamic State. It must be kept in mind that the conditions mentioned in these narratives mark the qualities of a Muslim in the external sense. To become a citizen of the Islamic State, an individual has to fulfil all these conditions. Therefore, these conditions do not deal with the inner faith of a believer. This clarification is necessary because those who ignore the context of these narratives tend to fall in confusion. They can be led to believe that the requirements mentioned in these narratives form the basic tenants of Islam. It would mean that all the remaining teachings are attached to these columns as subsidiary or secondary articles. We have, therefore, considered it necessary to highlight that the definition of a *muslim* given in these narratives only provide criterion for the legal status of a citizen. They refer to the external traits of a believer. A person must be characterized by these qualities if he is to be considered a Muslim citizen and awarded the rights of a believer in the Islamic State. These narratives, therefore, should not be pleaded to while discussing the inner faith of a believer. Another important thing to be noted is that these narratives refer only to certain examples. These do not count all the external traits a believer must hold. These do not exhaust the duties pertaining to collective life of a person. The implication is that it is not the *only* requirements of the religion. Other important obligations may not be abandoned. This issue was explained by Abū Bakr when ‘Umar objected to the caliph’s decision to fight those who refused to pay the *zakāh* while they professed faith in the unity of God. Abū Bakr referred to the Prophet’s statement wherein the latter says that whoever declares faith is under the guarantee of the state authority. He explained that the guarantee of life and wealth of the citizens is contingent to the fulfilment of the rights imposed by the Faith. *Zakāh*, he said, is a right of the state due to an individual. Therefore, whoever refuses to pay *zakāh* will be fought with. This discussion has been reported by Abū Hurayrah in the following words:

When the Prophet died and Abū Bakr succeeded him as his successor, some of the Arabs reverted to disbelief. [Abū Bakr decided to fight them into submission.] ‘Umar said: “O Abū Bakr, how can you fight these people while the Apostle of God said: “I have been commanded to fight the people till they say that none has the right to be worshipped but Allah, and he who said that will have his property and his life saved, unless [he does something for which he receives legal punishment] justly, and his account will be with God?”” Abū Bakr explained: “By God! I will surely fight whoever differentiates between the Prayer and *zakāh* as *zakāh* is the right imposed on one’s property. (*Bukhārī*, No: 1335)

We see that Abū Bakr offers two different kinds of argument. One, *zakāh* and *ṣalāh* have been mentioned in the holy Qur’an side by side. Neither can be considered to have been fulfilled unless one performs the other complement. Therefore, if the *ṣalāh* is mentioned as a condition for citizenship, *zakāh* too has to be considered as an equally crucial condition. Both may not be separated in any context. Second, the guarantee of the rights of citizens is conditional to the fulfilment of the rights of Islam and the State, imposed on a Muslim. Those who decide not to pay the *zakāh*, the right of the Almighty Allah in our wealth, in fact, themselves cancel the guarantee given them. They are to be fought with.

5.1 Right of the Noncitizen Muslims

The Islamic State does not render a foreigner Muslim ineligible for citizenship. A foreigner is not required to complete a complex legal procedure in order to acquire citizenship of the Islamic State. A mere intent from him to permanently settle in the Islamic State makes him a citizen of the state. He is entitled to all the rights conferred on the members of the state who acquired membership by birth.²⁷ In this case the maximum care that can be taken is confined to investigating whether he has come to live in the country for good and whether he does not harbour evil. Before sending his followers on some military campaign the Prophet would give the following principle advice:

When you face the enemy among the polytheists, call them to three things. Whatever of these they submit to accept it from them and stop fighting them. First, call them to embrace Islam. If they acquiesce trust their declaration of faith and stop fighting them. Then ask them to leave that place and migrate to the Muslim land. Inform them that if they do so they would be conferred the rights of the emigrant believers. They would be burdened with responsibilities which the other Emigrants have been obliged to fulfil. If, however, they do not agree to migrate they should be informed that they will be given the status of *badawī* Muslims.²⁸ Then they will have to fulfil all the commandments of God meant for this kind of Muslims. However, they will not be given share in war booties and *fay* unless and until they participate in the holy war along as the other Muslims do. (*Muslim*, No: 1731)

5.2 Rights of Citizens

An individual who fulfils the above mentioned requirements necessary for the citizenship of the Islamic State is accorded several rights. The Islamic State protects their rights on behalf of God and his Messenger. If a government confiscates any of their rights wrongfully it, in fact, violates the protection given them by the Almighty Allāh and his Messenger, which is a major sin.

Now we turn to discuss the rights of a citizen in the Islamic State in order:

5.3 Protection of Life, Wealth and Honour

The most important and sacred right of a citizen is protection of his life and property. The state must guarantee that it will not violate their right to life, property and repute. It makes

²⁷ In recent times, the concept of geographical nationalities has held sway. Even the Muslims of an Islamic state close the door for their co-religionists from other countries. The situation is very grave. The earliest Muslims of Madīnah set an example of universal brotherhood for the rest of the world at the time of famous prophetic migration. They invited all the Muslims who were being persecuted in Makkah and adopted them unconditionally. The only condition that bound the two parties was their common faith. Now the same Arab world which once cradled the Madinan community has been badly affected by the idea of geographical nationality. If an oppressed Muslim leaves his country turned into the house of war (*dār al-ḥarab*) where he is no longer able to adhere to his faith, he is not admitted unless he fulfils the conditions for naturalization set for the aliens. Without fulfilling these legal requirements, he is never admitted to enter the universal refuge for Muslims.

²⁸ *Badawīs* are those of the Muslims who did not settle in Madīnah. They accepted the faith but chose to live among their tribes.

The Islamic State

sure that those who infringe upon these rights of the citizens are put to justice. The Islamic State, by doing so, acts as a representative of God and his Messenger who have vowed the projection of these basic rights of the citizens. It means that if the state fails to fulfil the obligation to protect these rights of the citizens, it, in fact, violates its pact with the citizen it swore in the name of the Almighty Allāh and his Messenger. Its attack on the life and property of its citizens means violating something which it vowed to protect on behalf of God and his Messenger. Consider the words of the *hadīth* quoted earlier:

Such a person is a Muslim and is under the protection of Allāh and his Apostle. So do not betray Allāh by betraying those who are under his protection. (*Bukhārī*, No: 384)

The Prophet stressed these rights of the individuals in different words at different occasions. He is reported to have said:

Everything belonging to a Muslim is inviolable for another Muslim, his life, his wealth, his honour. (*Muslim*, No: 2564)

The Prophet compared the sacredness of these things with the Day of ‘*Arafah*.²⁹ He said that life, wealth and honour of a Muslim are *ḥarām* and inviolable like the Day of ‘*Arafah* which is held inviolable by the Almighty: no one may violate the sacredness of the Day and no one may violate the life, wealth and honour of fellow Muslims. On the occasion of the Last *ḥajj* he said:

Your lives, your wealth and your honour are sacred and inviolable to you just as this day (of ‘*Arafah*) is sacred and inviolable. (*Bukhārī*, No: 67)

The condition expressed by the words, “*illa biḥaqqihā* (save for rightfully)” serves to clarify that the state can only encroach these rights if required by the law. In this case, too, it has to consider their apparent behaviour. It may never discuss the religious sincerity of a believer. The only instance of exception that may be noticed is someone bearing a clear sign of hypocrisy. However, that too depends on some clear and observable facts. The sincerity of a clearly known hypocrite may be doubted but to ascertain whether one is a clear hypocrite rests on his express acts.

5.4 Protection of Private Property

Lawful personal possessions may never be confiscated by the state. Private property of all the citizens will be protected by the state. Confiscating or infringing upon one’s private property means violation of the *sharī‘ah*. Writes Qāḍī Abū Yūsuf in his treatise *Kitāb al-Kharāj*:

The government has no right to confiscate property of a citizen except what is legally and conventionally due.³⁰

²⁹ ‘*Arafah* is the 9th day of the 12th lunar month, Dhū al-Ḥijjah. On this day, pilgrims meditate, pray to God, and worship him on the dry desert of ‘*Arafah*. (translator)

³⁰ Qāḍī Abū Yūsuf, *Kitāb al-Kharāj*, (Beirut: Dār al-Ma‘rifah li Ṭabā‘ah wa al-Nashr, n.d.), 65-6.

The Islamic State

When, a compelling collective need arises the property and possessions of the citizens can be used by the state provided the owner willingly subscribes for the collective good or he is paid proper compensation. There is ample evidence in the practice of the Prophet to substantiate this right of the state.

A number of women and children of the Hawāzan tribe was taken as war captives by the Muslim army. The Prophet did not distribute them among the people as war booty for a few days. He was expecting their relatives to contract him. He intended to hand over those captives to their relatives. Nobody approached the Prophet for few days. He distributed them among the Muslims. However, shortly afterwards their relatives came and requested for the release of their brethren. The Prophet readily accepted their request and intended to release the captives. This, however, was not easy. The captives were no longer in the state custody. They were in possession of certain citizens. Therefore, the Prophet immediately ordered the release of those of the captives who were still in the state control. He called the masters of the captives in individual occupation and spoke to them. He asked them to release the captives without any return or payment from the state. They were, promised proper compensation once the state treasury received the *fay* money.

Before the battle of Hunayn the Prophet took some hauberks from Ṣufyān b. Umayyah. The later sought clarification asking whether they were being confiscated by the state. The Prophet replied in the negative. He explained that they were being borrowed. He assured Umayyah that they would be returned back. Damaged items would be compensated for.

Similarly, at one occasion the Muslims got hold of a Quraysh caravan along with their trade assets. This caravan was being led by the Prophet's son in-law Abu al-ʿĀṣ. He went to Madīnah to recover the assets. Political considerations made the Prophet decide to return the assets to him. He, however, did not command his followers to return whatever assets came to their share. He asked the Muslims to return to him whatever they freely intended to abandon.³¹

5.5 Protection of Personal Freedom

The Islamic State guarantees personal freedom to its citizens. God Almighty has granted man with free will. Man can decide upon acts and perform them in a set sphere. It is only on the basis of this free will and choice of act he is rendered accountable for his behaviour in this worldly life. God has ordained that, in his collective life too, man is not forced by the state to act in a specific way. The divine will therefore, acknowledges freedom of action for the individual in a set sphere of life. It is again this freedom of will which determines his success or failure on the Last Day. He can attain success and prosperity by making positive use of this freedom of choice or mar his destiny by misusing it. Thus it would be perfectly in accord with the divine will that an individual's personal liberty is guaranteed protection unless and until he does not misuse this liberty in damaging the personal liberty of other individuals or harming the collective interests. Therefore, if the government confiscates his personal freedom without any valid grounds it commits the crime of curbing the freedom of those whom God has granted liberty. It is rather held responsible for minimizing the chances of success of the victim in the Afterlife by hindering his way to do good deeds. This entails that unless and until it is proved beyond a shadow of doubt that someone poses threat to the liberty of other individuals and their fundamental rights he may not be deprived of freedom and liberty. Any restrictions may not be imposed on him. Islam does not approve of denying the basic and natural rights of an individual which have been guaranteed on behalf of the

³¹ Ibn ʿAbd al-Barr, *Al-Istīʿāb fī Maʿrifah al-Aṣḥāb*, 1st ed., vol. 4 (Beirut: Dār al-Jīl, 1992), 1702.

The Islamic State

Almighty and his Messenger merely on hearsays and baseless accusations. Islam does not warrant denying the personal freedom of the citizens even if they are accused of harming collective good and interest of the nation without sufficient proofs, not to speak of allegations pertaining to inter-personal affairs. Islam does not see denying the individuals their freedom can any way be in interest of the state, the collective will of the nation. On the contrary, Islam holds that if the government is disposed to attacking personal freedom of its citizens merely on baseless accusations, unfounded apprehensions and unwarranted reports, it, in fact, destroys cultural and social potentials of the nation rather than constructing and improving them. Such an offence is counter productive. The state is then inevitably destroyed. This principle affecting individual and collective freedom of the citizens has been explained by the Prophet in the following words:

Narrated Miqdām b. Ma'dīkarib and Abī Amāmah that the Prophet said: "when a ruler looks for points to accuse the public he ends up in corrupting them. (*Abū Dāwūd*, No: 4889)

This narrative highlights a very important political principle. It should, therefore, not be read in passing. By the words 'he corrupts them,' the Prophet does not only mean that his acts harm the positive relation between the ruler and the ruled and create distrust. Rather such an attitude on the part of the government ultimately harms the national consolidation. Consider for example, a government whose officials announce that the country is full of rebels. The foreign spies run rampant, destructive works are openly committed and a lot of people are sowing chaos, they baselessly becry. The state officials do not define these allegations or legally determine them. Nor is any of the allegations put precisely and proved properly. This becry and this wailing would gradually make the public lose trust. Nobody will trust another including the state. If, God forbidding, some national crisis arises, in meanwhile, the nation will not be able to face it as a united force; every one distrusting others and looking them with suspicion. One would be seeing every other individual as a foreign agent or a rebel engaged in destructive activities. Thus the true intent of the prophetic words, it seems, is that neither unfounded accusations are played on the citizens of the Islamic State as a sport nor are these used as a political stratagem. The state should therefore legally define accusations, if it has to make some, under a well-defined procedure and then prove them in a specific court of law. If the accused is found guilty he must be punished in an exemplary manner. If it is not possible for the accuser to follow the set procedure and prove the charges in an established legal manner he may hold his tongue and refrain from voicing accusation in the first place.

Islam obliges the rulers to trust the public and expect better from them instead of looking at them with suspicion and dealing them accordingly. This attitude guarantees positive growth and flourishing of the political sense in the masses. It helps make them grow into more sensible citizens. The rulers should search for reasons to acquit the public of charges. They should not hunt for excuses to punish them. Acquitting a citizen by mistake is better than punishing him mistakenly. The Prophet said:

Avoid punishing the Muslim citizens as far as is possible. Leave them on any excuse available. That a ruler commits mistake in acquitting someone is better than that he sentences someone mistakenly. (*Tirmidhī*, No: 1424)

Another narrative attests this legal doctrine:

The Islamic State

Avoid applying the *ḥadd* punishment wherever you are able to find some way out (for the accused). (*Ibn Mājah*, No: 2545)

Government, in Islam, is not an end in itself. It is only a tool to ensure freedom of opinion and act; the very right Islam bestows upon the believers. The right to freedom of opinion and action provides the citizens with necessary condition and optimum circumstances for the test and trial of this worldly life, which is the basic purpose of creation of man. Therefore, Islam does not allow the government to restrict or curtail the personal freedom of individuals even in a state of emergency, without providing them a fair trial and fulfilling all the conditions of justice and fairness.

Various examples in the life of the Prophet and the rightly guided caliphate provide undeniable proof to the fact that both in normal circumstance and in time of emergency the state may not incarcerate any citizen. If it does it has to make sure that he is provided a fair trial and is properly convicted. In the following paragraphs we will refer to some pertinent incidents. We will start by narrating the relevant incidents followed by an exposition of the background and the context. An analysis of the directives discerned from them will be presented at the end.

1. Grandfather of Bahz b. Ḥakīm went to the Prophet who was at that time addressing (the people). He asked the Prophet why his neighbours were imprisoned. The Prophet, (engaged in addressing the people), ignored his question twice. He (the questioner), however, again gave expression to whatever he willed. At this the Prophet commanded that his neighbours be released. (*Abū Dāwūd*, No: 3631)

2. Egypt was conquered during the reign of ‘Umar under the command of ‘Amr b. al-‘Āṣ, governor of the newly conquered land. One day, his son, Muhammad b. ‘Amr flogged a native. ‘Amr b. al-‘Āṣ put the victim in prison fearing that the news, if allowed to spread, could lead to rebellion. The prisoner, however, escaped from his custody and went directly to the Caliph. ‘Umar listened to his pleadings and commanded ‘Amr b. al-‘Āṣ and his son to report to Madīnah. When both came to the Caliph, he, after proper investigation of the matter, directed the Egyptian to flog the son of the governor in public. Then he said that the son has been led to commit injustice only because of his father’s position. On this he ordered the Egyptian to flog the governor as well. The Egyptian said that he had avenged himself by flogging the offender. ‘Umar told him that he might forgive the governor if he willed but he had all the right to strike the father as well for the latter too was indirectly responsible for the injustice committed by his son. Then he turned to ‘Amr b. al-‘Āṣ and said to him:

O ‘Amr, since when have you held the people in bondage while they were born of their mothers free men.³²

3. Rabī‘ah b. Abī ‘Abd al-Raḥmān narrates that an Iraqi came to the Caliph ‘Umar and said: “I have come to you with a very complex matter which has no head or tail.” “What is it?” asked ‘Umar. “The evil practice of bearing false witness has broken out in our land.” ‘Umar exclaimed, “Has it, really?” The man answered in the affirmative. At this ‘Umar said, “(Do not worry). By God, none is put into prison in the Islamic (rule) without the requirements of justice are fulfilled. (*Muwattā*, No: 1402)

Now we study the circumstances in which these incidents occurred.

The first incident occurred right during the prophetic time. We all know that the city of Madīnah remained under continual crisis during the life time of the Prophet. No single day

³² Haykal, *al-Fārūq ‘Umar*, 2: 198.

The Islamic State

passed while the city was immune against emergency. The state was still in its infancy. It was threatened by internal chaos and exposed to external aggression. At one side the Jews were busy intriguing against the state and at the other the hypocrites, found in the very ranks of the Muslims, were working as the fifth column, creating unrest and seeding confusion among the masses and dividing the Muslims. They never relented from trying to discover military might of the state, steal out their strategies, leaking out their military plans, and exporting their secrets. As regards the external threats, it is a known fact that, before the conquest of Makkah, the Quraysh waged wars one after the other on the nascent Islamic state, aided and abetted by the Jews and the hypocrites. When the threat from the Quraysh ultimately died down after the conquest, the neighbouring tribes flocked to Madīnah. The state was not yet recovered from curbing their mutinies that threats from Romans and Persian were felt. These were still hovering above the horizon when the Prophet died.

In these circumstances, the state officials of Madīnah arrest some suspicious individuals. One of their neighbours comes to know that. He approaches the Prophet immediately. He finds the Prophet addressing his companions. He never bothers to wait till the Prophet is finished, interrupts him in this state and asks him to explain why his neighbours have been arrested. The Prophet, however, ignores his question and continues to speak. The man does not understand the situation and repeats his question. The Prophet is forced to respond to him. In his response, however, the Prophet does not give an explanation. Usually authorities in similar situation are found very rich in explanations. An ordinary political leader would have told that the government arrested those people for it was sure that they indulged in suspicious activities and that they were actually guilty. The reason of their arrest cannot be disclosed for fear of harming national interests and law and order situation. Making public the reason of their arrest can expose the sources of information which are better kept secret. The Prophet rather straightforwardly directs the state officials to release the captives. This *Sunnah* establishes the constitutional right of freedom for all the citizens. It dictates that none can be held in custody merely on the basis of suspicion. The authorities must properly charge the accused with some illicit action and prove it according to the law. He should thus either be punished if found guilty or released instantly if innocent. He may not be kept under pre-trial arrest.

The second incident narrated above happens in Egypt. It is the time of the Caliph ‘Umar. Egypt has recently been conquered. Those who have lost the country to Muslims are still lying on the borders while their political centre is still strong and well established. They are planning to take back their province. Besides, internal unrest is no less disturbing. Local community, though unhappy with their former rulers, are not yet at good terms with the Muslim rulers who too are foreigners. Thus any mutinous act is always an expectation and the external threat is hovering above the heads of the rulers.

In such circumstances, conventionally, the newly conquered areas are under the direct control of the conquering army. There is no question of civil rights. In such circumstances the military rule is in effect. In similar situation, the Muslim governor, who is the head of the administration, not an ordinary police official, on some compelling considerations, holds a common citizen in custody. Islamic law takes the rights of the citizens so critical that even in such extraordinary circumstances, they cannot be held in abeyance. We see that in this case, the Caliph takes notice on the complaint by the victim and calls the governor and his son at once to the capital and administers perfect justice. When, after due investigation, it is proved that injustice was committed by the Muslim citizen and the governor and the citizen was unlawfully beaten and held in custody, not only the victim is given an opportunity to retaliate in equal coins and the offender, the son of the governor, is flogged in public, but also the governor is declared responsible for the unwarranted act of his son. This later action is being

The Islamic State

taken in spite of the state of emergency in the new conquered land. Nothing like impendent external oppression, inner chaos in the province, law and order situation and loss of honour and power of the authorities is considered. The governor is held accountable for putting someone in jail without fair trial and without waiting to see if he is really a culprit or not.

The third incident quoted above occurs in Iraq. Though there is no war going on in Iraq, yet the state of war prevails. First, the land has newly been conquered. The state cannot trust the newly conquered people. Second, in the immediate neighbourhood a decisive battle is being fought. The base camp of the Muslim armies is in Iraq. Therefore, the state is not completely secure from any possible harm from the enemy spies and other elements looking for an opportunity to create disturbance in the land. In such circumstances, a citizen from the province of Iraq comes to learn that some misinformation has been conveyed to the authorities regarding him. He fears that (like the other state officials of the Iranian empire) he too could be put in jail. He flees to Madīnah, approaches the Caliph and says that some people have laid a snare for him. He fears that he could be captured by the state authorities on the basis of false accusations. The Caliph expresses his astonishment, for he fears that things foretold in context of the unrest and *fitnah* in the *ummah* have started to manifest. Then he assures the complainant not to worry and tells him that no citizen can be held in custody and jailed unless and until a fair trial is provided him.

Worth mentioning is the point that here the Caliph swears and explicitly states that *in Islam* this is not allowable. By using the words “in Islam” he wants to communicate that the guarantee he is giving the citizens is not his personal view. Rather it is a right of the citizens acknowledged by the religion of God. None has the right to disregard this right of the citizens. Therefore, the complainant should not worry. If some people are reporting wrong things regarding him they should be left free. None can put hands on any individuals until they are proven guilty by a proper court after a fair trial.

The Islamic law does not let the authorities punish a citizen without a proper and fair trial. By proper and fair trial we mean a trial conducted following the procedure dictated by the *sharī‘ah*. If, for example, nine out of ten conditions of justice have been met and one is lacking then, according to the *sharī‘ah*, such a trial is deficient. If someone is convicted and punished through such deficient proceedings it would be, in the eye of Islam, a naked injustice even if the person being subjected to punishment has really committed the crime. Though, we do not intend to discuss the conditions necessary for the proper justice in a trial here, yet in order to briefly depict the Islamic concept of legal justice we will refer to a prophetic tradition.

‘Alī narrates that the Prophet said: ‘Alī, when two contestants [in a case] appear before you, do not hasten to judge between them until you have heard the view of the second party just as you listen to the first one. (*Musnad Aḥmad*, No: 882)

This requirement of justice has been mentioned in the Bible in the following words:

The first one to plead his cause seems right, until his neighbour comes and questions him. (Proverbs 18:17)

The only case when holding someone in custody before trial can be exonerated is during the initial investigations and that too for a short time. In the light of this initial investigation a case may be filed against the accused leading to the trial while he is provided full opportunities to defend himself. If there is no sufficient evidence he must be set free. Writes Imām Khaṭṭābī:

Detention can be of two kinds, in punishment and for investigation. As regards detention in punishment that can only be implemented after the criminal is convicted and the punishment is legally due. As regards the issue of detention for the sake of investigation, someone can be held in custody for this purpose. It has been narrated that the Prophet put a man in detention in a case for sometime and then released him.³³

Qāḍī Abū Yūsuf, who had been Chief Justice (*qāḍī al-quḍāt*) in the Islamic state under the Abbasid Dynasty during the golden days of the Empire, despite his knowledge of the needs of an expansive state, expressed the same view. It clearly shows that he did not consider it allowable to hold someone in detention merely on the basis of accusation. In his book *Kitāb al-Kharāj* he writes:

It is no way permissible to put a person in prison merely because someone has accused him. The Prophet would never hold a man in custody merely on the basis of accusations. In such cases the complainant and the defendant both should be given equal opportunity to come and explain their position. If the plaintiff has convincing evidence for his case a verdict should be passed in his favour. Otherwise the defendant should be released on bail. Afterwards the defendant may not be disturbed until and unless the plaintiff is able to furnish sound proofs affirming his claim.³⁴

It should, however, always be kept in mind that this discussion relates only to the proper nationals of the Islamic state. The Islamic state guarantees its citizens certain rights. These rights cannot be fulfilled if the state continues punishing the citizens, hindering their personal freedom on the mere basis of an accusation. The state must therefore offer a fair trial to the accused no matter how serious the allegations against him and how critical the political situation of the state. Not a single instance from the life of the Prophet and the period of the rightly guided caliphs can be cited to attest that a man was punished before proper trial, without giving him full right and opportunity to defend himself and before proving him guilty. However, two examples in the Prophet's life show that some enemy spy crept into the Islamic state and the Prophet directed his followers to pursue and kill him. There is however no example of similar dealing with the citizens of the Islamic state.

The case of Ḥāṭib b. Abī Baltah is well known. He stealthily sent a message to the Makkans informing them that the Prophet was planning to march on their city. The Prophet shortly came to know of this. The letter Ḥāṭib b. Abī Baltah had sent to the Makkans was discovered. Every sensible person can imagine the severity of the matter. The delicacy of the circumstances is also evident. However, the Prophet did not even hold him in custody without giving him a fair trial not to speak of punishment. The matter was put before the Prophet in his mosque. Ḥāṭib b. Abī Baltah confessed that he actually did write the letter. However, the investigation showed that it was not because of any ill will on his part that he sent the letter warning the Quraysh of the possible attack rather he succumbed to weakness and proved to be uncommitted. He was acquitted.

In short there are two possible distinct situations for which different directives have been introduced. First, an enemy spy enters the Islamic land with malicious purpose or a foreigner illegally enters the country. Second, a citizen of the Islamic State is accused of treachery and spying for the enemy. In the first case the state can take any proper action to prevent the

³³ Khaṭṭābī, *Ma'ālīm al-Sunan*, 2nd ed., vol. 4 (Beirut: Dār al-Kutub al-ʿIlmiyyah, 2005), 165-6.

³⁴ Abū Yūsuf, *Kitāb al-Kharāj*, ١٧٧.

The Islamic State

person from fulfilling his purpose and in the second case it has no authority to go beyond the judicial enquiry and just trial. If it adopts some other course that will be an open transgression against the Almighty and his Messenger for the Islamic State guarantees these rights on the behalf of the Prophet and the Almighty.

5.6 Right to Religious Freedom

Since in the Islamic State full citizenship and related rights are awarded only to Muslims, on the basis of religion of course, there is undoubtedly no choice of religious freedom for its citizens. One can put it in the form of an objection. The right to religious freedom awarded to the citizens of secular states is negated the citizens of the Islamic State. We, however, believe that concept of religious freedom in a secular state is mere illusion. Our view needs some clarification for this illusory aspect of the religious freedom in a secular state cannot be fully comprehended unless a sharp distinction between the Islamic state and a secular one is drawn. To this end we now turn.

In the Islamic State same religious and ideological principles command the public and political as well as personal and private life. There is no dualism in the public and private life of the citizens of the Islamic State. On the contrary, in worldly and secular democracies citizens are free to choose any philosophy and religion to provide them with a code of conduct. They are free to take either God or Satan as their guide. The state cannot interfere in this sphere of individual life. They are, however, subjected to follow the *state religion* in their public and private life. The rights of citizens are no more acknowledged if they violate and go against the state Religion in political and collective affairs.

The irreligious mundane democracies have, by creating this dichotomy between private and collective religious behaviour, made a show of religious freedom. They very vociferously claim that religious affiliation of a citizen does not affect his rights in the least. He is free to follow any religious tradition without incurring any loss of rights entailed by virtue of his citizenship. These rights are never denied him as long as he continues honouring the national constitution and law. This view of the present day liberal democracies can only be lauded by those who believe in a passive religion which does not guide man in social and political affairs. Such a religion fails to provide any guidance regarding political and collective life of its adherents and accommodates influence of any Satanic or evil system. Based on my knowledge of the religious traditions of the world, I can safely claim that no divine messenger taught hollow religious teachings as are tolerating views which are in direct opposition to the religion itself. A religion which claims to be divine in origin and, at the same time, holds that its originator did actually teach tolerance for unbelief, in fact, betrays its Messenger and accuses him of something a Messenger cannot be imagined to have indulged in. We need to appreciate that, in reality, this professed claim of religious freedom is nothing but a form of illusion and deception. One wonders why, after all that stressed contingency of the rights of citizens on their unfailing submission and unconditional adherence to the constitution, modern nationalist secular democracy cannot be called a distinct religious creed. What differentiates between the Islamic state, which, grants the rights of citizenship only after one vows to remain loyal to the Almighty Allāh and his Messenger, and the irreligious democracies, which attach the rights with loyalty to their country, nation and the national constitution? Nature of the demand by both sides is the same. Though both attach loyalty to a different entity –one demands that the citizens remain loyal to the Almighty Allāh and the other wants this right reserved for the national constitution – yet there is no difference in the nature of both the views; both hinge the rights upon fulfilment of the condition of loyalty to some entity which ties the citizens in a common bond and thus

The Islamic State

works as a centre and reference point for all collective affairs. This principle is shared by both systems. Keeping this fact in perspective we can say that it would be utterly fallacious to claim that the modern secular democracies do not consider the religious affiliation of the citizens of the state while deciding upon their fundamental rights. One can, at best, claim that an irreligious state compels the citizens to follow the national religion and abandon the true religion they believe in order to merit the rights of citizenship. It bases the rights and obligations of the citizens on the question of their acceptance or rejection of this state religion. It would therefore be utterly wrong to claim that these states do not deal with the question of the religious affiliation of the individuals.

In short, the Islamic State, which is an ideological state by nature and is founded on the principle guidance of Islam, does not give rights to the individuals who do not believe in Islam and are rebellious to it. However, those rejecters of Islam, who are ready to submit before the political dominion of the faith and who intend to live in the Islamic State while being loyal to it are awarded some distinct rights. As for the rebels the *sharī'ah* has prescribed punishments which cannot be detailed here.

The Islamic State awards its citizens great religious and creedal freedom within the boundaries of basic Islamic teachings. A Muslim citizen thus can hold and express his understanding of the religion. In this sphere, the Islamic State does not interfere. The only instance where it does interfere is in connection of the teaching and propagation of the religion. Therefore, intellectual stagnation never occurs in the Islamic State. People are never left to follow a set intellectual course, deaf and dumb. Those who observe wrong models of the Islamic State are led to believe in such a perception. They are not aware of the true form of the Islamic State and the ideology on which it is founded.

Apart from differences of sects and religious schools within the Islamic tradition, the Islamic State also tolerates different political views, different interpretation of the source texts, and different philosophical discussions of the religious issues. Many examples from the reign of pious caliphate show that different political views, as did not amount to intolerance and did not lead to violence, were readily accepted. Similarly, in interpretation of the religious teachings certain different views, as did not match the orthodox interpretation, were tolerated unless the upholders of these dissenting views engaged in creating disorder in the community, terrorizing the public and challenging the state authority. Political tolerance in the Islamic State is best demonstrated by the fact that the pious caliphate was indeed formed by the collaboration of two major political groups of the time, namely the Emigrants and the Hosts. Students of early history of Islam know that the Hosts viewed that both the groups should rule in turn. Rule of one of the leaders of the Hosts should be followed by the rule of one of the Emigrants. The Emigrants, however, did not accept this proposal and opposed it. This situation could have been aggravated and a great dissention could have arisen among the nascent *ummah*. This could be prevented by the political insight of the great leaders from both sides. They settled the issue amicably. All accepted Abū Bakr Ṣiddīq as their caliph. The leader of the Khazraj tribe, Sa'd b. 'Ubādah, however, did not take a pledge of allegiance to Abū Bakr till his death.

Abū Bakr was succeeded by 'Umar. Sa'd b. 'Ubādah did not accept his authority as well. He separated himself from the political system and that too openly. Writes Ibn Qutaybah:

Sa'd would not attend daily congregational prayer with the rulers nor would he attend the Friday Congregation led by them or offer the annual pilgrimage under their headship. Had he found some supporters he would have confronted the rulers and if these supporters were ready to enter an oath of pledge with him he would have been unhesitant to fight the rulers. He did not budge from this behaviour till the death of Abū

Bakr. When 'Umar assumed the chair of *Khilāfah* he moved to Syria and died there.³⁵

If this statement by Ibn Qutaybah is true then the behaviour of Sa'd Ibn 'Ubādah is clearly against the Islamic Law. The government could have taken stern measures against him. Here we see the most glaring example of tolerance; Sa'd b. 'Ubādah sticks to his viewpoint but the rulers do not coerce him into accepting their authority. One can be led to think that Abū Bakr was a naturally lenient person but how to explain 'Umar's conduct who would never show lenience in disciplinary matters. Yet he showed such longanimity, displayed extraordinary permissiveness and avoided holding Sa'd into question for his behaviour. One may not hold that at that time the government was not strong enough to take action against such disobedience. No doubt the government was going through very crucial time yet Abū Bakr Ṣiddīq, who did not budge from taking action against those who refused to pay the *zakāh*, could not have been afraid of taking action against the leader of the Anṣār. Even if somebody thinks that he did display leniency because it was not expedient to take any action against the Anṣār what would have stopped 'Umar —whom the entire Arab and 'Ajam world dreaded— to tolerate this affair. The truth of the matter is that the only reason 'Umar refrained from taking any action against Sa'd was that though Sa'd did not take oath of pledge yet he never took any action to overturn the government. Neither could he do so for every one among the Anṣār had taken the pledge of allegiance to Abū Bakr. There was none to back him. In such a state of affairs some rulers devoid of political acumen and lacking in confidence could have taken vindictive measures against a lifeless opposition and vent their displeasure but the great caliphs of Islam like Abū Bakr and 'Umar would not.

Within two major political groups, consisting of the Emigrants and the Hosts, there existed three major political factions, namely the Umayyads, under the leadership of 'Uthmān Ghanī, Banū Zuhri headed by Sa'd b. Abī Waqqāṣ and 'Abd al-Rahmān b. 'Awf, and Banū Hāshim under the leadership of 'Alī and 'Abbās b. 'Abd al-Muṭṭalib. Some of these groups were open opponents of the rulers. Abū Bakr and 'Umar very nicely and tolerantly handled their opposition. It is a known fact that 'Alī too delayed taking oath of pledge with Abū Bakr for several months. Yet Abū Bakr did not take action against him. He did not think that leaders like 'Alī would lead political difference into a kind of rebellion leading to disorder.

The way 'Uthmān tolerated the severe criticism of his political opponents needs no explanation. He was assassinated in a very pitiful manner. Still he did not opt for curbing the opposition by force; a choice he could rightfully adopt at least after attempts on his life.

The above discussion, it is hoped, sufficiently explains the fact that though Islamic rule is based on fundamental Islamic principles, yet it tolerates various kinds of differences within the broader religious framework. People may follow any given creed among many and uphold unorthodox view both in political and religious matters. As regards the basic and true form of Islam which one needs to follow, in order to succeed in the afterlife, it is the one dictated by the Qur'ān and taught by the Prophet. It does not accept independent individual views. If someone tries to mix untruth with its teachings, no matter how small and insignificant, he incurs the wrath of God and is held accountable by him.

As for the principle guidance, the Islamic State is set to follow the pristine form of Islam. It targets continuation of the basic guidance of Islam through formal teaching and propagation. To this end it establishes the state department of *amr bi al-ma'rūf* and *nahy 'an al-munkar* (calling to good and virtue and prohibiting evil and vices). The state departments co-ordinately serve this purpose. Still the political system of the state can deal only with the apparent and external form of Islam. It has no right to discuss or judge the internal state of

³⁵ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, 1: 1 •.

The Islamic State

faith. This is because of this fact that secession and anarchism is tolerated as far as such an opposition fulfils the basic conditions of meriting the basic rights of citizenship. As regards the internal condition of people's faith and their thoughts and plans buried in their bosoms, the state cannot scrutinize and judge them. This is the domain of the Almighty who will judge people on the Last Day. He will judge the hidden and declared plans meticulously. He will detect the most minute and reduced pieces of evil. The sieve of God can sift even the hidden and the unseen particles. On the contrary the sieve given to the Islamic State cannot screen out such evil parts from the right ones which have been garbed in something else, making the evil mixed with evil.

5.7 Legal Equality

Islam puts all the citizens of the Islamic State, rich and poor, noble and commoner, ruler and the ruled, on equality in the eyes of the law. Every person from each class is subjected to the same laws under same judicial system. Neither will different laws prescribed for different classes, nor the laws be enforced to different people in different terms. Political, economic or social status of the citizens will not affect their position in the eyes of the law. The head of the state, in all the democracies, small or big, is considered beyond law. The Queen in the Great Britain, for example, may not be sued in a court of law, not for misdemeanours and nor even for graver wrongs. On the contrary, in Islam, even the Messenger of God has to be treated just like a common citizen of the state, needless to say of the common political leaders. In fact the only thing that lends the Messenger prominence is that he is the first to believe in Islam and the first to submit to the *sharī'ah*. He is the leader of those who follow the laws. Just as the Qur'ān requires the believers to follow the *sharī'ah* of God it commands the Prophet, in no unclear terms, to submit before him.

The Messenger and the believers have believed on what has been revealed to him. (Q 2:285)

When it comes to the question of following the law, the Prophet is required to take the lead. His responsibility is far graver than that of the believers. This is demonstrated by the fact that failing to obey the law earns punishment both in this world and in the one to come. The law the Prophet brought for us was observed by him more diligently than anyone else ever does. He would surpass others in fearing the consequences of failing to obey the law. He never committed legal injustice to anyone. Still however, he presented himself before his followers at many occasions and gave them a choice to pay back any injustice and wrong he might have committed against them.

Once, a woman from a very noble family of the Quraysh was charged of theft. Theft in Islam is punished by cutting hands of the criminals. Some people considered the severity of the prescribed punishment and the social status of woman. They found it hard that a noble lady is punished so severely for theft. They desired to practice legal discrimination to which they were accustomed in the days of ignorance. 'Usāmah b. Zayd, who was very dear to the Prophet, was requested to intercede with the Prophet in this regard. Forced by the insistence of those people he approached the Prophet only to find him greatly displeased at this. After listening to 'Usāmah the Prophet said: "You dare to intercede regarding the implementation of the laws of God?" Later on the Prophet addressed a congregation of the people and said that many bygone nations were annihilated only because of legal discrimination and injustice. If a nobler committed theft they would let him walk free and when some commoner

The Islamic State

committed such a transgression he would be put to justice. He stressed that he would not follow their lead. He said:

By God, in whose hand is my life, had Fātimah, the daughter of Muhammad committed theft I would surely have cut her hands. (*Muslim*, No: 1688)

Then he called for the thief and had her hands cut.

Jablah b. 'Ayham Ghassānī slapped a poor countryman. The law granted the victim the right to slap the offender in retaliation. Since Jablah was a tribal chief he found it real hard to accept that humiliation and tried his utmost to avoid the punishment. When he realized that, in Islam, such discriminating was not possible he fled during the night. Once out of the Islamic territory he denounced Islam. The Caliph of Islam readily accepted the loss of a courageous convert, a former prince. He did not tolerate seeing that a poor citizen is denied justice merely because the offender was a respectable chief.

The present world of 'enlightenment and civilization' echoes with slogans of freedom, equality and brotherhood. France boasts to be the pioneer land which realized these slogans. She has however failed to implement these ideals in pure form. The way this theory of freedom and equality has been applied in France is surely faulty. Two parallel judicial systems operate concurrently, judicial and administrative. The former kind of courts deal with the laws controlling relations between individuals i.e. private law and the latter with the laws controlling the relations between the state and individuals in society i.e. public law. Nearly similar discriminatory systems (with negligible changes) are working in all the democracies of the modern world, the vociferous advocates of democracy and freedom. These republics, at the one hand, guarantee civil and legal equality to all the citizens in very pleasant language and, at the other hand, their administrative laws cancel such rights altogether. Knavery and infidelity, oppression and transgression, if committed by a common citizen, are instantly punished through private law. Commoners are arrested within no time, held in pre-trial custody and put in jail in according to the dictates of the private law. The same crimes, if committed by state officials, ministers or governors, even if in more severe form and with graver consequences, are not to be brought in the court of justice without the permission from the authorities. Even the Supreme Court is helpless in this regard. If the government is kind enough to consider some expediency or the public pressure and approves that the case be brought and prosecuted, that too in a limited way. The special court set for the purpose can only hold the criminal for a while till it records evidences related to the case. The court cannot punish him. It is the sole discretion of the government either to implement the punishment or let him walk free.

The introduction of separate laws, private law for the public and public law for the state officials, and setting up parallel judicial systems for both save the government and state officials from intervention by the judiciary. General public, as a result, is deprived of the legal protection awarded to the state officials. Unapproachable by the judicial courts, the state officials enjoy a free hand against the rights of the public and a kind of sovereignty over the common man. They do not, therefore, find it necessary to honour the rights of the general public. The general public, whose mutual affairs are governed by the private law, on the contrary, is required to honour and fulfil the duties imposed on them.

Islamic law is absolutely pure of such legal and judicial duality. The Prophet of Islam has given same law for all. The Caliph who runs the state and a farmer who rears the herds are subjected to the same laws. There is a single judicial system which judges disputes between a caliph and a *dhimmī* just as it does decide cases between two hawkers in the bazaar. The arguments put forth by the advocates of the dualism in judicial and legal systems are not new.

The Islamic State

Scholars of early Islam were fully aware of such a line of arguments. It was precisely on the basis of these expediencies and so-called wise points – often presented today in favour of the unjust theories – that some people asked ‘Umar to introduce separate law and distinct judicial system for the settlement of disputes between the state authorities and the individuals. If the authorities are subjected to the private law, they argued, and sentenced accordingly just like a common man, disregarding their status and responsibilities, they will lose heart. As a consequence their efficiency in keeping law and order and maintaining of administration would suffer. The government as a whole would, they argued, lose prestige. The caliph did not give ear to this line of argument. He stated that since the Prophet had not held himself above law, ordinary humans cannot be granted special treatment.

‘Amr b. Maymūn narrates that ‘Umar b. Khaṭṭāb spoke to the people and said, “O people, I do not send my administrators to you in order to beat you or appropriate your wealth. I send them to you in order that they teach you your religion and the Sunnah of your Prophet. Those among you who are wronged should bring that to my notice. By God in whose hand is my life, I will certainly enforce *qiṣās* (talion).” On hearing this ‘Amr b. al-‘Āṣ stood up and said, “O *Amīr al-Mu’minīn*, if a governor punishes someone will you allow the victim to retaliate?” ‘Umar said, “By God in whose hand is my life, I will enforce *qiṣās* and make sure that the victim is given opportunity to retaliate. I have seen the Prophet offer himself for retaliation. Do not humiliate the Muslims by beating them.”³⁶

‘Umar did not engage only in theoretical discussion with ‘Amr b. al-‘Āṣ. His vow was practically implemented. During the reign of ‘Umar a few administrators were reported to have wronged their subjects. ‘Umar punished the offenders openly according to the private law and did not show leniency. He did not consider opposition from ‘Amr b. al-‘Āṣ and disregarded all political and administrative expediencies.

‘Aṭā narrates: ‘Umar sent for all of his governors to join him at the occasion of *ḥajj*. All of them obeyed. When all were gathered, ‘Umar stood up and addressed the people in the presence of his governors. He said, “I have appointed these people to discharge their duties with justice not in order that they wrong people by transgressing against their persons, life and wealth. If any among you has a complaint against them he should rise and present his case.” He (the narrator) further said, “That day only one man stood up³⁷ from the entire gathering and told the caliph that one of the governors had flogged him a hundred strips. The caliph asked him if he wanted to flog the governor a hundred strips (in retaliation)? The caliph then asked him to rise and flog the governor if he so willed. At this ‘Amr b. al-‘Āṣ came forward and said, “O Chief of the Believers, if you opened the way for the public against your administrators then it will be hard for them (i.e. the administrators). It will assume the status of an established practice to be followed by those coming after you.” ‘Umar responded in the following words: “Do I have to stop from making this person retaliate whereas I have seen the Prophet of God offering himself for retaliation? (Then addressing the complainant he said,) “Get up and avenge the wrong done to you.” At this ‘Amr b. al-‘Āṣ pleaded, “Well, then allow us

³⁶ Abū Yūsuf, *Kitāb al-Kharāj*, ١١٥.

³⁷ All gratitude is due to God alone. The world has seen examples of perfect justice and exceptional equitability. In the vast empire of ‘Umar, only a single citizen has some grievance. What is more, this man confidently expresses his concerns. He is sure that his complaint will not invite unwelcome consequences be it against the most influential office bearer.

The Islamic State

make this man agree somehow (on forgoing his right for retaliation).” To this, ‘Umar consented. Then they made the complainant forgo his right of retaliation against a sum of two hundred *dīnār*, each flog for two *dīnār*.³⁸

There are numerous examples from the history of the rightly guided caliphate showing that the caliphs presented themselves as defendants in the courts. They faced charges like common citizens. We cannot go into details of such incidents for fear of length. We will, nevertheless, discuss one such incident which reveals that Islam sharpened the sense of its followers regarding legal and judicial equality to a great extent. Islam could achieve this when the world was not even aware of the words like legal equality.

There was a dispute between ‘Alī and a *dhimmī*. The case was brought before the caliph ‘Umar. For some reason the judge (‘Umar himself) addressed ‘Alī saying; “Abū Turāb (‘Alī’s nickname), take a seat besides the complainant.” This sentence created a sort of expression on ‘Alī’s face which alarmed ‘Umar. Thinking that ‘Alī did not like to sit with the complainant ‘Umar asked ‘Alī if he had felt it. He reminded ‘Alī that the Islamic commands regarding judicial and legal equality demanded that he sat beside the complainant. ‘Alī explained that he did not feel bad on that he was made to sit with the complainant. What hurt him was that he was addressed by his nickname something which reflected that he was being honoured whereas the complainant was not addressed that way. This according to him was a clear example of injustice against his rival.³⁹

5.8 Social Justice

The Islamic state does not discriminate among its citizens on the basis of their social status, bloodline, race, colour and trade etc. These things are often made the marks of difference among the humans. Islam declares that differentiating between the progeny of Adam at these bases is evil. Islam teaches that the only basis of superiority of one individual over the other is righteousness and God-consciousness. Individuals may not judge others on this basis too. It is only the prerogative of God to judge the inner faith and internal piety of individuals and determine their nobility or disgrace. None but He has the access to the realm of the unseen. The Islamic State may not throw wild guesses and do the duty of God. It rests its policy on the external behaviour of individuals. This is why it considers all those citizens as fulfil the prerequisites of citizenship socially equal and treats them as such. The Qur’ān provides the following guidance in this regard:

O People, we have created you from a male and female and have made you clans and tribes so that you know each other. Indeed in the sight of Allāh the best among you is the one who is more God-conscious among you. Indeed God is all-knowing, omniscient. (Q 33:13)

³⁸ Ibid., 115-6. It must be appreciated that this apparent favour too does not mean that the governor was given a preference over his contestant. The Islamic *Sharī‘ah* allows two contestants to settle an issue between them.

³⁹ Haykal, *al-Fārūq ‘Umar*, 2: 265-6. Calling someone by their nickname signified respect for the addressee in the Arab culture of those times. It disturbed ‘Alī that he was addressed by his nickname, Abū Turāb, whereas his contender was called by his real name. ‘Alī held that the legal canon of Islam required that the complainant and the defendant are treated equally in all respects.

The Islamic State

While explaining this principle the Prophet said that no Arab enjoys any superiority over any non-Arab except by virtue of his religious behaviour and God-consciousness. All are progeny of Adam. And Adam was created from clay.

‘Umar while directing one of his commanders to this principle said:

Nobody has any relation with God but through obedience to him. People, in the religion of God, are equal, nobles and commoners.⁴⁰

5.9 Equal and Just Distribution of *Fay*⁴¹

The national income in the form of *fay* belongs to the entire population of the state. It can either be spent on the collective good and welfare of the citizens with their consent or equally distributed among them. The expenditure of the first type, however, must directly benefit the entire population. Such projects may only be determined through mutual consultation of the public representatives. During the earlier days of Islamic history the income of *fay* was more than the administrative needs of the government. It would be spent on the works of collective welfare. Many times there was still plenty which was equally distributed among the citizens of the state. Abū Bakr would divide such income among the entire population without any discrimination.⁴² ‘Umar, however, allotted different portions to different people on the basis of their services to Islam. Later on he too accepted the view point of Abū Bakr. However, he could not implement his new policy in his life. Nevertheless at one occasion he expressed his view regarding this constitutional right of Muslims in the following words:

No one deserves more than their due share in this fund. I too do not have the right to take more than my share. By God, if I lived long enough I will arrange for the dispatch of the share of a herdsman busy in rearing his herd on the mount of Şafā. He will not be bothered to do anything for this. (He will receive his share) wherever he is found keeping his herd.⁴³

At another occasion he repeated this assertion while explaining the rights of the Muslim citizens.

And it is your right upon me that I do not receive your *fay* and your *kharāj* except rightfully. It is also your right upon me that I do not spend these funds, when I get some, except on rightful expenditures.⁴⁴

‘Alī too, during his rule, followed the practice set by Abū Bakr. He used to distribute the funds which survived the state expenditures among the Muslims.

Regarding distribution of the *fay* ‘Alī followed the precedent set by Abū Bakr. Whenever funds of this kind came to his hand he divided among the Muslims whatever

⁴⁰ Ibid., 1 & 2.

⁴¹ By *fay* is meant the national incomes which are not an exclusive right of the poor.

⁴² In the discussion of the prerequisites of the right to nationality and resultant rights and obligations, we stated that only those Muslims were refused a share in the income of *fay* who had not migrated to Madīnah and who chose to remain in the areas not under the Islamic state.

⁴³ Haykal, *al-Fārūq ‘Umar*, 2: 210.

⁴⁴ Ibid., 93.

The Islamic State

of it was left after meeting the state expenditure. The only thing that would remain undistributed till the end of the day would be the part which he could not distribute that very day. He neither spent that money extravagantly on his own nor did he ever give it over to some of his undeserving friends or relatives.⁴⁵

5.10 Financial Protection of the Needy

The Islamic State is responsible for the welfare and financial provision of every helpless destitute. Islamic State has been burdened with this responsibility of the welfare of the citizens against the following right accrued. The Islamic State inherits the wealth and property of all such citizens who die without leaving an heir. Likewise, it is obliged to provide for those who do not have guardians and financial protectors. The Prophet said:

I am the heir to the one who has no heirs. I will pay *diya* due to him and inherit his wealth (if he leaves some). (*Abū Dāwūd*, No: 2899)

‘Allāmah Ibn Qayyim gleaned the following points from this *ḥadīth*:

And the scholars have opined: Since the government inherits the estates of the one who does not leave any heirs it has to pay off his debts if he leaves some unpaid. Furthermore, the government (on the very same basis) is responsible for providing him during his lifetime if he has no guardian to provide for him.⁴⁶

The principle laid by the Prophet can be explained as follows. If a citizen dies heirless, his estates will be inherited by the state. If he dies while others owed him money, the state will collect that too and use it. If somebody owed him *diyyah* money, that too will go to the state treasury. Against all these rights of the state over the wealth of the citizens who die heirless, the state, guarantees that it will pay off the payable debts of its citizens who die without paying them off and without leaving enough assets. Similarly, if a citizen died without paying blood money owed to him that too will become the responsibility of the State. If a needy citizen does not find a guardian for himself, his family and children to provide for them then the state will look after his needs. The Caliph ‘Umar said:

By God if I lived long to serve the widows of Iraq, I will make sure they are not left to look for help to caliphs after me.⁴⁷

The rightly guided caliphs always diligently discharged this obligation and never created procedural hindrances for the needy. Every needy person in the state could unhesitatingly approach them. Consider the following examples:

Zayd b. Aslam narrated on the authority of his father:

Once I accompanied ‘Umar to the bazaar. A young woman approached him and said, “*amīr al-mu’minīn*, my husband died leaving behind children too little to take food to their mouths. Their father has to them no land, no cattle. I fear these children might die from impoverishment. I am daughter of Khafāf b. Anṣārī. My father accompanied the Prophet at

⁴⁵ Ibn ‘Abd al-Barr, *Al-Istī‘āb fī Ma‘rifah al-Aṣḥāb*, 3: 1111.

⁴⁶ Ibn Qayyim, *Zād al-Ma‘ād*, 1: 162-3.

⁴⁷ Abū Yūsuf, *Kitāb al-Kharāj*, ۳۷.

The Islamic State

the occasion of the Ḥudaybiyyah.” ‘Umar stopped. He was glad to know that her father was closely related with the Prophet. Then he got a camel loaded with wheat, put some cash and clothes with it and handed the bridle to the woman and asked her to leave and expect a fresh delivery before the present one exhausted.” (*Bukhārī*, No: 3928)

‘Umar was patrolling at night. He saw a woman apparently cooking something in a pot. She was surrounded by her children who were crying. ‘Umar enquired of her what she was cooking and why the children were crying. She explained that they were hungry and that she had put some water in the pot to lull the children. She expected God to decide between her and ‘Umar (as to the reason of her unattended wretchedness). Hearing this, the Caliph ran to the *bayt al-māl*. He put a sack of flour on his back and hurried back to her. He sat beside the fire and started to poke it. He did not return until after the meal was ready and the children had eaten to their fill it and gone to bed. He kept uttering the following words out of passion: “these children were crying out of hunger when they should be sleeping!”⁴⁸

5.11 Paying off the Unpaid Debts

The Islamic State provides for the basic needs of all insecure citizens. It is responsible to pay off the debts left over by those of the needy citizens who depart without settling their financial obligations and do not leave any assets to be used for the purpose. The basis of this responsibility of the state is again the rights of state over the estates of heirless citizens. The Prophet of Islam said:

Whoever leaves a burden behind him I am responsible to settle that whereas inheritance of deceased will go to his rightful heirs. I, however, will inherit those who have no heirs; I will be responsible for paying off any *diyyah* due to him and will inherit (amounts owed to him). (*Abū Dāwūd*, No: 2899)

‘Allāmah Ibn Qayyim attributes to the scholars the view that this responsibly was taken by the Prophet as the ruler of the Muslims. According to this view every Islamic government has to assume this responsibility. It was not particularly related with the person of the Prophet. Every government that is based on Islamic *sharī‘ah* will have to pay off the debts of those Muslims who die without discharging their debts.

It has been opined that this directive applies to all the rulers after the Prophet. Thus, the ruler is guarantor of the debts of the deceased Muslims who have not left anything which could be given against the debt. Such debts are a responsibility of the rulers which they will pay from the *bayt al-māl*. These scholars argue that since the ruler is considered the heir to the one who dies without leaving an heir he (i.e. the ruler) has to pay off the outstanding liabilities of a person who does not leave behind anything to be used in paying off his debts.⁴⁹

⁴⁸ Haykal, *al-Fārūq ‘Umar*, 2: 195-6.

⁴⁹ Ibn Qayyim, *Zād al-Ma‘ād*, 5: 162.

5.12 Right to Absolute and Free Justice

The Islamic State has to protect each and every citizen from all kinds of coercion. It guarantees instant provision of justice to all, poor or opulent, commoner or influential. The citizens are not subjected to pay anything in violation of this fundamental right. ‘Umar referred to this right of the citizens of the Islamic in the following words:

I am not going to let anyone coerce others and usurp their rights. Whoever commits such a transgression, I will put one of his cheeks on the ground and the other I will put under my feet till he surrenders before the truth.⁵⁰

At another occasion he put this principle in very eloquent words:

By God, under my rule, none is more influential than a powerless person until I make sure that he is given his due and none is more insignificant than an influential person till I do not make him pay what is due to him.⁵¹

The above quoted saying of ‘Umar contains profound meanings. However, he is not alone in pledging this. Abū Bakr also expressed same conviction in almost same words. He is reported to have said:

An un-influential person among you is powerful, to me, until I return him his right usurped by others and an influential person is nothing in my eyes unless I have made him pay the rights he has usurped.⁵²

Both the elders have particularly stressed a specific aspect of social and legal justice. It requires proper analysis and full explanation. Democracies today, so vociferously claim that they guarantee provision of justice to each and every citizen. But they have devised systems and procedures in this regard. These procedures make justice unattainable except for the influential and the resourceful. It is only power and influence which opens the door of the courts. It is only wealth that enables the opulent to pay the cost of justice. In such democracies justice is not accessible for un-influential commoners with little or no economic support. Justice is dear and costly. Depicted in the above statements is the distinguishing trait of the judicial system of Abū Bakr and ‘Umar. This system keeps its doors open to all, the poor and the rich, the influential and the insignificant. It is not the case, as is in present day democracies, that justice welcomes only the opulent and the powerful factions of the society. It embraces only those with the golden keys operative in such worldly systems. The commoners, without power and opulence, are never admitted. The Islamic Judicial System is not based on the principles of trade and commerce where those possessed of money are welcome, even if they are oppressors rather than the oppressed, and, contrarily, those having nothing in their pockets meet denial and depression, no matter how openly wronged. The Islamic Judicial system sees respect for truth and only truth. The mere fact that someone has been robbed of his rights makes it imperative for the judicial machinery of the state, from a local court to the higher ones including the Supreme Court, to animate and make sure that the

⁵⁰ Haykal, *al-Fārūq ‘Umar*, 1: 93.

⁵¹ Ibid., 2: 196.

⁵² Muhammad Ḥusayn Haykal, *al-Ṣiddīq Abū Bakr*, 9th ed., (Cairo: Dār al-Ma‘ārif, 1986), 62.

The Islamic State

victim gets justice, that too without incurring any fee for judicial process or legal aid from the attorneys. The simple fact that he has been victimized and oppressed and is seeking justice is sufficient to mobilize the legal organ of the Islamic State till he acquires justice and his rights are preserved.

5.13 Right to Education

The Islamic State arranges for the basic education of its citizens. That the Prophet of Islam stressed educating the citizens of the state is born out by the fact that he, after the Battle of Badr, decided that the educated war captives would be ransomed by teaching reading and writing to some of the Muslim children of Madīnah. The Prophet made some Muslims to learn foreign languages. Such people would be useful for the state in that they could work as secretaries in communicating with the international community. He promoted adult education and used to send, now and then, some preachers and teachers to different cities of the state. The population living outside Madīnah was required to send some of the able persons among themselves to Madīnah to learn the religion and then improve literacy in their respective towns. When delegates from some far off tribes would come to the Prophet and embrace Islam he would try to know whoever among them was able and learned one. He would appoint the ones he could pick as teachers over his tribe. It was one of the official duties entrusted to the state servants in different centres to teach the local populace. On appointing ‘Amr b. Ḥazam, governor of Yemen, the Prophet instructed him regarding his duties.

The Prophet advised him to always do justice in accordance with the command of Allāh, to give the people good tidings, to bid them doing of good, to teach them the Qur’ān and to help them understand the word of God, to stop them from touching the Qur’ān in the state of impurity and to sympathize with them so that they are inclined towards understanding of the religion.⁵³

Knowledge and learning was considered the only criterion of superiority and privilege in all social institutions. This stressed the importance of knowledge in the society. This step ensured that the people vied each other in acquiring knowledge. Understanding of the Qur’ān and the Sunnah of the Prophet was considered the most basic qualification for all the officials, from an *imām* of the mosques to the highest administrative officials. Sometimes, it so happened, that a position was decided between two equally deserving individuals on the basis of knowledge of the Qur’ān. Merely having memorized some verses of the Qur’ān was considered an inestimable wealth for a destitute person. He could on the basis of this wealth marry a woman thereby his merit being considered as a dower to his wife. All these steps were taken for no other purpose but to disincline the masses from guiding principles derived from the *jāhiliyyah* customs and make them incline to the teachings of Islam. ‘Umar sped up this movement. He promoted the adult education so enthusiastically and with such great fervour that does not find any parallel in history. Despite myriad administrative activities he was always interested and engaged in this task. During his journey to Syria he never relented from teaching the masses. Wherever on his way he found some illiterate Muslims he started educating them in the teachings of Islam. This, however, did not hinder him fulfil his regular official duties. All his position holders, from a district manager to the governor, had the instructions that they must give preference to teaching the subjects over all other obligations. This desire of his he expressed at many occasions. Once he said:

Allāh, I take you as witness against my officials appointed in all the areas, to the fact

⁵³ Ibn Hishām, *al-Sīrah al-Nabawīyyah*, 2nd ed., vol. 4 (Damascus: Dār al-Khayr, 1995), 184.

The Islamic State

that I have appointed them to educate the masses in the religion and the Sunnah of their Prophet. (*Musnad Ahmad*, No: 186)

Once he educated the people regarding the responsibilities of his deputies in the following words:

Rather, I have appointed them so that they teach you the Book of your Lord and the Sunnah of your Prophet.⁵⁴

Within only three decades, owing to these important steps, there were sufficient number of able and competent individuals to run the diverse departments of such a vast empire expanding over from Afghanistan to the Syrian and African border. The illiterate Arabs were now the leaders and administrators who could decide the affairs of the *ummah* in complete conformity of the principle teachings of the religion.

5.14 Subjecting the Citizens to Unbearable Burdens

The Islamic State does not subject the citizens to duties and responsibilities which are impossible for them to accomplish. It is not permitted to subject them to burdens disproportional to their capacities. It may also not knowingly coerce them into doing something which necessarily brings them destruction. It should not disregard their feelings in a proportion which is beyond their power to comply with.

The believers took oath of obedience to the Prophet. They would commit to listen and to obey. The Prophet would make them say: I will listen and obey to the best of my ability. Thus the ones pledging allegiance understood that they were being demanded obedience in proportion to their might. They were not supposed to obey in all circumstances what they had the power to do or not.

‘Abd Allāh b. ‘Umar says: When we took oath of obedience to the Prophet he would tell us, “say, “as for as is possible for me””. (*Muslim*, No: 1867)

‘Umar explained and applied this principle in a different context. He said that the government should not, while estimating the military might of the state, expose the citizens to danger. It should not thus, for the sake of recklessness of some individuals and for interests of the rulers, put the security of the masses in jeopardy. According to ‘Umar, it was a right of the masses on the government. Their natural needs are also not curbed by putting them affront the enemy for a very long period of time. The citizens may not be severed from their children and family for long. He is reported to have said:

It is your right upon me that I do not put you in danger and I do not keep you on the borders for long.⁵⁵

⁵⁴ Haykal, *al-Fārūq ‘Umar*, 2: 196.

⁵⁵ Ibid., 94.

5.15 Commands Violating the *Sharī'ah*

The Islamic State is established to promulgate the religion of God. The nature of this purpose entails that the state does not require the citizens to defy the teachings of Islam. The Prophet said:

Obedience to the rulers is a religious duty until one is ordered to disobey Allāh and his Messenger. One may not obey [the rulers] when required to disobey God and his Messenger.” (*Bukhārī*, No: 2796)

After assuming the chair of *khilāfah* Abū Bakr addressed the people. In his public address he made it clear to the people that once they had appointed him their *khalīfah* they had to obey him as long as he followed God’s commands. He asked them to cease to obey him at the point when they observed him turning away from obeying God.

Obey me as long as I obey God. When I disobey him you are no more obliged to obey me.⁵⁶

At one occasion ‘Umar explained that a ruler has to see, above all, whether his subjects are discharging duties towards God or not. He stressed that it was in fact the duty of the rulers to subject the people to observe God’s commands and to stop them from what God has forbidden them.⁵⁷

5.16 Right to Petition and Criticism

A citizen of the Islamic State has all the right to petition. He should have access to the rulers when, for example, he is caught in need, has been wronged, has been ill treated by a state official or has grievance towards the rulers. He can bring his problems to the notice of the head of the state himself or any other authority appointed for this purpose. Islam has not subjected the petitioners or claimants to follow any complicated procedure in this regard. If for example the petitioner is a civil servant he does not need to forward his claim only through the department he is serving. He is not required to state his request in a set formal language. He can put his petition in whatever language he can. He can word it the way he likes. He is not forced to adopt a particular way of filing his complaints. He has all the right to present his petition to the head of the state. If the head of the state himself is the defendant he is legally bound either to fulfil the rights of the petitioner or to acquit himself through legal evidence. If someone objects to the behaviour of the head of the state he explains his position and seeks to be excused. If the person approaching the ruler is needy the ruler has to fulfil his needs. If the petitioner has been wronged the ruler has to provide him justice and deal with him with compassion.

The Prophet set many examples in this regard. Many people freely approached him with complaints and requests for favours. They expressed themselves boldly. Some even talked to him with utmost immodesty. History attests that the Prophet always swiftly responded to petitions. Some people may attribute this display of generosity and open heartedness to the prophetic prudence and exemplary character of the Prophet. They may thus, based on this

⁵⁶ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, 1: 17.

⁵⁷ Abū Yūsuf, *Kitāb al-Kharāj*, 13.

The Islamic State

assumption, claim that this model of prophetic conduct is not practicable in ordinary political life. It is, they may maintain, not possible for an ordinary human being to display such lofty character. We therefore confine our discussion to the conduct of the rightly guided caliphs about whom such a case cannot be built.

Abū Bakr guided the people how to determine the eligibility of a caliph in the Islamic State. He asked the people to observe the caliph on the yardstick he introduced to them and not to show any leniency in assessing the caliph. He explained to the people the points where he expected them to show some leniency. He revealed to them, without reservation, his human weaknesses so that the people did not find any difficulty in dealing with him. He told them to judge the eligibility of the caliphs by seeing if he followed and obeyed the Messenger of God. He admitted that he had no option but to follow the path defined by the Prophet. He was not to innovate anything. If he diverted from this path, he told his people, they would be rightful in stopping him from proceeding and setting him back on the straight path. He, however, sought a little lenience. He wanted not to be compared with the Prophet. He expected himself not to be put on that strict criterion. After all, he was a common man not a prophet. He was therefore not immune to error. He stated that sometimes quick temper overtook him. He wanted people to consider this aspect of his personality in dealing with him. All these things he expressed before the masses in a speech he delivered at the occasion of sending the expedition to Tabūk under ‘Usāmah b. Zayd a little after he assumed the chair of *khilāfah*. He said:

O people, I am a man like you. I fear you may not expect of me what could only be expected of the Prophets of God. [It would not be right to do so.] Muhammad was chosen by God as a Messenger. God guarded him from all kinds of evils. [This is not my share.] I am only a follower. I am not an innovator. If I follow the path set by the Prophet, follow me; if divert from his path, set me right back on the track. One thing I would like you to observe is that there is an evil which overpowers me at occasions. If you find me overpowered by it then avoid me.⁵⁸

This extraordinary conduct is awe-inspiring. One wonders how seriously he takes slight weaknesses in his person. He publicly admits his weakness. God blessed him, as a reward for his sharp sense of responsibility, by saving him from suffering from this shortcoming during the entire period of his rule.

‘Umar, after assuming the responsibility of *khilāfah*, addressed the people in the following words:

I will fulfil the rights owed to me. If an objection is raised about my conduct I will come forward, explain myself and seek your excuse. A needy person or a complainant against my administrators or myself should inform me directly. This I say because I am a human being, one among you. Your welfare is dear to me. Your pain inflicts me. I am answerable to you about the responsibility entrusted me.⁵⁹

Every word of this caliphal speech deserves consideration. I would, however, call upon the readers to carefully reflect upon the following words of his speech. “Bring that to my notice, for I am only a human being, one among you.” He does not highlight the fact that he has become a ruler. Therefore do not present any petition in my court except through proper

⁵⁸ Ibn Jarīr al-Ṭabarī, *Ṣaḥīḥ wa Ḍa‘īf Tarīkh Ṭabarī*, 1st ed., vol. 8 (Beirut: Dār-i Ibn Kathīr, 2007), 24.

⁵⁹ Haykal, *al-Fārūq ‘Umar*, 1: 102-3.

The Islamic State

channel, following the procedure set for the purpose. The application should be composed in such and such language inscribed on a certain kind of paper. It should not exceed a specific number of lines. Specific formal expressions of address should be adopted. The petition should reflect utmost humility. All these specification fulfilled, the application should be submitted through proper channel, failing which can render the petition subject to rejection.

What ‘Umar expressed, that too in utmost humility and simplicity, can be summarized as follows. If anyone faces some difficulty or has some complaints against the state officials he is invited to bring that to my notice without reservation. The rulership has not rendered me a supernatural creation so that people should dread me and run away from me. They are not required to follow a set formal procedure to approach me. I am but a person entrusted with a grave responsibility by the people themselves. I am answerable to them for what they have entrusted me with.⁶⁰

His conduct during his period of his rule evidences his true intention. He respected the rights of the people. The following two examples from the period of his rule would suffice an evidence for and a specimen of his conduct in this regard. These incidents, it is hoped will help to realize the extent of freedom granted to people in the Islamic State. It shows that they are given full right to present their petitions. They can criticize the high officials and even the ruler himself. It will also help us grasp that in the Islamic Sate the ruler places himself in the stead of his subjects. He is always eager to listen to the cries and petitions of the public. He is forced to patiently welcome all kind of criticisms and complains against him.

Once ‘Umar went out into the bazaar. Jārūd ‘Ibadī accompanied him. When he had walked a couple of paces a woman appeared from the opposite direction. ‘Umar greeted her. She responded to his greetings and barraged him with the following complaints. “Umar!” said she, “yours is a sad misery. Once you were nicknamed ‘Umayr. I have seen you carry a stick and follow a herd of goats in Ukkāz. Then you were started to be called ‘Umar before our eyes. Now I see you as the *amīr al-mu’minīn* (Chief of the Believers). Fear God regarding the rights of your subjects. Whoever fears God finds the apparently far off world of the Afterlife near him. Whoever is mindful of death remains ready to avail the opportunity given him (and does good.)” At hearing this lecture from the lady, Jārūd said to her: “You have done the *Amīr al-Mu’minīn* great injustice.” ‘Umar interrupted Jārūd and said, “Let her give vent to her feelings. You do not know her. She is Khawlah b. Ḥakīm. The Almighty once heard her complaint from above the seven heavens.”⁶¹ How can ‘Umar dare to ignore her?”⁶²

The governor of Yemen dispatched some shawls to ‘Umar. He distributed them among the Muslims. Every Muslim got one. ‘Umar also got one. He got a shirt made out of the cloth. One day he put on the shirt and ascended the pulpit to address the people. He exhorted the believers upon participating in Jihad. A man stood up and said, “We are not ready to listen to you. Nor would we follow what you command us.” ‘Umar asked the interlocutor to explain the reasons of his vows. The man told him that he (the caliph) had preferred himself over the

⁶⁰ It needs to be appreciated that Islam binds the head of the state to appear before his subjects on every Friday Congregation and to share important state policies with his subject in the sermon. The people have all the right to interrupt him, object to his plans, seek clarification and present their complaints if any.

⁶¹ Her husband had separated her through the pre-Islamic custom of *zihār*. She complained about the matter before God and his Messenger. God responded to her cries and revealed to the Prophet laws about atonement for *zihār*. These laws form part of Q 58. (In the pre-Islamic Arab society, a husband would say to his wife that touching her would amount to touching the back of his mother. This statement entailed not only a divorce but a vow that she would be permanently prohibited for him like his mother. This was called *zihār*. Translator).

⁶² Ibn ‘Abd al-Barr, *Al-Istī‘āb fī Ma‘rifah al-Aṣḥāb*, 4: 1731.

The Islamic State

common believers. He explained that every believer got one shawl. How could he (‘Umar) take more than that? The share of an individual was not enough for a shirt for of his size. ‘Umar did not respond to his objection. He asked his son ‘Abd Allāh to come forward and explain. ‘Abd Allāh explained to the people that he had given his share of the cloth to his father. That is how ‘Umar could get a shirt prepared for him. After hearing this explanation from ‘Abd Allāh, son of ‘Umar, the interlocutor said to ‘Umar, “Now proceed”. We will hear to you and obey what you say.⁶³

⁶³ Haykal, *al-Fārūq ‘Umar*, 2: 194-5.

6. Duties of Citizens

All rights imply corresponding duties. By the same token the rights and the corresponding duties attach equal importance. This is an established ethical principle which has to be observed in political and collective life just as it is taken for granted in private moral ideals. It would, therefore, not be possible, for example, to enjoy a right and refuse to fulfil the corresponding duty. It would equally be unjust to enjoy a greater right and avoid the corresponding duty or to refuse to accept any duty altogether; enjoying rights, avoiding obligations. Some one may go farther, putting the benefactor under obligation not to speak of paying back the debt. In the sphere of family life such characters are considered, base and bastardly. In the collective and communal life they are considered traitors and enemies of the nation. Case of Islam and the Islamic System is more serious. Here the matter is not limited to rights of individuals and the community. Rather one has to consider the liking and disliking of God as well; besides the usual mundane considerations the all important consideration of the Afterlife has to be paid heed to. If an individual enjoys rights by virtue of being citizen of the Islamic State and ignores the corresponding obligations and fails to discharge them in a befitting manner, he betrays not only his nation and the country but also God and his Messenger. He not only deserves punishment in this world but also incurs wrath of God. God will definitely put him in everlasting infliction of the Afterlife.

A look at the rights of citizens discussed in the preceding pages reveals that the Islamic State awards great rights to its citizens. It guarantees protection of life and wealth, provides with personal freedom and assures legal protection to the assets of the citizens so that their personal growth and development is not hindered by any external force and so that potentials of the individuals develop. The Islamic state provides a very vast ground for the growth of mental and intellectual aspects of the personality. It does not impose any restriction on these opportunities for its citizens nor does it tolerate that any other force curbs them. It legislates laws which encompass all, the rulers and the ruled, the destitute and the opulent. It establishes a society where race and descent, vocation and status do not become mark of discrimination. The most commoners among the citizens as well those of highest social and political significance are awarded a right to the state's financial resources. It guarantees the needy, without any provider and helper, provision of all their basic needs. It makes sure that the door to justice is open to all and that too free of cost. All the citizens and their children have access to free education. If a national of the Islamic State dies without paying off his debts and without leaving behind enough assets in inheritance to pay off the debt the state pays his debt on his behalf. The state guarantees that nobody is burdened with unbearable responsibilities. The national law does not subject the citizens to do something that entails disobedience to God and his Messenger. It awards the citizens inalienable rights to petition, criticism and complaints against the state authorities. All these rights are either crucial to one's existence or promote one's well being and work for the betterment and completion of life conditions. Equally important is the point that all of these rights can only be guaranteed and ensured by the state. No individual effort can provide people with such security rights. Family, clan and tribe provide much of life security and fulfil many conditions for smooth life of an individual yet all these too owe their provision to the existence of the state. All great rights awarded to the citizens of the Islamic state imply corresponding duties. Such duties would be equal in heaviness to the rights awarded. Just as the citizens are free to demand that their rights are fulfilled the state has the authority to demand from the citizens to fulfil their duties.

Now we turn to discuss the duties of citizens in the Islamic State.

6.1 Obligation to Obedience

The most pressing duty of the citizens of the Islamic State is *sam'-o-ṭā'ah* (to submit to commands of the constituted authorities and obey them). *Sam'* implies acknowledging the legality of the command from such authorities and *ṭā'ah* means to follow them accordingly. In other words, a citizen is subjected not only to accept the orders received from the authorities, with heart and mind, but also to obey them unconditionally. Mostly the states command unconditional obedience to the laws and the state authorities to the exclusion of accepting them intellectually. The Islamic State, on the contrary, demands accepting the laws and obeying them. This unusual demand of the Islamic State follows from the fact that the state is a tool through which the will of God is implemented in the land. Therefore, the Almighty has rendered obeying the Messengers a necessary condition for proper following of the Almighty himself and quite analogously held obedience to the constituted authorities a precondition of the obedience to the Messenger. The obedience observed before the authorities, therefore, is qualified by the same conditions related with the obedience to the Messenger. The most important of these qualifications is that the obedience commanded by the Messenger and the rulers should be founded on firm conviction in what they command. The heart should lead the limbs in carrying out the commands of the Messengers. Though the state will not judge the inner state of the individual in any matter, for it has no access to the realm of inner inclinations and thoughts of individuals, yet, God will not accept the obedience of the believers to their rulers unless rendered with conviction just as He would not accept their worship like the *ṣalāh* etc. unless offered with true intent. Showing off in worship of God is a sin. It is unwarranted hypocrisy in obedience to the rulers.

Obedience to the Messengers and analogously to the rulers is mandatory in the religion of God in all circumstances, at ease or in straits. It cannot be abandoned even if one's personal interests are at stake, one's business is put in jeopardy and all pleasures and comforts of one's life seem to go. In all such crucial circumstances one has to offer one's services to the state to the best of one's worth. The following tradition has been attributed to 'Ubādah b. Ṣāmit:

We pledged hearkening to and obeying to the Prophet in all circumstances, ease and straits, and comfort and difficulty. (*Muslim*, No: 1709)

The Islamic law has, however, detailed the possible situations where a citizen is exempted from obedience. Failure to follow the Prophet's commands incurs recompense. Similarly failing to obey the rulers, except in the exempted circumstances, renders one accountable in the sight of God. Islam holds that if a believer secedes from the collectivity and dies in that state he does not die the death of a Muslim. Rather he is considered to have died in ignorance, on a non-Islamic creed.

The *sharī'ah* allows the Muslims to refuse to obey the rulers in two situations. One is allowed to show partial disobedience when the authorities, in the state established on the principles of Islam, oblige people to do something that negates and contradict the commands of God and his Messenger. In such situations a citizen is supposed to remain loyal to the state. He is however obliged to refuse to carry on such orders as are in defiance of the express directives of Islam. To obey God and his Messenger is evidently more important for a believer than to obey the rulers. Therefore, it is not lawful for any government to infringe upon the rights of God and force the subjects into violating them. The Prophet Muhammad said:

To listen to and to obey the rulers is incumbent (upon the believers) unless they (the rulers) command something in defiance of God's commands. The rulers may not be listened to and may not be obeyed if they command a transgression. (*Bukhārī*, No: 2796)

This obligation may be held in abeyance when the foundation principles of the state are completely distorted and are directed by unbelief rather than belief. The obligation of establishing the religion—the basic rationale of the state—is no more pursued. The *sharī'ah* has, for such situations, rendered that the citizens may defy the rulers in all matters. In other words they are no more obliged to remain loyal to the state and are free to struggle for a change in the system of government in any way possible.⁶⁴

6.2 Sympathy with the State and the State Officials

The second most important duty of a citizen is to sympathize with the state and the state officials. This duty is a direct corollary of their obligation to remain loyal to the Almighty and his Messengers. In other words, if a citizen bears ill will for the state he is not, in fact, a well wisher of the Almighty and his Messenger. One aspect of this duty is that one does not knowingly engage in acts which go against the interest of the state and the nation. One may not harm the national assets nor should one let others commit such an act. A citizen has to avoid committing any destructive act and should never extend help to those out to do so. If he is entrusted some national duty he must fulfil it to the best of his ability with complete honesty. He may never remain content with improper discharge of the duty or work merely for the sake of getting paid. If he has some worthy idea or proposal for the promotion and well being of the collective good he must put it forward to the concerned authorities regardless of the matter they appreciate it or not. If he is consulted in matters of national import he must again put all his intellectual abilities to form an opinion and share it with the authority in good faith. He may only suggest what he believes is right and in accord with wishes of God and his Messenger. He should not hesitate to offer this service even if his popularity is at stake, his personal interests are endangered, or he fears to grow insignificant in the eyes of the government and the public.

Another aspect of this duty to the state and its officials is that a citizen puts all his efforts to stop the state authorities from deviating from the path set by the Almighty Allāh and his Messenger. If he notices that a vice is rampant in the society he is obliged to remove it. He must, to this end, use his authority in his jurisdiction and apply legal force. He should not show lenience, weakness or expediency in this matter. A commoner, who has no such power, is obliged to use his tongue and pen in this holy war without fear for his life. Expediency and fear of losing repute should not deter him from raising voice against the evil. If, however, he is not bestowed with ability to write or speak for the purpose he must at least detest the evil in his heart. This is the lowest form of expression of one's faith. A least amount of belief in one's heart does not leave one remain content with the situation and tolerate the evil.

Showing indifference to the collective vices in the Islamic State is a complete negation of faith and is morally suicidal. Divine law governing such situations renders those who indulge in such collective evil and promote it and those who show indifference to the state of affair and tolerate it equally accountable. (Q 8:35) The incident of the people of the garden

⁶⁴ These issues have been elaborated upon in the chapter *īṭā'ah key ḥudūd* (Conditions and Boundaries of Obedience to the Authorities) which, it is hoped, suffices for detail of the matters alluded to here.

The Islamic State

mentioned in *Sūrah al-Qalam* (68) explains that even those who raise voice against the evil but as a mild criticism also share the misfortune resulting from the evil. When they do not dare to put effective opposition to the evil and renounce it openly they work as a part of the system which is the basis of such evil. Such negligence is often a result of one's yearnings to protect their personal interest. The Islamic *sharī'ah* does not demand from the citizens of the Islamic State to merely criticize the evil modestly. On the contrary it forces them to show complete seclusion from the evil and to express their acquittal openly. The Prophet Muhammad has explained this collective responsibility of the believers in a parable. He said that when travellers on board a boat see that a man is putting a hole in a part of it they are obliged to stop him immediately. If they fail to do so they will all perish. Similarly in collective life if some people are out to create disruption and innovate erroneous ways in stead of following the directives of God and his Messengers all the other citizens must come forward and stop them. If such an effort to create disorder is not curbed and the seceders are successful in their hideous plans, all will have to bear the outcome. That is why the *sharī'ah* has obliged all the citizens to guard their collective life along with their personal duties. Since the wellbeing of individuals depends largely on the wellbeing of the collectivity, the duty to correct the collective affairs is more demanding than working for personal wellbeing. On the same token the former act earns one more reward than any other work of piety. 'Umar referred to this duty to show sympathy with the state and the officials in the following statement attributed to him.

Help me against my personal faults through exhorting me on the right and forbidding the wrong and through offering counsel regarding this duty of managing your affairs God has entrusted on me.⁶⁵

This is the duty which when performed with regards to a government deviating from the guidance of God is considered the best form of *jihād*.

The best form of *jihād* is to express what is right before a tyrant ruler. (*Abū Dāwūd*, No: 4344)

6.3 Cooperation with the Rulers

Third duty imposed on every citizen of the Islamic State is to cooperate with the state authorities. Muslims have been obliged to extend help to every entity working in loyalty to God for guarding the *sharī'ah* of God and maintaining its rule. The Islamic State is the only tool through which these goals are achieved effectively. The Qur'ān says:

Cooperate with each other in the works of piety and God-consciousness and do not help others in acts of sin and transgression. (Q 5:2)

In absence of the Islamic State collective life of believers cannot be set on the path of piety and God-consciousness. Nor is it possible to maintain piety in the lives of individuals. This makes it imperative for all honest citizens of the Islamic State to lend help to the workers of the Islamic State, the most effective tool of spreading piety and God-consciousness. When they are required to lend some service to the state they may not hold their personal interests dear to that of the state and refuse to lend their services. They may not also, at the hour of

⁶⁵ Haykal, *al-Fārūq 'Umar*, 1: 94.

The Islamic State

need, avoid employing all their abilities and using all their intellectual and material resources for the wellbeing of the state. When at some point during this caliphate, 'Umar noticed that people were reluctant to offer their services to the state, he gathered all the people and reminded them their responsibility to help him. He asked them that if they did not help him carry out his responsibilities then who else would. This speech of the Caliph affected them greatly and all of them vowed to dedicate their lives with all their heart in order to help him.⁶⁶

6.4 Monetary Contribution

The fourth duty of a citizen of the Islamic State is to sacrifice his wealth and life for the state to the best of his ability. The minimum contribution from the citizens has been defined by the *sharī'ah*. Muslims are obliged to pay the *zakāh* to the state. Besides this, if, the state calls for monetary contribution from its citizens for defence or collective development, all the financially stable people are obliged to respond positively to its call and generously contribute towards such national plans. Every cent a Muslim citizen spends in such works will be paid back by God on the Last Day.

For example, if, God forbid, the very existence of the state is threatened and very great financial resources are required to address the problem then all the loyal citizens are supposed to give away whatever they can save after meeting the basic requirements of life. The Qur'ānic directive commanding such circumstances is as follows:

They ask you about charity. Tell them to (give away) all that is above their basic needs.
(Q 2:219)

6.5 Sacrifice of Life

All able citizens are obliged to remain ready to offer their services for the security of the state and to help it in struggle for this purpose. A strong desire to participate in the struggle for the supremacy of the word of God is mark of one's faith. Conversely, the absence of such a feeling for the religion is characteristic of hypocrisy. To run for one's life and show cowardice at times when the existence of the Islamic State is threatened would necessarily mean death of one's faith. In times of peace the only requirement of the *sharī'ah* is to provide help and support for the stability and defence of the state. In times of war, however, when the state calls for a general mobilization, a believer is required to offer his services to the state authorities. He should give his life and resources on their disposal so that they are free to utilize them the way they deem fit.

⁶⁶ Abū Yūsuf, *Kitāb al-Kharāj*, ١١٤. In 'Umar's rule, people shirk from taking responsibilities and acquiring positions. The authorities are seen humbly seeking their help. In the present day, those entrusted with such tasks become inflated. The positions are nothing less than keys to all the treasures of the world. The only cause of difference between these two behaviours lies in that we have developed different ideas and beliefs regarding the positions. During the time the Caliph 'Umar ruled, the positions were considered a trust of God. People would take responsibilities with an understanding that they attached great accountability. They believed that they were to discharge their responsibilities on a minimal pay. This made the positions rather unattractive and distasteful instead of appealing. Only such individuals would agree to offer their services who were conscious of duty and who were aware of the fact that it is a form of worship which is to be rewarded on the Last Day. Contrarily, in our days, these positions have now attached power, despotism, grandeur, wealth and comfort. People no longer fear accountability; neither by the nation in this world nor by God on the Last Day. What can now stop people from yearning for the positions?

7. Rights and Obligation of Women

In the Islamic State women have the same rights as men. As well, like men, they too are burdened with certain responsibilities. As citizens of the Islamic State, Muslim men and women are equal. However, both men and women have different political obligations and are awarded different rights. In order to better understand the issue it is necessary to first appreciate the facts upon which this difference in roles and rights of men and women is based.

7.1 Western Theory of Equality of Sexes and Islam

Islam does not recognize the western theory of equality of sexes. Western idea of equality of sexes does not recognize any difference between the abilities and roles of men and women and therefore wants to utilize the abilities of men and women equally in all spheres of life. Islam however, gives quite distinct concept of equality of sexes. Islam bases the concept of equality of sexes on the fact that both men and women have been created from a single *nafs* (entity). Men are one of the primary functionaries on this world of humans. They fulfil a certain role. Women too are created to accomplish a distinct task in this machinery of the world. They too form its necessary element. Women deserve respect and acknowledgement just like men. Men have been bestowed with some distinct and special abilities to fulfil specific roles. Women too have been blessed with specific abilities and powers to discharge their distinct role. Just as men have certain feelings, inclinations, requirements and needs, women too have different distinct personal inclinations and natural needs and requirements. Therefore, both men and women must play their distinct roles in the world directed by their natural inclinations and specific circumstances and abilities the way the sun and the moon are set to follow their separate course. Both must be burdened with different kinds of responsibilities in the society determined by their natural inclination and specific abilities. They must also be awarded with different kinds of rights corresponding to their distinct roles.

The Qur'ān declares in very clear terms that both sexes must be dealt with equally. It says:

O people, fear God who has created you of a single entity, created his partner from the same entity and scattered from these both a great number of men and women. (Q 4:1)

This verse roots out all the concepts of inferiority of women maintained by many old religions and civilizations. Islam proclaimed that men as well as women have been created from the same entity. Women too, like men, are a necessary part of the society. The existence of the human society, its continuity and life is not dependent on only one of these two. Both are, therefore, equally necessary to the society. Both must be treated as equal in this sense. However, Islam claims that their abilities and natural characteristics are different. The Qur'ān stated that men's abilities and qualities are different from that of women. Similarly women too have been blessed with quite distinct qualities and abilities. Both, however, must never on the basis of this difference in abilities and qualities, feel proud or look down upon the other sex. Any of these sexes are not even allowed to covet the abilities of the other. The Almighty says:

Do not covet the excellence given to you over the others. Men will enjoy what they

earn and women will enjoy what they earn. Seek God's bounty. God is knower of everything. (Q 4:32)

This verse makes it clear that the qualities bestowed upon men do not mark their excellence over women and vice versa. Both men and women have been granted distinct qualities. They share God's bounty equally. This verse provides a basic guidance to both the parties. It is not befitting for the either sex to covet the qualities bestowed upon the other. They should rather be thankful on what they have been given and fulfil the rights attached to these bounties if they are to achieve God's favour.

An incident from the life of the Prophet sheds further light on this issue. Asmā' b. Yazīd Anṣāriyyah was the cousin of a famous companion Mu'ādh b. Jabal. She was renowned for her piety and intelligence. It has been reported that she approached the Prophet and said: "I represent a group of the Muslim ladies. What I am going to express is the view of us all for I am speaking on behalf of the women. God has made you a Messenger to men and women. We (women) believed in you and followed you. However, our circumstances have put us live in veils and restricted to our homes. We are required to offer ourselves when our men need us (for sexual satisfaction) and then we carry and bear their children. Men excel over us in that they offer Friday and daily congregational prayers, attend funeral payers and are able to fight in the war for the cause of God. When they are participating in the war we take care of their household matters and look after their children. Will we too get a share from their reward?" At hearing this cogent expression of her feelings, the Prophet turned to his companions and remarked, "Ever heard a woman seeking explanation of a religious issue so cogently?" The companions swore that they had not. Then the Prophet addressed the lady and asked, "O Asmā, communicate my response to those who have chosen you as their representative. Tell them that by excellently running the household matters, keeping their husbands happy and cooperating with them are no less then all the good works their husbands are able to perform. At hearing this response from the Prophet Aṣmā took her way to home filled with immense feelings of gratitude.⁶⁷

7.2 Superiority of Men

Let us now address the question of equality of men and women in their roles in the collective affairs. The Qur'ān does not acknowledge complete and unconditional equality of men and women in their social and collective role. The Qur'ān acknowledges that women have certain rights in proportion to their responsibilities. The rights awarded to them are clearly identified and attach equal importance. Their rights must be fulfilled. The holy Qur'an also makes it clear that men are superior in social role. The Qur'ān considers this relative superiority of men over women essential for the balance in the social setup. Men are made responsible to provide for the family. His extra obligations require proportionally extra rights.

And the women have rights, according to the custom, similar to their responsibilities. However, men are given a priority over them. (Q 2:229)

Elsewhere the Qur'ān clarified the reason and nature of this superiority of man over woman. Man is naturally and physically fit and able to arrange for the financial provision to the family. He is legally obliged to provide for his spouse and children. He is the only rightful head of woman in collective and social life. The Almighty says:

⁶⁷ Ibn 'Abd al-Barr, *Al-Istī'āb fī Ma'rīfah al-Aṣḥāb*, 4: 1788.

Men are guardians over women because God granted excellence some among them over others and men spend of their wealth. Therefore, the pious women are required to be obedient and to keep secrets, for God too keeps secrets. (Q 4:34)

7.3 Collective Responsibilities and Women

In general social responsibilities God differentiated between men and women. Women have generally been excused from any such duties. Whatever responsibilities have been put on them in some pressing circumstances have been compensated in one way or another keeping in consideration their natural weakness.

And let two male witnesses from among you bear witness to it [i.e. such transactions], if two men cannot be found, then one man and two women, whom you approve (as witnesses), so that if one of them forgets the other may remind her. (Q 2:282)

Islam wants to spare women of troublesome social and cultural activities. Women's participation in such works is not only harmful to the smooth functioning of these institutes but also hinders the proper running of their responsibilities which can only be performed by them. A few examples would better explain our view.

According to the Islamic *sharī'ah* a woman cannot lead men in prayer congregations. She can attend a prayer congregation only after fulfilling certain conditions. This directive is not based on inferiority of woman or superiority of men. Rather this is based on religious and moral principles of Islam. Natural sexual traits of women and men's inbuilt attraction towards it make it quite possible that moral and spiritual purification, the very purpose of the prayer, is lost when it is offered in her leadership. This is precisely for this reason that prayer is not offered with a women leading the congregation.

As well, according to the Islamic Law, a woman does not work as a magistrate or as a judge⁶⁸ though some jurisconsults have allowed appointing women on these posts with certain provisos. This law, however, is not based on the inferiority of women. It is based on the natural tendencies of women. God has imposed certain other duties on them which should not be hindered by involvement in judicial activities. The following *ḥadīth* governs the issue of women's leadership.

Abī Bakrah narrated: When the Prophet came to know that the Persians appointed daughter of Kistrā as their rulers he commented, "a people who take a woman as their head will never prosper." (*Bukhārī*, No: 4163)

Bukhārī too, in his *Ṣaḥīḥ*, recorded a variant of this report which further clarifies a few aspects of the prophetic wisdom.

Abī Bakrah narrates: I was about to participate in the Battle of Jamal. God blessed me with great benefits through a verdict I had heard from the Prophet. When he was informed that the Persians had appointed daughter of Kistrā as their ruler he commented, "a people who take a woman as their head will never prosper." (*Bukhārī*, No: 4163)

⁶⁸ Shawkānī, *Nayl al-Awtār*, vol. 8 (Saudi Arabia: Idārah al-Baḥūth al-'Ilmiyyah), 240.

7.4 Women and Armed Services

Books on early Islamic history and the *ḥadīth* works contain enough evidence to that the believing women have been participating in the battles during the early period of Islam. It has been reported that, in early Islam, women would participate in battles in the company of their husbands and children. However, they did not consider it an obligation to do *jihād*. In Islam, *jihād* is imposed on men. The Prophet never commanded or even encouraged women to participate in the battles. According to the prevalent Arab customs believing women participated in battles only to look after the sick, provide first aid to the injured, cook food and to perform other works of similar nature. They did not fight. They were never allowed to fight in the battles. That is why they did not share the booty. Some women nevertheless received part of the booty. That was given them merely as a gift. It was not given them as their legal share. Believing women never participated in the battles unattended by their family members for they never called to do battles. A few narratives shed light on the issue. ‘Ā’ishah narrates:

I said to the Prophet, “O Messenger of God, we believe that *jihād* is the most excellent act of virtue. Should not we fight then?” He said, “No. Rather the most excellent act of virtue for you is *ḥajj* accepted (by God).” (*Bukhārī*, No: 1448)

A variant of this *ḥadīth* in *Bukhārī* contains the following words: “your war in the way of Allah is *ḥajj*.” It is reported that Ummi Warqah b. Nawfal sought the Prophet’s permission to participate in the Battle of Badr. The Prophet declined. She was a scholarly lady with a great knowledge of the Qur’ān. At another occasion she sought his permission to gather the women and girls at her home so that they could learn the Qur’ān and the *ṣalāh*. This the Prophet allowed. The women from her neighbourhood gathered at her home and she led them in prayer. (*Abū Dāwūd*, No: 591)

After the revelation of the *ḥijāb* directives some women sought the Prophet’s permission to participate in the wars. The Prophet did not like this. He wanted to curb this tendency. A similar incident occurred around the Battle of Khaybar. (*Abū Dāwūd*, No: 2729)

Ḥashraj b. Ziyād reports from his grandmother that she said: “I left my home to participate in the Battle of Khaybar. There were five other women besides me. When the Prophet came to know that we were leaving to participate in the battle he called for us. We went to him only to see him in great anger. “With whom have you set out? Who permitted you to leave?” he enquired. We told him that we had left on our own. We said, “We card wool and work for the sake of God. We have collected some first aid for the injured. We can hand over the arrows to the warriors and can serve fine flour to them.” He said, “Go back.” When the Muslims were victorious and conquered the land of Khaybar the Messenger of God granted us a share in the war booty.”⁶⁹ Ḥashraj asked her grandmother what she got in share. Some dates, she explained. (*Abū Dāwūd*, No: 2729)

⁶⁹ “A share like that of men” does not mean that they too would get the share from the war booty determined for the men participating in the war. The statement of the narrator itself explains that they were granted something of the booty like some dates etc.

7.5 ‘Ā’ishah’s Offensive

History of early Islam shows that women never participated in the political affairs. However, ‘Ā’ishah, the mother of the faithful, is the only exception. First she demanded from ‘Alī that the assassins of ‘Uthmān were punished. This he could not. His failure to punish the murderers led ‘Ā’ishah to fight ‘Alī. This battle fought between the two is known as the Battle of Jamal (Camel). We do not wish to judge which of the two parties was on the right and who misinterpreted the divine rulings in this regard. We only wish to see ‘Ā’ishah’s step was legally and religiously correct or not. In this regard varying views have been attributed to many of the companions, men and women, in the books of *asmā al-rijāl* (science of men). These views can, however, be discounted considering the fact that all of them side with one of the two parties. These views can therefore be partial. We omit to discuss all of them. We will, however, discuss the viewpoint of ‘Abd Allāh b. ‘Umar, son of the Caliph ‘Umar. His view is relevant in two aspects. First, ‘Abd Allāh b. ‘Umar have never been a party in this dispute in any way. Second, his piety and knowledge has always been recognized by all the Muslims. It has been reported that he declared, in no unclear terms, that ‘Ā’ishah had better sat at her home rather than being part of the dispute.

That the house of ‘Ā’ishah becomes her more than her howdah.⁷⁰

‘Alī was a party in this dispute. Many may not consider his view of much importance in this case. To me, however, his view deserves serious consideration for the following reasons. He always avoided showing partiality against his opponents in most crucial matters. He always practiced justice and equity. During the Battle of Camel, to cite an example, when the dispute among the Muslims was at its worst manifestation he honoured and respected ‘Ā’ishah. His view cannot be rejected dubbed as a party claim. His position, on the contrary, should be considered in this case just as it is considered important and worthy in other religious affairs. The following letter he wrote to ‘Ā’ishah addresses the question under discussion. It informs us of his viewpoint over his confrontation with her.

You have stood up claiming something for the sake of God and his Messenger that was not your responsibility. What can make women do battles and reform people? You want to avenge the murder of Uthmān. By God, those who incited you into committing this mistake and who put you in this trial have done you a greater wrong than that done to Uthmān. You have allowed others to incite you, agitate you and make you lose your temper. Fear God and return to your home.⁷¹

We see how ‘Alī avoids judging her stance. It was his general habit to openly tell his opponents that what they were out to do was against the *sharī‘ah*. He would also argue from the basic sources of the *sharī‘ah*. Here he refrains from making any clear judgment. He does not say that ‘Ā’ishah’s view is baseless. He objects to ‘Ā’ishah’s offensive and holds that she took up and pursued an issue that was not her duty. Being a woman she was not required by God and his Messenger to follow that matter. She has been incited by others. They led her to intervene in a matter that lay outside her religious obligations. She allowed others to drag her into a great trial (*fitnah*). She could have stayed aside without incurring any accountability.

⁷⁰ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, 1: 61.

⁷¹ Ibid., 70-1.

The Islamic State

In her response, the mother of the faithful, ‘Ā’ishah merely stated that the time to protests and remorse had gone. She did not defend her position. Her response reflects that she had felt the tenability of the view of ‘Alī. It seems that she was affected by ‘Alī’s letter. The situation, however, was out of control at that time. She was no longer able to undo the steps she had taken. We do not find any other reasonable explanation of this brief reply from the mother of the faithful in which she avoids responding to ‘Alī’s claim that the matter lay outside the issues women are obliged to follow. She was a lady who fought for the rights of women all her life. She could have defended her position if she did not believe in veracity of ‘Alī’s views. She could have written back that what he had held was not tenable. What we have explained regarding the reason of her reaction to ‘Alī’s letter is further corroborated by her future behaviour. She limited her activities to the affairs of women. She never participated in any political dispute in any way. We have enough indications in the historical facts which prove that she was remorseful on her step against ‘Alī throughout her life.

7.6 Character of Woman and the State

Involvement of women in the political setup of the state is harmful. The character of women does not correspond to that of the state. Woman’s character is marked more by passivity than activity, subservience than dominance. She is, by nature, influenced more than she can influence. She is strongly passionate and remarkably sensitive. This makes her vulnerable and docile in all kinds of events and circumstances and that too to an extreme state. This nature of woman is indeed a very great virtue required in her own natural vocation. It is only because of this nature that she is able to show love and passion towards her children and husband. She feels for them quickly whenever they are in trouble and pain and then puts all her forces to help them. She cannot feel comfortable until they are relaxed even if she has to sacrifice all her assets to this end.

On the contrary this very nature of her does not leave her fit for the political and public duties. Whenever she is involved in such activities as lie outside of her natural role she can prove harmful for herself as well as the state. Unlike woman the character of the state is manly. It is marked more by activity than passivity, dominance than subservience. The state has to command influence more than it can be influenced. The state has well defined goals and determined will. It has to accomplish this goal with an active determination and dominant force. The national affairs are quite all embracing. It has to deal with the natives and the foreigners, its own people and the aliens. This makes it imperative for the state to show an attitude more corresponding to expediency and political aims. It has to show more solidity than passion, less aggression than determination. The matter is not, therefore, limited to women. Some men too are not fit for the purpose of the state. Men who are overly passionate and sensitive are not suitable for the State office. If they are put to discharge such duties they not only harm themselves but also put the state in jeopardy.

Womanly character is not fit for any state. The Islamic State cannot afford it any circumstances. The present day democracies, which are represented by the public, may sometimes tolerate such a character in the office for they have to submit to the will of the subjects. The Islamic State, however, is established to implement the will of God and not of the subjects. It aims at enforcing the will of God in all the spheres of life within its jurisdiction. It cannot afford putting such characters in the office. This is because when the Prophet was informed that the Sassanid had enthroned the daughter of their deceased king he commented:

A people who take a woman as their head will never prosper. (*Bukhārī*, N0: 4163)

Bluntschly, a renowned scholar of political science writes in his book *the Theory of the State*:

Women who have been famous in politics have generally done harm to the state and their friends. Their cleverness and acuteness become dangerous intrigue: and when once the passions of political hatred, revenge and greed have been kindled in a woman's breast, they spread like wildfire. This is true not only of the mistresses of princes, but of many wives and mothers notorious in history. The history of Rome, the French Revolution, the courts of the French kings, all tell the same tale.⁷²

After the last world war, the French leaders were compelled to admit that a major reason of their defeat was the women who had involved in the national politics. The political history of Islam too offers some insightful precedents in this regard as we have discussed above. Let us now turn to the rights and obligations of women in the Islamic State keeping the above mentioned facts in perspective.

7.7 Rights of Women

As regards the rights of citizens the Islamic State does not discriminate between man and woman.

The Islamic State guarantees the protection of life, property and honour of every woman. Woman has the right to private property and the state is obliged to protect this right of woman.

The state shall also make sure that woman is given full freedom to avail the rights awarded her by the *sharī'ah*. No cultural customs and superstitious traditions will be allowed to affect her freedom and hinder her avail her rights.

Woman will be awarded full freedom to form opinion and express herself through writing and speech. She is free to form and join guilds and associations, issue newspapers and journals, criticize the government, seek her rights and freely express her views on issues of national interest.

Her personal freedom will be fully protected. She will not be subjected to any restriction other than the limits prescribed by the *sharī'ah*.

Like man woman too has the right to form, follow and propagate any religious school within the limits of the *sharī'ah*.

Woman is also guaranteed legal equality. The national law will not treat woman with discrimination on the basis of her financial and social status.

Race and decent, poverty and opulence, vocation and trade will not determine the superiority or inferiority of woman.

Woman will also have the equal right over the national assets under the *bayt al-māl*.

The state will provide for the basic needs of every needy woman.

The state will make sure that the woman, just like man, is granted equal opportunity to education.

Woman will enjoy full right to free and indiscriminating justice.

If a woman dies leaving behind some debts with no assets to be used to pay off her obligations the state will be liable to pay off her debts.

No woman will be required to do anything in defiance of the divine commands.

⁷² Johann Kaspar Bluntschly, *The Theory of the State*, 3rd ed., (Ontario: Batoche Books, 2000), 173.

Every woman will be free to criticize officials of the state and will have the right to petition.

7.8 Obligations of Woman

Corresponding to the rights enumerated above woman owes obligations to the state and the society. These follow:

1. Obedience:

Just like man, woman too is obliged to listen to and follow the commands of the state authorities which are in accordance with the *sharī'ah* and established concepts of good and virtue. The only situation where she may not obey the rulers is when they issue a command in defiance to the divine laws.

2. Sympathy: Woman too is obliged to wish well for the state authorities and the rulers and sympathize with them. She is, therefore, required to avoid committing anything that is against national interest. It is her duty to God to do whatever she deems necessary for the betterment of the state and the nation. She may not only do whatever she believes to be in her favour. If she forms an opinion on issues of national interest she should share it with the rulers even if it is not appreciated. She is obliged to curb whatever occurrences in the society are against the interest of the nation. She must endeavour to dress it by force if possible. Failing that she may raise her voice against it. Failing that, she must detest it. Her criticisms must also be true and honest. Whenever she is employed to carry out a work of public welfare, she must discharge the entrusted duty to the best of her ability. She is to perform the entrusted task with true intention. It is her service to God.

3. Cooperation: Woman is obliged to cooperate with the state and the authorities in different ways considering her position in the social set up and her circumstances.

i. Woman will have participation in the Counsel of *Shūrā*. Her representatives will be elected by the electoral of women only. These representatives will communicate the views of the female population of the country to the authorities. The government will not determine a course of action in matters concerning women except after proper consultation with women representatives. Elsewhere in this book we have narrated how Asmā b. Yazīd Anṣāriyyah represented women before the Prophet. She asked him questions. The Prophet treated her as a representative of women of the time. He sent her back with his response to the questions. Another similar example from the life history of the Prophet is that of Shafā' 'Ummi Sulaymān b. Abī Ḥatmah.

'Umar would consult her first of all. He would appreciate her opinions, would prefer her and at times put her in charge of certain affairs of the market.⁷³

ii. All the state departments directly related to women alone including women colleges and schools, women hospitals, women police, women military training centres etc are run by the female population. According to the Islamic principles, women will be granted autonomous power to run these departments.

iii. Women can be employed in all governmental departments provided they are able to discharge their duties while observing the Islamic dress code. All such women as have shown their expertise in any specific discipline will be provided full opportunity to serve in that field unhindered.

⁷³ Ibn Ḥajar, *al-Iṣabah fī Tamayīz al-Ṣaḥābah*, 1st ed., vol. 4 (Beirut: Dār al-Ma'rifah, 2004), 2551.

The Islamic State

Military Service: Islam does not oblige woman to serve in the armed forces. However, she has to learn the use of weapons, safety measures in emergencies like in air raid, first aid and other similar activities. Government in the Islamic State ensures that woman is trained in these matters in favourable atmosphere. She is not forced to mix with men and abandon her dress code. Thus she will be able to serve the state in emergency conditions. She can thus participate in Jihad and reap the reward from the Almighty Allah.

Part III: Rights of Non-Muslims

8. Status of Non-Muslims in the Islamic State: Two Fundamental Questions

Two major factors generally hinder an effort to determine with precision the rights of the Non-Muslims in the Islamic State. First, most people do not know that the Islamic *sharī'ah* has promulgated different laws governing the affairs of the various categories of the Non-Muslim citizens of the Islamic State. Those who understand that such difference is observed do not reach at the correct basis of the difference. Second, a vast majority thinks that there can only be one kind of Non-Muslims, namely *dhimmīs*, in the Islamic State. They believe that it is the only category regarding which the laws of Islam have been worked in the *ḥadīth* and *fiqh* literature. Mostly they are ignorant to that there could be other kinds of non-Muslims in the Islamic State whose rights and obligations are different than that of the *dhimmīs*. A failure to come to a correct position on these two matters has contributed towards erroneous stances and practical problems in the Muslim world concerning the rights of the Non-Muslims. We believe this can continue directing the Muslim States in wrong direction. This makes it imperative that, before defining the rights of the non-Muslims in the Islamic State, we explained the true Islamic position in this regard. We hope that clarity obtained regarding this issue would make it easy for us to rightly define the question of the rights of the non-Muslims in the Islamic State.

8.1 Islamic Stance on the First Question

A thorough analysis of the relevant directives of the Qur'ān and the *Ḥadīth* leads us to the conclusion that two different categories of non-Muslim population in the Islamic State can be distinguished which the divine law treats differently.

The first category includes those who are the direct addressees of the Messenger of God. He explained to them the religious truths in ultimate form leaving them with no excuse to the denial of the truth. Then there are those who are the addressees of the general body of believers. The latter shows them the right path leaving them with no excuse to claim that they remained ignorant to the religious teachings of Islam.

Both these groups are not treated equally in this worldly life. Those ignorant to this clear point of difference and its basis in the *sharī'ah* have greatly been confused in their understanding of the rights of the Non-Muslims. A majority of these, however, acknowledges that many of the Islamic Laws are specific for the polytheists among the Children of Ismā'īl among whom the Prophet was raised. Yet, unable to understand the basis of this classification of the non-Muslim citizens, they fail to offer correct and cogent explanation of the nature of many of the laws bearing on the categories of the non-Muslims. Their efforts thus bring more confusion than clarification.

Another group of scholars, however, is completely ignorant of any kind of different treatment with the polytheists among the Children of Ismā'īl as well as other groups including Jews, Christians, and Zoroastrians etc. This leads them to do injustice of great consequences. Those among them as of extremist nature, at times, pass judgment upon non-Muslims based on directives specific for the Ismaelite polytheists. Such judgments cannot be

The Islamic State

attributed to Islam in any way. In contrast, the scholars more disposed to tolerance with soft corner for religious pluralism, while discussing the issue of rights of the minorities in the Islamic State, disregard the clear Qur'ānic injunctions governing this issue which they find against their natural inclinations. If at all they consider these directives they do so only after reinterpreting the source texts extravagantly so as to render the issue incomprehensible and incoherent. I wonder how 'Allāmah Ibn Qayyim, the scholar with a great wisdom and profound understanding be led to error. What makes his error gravest is that his mistake leads many others into erroneous interpretation of the Islamic laws and the true Islamic stance on the subject remains obscured.

The Qur'ānic stories covering the struggle between different Messengers of God with their polytheistic addressees take us to the fact that the Almighty has always differentiated between these two categories of the non-Muslims. A Messenger sent to a people always makes the truth clear to them in ultimate form. He fulfils all the divinely determined conditions of propagation and teaching of the religious truths. Once this is accomplished, God Almighty does not let the rejecters live more. He annihilates them from the face of the earth. The divine punishment generally assumes one of the following two forms:

i. Sometimes the majority rejects the truth after they have been made convinced of the veracity of the Messenger's claim. They persist in arrogant rejection of the truth. The Messenger is left with a handful of followers. In this situation the people are offered two options. They can either accept Islam, entering into true service of their Lord, or face death. Those who opt for the divine punishment for Islam are subjected to it through natural calamities. We see that the nation of Noah, Hūd, Lot and Shu'ayb, as the Qur'ān narrates, were annihilated.

ii. If a large number of the addressees of the Messenger accepts his call and follows him then the forces of good and evil confront each other. Once all the phases of propagation and preaching by the Messenger leading to the *itmām-e-hujjah* (elimination of all excuses) have passed, the rejecters are again offered two options. They can either accept the faith or face the wrath of God unleashed in the form of the force of the followers of the Messenger. Then if they opt for the second choice, they are wiped out from the face of the earth through the swords of the companions of the Messenger. The sword of the believers under the headship of the Messenger is one of the lashes of God to strike the rejecters of the truth. For all the actions the Messenger of God takes are determined by the Almighty Allah. Example of the Messenger Muhammad in Arabia is a case in point.

The Prophet Muhammad spent twenty year of hard work in making the people understand the truth. He kept on elucidating it for them tirelessly. The Prophet did not find a large following. Not only did his addressees persist in rejecting him they also forced others to follow the example and reject the truth. Then God Almighty commanded the Prophet to hunt the rejecters all over the Arabian Peninsula. He was to cut all kinds of relations with them. Any treaties enacted with them were not to be renewed after the expiry. There remained no question of tolerance for them. They were, however, granted a few months of security. After this time elapsed they were given a chance to opt either for sword or Islam. If they chose the sword they were to be hunted down and killed. They were not to be sheltered until they accepted the faith and persisted in offering the *ṣalāh* and paying the *zakāh*. Consequently, just after the revelation of these commands forming part of Sūrah al-Barā'ah (Q 9) in 9 AH, the law was enforced in the entire Peninsula. It was announced to all. After the completion of the stipulated period of respite, war was declared against those rejecters who had no pact with the Muslims.

These directives were, as hinted above, specifically applicable to the polytheists of Arabia to the exclusion of all other groups of non-Muslims. The basis of this special treatment with

The Islamic State

them was that the Almighty had raised a Messenger from among them.⁷⁴ The truth was made manifest to them.

There are other groups of non-Muslims who have not been directly addressed by the Messenger. They have not been exposed to the truth directly by the Prophet himself. They have been invited to the truth by the believers. Such are not subjected to the directives specifically meant for the Ismaelites. They are to be dealt with under the directives applicable to the People of the Book. They are given a different status which awards them specific rights in the Islamic State. We will discuss their rights in the Islamic System shortly. It is very important to appreciate the difference between the directives governing these two groups. It is also important that we have full understanding of the basis of this differentiation. A failure to understand these two points have put many in error regarding the true status of the non-Muslims in the Islamic State. The scholars who tried to discuss this issue without properly understanding these facts have neither been able to remove their confusions nor could they explain the Islamic stance before the non-Muslims. They have, on the contrary, left such gaps in the course of discussion which confuse even the Muslims far from removing the questions in the mind of non-Muslims. The non-Muslims often consider the stance of such Muslims scholars as mere sugar quoted words.

The People of the Book (Jews and Christians) are a group distinct from the polytheists of Arabia. They were no doubt direct addressees of the Messenger. They were clear on the veracity of the prophetic claim because of the *imām-i hujjah*. Therefore, they too deserved this treatment. However, the Qur'ān has clearly awarded them a status distinguishable from the polytheists. The legal status of such people was determined in a well defined manner by the Messenger himself as directed by the Qur'ānic directives. However, when the Zoroastrians, who were not scriptural, came under the Islamic rule and the question of Islamic stance regarding them surfaced, the issue was resolved in the light of a prophetic tradition. They were treated like the People of the Book. Sometimes later the issue of barbarians surfaced. With the consensus of the companions and the scholars among the new generations, it was decided that they too were to be treated like the People of the Book. Thus at that point it was determined as a rule with the consensus of the entire *ummah* that in the Islamic State all kinds of non-Arab non-Muslims were to be granted the status awarded to the People of the Book regardless of the nature of their faith and beliefs. The People of the Book are awarded a distinct political status because the Qur'ān, the word of God, has clearly explained their position. Those besides the People of the Book are, however, awarded such a political status because they are similar to the People of the Book. The only difference observed by the Islamic law regarding treatment of the People of the Book and those similar to them is limited to the directives concerning the flesh of animals slaughtered by them and taking their women into marriage. Their political and social rights are the same. Thus a Christian, a Hindu and a Pārsī are equal in the eyes of the Islamic State.⁷⁵

⁷⁴ A thorough discussion on the question why direct addressees of a Messenger are treated this way has been carried out in my book *Ḥaqīqat-i Shirk-o-Tawḥīd*, (Lahore: Fārān Foundation, 1998). The chapter "*kia shirk taqāḍā'ey fiṭrat hay*" deals with this issue. It is neither necessary nor affordable to take up the issue in detail here.

⁷⁵ There is a difference of opinion among the scholars on the issue. Imām Aḥmad b. Ḥambal and Imām Shāfi'ī believe that only three groups enjoy this compensation, Jews, Christians and the Zoroastrians. According to these scholars, other non-Muslims are to be treated like polytheists of Arabia. This difference, however, exists only in theory and not in practice. The *ummah* has always treated them according to the view I have held in this discussion.

8.2 Islamic Stance on the Second Question

The above discussion covers how the polytheists of Arabia were treated. It also traces the basis of their status in the source texts. We have seen that this group of non-Muslims has to be subjected to directives specific to them. These directives may not be extended to general non-Muslim population. Now we turn to the second question. Is there only one form of non-Muslims in the Islamic State commonly referred to as *ahl al-dhimmah* (protected minority) or there can be other groups governed by different directives and deserving a political status different from the *ahl al-dhimmah*? A thorough understanding of the prophetic traditions and the works of Islamic *fiqh* reveals that there are two kinds of non-Muslims in the Islamic State, a, *ahl al-dhimmah* (those with whom the Islamic State enacts a treaty) and b, *ahl al-'anwah* (those subjected to the Islamic rule after being won over in a battle). Since the works of *fiqh* use a general term *ahl al-dhimmah* for both, the difference between the two groups has blurred. People no longer distinguish the one from the other. We believe that these groups of non-Muslims enjoy different rights and are awarded different status by the Islamic law. We must, therefore, differentiate between the two and explain the nature of the difference.

By *ahl al-ṣulḥ* or *mu'ā'id* is meant the non-Muslims who are not defeated into the Muslim rule. They enter the Islamic rule through a treaty for they are influenced by moral or political power of Muslims and they consider it politically expedient to accept the Muslim rule. No doubt being subject of the Islamic State, both the *mu'ā'id* and the common group of *ahl al-dhimmah* are the same. Yet their status is different. For the political status and rights and obligations of the former group is not determined merely by the directives of Islam but also by the terms of the treaty enacted with them.

In contrast by *ahl al-'anwah* are meant the non-Muslims who face the Muslim armies and are defeated and forced to surrender. These are the conquered. The Muslim government necessarily subjects them to pay *jizyah*. They are also forced to pay a certain percentage of the income from their lands termed *kharāj*. Their rights are determined in the Islamic law. The Islamic State is obliged to treat them according to the stipulations of the Islamic *sharī'ah* and their rights are to be fulfilled religiously. In the present discussion we have used the terms *ahl al-dhimmah* (protected people) or *maftūḥ ahl al-dhimmah* (conquered protected people) for this kind of non-Muslim population in the Islamic State in order to avoid confusion. The mention of both kinds of the non-Muslim population can be found in the works of *Ḥadīth* and the *fiqh* along with their different status and distinct characteristics. Yet at many occasions, in these very works, the true picture is blurred owing to confusion in the minds of the authors. This has rendered it difficult, if not impossible, for a commoner to differentiate between these two kinds of non-Muslims. This calls for a detailed dealing of both. The rights and status of both needs to be explained so that the confusion is removed and both groups are identified distinctly.

9. Rights of Ahl al-Ṣulḥ or Mu‘ā’ids

9.1 Introduction

Rights of the Non-Muslims who are not defeated and who accept the Muslim rule for any other consideration on their part are not determined by the Islamic legal code alone. The terms of the treaty or pacts enacted with them provide a parallel source. They are subjected to the responsibilities they take as per the treaty. The Islamic State is obliged to fulfil the terms of the pact. The authorities are accountable before God and the people on their conduct in this regard.

Though this principle determines the status and rights of this kind of non-Muslim population in the Islamic State yet the question remains to what extent the Islamic State can go in facilitating them. A compact and categorical answer to this question is that they can be awarded all kinds of rights that which do not translate into defiance of sovereignty of God and the principles of the *sharī‘ah*. We, however, feel that in order to create a clear picture of this situation in the minds of the readers, it would be more useful to present examples of treaties enacted by the Prophet and the companions with the non-Muslims of their time. These examples, it is hoped, will help one understand in what circumstances they were enacted, to what kind of non-Muslims they were committed and what were the consideration behind these treaties. It will also make it possible for one to see the scope of rights and privileges allotted to the non-Muslims through these treaties. The Muslim governments can take great help from these examples in solving the issues of the non-Muslim minorities in the present day.

9.2 Treaties with the Non-Muslims

Examples of treaties with non-Muslims in the early history of Islam are numerous. During the rule of the rightly guided caliphs many such regions came under the Islamic State as can be termed protectorates. Aḍraḥ, Bahrayn, ‘īlah, Dawmah al-Jandal, Bayt al-Maqdas, Damascus, most parts of Syria, Bilād al-Jazīrah, Egypt and most parts of Khurasān are cases in point. The inhabitants of all these places entered into treaties with the Islamic State covering many political matters. Writes Abū ‘Ubayd al-Qāsim:

Dealing with them is governed by the terms of the treaties enacted with them. They cannot be deprived of the rights granted by these terms.⁷⁶

A thorough knowledge of these treaties helps us explain the policies regarding the *ahl al-ṣulḥ* adopted by the Islamic State in its pristine form. Unfortunately I do not have access to many of the related works. Therefore, I have to remain content with a relatively abbreviated discussion based on Qādī Abū Yūsuf’s *Kitāb al-Kharāj* and Abū ‘Ubayd’s *Kitāb al-Amwāl*. Much of my findings on the current issue are based on these sources.

⁷⁶ Abū ‘Ubayd al-Qāsim b. Salām, *Kitāb al-Amwāl*, (Beirut: Dār al-Nashr Dār al-Fikr, 1988), 132.

9.2.1 Treaty with the People of al-Fidk

One prominent example of this kind of treaties is that of the treaty enacted with the People of al-Fidk. The following terms were agreed upon between the Muslims and these people:

It was settled that they would be free. They will own half of their lands and half of their date orchards. The Messenger of God (the government practically) will own half of their lands and date orchards.⁷⁷

These terms clearly state that the people with whom this treaty was enacted enjoyed freedom; they could not be enslaved. Their ownership over half of their lands and orchards was recognized. They were not merely employed to work as peasants on these lands. They were on the contrary, legal owners of half of their estates. When ‘Umar decided to expel these people from there he sent his representatives to them who assessed the worth of the half of their lands and orchards and paid them before they were expelled.

When ‘Umar expelled them out of the land he sent someone to them to assess the worth of their share of the land and the date palms. ‘Umar compensated them.⁷⁸

It needs to be appreciated that they were expelled from the land during the reign of ‘Umar. This shows that the original treaty enacted by the Prophet was still effective. They were not subjected to the payment of *jizyah*. This provides clear evidence to the fact that the directive of *jizyah* is not general; it cannot be applied to all kinds of non-Muslims living under the Islamic rule. In that case, they would have been subjected to pay the *jizyah* right after the revelation of the verses governing the *jizyah* tax.

9.2.2 Treaty with the Christians of Banū Taghlab

Christians of Banū Taghlab were originally Arabs. Their bravery and courage was legendary. ‘Umar wanted to impose *jizyah* upon them. Their chivalry and sense of honour made them defy the caliph. They accepted to leave their homeland in order to avoid this humiliation. ‘Ubādah b. Nu‘mān Taghlabī interfered and talked to ‘Umar on this issue.⁷⁹ He addressed the caliph in the following words: “You well know the chivalry and bravery of the Christians of Banū Taghlab. These people live on the frontiers directly facing the enemy. If they decided to help your enemy against you the enemy will surely prevail.” Considering this point ‘Umar decided to impose *ṣadaqah* on them instead of *jizyah* albeit double the amount of *jizyah*. The author of *Kitāb al-Amwāl* writes:

He said: “Being of ‘Arab origin, people of Banū Taghlab consider it too humiliating for them to pay *jizyah*. They are not herdsmen. They are cultivators and the enemy dreads them. Do not lend power to your enemies by alienating them.” ‘Umar imposed *ṣadaqah* upon them instead of *jizyah*. However, he imposed double of the usual amount of payable *ṣadaqah*.⁸⁰

⁷⁷ Ibid., 16.

⁷⁸ Ibid.

⁷⁹ The version of the report found in Abū ‘Ubayd has the name Nu‘mān b. Zar‘ah instead of ‘Abd Allāh b. Nu‘mān Taghlabī. I have relied on the narrative from *Kitāb al-Amwāl*.

⁸⁰ Ibid., 37.

The above mentioned decision of ‘Umar leads to two important conclusions:

First, if a party among the non-Muslims (which has not been subjugated through war) considers paying *jizyah* humiliating to them, the Islamic State has the authority to dissolve them from paying the *jizyah*. Any other form of taxation can be imposed which is acceptable to them. However, any such agreement should not go against principle teachings of Islam and should not cause greater loss to the *Bayt al-māl*.

Second, if any party among the non-Muslims living under the Islamic rule enjoys some extraordinary political, economic or military importance and it is feared that if they are not appeased the enemy of the Islamic State would easily use their power against Muslims then the government can facilitate them in regards to the payment of taxes provided such an agreement does not violate any basic Islamic rule.

9.2.3 Treaty with the People of Najrān

Another example is the treaty enacted with the people of Najrān. We will first quote the terms of the treaty verbatim following an analysis of the rulings derivable from them:

In the name of Allah, the ever Merciful, the Compassionate. This agreement has been written and accepted by the Prophet Muhammad and the people of Najrān while he (the Prophet) has the authority to decide the fate of all their produce, their free men, black, white and yellow among them, and their slaves. But he has been merciful to them. He has left all these remaining content on receiving two thousand *hillahs* (robes), one thousand in the month of Šafar and one thousand in the month of *Rajab*. Every *hillah* will be priced one *awqiya* (equal to forty dirham).⁸¹ Any excess or shortage of the tax in the form of robes will be payable in the form of *awqiyas*. Whatever number of hauberks or horses or camels or any other item they will pay will be considered the payable tax. The People of Najrān will be obliged to host for twenty days the state officials visiting Najrān. These officials representing the Prophet will not be made to wait beyond thirty days whenever they go to Najrān for collecting tax. In case of any unrest in Yemen these people will lend the Muslims thirty hauberks, thirty horses and thirty camels. If anything among the lent hauberks, horses or camels is damaged or lost the Prophet’s representatives will compensate the loss. The Almighty Allah and his Messenger guarantee the people of Najrān and its dependencies their lives, their properties. This is for all those who are present in the land, those who are absent and for the original tribesmen and their clients. Their present status will prevail. Neither will their rights be altered nor will their religious affairs be interfered with. Neither will any monk displaced from his position nor will any key bearer of the Church be removed from his post. Whatever they possess, meagre or plenty, will not be confiscated. They will not be questioned for anything happening during the days of *jāhiliyyah* nor will they be subjected to the payment of blood money or retaliation for any killings prior to the advent of Islam. They will not be called to line together in one place for the payment of the tax. Rather they will be approached by the tax collectors. They will not be subjected to the payment of tithe. Any foreign invasion on them will be deterred. If there will be a dispute among them it will be decided justly.⁸² However,

⁸¹ *Hillah* is a robe consisting of two sheets of cloth which was a famous product of Yemen in those times. One *awqiyah* equalled forty *dirhams*.

⁸² According to the version appearing in *Kitāb al-Amwāl*, they will not be required to approach the

The Islamic State

if any individual among them devours usury the Messenger of God is not responsible for that. Nobody among them will be held responsible for a crime committed by another. All the terms of this agreement are guaranteed by the Almighty Allah and his Messenger till the Day God decides the matter as long as they fulfil the rights, follow the right path and avoid transgression.⁸³

This treaty subjects the people of Najrān to the following obligations:

1. payment of two thousand robes yearly in two equal instalments as *kharāj*.⁸⁴
2. lending thirty horses and thirty camels in case of unrest and emergency in the province of Yemen. The government will guarantee the return of these things and will pay for them if damaged.
3. hosting the tax collectors for twenty days.⁸⁵
4. payment of the tax during the month determined for the purpose.
5. avoiding usury.

Corresponding to these five major responsibilities, the people of Najrān were granted the following rights:

1. Security of the lives of free men as well as slaves will be guaranteed. The property of all the inhabitants of Najrān and its dependencies will be inviolable. They enjoy religious freedom.
2. Their religion will not be changed for them.
3. Their previous status will not be altered.
4. Their religious system, religious institutions and charity organizations will not be hindered from work.
5. They will not be held responsible for any killings done before the establishment of Islamic rule.
6. The tax collectors will reach their doorsteps for collection. They People of Najrān will not be obliged to gather at a specified place for this purpose.
7. They will not be subjected to the payment of the tithe.
8. They will be defended against foreign aggression.
9. Judicial system will be set up to decide disputes among them.
10. None will be held in custody for a crime committed by others.

9.3 An Important Clarification

While discussing the treaty with the people of Najrān ‘Allāmah Ibn Qayyim indicated towards the different status of *ahl al-ṣulḥ* and other forms of non-Muslims living under the Islamic rule. In this connection he writes:

The difference between these two is based on the fact that there was no Muslim among

capital for the settlement of disputes. Their cases will be decided in Najrān and justice will be provided them in their hometown.

⁸³ Ibn Qayyim, *Zād al-Ma‘ād*, 3: 634-5.

⁸⁴ I have added the words ‘as *kharāj*’ in order to indicate that they were not subjected to the payment of *jizyah*. This has been held by the jurists. (Abū Yūsuf, *Kitāb al-Kharāj*, 69).

⁸⁵ This condition was included in the treaty because at that time, there was no alternative available. People were distributed, far away from the main settlements. There were no Muslims among these people who could have hosted the administrators, tax collectors and other state officials nor were there any state guest houses.

The Islamic State

the people of Najrān and they were *ahl al-ṣulḥ*. As regards the question of Yemen it was *dār al-salām* (land of peace, under Islamic rule) though some Jews lived there. Therefore, it was decided that the people of Yemen should be subjected to the payment of *jizyah*. The Jurists have considered the payment of *jizyah* specific for this kind of non-Muslims not to the former kind. We, however, believe that it too is a form of *jizyah* for it is but wealth which these people are forced to pay. Thus there is no practical difference.⁸⁶

The above quoted statement of ‘Allāmah Ibn Qayyim betrays his understanding that there is but only accidental difference between these two types of non-Muslims. There is no original or foundational difference between the non-Muslim citizens of the Islamic State. Since, according to him, the people of Najrān were settled quite apart from the common Muslim settlements and their being set apart removes the administrative difficulties in such a mitigating dealing with them, this made it possible to deal with them in quite different way. Minus this and there is no difference between the two forms, both are subjected to the payment of tax which is but *jizyah*. There is no legal difference between them and the other kinds of non-Muslims. We differ with ‘Allāmah Ibn Qayyim. We believe that the view of the jurists’ who differentiate between the two kinds on the basis that one party is *ahl al-ṣulḥ* and other *ahl al-‘anwah* is valid and sounder. If it were only accidental difference not legal then the only concession allotted them would be of administrative kind. A more basic and foundational difference in the rights and obligations of both the parties could not be observed. ‘Allāmah Ibn Qayyim insists that *kharāj* imposed upon them was nothing but *jizyah* which the government forces the non-Muslim subjects to pay. If this view is correct then we do not find any explanation to the treatment of Banū Taghlab by ‘Umar. They were excused from the payment of *jizyah* for no other reason than that they considered it humiliating to pay this tax. They insisted that they should be subjected to the payment of *zakāh* just like Muslims albeit at an increased rate.⁸⁷

Besides another prominent difference between *ahl al-ṣulḥ* and ordinary *ahl al-dhimmah* is that the latter occupy their cultivated lands merely as per their inherent status of cultivators while the former, as clear from the terms of the treaties enacted with them, were considered legal owners of their lands. The terms of the treaty with the people of Fidk clearly dictate that they would be the legal owners of the half of their lands and date palms. That is why when ‘Umar removed them from there he paid them the price of their share. Similarly the terms of the treaty with the People of Najrān clearly says that they would remain the legal owner of their lands. They were excused from the payment of *jizyah* applicable to the general category of *ahl al-dhimmah*. When they cancelled their treaty during the rule of the second caliph, who shifted them to Iraq and Syria, he commanded the governors of these two provinces to provide them arable lands equal to what they possessed in their town. He also commanded his governors to excuse them from the payment of *kharāj* for two years after which they would be subjected to pay *kharāj* that too on their produce only.⁸⁸

⁸⁶ Ibn Qayyim, *Zād al-Ma‘ād*, 3: 643.

⁸⁷ We do acknowledge that this specific tax too has been termed *jizyah*. But merely the use of the word of *jizyah* for two distinct forms of tax should not take away the difference between the legal and customary usage of the term.

⁸⁸ Abū Yūsuf, *Kitāb al-Kharāj*, 73-4.

It would not be out of place to mention that those people not only started interest based businesses in violation of the terms of the treaty but also engaged in providing war weapons to the enemies of the state. They were not expelled from the empire. They were only shifted to frontiers. If they were let to settle in the heartland, they could be able to create disorder and nuisance in the land in case of internal

Some of the jurists have elucidated this point:

The land and assets belonging to those who have been forced into subjugation through military action is the right of the Muslims conquerors for the conquered people lose occupation of their land. As for *ahl al-ṣulḥ* they guard their lands and their lives until a treaty is signed with them. This makes it incumbent for the Muslims to treat them according to the terms of the treaty enacted with them.⁸⁹

Considering this difference between the *ahl al-ṣulḥ* and *ahl al-ʿanwah* Muslim scholars generally hold it allowable to buy a piece of land from the former group. On the contrary buying a piece of land from a *dhimmī* who has to pay *kharāj* is considered disallowed by many jurists. *Ahl al-ṣulḥ* are legal owners of their lands. Buying it from them is buying something from its legal owner. Contrarily *ahl al-ʿanwah* are not legal owners of their lands. Such lands can be compared to the ones dedicated to public good. They are only considered growers of the land because they have been cultivating it for generations. True legal owners of their lands are the Muslims in their collectivity, not individually. The *ahl al-ʿanwah* can of course buy and sell such lands among themselves. It cannot be sold out to Muslims. If a Muslim buys such land from one of the *ahl al-ʿanwah* that piece of land will remain subject to the payment of *kharāj* and will not be converted into land subject to the payment of tithe.

Another worth considering point is that the amount of *kharāj* determined by the terms of the treaty enacted with *ahl al-ṣulḥ* cannot be increased overtime. It can, however, be decreased no matter how much productive the land is.⁹⁰ This distinctive treatment is not offered to all kinds of *dhimmīs*. The amount of *kkarāj* they are subjected to pay at one time can be increased or decreased considering the changing circumstances and productivity of their lands.

A careful study of the treaty enacted with the people of Najrān helps us understand that they were provided vast freedom in religious, collective and social affair. Though the ordinary *ahl al-dhimma* too are not subjected to extraordinary restrictions, as we shall see later in this discussion, yet regarding the *ahl al-ṣulḥ* it has been decided as a principle that the religious and cultural freedom accepted in the terms of the treaty enacted with them will always be respected in their territory.

The non-Muslims can openly follow their religious rites and rituals in the cities annexed through a treaty with them. They will not be deprived of anything from the rights granted them in the treaty.⁹¹

When ʿUmar reached Adhraḥāt on his way to Syria, the inhabitants of the city came out to receive him according to their religious customs. At this he asked ʿAbū ʿUbaydah to stop them from doing so and to command them to return to their homes. ʿAbū ʿUbaydah told the Caliph that it was the way of the People of ʿAjam. He also advised the caliph that it would not be expedient to stop them. He thought if they were stopped from that and were made to return, they could have taken it to mean that the religious freedom granted them according to the terms reached at with them was being taken back. At this ʿUmar said in a very light mood:

unrest.

⁸⁹ Abū ʿUbayd, *Kitāb al-Amwāl*, 205.

⁹⁰ Ibid., 69, 131, 190. A prophetic verdict in this regard has also been quoted in the annals of history besides ʿUmar's decision on such a case.

⁹¹ Ibid., 131.

The Islamic State

“Ok brother, if this is the case then let them carry on for now. ‘Umar as well his progeny are left on the mercy of ‘Abū ‘Ubaydah.”⁹²

Similarly it is also an acknowledged principle regarding *ahl al-ṣulḥ* that their women and children cannot be enslaved. Though the general attitude of the Muslims towards those who had been won over in a battle has been the same as shown to the *ahl al-ṣulḥ* but that is an example of Muslims kind treatment with those people not the legal right of the subjugated people.⁹³ On the contrary the *ahl al-ṣulḥ* cannot be killed or enslaved. They are granted legal protection and will always remain free.

The practice of the Prophet and the Muslims have been that the *ahl al-ṣulḥ* cannot be taken as slaves and slave girls, they are free.⁹⁴

9.4 Abrogation of a Treaty

Before directly dealing the issue of abrogating a treaty it would not be out of place to mention that as far as the Islamic State is concerned it cannot consider the treaties signed by the authorities as an ordinarily diplomatic contract which can be unilaterally abrogated on will on any pretext. The Islamic State observes all such dealings with the others religiously. For it enters into such contracts on the behalf of God and his Messenger. Therefore, unilaterally cancelling a treaty without justifiable cause not only mars the true face of the state but also puts the faith of the believers living in it at stake. Consequently, a true Islamic government would always uphold the sanctity of such accords in the first place, and, if a government falls into committing such offence it is the duty of the Muslim citizens of the state to raise their voice against the transgression and to stop their authorities from defying the guarantee allotted to the other party on behalf of the Almighty Allah and his Messenger. We will present some relevant examples from the early history of Islam so that it becomes clear to the reader that when, an Islamic government, on the behalf of God and his Messenger, guarantees protection to some party or group of people, it goes to all possible extents to honour it. These examples also guide us as to when can the state cancel the treaties. These examples mark for us the conditions to be fulfilled before cancelling a treaty and also delineate the circumstances where this can be done. We will also learn that how Muslims jurists and people of understanding have turned against their rulers whenever they found that the latter failed to observe the limits of the *sharī‘ah* in this regard.

9.4.1 Abrogation of the Treaty with the People of ‘Arab al-Sūs

‘Umar appointed ‘Umayr b. Sa‘īd (or Sa‘d) as governor of Syria. A little after his appointment, the governor came to the Caliph and informed him that there was a city called ‘Arab al-Sūs situated between Syria and the Byzantium. “These people have entered into a treaty with us”, the governor explained. “But they continue spying for the Byzantium and refuse to render the same service to us” he added. ‘Umar gave the governor the following instructions: “Give them two options. First, ask them to accept two goats against every single one they paid to us, two camels against every single camel they paid to us, indeed, they may take two things against every single item and leave the country. If they agree on this let them

⁹² Ibid., 200.

⁹³ This category of the non-Muslims can be subjected to a variety of treatment according to the law; they can be taken as prisoners, enslaved and subjected to pay ransom. Those engaged in creating disorder and leading others to the same can be executed.

⁹⁴ Abū ‘Ubayd, *Kitāb al-Amwāl*, 238.

The Islamic State

evacuate their city and then destroy it immediately afterwards. Second, if they are not willing to do so, announce the abrogation of the treaty, wait for a year and expel them from the country.” ‘Umayr presented these offers to those people but they did not agree on the first one. Then he waited for a year and expelled them from the country.⁹⁵

9.4.2 Abrogation of the Treaty with the People of Jabal al-Lubnān

A similar situation developed with the people of Jabal al-Lubnān. This was during the early period of the Abbasid caliphate. These people were *ahl al-ṣulḥ*. They violated the terms of the treaty enacted with them. At this, Ṣālīḥ b. ‘Alī, the then governor of Syria, expelled them from the country. This was the time Imām Awzā‘ī lived. Students of the history of Islam are well aware of the stature and illustriousness of this great scholar of Islam. He found this action of the governor at variance with the directives of the *sharī‘ah* and wrote a detailed letter to the Caliph in order to register his protest. We produce below a part of his letter to the Caliph so that we can see, on the one hand, what sort of care has to be observed while dealing the *ahl al-ṣulḥ* and on the other, what is the true status and duties of the scholars in the Islamic State. Thus we will learn how courageously the pious scholars of the past criticized the government if it abandons the *sharī‘ah* directives. It also reveals what vigilance, moral courage and just approach the earlier scholars showed concerning the rights of the non-Muslims living under the Islamic rule.

Imām Awzā‘ī had written:

The crime for which the people of Jabal al-Lubnān have been expelled from the country was committed by a few. The rebels are only those who committed rebellion. The entire party did not involve in this mutiny. This makes it incumbent upon you (the rulers) to punish only the culprits and rehabilitate the others in their settlements. How would you justify punishing the entire tribe by expelling them from their homes and settlements for the crime of a party among them? The *sharī‘ah* of God guides us clearly to the fact that He does not hold into account all for crimes committed by some. Contrarily God holds into account few effective people for the crime committed by all then He treats them precisely for what they have done. The command of God is worthy to be followed above all. Then the saying of the Prophet has to be observed where he says: “whoever wrongs a *mu‘āh'id* and subjects him to do what he cannot do will have me as the fiercest opponent on the Day of Judgment.” The property of those whose lives have been protected as per the terms of the treaty enacted with them is equally sacred. They will be dealt with in complete justice with regards to their property. These people (the people of Jabal al-Lubnān) are not your slaves so that you can toss them around. These are free *ahl al-dhimmah*. If a married person among them will commit *zinā* (adultery) he will be stoned to death. If someone among us (the Muslims) marries a woman from them she will be granted a status equal to that of our women with regards to turns, divorce and *iddah* etc.⁹⁶

9.4.3 Abrogation of the Treaty with the People of Qabraṣ

The treaty with the People of Qabraṣ was cancelled. These people claimed loyalty with two rival states at the same time. They paid taxes to both of them. On the one hand, during the

⁹⁵ Ibid., 220-1.

⁹⁶ Ibid., 222.

The Islamic State

regime of Mu‘āwiyah, they entered into a treaty with him and agreed to pay a specific amount of *kharāj* and on the other, they continued paying *kharāj* to the Romans. This divided their loyalty and their attitude was always suspicious. The Muslims governors, however, continued honouring the treaty. During the Abbasid regime, ‘Abd al-Mālik b. Ṣāliḥ⁹⁷ was appointed governor of the Syrian frontiers. These people again betrayed the Islamic State. This forced the governor to take steps against them. Since the issue involved dealing with the *ahl al-ṣulḥ*, he did not deem it fit to take any step on his own. He, therefore, presented the issue before the scholars and jurists of the time and sought their opinion on the matter. People whom he wrote in this regard and who responded to him include: Layth b. Sa‘d, Mālik b. Anas, Sufyān b. ‘Uyaynah, Mūsā b. A‘yun, Ismā‘īl b. ‘Ayyāsh, Yaḥyā b. Ḥamzah, Abū Ishāq Farāzī and Makhlad b. Ḥusayn.

A cursory look at these names can help a student of the Islamic history discern their status in knowledge and piety. They were not only the respected leaders of the time but most of them have left behind them legacies of profound knowledge for the posterity. For fear of lengthiness we cannot produce their responses completely. However, we will present a selection so that it can be assessed how a party among the *ahl al-ṣulḥ* can be treated as per the *sharī‘ah* directives when they violate a treaty contracted with the Islamic State.

Layth b. Sa‘d wrote in his response:

The people of Qabraṣ have always been considered loyal to the Romans and disloyal to the Muslims. Therefore, I believe that it would be better to abrogate the treaty with them (he quoted some relevant verses of the Qur’ān to support his view). They should be given respite for one year during which time they can think over the matter and decide what to do. Whoever enters our county trusting the guarantee given to them against the determined amount of *kharāj* is welcome. Whoever decides to go to the Romans may do so. Those who decide to fight us from Qabraṣ should be fought with. After being granted a respite of one year they will not have any excuse and we will have, by waiting till then, fulfilled the obligations of the treaty.

Sufyān b. ‘Uyaynah writes at the end of his long letter:

We are not obliged to protect the one who has abrogated the treaty he contracted with us and his tribe helped him in so doing.

Mālik b. ‘Anas responded in the following words:

I suggest you should not abrogate the treaty in haste without cutting every possible excuse for them. Then, if, after the *itmām-i ḥujjah* and warning, they do not straighten up and continue their ill-will then you should fully investigate the matter and make sure that it is they who have first betrayed us. It is only after this you will be free to take some step against them. In this case your view will just and dominating. God will help you and they will be disgraced.

Mūsā b. A‘yun wrote:

Complaints about these people have often been made and the rulers have always treated

⁹⁷ Ṣāliḥ (d. 197 AH) was one of the best military commanders who served under the caliphs Rashīd and Amīn.

The Islamic State

them properly. People of Qabraş have never been punished on these complaints. It is possible that what have been reported this time is a deed of a few among them. They are not collectively responsible for the crimes. This makes me think that the treaty with them should not be abrogated. The people of Qabraş are suppressed and wronged ones. The Romans have mastered their lives and their women. It is our duty to protect them and to help them. You know that when Habīb b. Salamah (the governor of Armenia) entered into a treaty with the people of Armenia, he assured them that the treaty would not be dissolved even if the Muslims failed to take care of them and the enemy overpowered them as long as they remained loyal. In the light of this precedent, considering the helplessness of the people of Qabraş against the Romans, I believe that the treaty should be honoured. They should be protected. Moreover, you may well know that Walīd b. Yazīd had expelled these people during his rule and forced them to settle in Yemen. All the scholars disapproved this action by the governor. Later on, his son, Yazīd b. Walīd, brought them back and settled them in their homes during his rule. At this the Muslims rejoiced for they believed justice had been done.

Abū Ishāq and Makhliḍ b. Ḥusayn both quoted the following view of Imām Awzā'ī in support of theirs:

The people of Qabraş have never been loyal to us. But we take them as our allies. We have entered into an agreement with them on specific terms. It is not allowable to break this treaty with them unless they are engaged in activities which manifestly reveal that they have violated the agreement.⁹⁸

These responses do not call for a commentary. The following principles and rules follow from them.

1. Islamic government has to abide by the treaties to the best of its power.
2. When the authorities come to know that an ally has violated the treaty they should first ascertain whether betrayal has been committed by a few people among the allied nation or the entire community is involved. In the former case, the responsible individuals will be held accountable. If, after due investigation, it is proved that the entire nation helped and supported the culprits in betraying the Muslims, they will be given an opportunity to straighten themselves up so that they are not left with excuse. If they correct themselves that is good. Otherwise the government is free to take appropriate steps against them.
3. The view point of Ismā'īl b. 'Ayyāsh stresses and highlights that if the other party in the alliance is forced by a foreign power into violating the terms of the treaty then they deserve protection from the aggressions and not punishment.

⁹⁸ For detail see Abū 'Ubayd, *Kitāb al-Amwāl*, 227-8.

10. Rights of Ahl al-‘Anwah

What rights *ahl al-‘anwah dhimmīs* enjoy? According to the *sharī‘ah*, the Islamic State is bound to provide such people with certain legal and constitutional rights. However, in order to fully comprehend their rights and the true spirit of the law in this regard we need to appreciate four important facts.

1. The rights discussed below only pertain to the specific kind of *dhimmīs* which is termed *ahl al-‘anwah* by our jurists. These are the people who wage war with the Almighty Allah and his Messenger and meet defeat in the battlefield. Thus they come under Islamic rule through defeat in the battle they themselves launch against the Islamic State.⁹⁹

2. The rights of the *ahl al-‘anwah dhimmīs*, discussed below do not match the rights granted to the minorities in the present day democracies because such constitutional provisions do not carry weight. These are mere embellishment of the books. The weight they carry, if at all, is confined within the interests of the state and the government. In Islam, on the contrary, these rights are granted by the *sharī‘ah* and form part of the divine law. They are to be fulfilled in the same spirit as any other religious obligation. Therefore, if the authorities fail to fulfil any of the below mentioned rights of the non-Muslims without reasonable excuse they are held accountable in this world and will be recompensed on the Last Day. A prophetic *ḥadīth* warns the Muslim rulers of grave consequences on that Day if they disregard the divine laws in this regard. The Prophet is reported to have said that the *dhimmīs* who are wronged by the Muslim rulers will be defended by the Messenger of God himself.

3. These rights are awarded by the Almighty Allah and his Messenger to the *dhimmīs* not by the Islamic State or the government. God and Messenger guarantee the protection of these rights of the *dhimmīs*. Knowingly or inadvertently denying these rights to the *dhimmīs* incurs the sin of betraying the Almighty and his Messenger. Such an act is considered treason.

4. These rights are minimal. Granted to the *dhimmīs* by the Almighty himself, these rights cannot be curtailed. The Islamic State may incur political loss on fulfilling these rights. It can no doubt grant them more rights but it can no way rightfully curtail these further.

Those unable to understand the distinct legal status of common form of *dhimmīs* and the *ahl al-ṣulḥ* subjects in the Islamic State cannot appreciate the difference in the rights of the both kinds. They fail to appreciate the true spirit and importance of the facts we have mentioned above. They feel ashamed before the non-Muslims having misinterpreted certain Qur’ānic verses, which impose *jizyah* on the *dhimmīs*, (Q 9:29) and the prophetic *aḥadīth*, which apparently give the impression that Islam stresses subjugation of the conquered people. These people take up these issues filled with this sense of pity. Consequently they either ignore important aspects of the problem or try to explain them incorrectly. As a result, instead of explaining away the doubts of the non-Muslims they intensify them. They may even put similar doubts and questions in the minds of the believers. Therefore, if a believer acquaints himself with the difference between these two groups of the non-Muslims, the legal status of

⁹⁹ Here one must keep in mind the difference between a Muslim government and the Islamic government. Equally important is the fact that the war waged by a Muslim government, which does not take the word of God and his Messenger as their guide, cannot be considered *jihād*. Many governments fight for worldly gains and benefits. This needs to be duly stressed because our discussion does not relate to a government which is not led by the principles of Islam and is merely ostensibly called Islamic.

The Islamic State

each of them, and the above mentioned special aspect of the general *dhimmīs*, there remains no reason for him to shy away from discussing these issues with the non-Muslims. The rights Islam awards the conquered people, the protection it guarantees them, and the way the followers of Islam are obliged to fulfil these rights with care and trustworthiness does not find a parallel in the political history of the world. These facts do not leave one to raise objections against Islam. Islam does not merely talk of the rights of the non-Muslims. It does not merely introduce them as the embellishers of the constitutional documents. Words are not deeds. Here the real issue is the practical provision of these rights to the conquered people. They have not been confined to legal bills. The world has observed the Muslims applying these golden rules practically in their dealing with the non-Muslims.

After this preliminary discussion, we turn to the explanation of the rights of this kind of the *dhimmīs* and their duties determined by the Islamic *sharī'ah* in an appropriate order.

10.1 Land and *Kharāj*

Dhimmīs will no longer legally own their lands but they will continue managing them. Their right to using their lands and cultivating it is considered hereditary. Their right over these lands will continue from generation to generation.¹⁰⁰ They will be lawfully transferring, selling, buying and giving away their lands among themselves. Islamic government will receive a reasonable amount of *kharāj* from the *dhimmīs* by virtue of its legal ownership of the lands. It was decided during the reign of 'Umar that the lands of the conquered people would not be distributed among the conquerors and that the *dhimmīs* will continue managing their estates. After the fall of Iraq, some people demanded that the conquered lands should be distributed among the armies. The historical narratives tell us that the Caliph said that land is the real property. It will not be distributed among the soldiers. Only the personal possessions of the conquered people will be distributed among the soldiers as booty. This issue has been discussed in detail elsewhere in this book.

The amount of *kharāj* will be determined considering whether the lands of the *dhimmīs* give enough produce for the basic needs of the keepers and the payment of the *kharāj*. “*innamā 'umirnā an na'khudha al-'afw* (We have been commanded to take only what is over and above the basic needs [of the *dhimmīs*])” is the rule. 'Umar appointed some people to assess the lands of the *dhimmīs* and determine the *kharāj*. When they returned after completing their work, the Caliph tried his best to make sure that they had not burdened the *dhimmīs* with unjust amount of *kharāj* which the land subjected to this tax could not produce. 'Umar attested the *kharāj* only after making sure that the administrators had not committed injustice and that the *kharāj* imposed was less than the actual produce leaving enough for the cultivators' basic needs.¹⁰¹

Kharāj is applied to only such arable lands as produce income. The houses of the *dhimmīs* and the lands used in settlements etc are not subject to the payment of *kharāj*.¹⁰² While receiving *kharāj*, the government cannot extract clothes, utensils, grain separated for personal use, bulls and the tools nor can these things be confiscated.¹⁰³

'Alī once appointed someone as tax collector in 'Ukbarā. While in the presence of the *dhimmīs*, the Caliph directed him not to allow them concession with regards to *kharāj*. However, in personal meeting with him, the Caliph explained that whatever he had said in the

¹⁰⁰ Abū 'Ubayd, *Kitāb al-Amwāl*, 109.

¹⁰¹ Abū Yūsuf, *Kitāb al-Kharāj*, ٤٨.

¹⁰² Abū 'Ubayd, *Kitāb al-Amwāl*, 92.

¹⁰³ Abū Yūsuf, *Kitāb al-Kharāj*, ١٨٨.

The Islamic State

presence of the *dhimmīs* was one thing. “What I am going to tell you now you need to keep in mind all the time or I will remove you from the post. Never take in *kharāj* and sell someone’s donkey nor his bull nor his clothes. Treat them kindly again and again”, the Caliph commanded his tax collector.¹⁰⁴

Nobody will be flogged in order to make him pay the *kharāj*. None will be made to stand in queue waiting for the purpose. Things of basic needs cannot be confiscated.¹⁰⁵ The *dhimmīs* will be allowed maximum allowance in this connection. Sa‘īd b. ‘Āmir was an administrator on parts of Syria. Once he approached the Caliph ‘Umar who had expressed his concerns over late submission of *kharāj* from his administrative unit. The administrator explained that the Caliph himself had directed them not to impose more than four *dinārs* as *kharāj*. He further said that besides carrying out these orders they even waited till harvest time. ‘Umar was greatly pleased at this response and declared that he would not remove Sa‘īd from his post as long as lived.¹⁰⁶ Whenever *kharāj* from Iraq reached the capital, ‘Umar would call the governors of Kūfah and Baṣrah in his presence. He would make them swear that they had not wrongfully received the *kharāj* from the people by force. This he did in order to guard the subject against any kind of wrong from the administrators.¹⁰⁷

Tax collectors were appointed through a careful investigation. We learn that when ‘Umar needed to appoint tax collectors, he wrote to the governors of Kūfah and Baṣrah. He asked them to recommend to him the best people from the respective cities for the responsibility. It was only after recommendations from the governors that the Caliph appointed the tax collectors.¹⁰⁸

According to Qāḍī Abū Yūsuf a tax collectors must possess the following qualities.¹⁰⁹

First, he must be a man of knowledge with special insight and profound understanding of the legal matters.

Second, he must be accustomed to consult with the people of understanding all important affairs. He must not be disposed to impose his will upon others.

Third, he should be honest in his conduct and dealings. An individual known to have been involved in dishonesty cannot be appointed as a tax collector.

Fourth, he must guard the rights of the subject and should pay back anything entrusted to him fearing none other than God.

The state will manage the affairs concerning the receipt of *kharāj* through its administrators. It will not employ middle men. This ensures that subjects are not wronged by any and the state is held responsible for any mistreatment by the administrators. When the *dhimmīs* desire to appoint middle men, they can. The middle men, however, will not be given full liberty. The state will keep them under continual supervision and check so that none is able to take unjust advantage of his position and wrong the *dhimmīs*.¹¹⁰

10.2 Jizyah

This type of *dhimmīs* is subjected to the payment of a certain kind of tax called *jizyah*, corresponding to the guarantee given to them regarding their life and property. This tax is only applicable to the men who can render military service, since this tax is paid against

¹⁰⁴ Abū ‘Ubayd, *Kitāb al-Amwāl*, 55.

¹⁰⁵ Abū Yūsuf, *Kitāb al-Kharāj*, 16.

¹⁰⁶ Abū ‘Ubayd, *Kitāb al-Amwāl*, 55.

¹⁰⁷ Abū Yūsuf, *Kitāb al-Kharāj*, 16.

¹⁰⁸ Ibid., 13.

¹⁰⁹ Ibid., 13.

¹¹⁰ Ibid., 13.

The Islamic State

exemption from the service. Women and children are of course natural exceptions. They do not need to pay the *jizyah*. Similarly, the old, the needy and the poor, the handicapped and the blind; all are exempted from this tax. Financially unstable clerics too are exempted from this duty.¹¹¹ This tax is determined keeping in consideration the financial status of the individuals. It is principle of the *Sharī'ah* that no *dhimmī* is subjected to pay except what is over and above his needs.¹¹² This is applicable in all kind of dealings with the *dhimmīs* including this type of the non-Muslim citizens. That is why this tax has always been very minimal. In the early days of Islam, the amount imposed on the wealthy was one dirham, on the mediocre ½ dirham, and on the poor ¼ dirham monthly.¹¹³ What is more if it was noticed that a *dhimmī* was unable to pay the amount easily, he was granted more rebate.¹¹⁴

Nobody will be ill-treated or wronged to extract the *jizyah* from him. The *dhimmīs* will not be made to queue in the sun. No corporal punishment or torture is condoned. All will be shown leniency.¹¹⁵ Once, during the rule of 'Umar, more than usual amount of *jizyah* reached the capital. He addressed the tax collectors saying: "I believe you have brought havoc on the subjects." All of the tax collectors swore that they had not committed injustice and that they had shown all possible mercy and leniency. The Caliph was not satisfied. "Without beating them up?" he asked. The tax collectors responded that they had. Once the Caliph was satisfied, he thanked God in the following words: "Thanks God! Neither I nor someone else commits injustice in my empire."¹¹⁶

There were *dhimmīs* engaged in kind of industrial production. The rightly guided caliphs always required them to pay what was convenient for them. Thus they could pay in *jizyah* things they produced. 'Alī, for example, made the manufacturers of needles to pay the needles in *jizyah*, the producers of combs to pay the combs only, and the makers of ropes to pay the ropes only so that they are not put in inconvenience.¹¹⁷

'Umar b. 'Abd al-'Azīz, during his rule, issued a directive governing the issue of *jizyah* imposed on a deceased or a run away man. He decided that their liabilities in *jizyah* will not be received from the heirs.¹¹⁸

We know that *jizyah* is a tax imposed on the minorities against their right of protection of life and property. It is not applicable once the Muslims rulers are no longer able to protect the life and property of the minorities. This is evidenced by many precedents in the Islamic history. During the time 'Abū 'Ubaydah was the governor of Syria, the Roman attacked parts of the province and pushed the Muslim armies back in many parts of conquered areas. The governor returned the *jizyah* received from the *dhimmīs* living in those areas before retreating. Happy at this kind treatment, the *dhimmīs* prayed for the success of the Muslims against the Romans. They wished the Muslims returned and took over the control of the region again. They said that the Romans, in such circumstances, instead of returning the taxes to the occupied nation, would have looted their remaining assets.¹¹⁹

The *dhimmīs* are exempted from rendering military services. They are exempted from *jizyah*, if they render military services voluntarily. If the circumstances force the Muslim government to seek military help from them this too will remove the obligation to pay the

¹¹¹ Ibid., 22-3.

¹¹² Ibid., 23.

¹¹³ Abū 'Ubayd, *Kitāb al-Amwāl*, 49-50.

¹¹⁴ Ibid., 51.

¹¹⁵ Abū Yūsuf, *Kitāb al-Kharāj*, 23.

¹¹⁶ Abū 'Ubayd, *Kitāb al-Amwāl*, 54.

¹¹⁷ Ibid., 56.

¹¹⁸ Ibid., 61.

¹¹⁹ Abū Yūsuf, *Kitāb al-Kharāj*, 39.

The Islamic State

jizyah from those of the *dhimmīs* helping the Muslims. Moreover, if a *dhimmī* rendered any intellectual service he was customarily exempted from the payment of *jizyah* permanently. During the rule of ‘Umar, a canal was dug between Cairo and the Red Sea. A *dhimmī* helped in preparing the layout of the proposed canal. In recognition of his service, he was granted permanent exemption from *jizyah*.¹²⁰

10.3 Right of the *Dhimmīs* over the *Bayt al-māl*

The Islamic State is obliged to provide for the *dhimmīs* who are no more able to earn their living. A grant in proportion to their basic needs will be allowed them from the *Bayt al-māl* (treasury). ‘Umar b. ‘Abd al-‘Azīz wrote his governor ‘Adī b. Arṭāt ordering him to collect information about the financial and social circumstances of the *dhimmīs* living in his province. He asked the commander to allow grant to the old *dhimmīs* who were unable to earn their living. He wrote that once ‘Umar (the second caliph) had come across an old *dhimmī* who was begging from door to door. The Caliph consoled him and confessed that he was not justly treated by the rulers who extracted *jizyah* from him in his youth and neglected him when old. The Caliph then allotted him sufficient grant from the *Bayt al-māl*.¹²¹

Khālīd b. Walīd assured the citizens of Hīrah that if any among them grew old, faced disaster or became poor after having enjoyed opulence, he would be provided the basic needs for his person and family from the *bayt al-māl*. He would enjoy this right as long as he lived under the Islamic rule.¹²²

If a *dhimmī* is taken as prisoner by the enemy, the state will arrange for his release. If necessary, ransom will be paid from the national treasury.¹²³

10.4 Protection of Life for the *Dhimmīs*

Since the Islamic State imposes *jizyah* on the *dhimmīs* and pledges protection of their life and property it is obliged to protect the life and property of the *dhimmīs* just as it protects the life and property of the Muslims. The Islamic *sharī‘ah* does not differentiate between life of a *dhimmī* and life of a Muslim citizen. Imām Sha‘bī, Nakha‘ī, Abū Ḥanīfah and their followers hold that if a Muslim citizen murders a *dhimmī* he shall be killed in retaliation.¹²⁴ Ṭabarānī has narrated that once a Muslim citizen who had murdered a *dhimmī* was brought before ‘Alī. After due investigation, he was proved guilty and was convicted. The Caliph ordered his execution. Later on, one of the brothers of the victim approached the Caliph and told him that he had forgiven the murderer. ‘Alī asked the *dhimmī* if he had been threatened by the Muslims. The *dhimmī* told the Caliph that it was not the case. He explained that he had forgiven the murderer only because he believed that killing the murderer in retaliation could not bring his brother back to life. He further stated that those people offered him *diyyah* which he accepted. At this the Caliph told him that he had all the right to forgive the murderer. He further said that the government is obliged to protect the lives of the *dhimmīs*. Therefore, their blood is no less important than that of the Muslims. The amount of *diyyah* of the blood of a *dhimmī* is equal to that of a Muslim.

¹²⁰ Dr. Muhammad Ḥamīd Allāh, *The Muslim Conduct of State* (Lahore, Pakistan: Sheikh Muhammad Ashraf, 1977), 101.

¹²¹ Abū ‘Ubayd, *Kitāb al-Amwāl*, 57.

¹²² Abū Yūsuf, *Kitāb al-Kharāj*, 44.

¹²³ Abū ‘Ubayd, *Kitāb al-Amwāl*, 168-9.

¹²⁴ Shawkānī, *Nayl al-Awtār*, 7: 10.

The Islamic State

Many prophetic traditions condemn the killing of *dhimmīs* and warn the offender of great retribution.

‘Abd Allāh b. ‘Umar narrates that the Prophet said: “Whoever kills a *dhimmī* will not smell the fragrance of *Jannah* (paradise) which can be sensed from a distance of forty years. (*Bukhārī*, No: 6516)

Abū Hurayrah narrates that the Prophet said: “The one who kills a *dhimmī* whose life has been granted protection in the name of God and his Messenger, breaks the pledge of God. Such a person will not be able to smell the fragrance of *Jannah* (Paradise), the sweet smell of which can be felt from a distance of forty years. (*Tirmidhī*, No: 1403)

It has been claimed that Imām Thawrī, Zuhri, Zayd b. ‘Alī and Imām Abū Ḥanīfah held that in case of intentional murder there is no difference between the amount of *diyyah* of the blood of *dhimmīs* and Muslims.

‘Amr b. Umayyah Dhamrī inadvertently killed two persons belonging to the tribe Banī ‘Āmir. The Prophet had enacted a treaty with the tribe. The Prophet made sure that the heirs of those killed were given the amount of *diyyah* prescribed for killing a Muslim.

Bayhaqī has recorded a tradition which says that during the time of the Prophet, the *diyyah* for the life of a Jew or a Christian was equal to that of a Muslim. This legal practice was observed by Abū Bakr, ‘Umar and Uthmān.

Ibn ‘Umar reports that the Prophet once paid *diyyah* for the life of a *dhimmī*. The amount was equal to that of the *diyyah* for a Muslim.¹²⁵

Besides protection of the life of the individual *dhimmīs*, the Islamic government is obliged to provide them with shelter and protect them against foreign aggression. One of the Islamic legal principles in this regard says that the Muslims will fight for their protection.¹²⁶

10.5 Protection of the Assets of the *Dhimmīs*

Not only is the life of the *dhimmīs* but their asset too is inviolable. Ṣa‘ṣah narrates:

I informed Ibn ‘Abbās that we take belongings of the *dhimmīs* while passing through their lands. Ibn ‘Abbās asked me: “Without paying for it?” I responded: “Yes.” At this Ibn ‘Abbās said: “What is your view in this regard?” I explained that there is nothing wrong in doing so. Ibn ‘Abbās said: “What you say is exactly which that the People of the Book would hold. Then he referred to a verse of the Qur’ān which reads: [They say] there is no blame on us in usurping the belongings of the unlearned people. They knowingly forge a lie against Allah. (3:75)¹²⁷

Abū ‘Abd Allāh ‘Abd Allāh or Abū ‘Abd al-Raḥmān narrates:

Once I was travelling with Sa‘d. We had to stay for a night in our way. There was a house nearby belonging to a *dhimmī*. We enquired about its owner but he was not at home. Sa‘d said to us: “If you want to meet your Lord tomorrow as believers then hold off your hands from his belongings.” Thus we starved through the night under the walls

¹²⁵ This discussion is entirely based on Shawkānī, *Nayl al-Awṭār*, 7: 64-6.

¹²⁶ Abū Yūsuf, *Kitāb al-Kharāj*, 4.

¹²⁷ ‘Abū ‘Ubayd, *Kitāb al-Amwāl*, 197.

of his house.¹²⁸

Whenever Abū Dardā' passed settlements of the *dhimmīs* the best benefit he would take was to drink water from their wells or to take rest in a shadow or to allow his horses graze in their meadows. He would even pay them for these services either in cash or in kind.¹²⁹

Once 'Ubādah b. Ṣāmit sent his slave into a settlement of the *dhimmīs* to bring him *miswāk* (a stick used as tooth cleaner). Then he asked him to come back. He said: "Leave it. Though worthless today, it will become precious after drying up."¹³⁰

'Umar was in Jābiyah. A *dhimmī* approached him and said that a few individuals had ruined his grape orchard. 'Umar went ahead and investigated the issue. To his surprise, one of his companions was taking a basketful of grapes. He exclaimed, "Oh, you too!" The man replied: "Yes, the chief of the believers. Hunger overtook us and we committed this act." 'Umar commanded that the owner of the orchard be paid for what had been taken. According to another version of the narrative, the Caliph declared that he was quit of the transgressions committed by his men.¹³¹

The Muslim rulers and the *dhimmīs* had agreed on that the *dhimmīs* would host the Muslims coming to their settlements for one day only. They were to provide the visitors with basic needs. The Muslim visitors were only entitled to demand food to eat and fodder for their horses. If, compelled by rain or illness, a Muslim needed to stay more than the stipulated duration, he would pay for the services rendered to him. This was because the settlements of the *dhimmīs* were mostly situated away from the Muslim cities. There was usually no Muslim population living among them. At that time there were no separate rest houses for the government officials, administrators or tax collectors.

We have decided that (the people of Iraq) will entertain the Muslim visitors for one day. If one is compelled by rain or illness to stay more than one day he will stay on his own expense.¹³²

Though these things cannot be termed injustice to the *dhimmīs* yet some authorities have held a more lenient viewpoint. Imām Mālik holds that the state cannot even seek this help from the *dhimmīs* and take these items from them without their consent. When he was asked about the nature of the compulsory treatment sought from the *dhimmīs* he said that they were compensated by lessening the amount of *jizyah* imposed on them. He is reported to have said:

Nothing can be taken from them except with their consent. "What about the compulsory entertainment?" it was asked. "They were compensated (in *jizyah*)," he responded.¹³³

10.6 Religious Freedom

The *dhimmīs* are free to practice their religion. They can expressly perform their religious rites and rituals. The *sharī'ah* dictates that if *dhimmīs* are allowed to settle in a conquered

¹²⁸ Ibid., 198.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid., 199.

¹³² Ibid., 192. Ibn 'Ubayd added that the visitors will only be entitled to necessary food and fodder for animal.

¹³³ Ibid., 196.

The Islamic State

land they will be granted religious freedom. Following a long list of the conquered cities 'Abū 'Ubayd writes:

These are the cities of *ahl al-'anwah*. The people living there are granted full freedom to live according to their religion and to follow their religious law.¹³⁴

Any restriction, if at all, is applied to only those cities which have been built and populated exclusively by the Muslims or those which have been separated exclusively for national purposes after the fall.

10.7 Personal Law

The personal law for the *dhimmīs* will not be interfered with. Once 'Umar b. 'Abd al-'Azīz asked Ḥasan what was the reason the early caliphs did not interfere with the Zoroastrians' law which permits them to take in marriage their daughter and step mothers. Ḥasan told the caliph that he had to follow the example of the earlier caliphs and was not authorized to implement his personal opinion.¹³⁵

This fact alone sufficiently depicts the freedom granted to the *dhimmīs* in their personal law.

10.8 Clarification of some Misconceptions

Let us now try to explain away some misconceptions that have found way into the minds of people concerning the attitude of the Islamic States towards the *dhimmīs*.

The most prominent misconception is the commonly held view that the Islamic state does not grant the *dhimmīs* freedom to form a view and to propagate their religion. This is a baseless assumption. The right to criticize the authorities, administrative setup, national policies and conduct of the officials is granted to the *dhimmīs*. The right to preach and propagate the religion too is acknowledged. The only restriction imposed by Islam, applied both to Muslims and non-Muslims, is that such preaching must be conducted positively. The preachers and propagators should not aim at or end up in causing nuisance in the society. They should not, while preaching their religion, injure the feelings of the adherents of other religious denominations. Neither Muslims nor non-Muslims are allowed to show disrespect to the Prophets and Messenger of God. 'Umar once issued the following golden principle in this regard:

Execute the one who abuses God, his Messenger or any of the Prophets.¹³⁶

Just as the Messengers and Prophets have to be respected, the famous reformers who served the humanity and propagated truth will also not be disrespected. This applies to all religions. This is based on the Islamic stance that God has sent guides and teachers, Prophets and Messengers, to all the nations. The teachings of the divine Messengers were later on distorted by their followers.

Besides this, there is no restriction on propagating one's religion. Followers of all the religions and creeds can invite others to their faith. Islam, however, does not permit the non-

¹³⁴ Ibid., 133.

¹³⁵ Ibid., 45.

¹³⁶ Ibn Qayyim, *Zād al-Ma'ād*, 5: ٦٠.

The Islamic State

Muslims to oppose the foundational principles of the Islamic State for the sake of opposition or mock them. This prohibition is not peculiar to the Islamic teachings. No state under the skies tolerates such an action. The British democracy is considered to be a model political setup for its religious freedom. It does not allow any person the right to challenge the authority of the British Crown or to oppose and poke fun at it for it is the foundation of the state. Whoever commits such an offence is subjected to the punishment of high treason. In states like Russia and United States of America such an offence may incur a more exemplary punishment. On the basis of this right of maintaining the sovereignty of the state, the Islamic State too does not allow any citizen, Muslim or non-Muslim, to raise voice against the sovereignty of God or to negate it or to make fun of it. This would be an act injuring the very foundation of the state. In the Islamic State, such an act is tantamount to what the Indian Penal Code terms waging war against the king and depredation against the state. In this matter, we believe, even the most enlightened political setup which boasts of maximum civil liberty in the modern world cannot be compared to the Islamic State. There has never been a single state on the face of the earth (except for the true Islamic State) which ever tolerated people living in it who do not believe in its foundational principles. Nor does any such state exist now. Those who oppose and do not believe in the foundational principles of a state are not granted the right to live in the state not to say of providing them with an opportunity to flourish. In India, for example, those who believe that Muslims and Hindus are two different nations with different ideologies and pattern of life are not tolerated. In Russia, too, those who do not believe in communism are not welcome. The Islamic State not only provides the non-Muslims, who do not believe in the foundational principles of the Islamic State and are openly against it, with protection and vast rights discussed above but also allows them to follow their religion and creeds, transmit them to their offspring and to do peaceful and positive struggle for its propagation and flowering. The Islamic State, however, does not allow them to struggle for the implementation of their religion and creed as a way of life and to work for the replacement of the foundational principles of the Islamic state with them. A close study of the Islamic teachings in this regard shows that in the Islamic State, non-Muslims enjoy more freedom than the Muslim citizens. They are allowed to practice, follow and preach any religion or creed whereas Muslims are not permitted to adhere to or proclaim any ideology counter to the fundamental teachings of Islam.

Some people believe that politically the non-Muslims are not more than mere subjugated subjects. They do not deserve respect nor are their views given any weight. They are deprived a share in the political setup of the country and employment in civil service etc. This too is a baseless assumption which is no less misguided than the first one. Various examples from the history of Islam negate this view and affirm otherwise. Early history of Islam is filled with examples which show that the Islamic governments benefited from the services of the non-Muslims and have provided them with an opportunity to exhibit and improve their talent.

We have already mentioned that during the rule of the Caliph ‘Umar a non Muslim engineer was employed to prepare the plan of a proposed canal. Not only did the non-Muslim serve in ordinary departments of the administration they have at times served along with the Muslim soldiers in wars. Such non-Muslim soldiers were given their share in the booty.

During the war with the Persians, the commander of the Muslim army Mathnā b. Hāritha called two leaders of the Taghlab tribe, ‘Anas b. Halāl Namrī and Ibn Madā al-Fahrī al-Taghlabī, both Christians, and said to them: “though you do not follow our religion yet you are Arabs. Therefore, I expect you to help me. Help me in our attack on the Persian commander Mahrān.” Later on, the Persian commander was killed by a Christian soldier belonging to the tribe of Taghlab. In this battle Mathnā’s brother Mas‘ūd was martyred. ‘Anas b. Halāl Namrī too was killed in the same battle. After the battle was over Mathnā

The Islamic State

embraced the dead body of ‘Anas b. Halāl Namrī just as he did embrace the dead body of his brother and mourned them both.¹³⁷

Binyāmīn was a prominent leader of the Copts in Egypt. When ‘Umar came to know that he enjoyed great confidence of the Copts he wrote to ‘Amr b. al-‘Āṣ, the governor of the province, to seek the opinion of this leader in administrative affairs. Consequently, ‘Amr b. al-‘Āṣ put him in charge of the implementation of the personal law of the Copts.¹³⁸

The above examples, among many others, show that the rulers in the Islamic State consider two things in this connection. First, the non-Muslims should win the confidence and trust of the rulers by adopting appropriate behaviour. Their loyalty with the state authorities should be plain and clear. history shows that those of the *dhimmīs* who have proven themselves reliable citizens were never rejected by the Prophet or, after him, the pious caliphs merely on the basis of their religion. The tribe of Banū Khuzā‘ah were the trusted fellows of the Prophet, both Muslims and the polytheists among them.

We find numerous examples in the books of history and *sīrah* proving that the Prophet sometimes entrusted very crucial and delicate political and military affairs to the non-Muslims. All the people of the tribe of Banū Khuzā‘ah, Muslims and non-Muslims, sided with the Prophet in the Conquest of Makkah. It would not be out of place to mention that it was this tribe which was wronged by the Quraysh and the Prophet marched on Makkah to avenge the wrong done his allies.

Second important thing is that the Islamic State cannot appoint non-Muslims in the key posts which involve formation of policies. This is because the Islamic State is an ideological state. Such responsibilities can only be entrusted to those who believe in the ideology of the state. Just as it is impossible for the Russian Federation to appoint someone opposed to communism as their foreign minister, the Islamic State too cannot appoint on its key posts, which involve policy making, someone who does not believe in Islam, the foundational principle of the Islamic State. In fact no ideological state can afford such a practice and it cannot be termed fair to demand that it should. Outside this sphere, no difference is observed between a Muslim and a non-Muslim; all of them may be selected for any post considering their ability, professional acumen and reliability.

Now we turn to the second misconception in this regard. It is commonly held that the Islamic government has to adopt, as a national policy and a permanent program, ways and manners in all business and social conduct which humiliate and chagrin the non-Muslims living in the state. This is obviously a lie designed against Islam and spread by the enemies. Muslims too have been led to hold this view of the Islamic State. There is no denying the fact that Islam distinguishes between the conqueror nation and the conquered one. This bifurcation, however, is not based on the Islamic ideal to humiliate the non-Muslims. Nor does it reflect such a disparagement of the non-Muslims. The nature of this differentiation can be compared with the one observed by all ideological parties with regards to their dealing of the members and the non-members. A society founded on any concrete belief and distinct principles is ever compelled to make its members avoid mixing with the followers of all opposing ideologies. It seeks to keep its distinct status clearly discernable.

The genesis of these misconceptions can be found in some historical incidents. These historical facts have not been properly analyzed. Those seeking to analyze them often ignore some of the important aspects which can be helpful in coming to the right conclusion. Any unpleasant aspects of these issues have, on the contrary, been highlighted. In the following

¹³⁷ Haykal, *al-Fārūq* ‘Umar, 2: 116-7.

¹³⁸ Ibid., 2, 160-1.

The Islamic State

paragraphs, we will discuss some of these issues and will try to reveal the true picture concerning them.

The first misconception is that the *dhimmīs* are burdened with the responsibility to host the Muslims whenever the latter visit their settlements. The reason of this duty, as explained above, was that there was no other way possible in that period of history. Guest houses, a common feature of present day, were not current then. Many other means of accommodation for the state authorities visiting the parts of the country are available now. There remains no reason to burden the *dhimmīs* with this responsibility.

The second misconception in this regard is that the *dhimmīs* are thought to be forbidden to dress themselves like Muslims. The basic reason of this directive seems to be that the *dhimmīs* started to dress like the Muslim soldiers. This caused a lot of confusions which could grow severer with the passage of time. Therefore, this prohibition was felt necessary. It was an administrative measure taken by the then rulers. It is not an expression of discrimination. We find that Khālīd b. Walīd put the following condition in the terms of the treaty with the people of Ḥīrah:

They can dress in any kind of attire save for the military dress.¹³⁹

This is quite understandable. No state allows the citizens to use the military uniform. Thus by issuing this order the authorities in the Islamic State actually used their established administrative right endorsed by general practice. Does not this administrative measure, later developed into a form of discrimination between a Muslim and non-Muslim, mean clear discrimination? Though this is a valid question but it can be explained by referring to the fact that almost the entire Muslim population of that time was engaged in wars. The Muslim army, during that period, comprised the entire body of the believers. There was no standing army and the ordinary Muslim dress came to be the military uniform. In this state of affairs, forbidding the non-Muslims the Muslim dress meant nothing more than disallowing them using national military uniform. This in my view is the truth of the matter. It is only because of the misunderstanding on the part of the reporters that the reality was lost. People started to think that the Islamic governments forced the non-Muslims not to dress like the Muslims.

The third misconception is that the Islamic law imposes discriminatory taxes (*maḥṣūl*) on the non-Muslim citizens. There is no doubt that, according to some narratives, *dhimmīs* in certain centres were made to pay more than the usual tithe (*‘ushūr*) imposed on the Muslim citizens. It is, however, not a universal Islamic teaching. There are scholars who even contest legal importance of the tithe (*‘ushūr*). In other words they believe it to be an administrative decision rather than a religious tenet. This entails that if we learn that a particular Islamic government in the past imposed this tax that should not be attributed to Islam. It should be attributed to the Muslim rulers who imposed the tax. There is also no reason to hold that the difference observed in this regard was based on the religious affiliations of the payers. It could have been based on economic facts and reasons. The scholars who believe that this kind of tax is a valid legal tax hold that this tax can only be imposed when the Muslim rulers have already been granted the right to do so through a treaty with the relevant groups of non-Muslims. In absence of any such terms in the treaty, the non-Muslims cannot be subjected to the payment of any kind of tax other than *jizyah*.¹⁴⁰

The fourth misconception in this regard is the commonly held view that the Muslims have been taught not to let the *dhimmīs* walk along them on the roads and paths in their towns.

¹³⁹ Abū Yūsuf, *Kitāb al-Kharāj*, ١٤٤.

¹⁴⁰ Shawkānī, *Nayl al-Awtār*, 63.

The Islamic State

This can be negated by the mere fact that many of the Muslims scholars of early period consider it allowable for the believers to be the first to greet when they meet some *dhimmīs*. Ibn ‘Abbās, Abū Imāmah, Ibn Muhayriz, Qādī ‘Ayād, ‘Alqamah and Nakha‘ī held this view.¹⁴¹ This makes it quite impossible to hold that Islam teaches its adherents to stop the *dhimmīs* from using their sidewalks and road like the Brahmans of Madrās hinder the lower caste Hindus from mixing with them.

The fifth misconception is that the non-Muslims in the Islamic State are forced to abide the Islamic social, cultural, penal and dietary laws. The *dhimmīs* must follow the Muslim conduct in this regard, it is held. There is no doubt in that, in the Islamic State, the law of the land is the Muslim law. Otherwise there remains no meaning in its claim to be an Islamic State. However, our contenders here are forgetting the point that the Islamic State does not interfere with the religion, culture, civilization and personal law of the non-Muslims. The extent of freedom granted them can be assessed by the fact that eating pork and drinking wine, which is absolutely illegal (*ḥarām*) as per the Islamic *sharī‘ah*, is allowed them.¹⁴² In fact no state can tolerate anything which has the potential to bring the collective social life against the foundational principles of the state. Similarly, the Islamic State does not allow interest based businesses or opening brothel houses even if these things are considered allowable by a certain religious group. For these things risk the moral and economic system of the society. Non-Muslim women are not allowed to dress in such a way that deteriorates moral condition of the youth. They are, however, never subjected to the Islamic dress code.

¹⁴¹ Ibid., 67.

¹⁴² Abū ‘Ubayd, *Kitāb al-Amwāl*, 133.

11. Legal Status and Rights of the Non-Muslim Pakistanis

We have sufficiently explained and fairly detailed the nature and basis of the difference between *ahl al-‘anwah* and the *mu‘āhid* non-Muslims in the Islamic *sharī‘ah*. Without a proper understanding of this important issue, it would not be possible to gather a correct picture of the rights and obligations of the non-Muslim citizens. Now we turn our attention to the question of the legal status of the non-Muslims living in Pakistan. Will they be considered *ahl al-‘anwah* or the *mu‘āhid*? A concrete answer to these questions will set us at clarity regarding the rights and obligations of the non-Muslim population of Pakistan.

There is no reason to believe that the non-Muslim population of Pakistan can be considered *ahl al-‘anwah*. They have never fought the forces of God and his Messenger nor have they been fought with and subjugated by the national military forces. They have become Pakistani citizens as a result of the partition of the Colonial India. It is a known fact that the partition was an agreed upon matter among the leaders of both the parties, Muslims and non-Muslim of India. No war or military operation was involved. Therefore, the mere fact that the non-Muslims of Pakistan were included as the citizens of the country through a tacit pact between the two parties makes it impossible for any to consider them *ahl al-‘anwah*. They are but the *mu‘āhid* kind of non-Muslims living in the Islamic State. Although this fact alone is enough to prove that they are the *mu‘āhid* in nature but we have some other facts which if considered render it absolutely clear that they are not *ahl al-‘anwah* and should be treated as *mu‘āhid*. They are as follows:

1. Right from the birth of Pakistan all the responsible leaders of the country have repeatedly been assuring them that they are a minority and will be treated not only justly but with generosity.

2. The newly born state was run according to the Indian act 1935 which defines them as minority with definite rights and obligations.

3. The new constitutional assembly formed to prepare the national constitution to replace the Indian act 1935 comprises of both Muslim and non-Muslim members. The non-Muslim members, by virtue of their being members of the assembly and representatives of the minorities, enjoy rights equal to that of the Muslims.¹⁴³

All the above mentioned facts prove that the non-Muslim minorities of the state themselves have decided to live as the nationals of this state. They have not been subjected to live here. The leaders and rulers of Pakistan too have accepted to treat them as a minority. Now, if, ours were a secular state their promised status would have been interpreted according to the common usage of the word ‘minority’ and their rights and duties would have been mentioned in the constitution of Pakistan. But since, the Muslims of the Indian subcontinent have struggled for the partition and creation of Pakistan only in order that they can guard the future generations against the onslaught of secularism, it was clear to the non-Muslims who agreed to live in the new Islamic State as a minority that the state they were going to live in would be an ideological state run according to the principles of Islam. This forces us to consider the question how it will be possible for us to honestly and fully honour the promises made with minorities in the Islamic political system. We believe that the answer to this question is that

¹⁴³ This chapter was written in 1950 when the first constitution of Pakistan was being formulated. However, the status of the non-Muslim members of the assembly is the same in the present constitution.

The Islamic State

in the Islamic political system such kind of non-Muslims as living in Pakistan is considered *mu'āhid dhimmīs*. Their rights and duties and status in the state should be determined by the rights and duties of the *mu'āhid dhimmīs* in the *sharī'ah*.

It is not the scope of this discussion to determine their rights in precision. This issue is absolutely political in nature and should be resolved by the representatives of the Muslim majority and the non-Muslim minorities in the constitutional assembly. Then whatever rights the non-Muslims are awarded within the confines of the *sharī'ah* will be considered guaranteed and protected by the Almighty and his Messenger. The government will not be allowed to disregard any such right in any way unless the minorities fail to discharge any corresponding duty. However, we believe that a brief discussion on what possible rights can be guaranteed to the non-Muslims will be helpful to those who are pondering over the issue in the assembly. The following points are thus offered which it is hoped will provide the authorities useful help in determining principles to be observed while discussing the rights of the non-Muslims.

11.1 Exemption from *Kharāj*

If the non-Muslim minorities of Pakistan feel it humiliating to be subjected to the payment of *kharāj* they can be exempted from this tax. Like Muslims, they can thus be subjected to other kinds of taxes on all types of produce. Any distinctive form of taxation can also be agreed upon by both the parties. However, any other option adopted must not be prohibited by the *sharī'ah* and it must not result in loss of the national treasury.¹⁴⁴

11.2 Exemption from *Jizyah*

If the minorities object to the *jizyah* tax or feel uncomfortable with the mere name of *jizyah* they can be made to pay the tax necessary for the national defence with any other name. If they agree to directly serve in the defence forces they can be exempted from any tax of the kind of *jizyah* which is paid against the exemption from military services. However, while considering this last option, the state authorities have to determine how the minorities win their confidence. If the minorities have provided a concrete proof of loyalty with the state, they can be allowed to work in the national defence. There is nothing wrong with such an arrangement. However, they cannot be given key posts which involve policy making where they can influence the Islamic principles governing the laws of war in Islam.

Some people may doubt the tenability of this view. We, therefore, elaborate upon it further. Though some of the jurists do not consider it allowable to the rulers to let the non-Muslims fight alongside the Muslim in *jihād* yet some others view that in the beginning it was prohibited but later on it was allowed. This view has been attributed to Imām Shāfi'ī. Ahl Bayt, Imām Abū Ḥanīfah and his followers. They hold that there is nothing wrong in taking help from the disbelievers and the wrong doers in *jihād* provided they submit to the authority of the head. These scholars have based their view on various prophetic traditions and events in the early Islam which cannot be recounted here for fear of lengthiness.

Some other scholars believe that when the commander of the believers have enough Muslim soldiers to implement the law among the people he is waging war on, he may use military help from non-Muslims in this campaign. This is agreed upon by all that when the non-Muslims render military or any other defence related service they will not be subjected to

¹⁴⁴ This and other related assertions have already been substantiated in this book. This renders it redundant to repeat them here.

The Islamic State

the payment of *jizyah*. The treaties enacted with the non-Muslims of Dahstān Jurjān contained the following important term:

If any among you will participate in defence and military advance he will be forgiven the *jizyah*.¹⁴⁵

When the prince of Al-Bāb or Bāb al-Abwāb Shahr Barāz heard about the Muslims' advance towards his city he wrote to the Muslim commander 'Abd al-Raḥmān b. Rabī'ah:

I am in front of your severe enemies, and other different nations. I am not an ally of Qabaj and Armanun. Now when you have overpowered my county and my nation I am one among you. My strength is your strength and my tax and my help is reserved for you. It is my duty to acquiesce to your will. Considering these things you should not humiliate us by imposing *jizyah* on us and weaken us for your own enemy.¹⁴⁶

The commander of the Muslim army accepted this offer from Shahr Barāz with a little variation. He responded by saying that those among the subject of the prince would participate in military campaigns would be forgiven *jizyah*. He sent Surāqah b. Mālik to the capital seeking affirmation from the Caliph. The Caliph approved of this decision of his commander and was greatly pleased.

11.3 Religious Freedom

The non-Muslim minorities in Pakistan can be awarded complete religious freedom. They can be guaranteed that the religious freedom they have been previously enjoying living in the cities and villages of the areas now coming under Pakistan will be secured. They will only be subjected to restrictions imposed on all other citizens (including Muslims) of Pakistan.

11.4 Cultural Freedom and Personal Law

In this sphere too they can be guaranteed protection of all rights they enjoyed previously.

11.5 Civil Rights

These include right to form view and express them, to propagate their religion, to criticize the authorities and to hold procession and congregations. The non-Muslims can be awarded all rights the other citizens of Pakistan (including Muslims) enjoy moderated by the national law.

11.6 Participation in Legislation

It is a known fact that in the Islamic State the right to legislate independently goes to none other than God. The state will implement the laws already legislated by God and his Messenger. However, there are issues where there is no law or clear guidance available from the Almighty Allah and his Messenger. Those with profound knowledge of the *sharī'ah* of God are required to ponder over such issues, consider the circumstances and the benefit of the

¹⁴⁵ Haykal, *al-Fārūq* 'Umar, 2: 42.

¹⁴⁶ Ibid., 2: 43.

The Islamic State

nation and suggest the best possible view conforming to the will of God. Obviously non-Muslims cannot be of any help in this regard. Their participation in this process is not a meaningful exercise. There are, however, issues relating to common good and administrative affairs where the government will take help from the non-Muslims just as it seeks counsel from the Muslims. The non-Muslims can even be given equal participation in legislation on these matters. Moreover the non-Muslims can be awarded right to form an assembly comprising their representatives who can be entrusted the duty to administer their cultural and religious institutions and legislate their personal laws.

11.7 Rights to Offices

Except for the key posts, which involve policy making or which can affect the policy making process or require their holders to have firm knowledge of Islam, non-Muslims can be appointed in all departments of the administration. Thus except for the key posts, the nature of which has been explained above, the only criterion of selection should comprise ability, loyalty, honesty and performance. No discrimination between followers of different religions can be shown.

11.8 Employments and Welfare

The state can guarantee the non-Muslims that their disabled persons will be provided financial security through grants from the *bayt al-māl*. The state will be responsible to provide employment to the unemployed among them.

Part IV: Conditions and Boundaries of Obedience to the Authorities

12. Obedience in Islam

In Islam obedience to God necessarily implies obedience to the Messenger. One cannot be obedient to God while disobeying the Messenger. Similarly the obedience to the Messenger implies obedience to his successors and representatives, in effect the rulers of the Islamic State. One who believes that he can be obedient to God without acknowledging and obeying the Messenger is utterly ignorant of Islamic teachings. None other than the Messenger explains to us the will of God which is to be implemented in our lives. It is only he who divulges and implements the will of God in this world. This hinges the duty to obey God on obeying the Messenger. Serving God is not meaningful in defiance of the commands of the Messenger. Similarly, in order to successfully obey the Messenger one has to obey his successors and representatives, for, after the Messenger, it is only they who are responsible to implement the will of God and promulgate his *sharī'ah* and commandments on the earth. The rulers are thus obliged to strengthen the Islamic society and run it according to the will of God. The right of the Messenger to be obeyed cannot be fulfilled without obeying the rulers of the Islamic State. The interrelation of God, his Messenger and the rulers is so natural and crucial that it cannot be severed in any circumstances. The chain binding the Islamic political system comprises these three entities. If we disregard any of these components the rest would fall. The whole structure of the Islamic system will be decomposed. The following verses of *Sūrah al-Nisā* reveal the interrelation of these three entities and stress the importance of obeying all three of them:

Believers, obey God, the Messenger and the rulers among you. (Q 3:59)

The same reality has been expressed by the Prophet in the following words:

Abū Hurayrah narrated that the Prophet of God said: "Whoever obeys me obeys God and whoever obeys the ruler obeys me. Whoever disobeys me disobeys God and whoever disobeys the ruler disobeys me. (*Muṣannaf Ibn Abī Shaybah*, No: 32529)

The word *imām* in this narrative refers to the successors and representatives of the Prophet who, along with his administrators etc, form the party termed *'ul al-amr* (the authorities) by the Qur'ān. This is the tool through which the Islamic state achieves all its goals and ends including matters of interpreting the divine commands, performing *ijtihād* in the process of formation of the law, implementing the laws in the land and maintaining justice and law and order in the country.

12.1 The Hallmarks of the Rightly Guided Caliphate

The Islamic political system in the Muslims' land established by the group of people equipped with the deep and unparalleled bond with the Messenger of God is called the *Khilāfah al-Rāshidah* (the pious caliphate) or *Khilāfah 'alā minhāj al-Sunnah* (Caliphate

The Islamic State

designed after the example of the Prophet). Such a group of the rulers has been awarded rights which no other Muslim is entitled with. We will discuss a few of such specificities and privileges of this kinds of rulers which will in turn make us see what extraordinary traits does a real Islamic government is marked with in relation to other worldly irreligious political systems and what is the difference between obeying such a rule and the ordinary state authorities.

First and foremost thing in this regard is that to remain loyal to and to obey this group of rulers is a necessary requirement of one's expression of loyalty to Islam itself. In presence of this party none enjoys the right to separate from it and then claim to have observed the directives of Islam the way they should be discharged. The Prophet of God says:

The one who separates himself from the collectivity an inch indeed takes off chain of Islam from his neck. (*Abū Dāwūd*, No: 4758)

Second important point is that following such a party of rulers is necessary not only for being eligible for the rights of citizenship in the Islamic State but also for the eternal success on the Last Day. If someone separates from the collective system of the Muslims and dies in this state all his religious deeds are discounted and he dies a death of ignorance.

Whoever finds something detestable with his rulers he should observe patience. For whoever detaches himself from the state system an inch and dies in this state indeed dies a death of ignorance. (*Bukhārī*, No: 6645)

Another narrative says:

The one who passes away free of allegiance to the rulers dies a death of ignorance. (*Muslim*, No: 1851)

Another narrative tells us that for successful entry into the Paradise one has to have offered prayer, paid *zakāh* and obeyed the rulers.

Offer you five obligatory prayers, observe the fast of your month, pay the *zakāh* on your assets and obey your rulers, you will enter Paradise of your Lord. (*Tirmidhī*, No: 616)

Third important point is that the obedience to the rulers is not to be rendered merely externally. Unlike other common worldly states, where the citizens are obliged to render the orders of the rulers and follow them practically without being convinced of the commands given them, the Islamic teachings oblige the believers to have full conviction in what their rulers command them. Here the inner affiliation, sincerity of heart and purity of intention is a necessary element of obedience. This is evident form the *ḥadīth* narratives which count wishing well for the rulers a necessary condition of Islam. Another *ḥadīth* says that God will not talk to those, among others, who pledge allegiance to the rulers in order to secure some personal benefits and do not follow them with true intent.

(God will not talk to) a man who enters into a pledge of allegiance to the ruler only in order to secure some worldly gains; if granted with them he fulfils the pledge and if not he goes back on his vows. (*Muslim*, No: 108)

The Islamic State

‘Umar once reminded people of the obligations arising out of pledges in the following words:

And help me against the shortcomings of my personality through exhorting me on the right and forbidding me the evil and through wishing well for me concerning the obligation of managing your affairs God has entrusted me.¹⁴⁷

Fourth important point is that some of the important worship rituals can only be properly discharged under the supervision and leadership of the rulers. *Jihād* can only be waged under a ruler. *Zakāh* has to be paid to the *Bayt al-māl* under the state authority. *Hajj*, ‘*Id* and Friday Congregations are also led by the rulers. If a group of people wages war on enemies of the Almighty and the religion without permission from the ruler their offensive will not be acceptable to God. It is considered creating disorder in the land, a crime, regardless of the great benefits it yields or is expected to yield. A saying of the Prophet clarifies this issue:

Wars are two kinds. Whoever fights in order to please God, obeys the rulers, spends his pure wealth, treats his fellow (soldiers) well and avoids creating nuisance will have his sleep and rest while on *Jihād* rewarded. On the contrary the one who fights for showing off, in order to show pride and earn fame, disobeys the rulers and creates nuisance in the land will not get any benefit. (*Abū Dāwūd*, No: 2515)

Another prophetic saying follows:

The ruler is a shield. (Muslims) wage war under his protection. (*Muslim*, No: 1841)

Fifth point worthy of note in this regard is that in the issues which have not been clearly judged by the Qur’ān and the *Hadīth*, in other words, which are to be decided by independent reasoning (*ijtihād*), the view of the *imām* (rulers) would be followed. In such cases the Muslims have generally accepted the opinions of the Council of *shūrā*. However, sometimes the council does not reach at a unanimous decision and becomes divided. In this case the ruler has the authority to adopt any of the various views held by the members of the assembly. Thus the mere choice of the *khalīfah* binds a view for all. It will become the law of the land even if it is against the viewpoint of the renowned scholars and jurists of the time. Now no individual including the jurists and the member of the assembly may disobey his directives. The jurists and scholars may believe in the veracity of their opinion intellectually but practically the directive adopted by the state will prevail.

Sixth conspicuous characteristic of the rightly guided caliphate is that in Islam the decision of the caliph in the political and collective affairs are considered a legal precedent for the coming generations. Just as the believers follow the example of the prophetic conduct in all the religious affairs they consider the precedent set by the rightly guided caliphate as a guide for them in the political and collective affairs. The word and practice of the Messenger is the first binding precedence. Following it earns the Muslims the countenance of God and ignoring it earns them his wrath. After the Messenger, it is the precedent set by the rightly guided caliphs which is considered as binding. The Prophet has expressed this reality in many of his sayings. To keep the discussion brief we will only refer to one of such prophetic sayings:

¹⁴⁷ Ibid., 1: 94.

The Islamic State

Those among you who will survive me will see many a differences. You are required to follow my *Sunnah* and the *Sunnah* of the rightly guided caliphs. Hold fast to it, grasping it in your teeth. Beware, never draw even near innovations. Every innovation is a *bid'ah*¹⁴⁸ and every *bid'ah* is aberration. (*Abū Dāwūd*, No: 4607)

12.2 Restricted Obedience to the Rulers

The above mentioned status of the Islamic rulers is not unqualified and the duty to obey them is not unbound. There are very strict conditions attached to it. The citizens are required to follow the rulers only when the below mentioned conditions are fulfilled. When a government fulfils the conditions, the citizens are obliged to religiously obey the authorities and to remain loyal to the state. When the government fails to fulfil one or more of these conditions, the citizens will have to see the circumstances and nature of the government before deciding if to obey it or not. Thus different approaches are required with regards to different types of deviant governments and circumstances involved. Now we discuss these conditions and try to see what approach is required of the believers when the government does not fulfil these conditions.

12.3 Conditions of Obedience

We will first put the *ḥadīth* narratives in a proper order which spell out the conditions to be fulfilled by the government in order to lawfully deserve obedience. We have left out our comments on these traditions so that the reader is exposed to a brief but concrete list of the available prophetic guidance in this regard. The reader will then have the fundamental guidance in this regard before his eyes. We will start with a mention of the narratives which say that the rulers will only be obeyed when they promote and establish the word of God, institutionalize the congregational Prayer under their supervision and implement the directives of Islam in the land they rule.

Listen and obey even if a negro slave whose head is like a raisin is appointed over you. (*Bukhārī*, No: 661)

Soon there will be rulers who, you will find, will have some virtues and vices. Whoever treated the vice as vice will have his excuse with God, whoever objected to it will be safe. However, the one who remained satisfied with and followed (such vices, will be ruined). The companions asked: "Are not we obliged to fight such rulers?" The Prophet said: "No, until they persist in prayer." (*Muslim*, No: 1854)

Cousin of 'Awf b. Mālik Ashja'ī narrates: I heard 'Awf b. Mālik Ashja'ī say that he heard the Prophet say: "The best of your rulers are the ones whom you love and who love you, who pray for you and you pray for them. The worst of your rulers are those you hate and who hate you, whom you curse and who curse you." [The narrator says]:

¹⁴⁸ By *bid'ah* is meant, in Islamic terminology, innovations which are at variance with the Islamic norms and which do not fit in the anatomy of the religion. What differentiates between a *bid'ah* and a ruling reached at through independent reasoning (*ijtihād*) is that a *mujtahid* reaches a conclusion regarding an unprecedented matter by studying principle guidance of Islam, known precedents, considering the overall tendency of the religious teachings in a matter. Such a conclusion would then match the structure of the religious teachings and befit it. As regards the innovator, he forges an entirely novel thing which does not correspond to the teachings of Islam.

The Islamic State

They asked: “O Messenger of God, should we fight such rulers in these circumstances?” The Messenger of God replied: “No, never fight them as long as they establish regular prayer among you. If someone happens to be under a ruler who defies God then he should detest whatever he does disobeying God. However, he may never stop obeying him.” (*Muslim*, No: 1855)

‘Ubādah b. Ṣāmit narrates: The Messenger of God called us and we took the oath of allegiance to him. The vows we made were: to hearken to and obey the Prophet in all circumstances, ease and straits, and comfort and adversity even when we are wronged; not to dispute with the one invested with authority over us unless he commits act of open disbelief, regarding which we have clear proof from the word of God to [that it is disbelief]. (*Muslim*, No: 1709)

The word *kufr bawwāh* in the last *ḥadīth* does not stand for their open and admitted rebellion against the Almighty Allah and his Messenger and their clear disregard for the *sharī‘ah* of God. For such an act can only be expected of a Muslim even if practically and intellectually departs from Islam. The meaning of *kufr bawwāh* should be determined from the parallel narratives mentioned above. Seen in the light of the above mentioned three *aḥādīth* the rulers can be said to have committed *kufr bawwāh* when they start consulting for guidance sources other than the Almighty Allah and his Messenger, deciding the governmental affairs disregarding the prophetic guidance about what is good and what is evil, abandon their duty to institutionalize the Prayer, the sole distinguisher between a believer and a disbeliever, not offering it themselves nor implementing this in their rule. For these are the only ends to achieve which the Islamic State is established. The following verse clearly determines the basic obligation of the state authority and sets out the fundamental duties of the rulers in the Islamic state.

Those, who, when we establish them in the land, establish the prayer, pay the *zakāh*, enjoin good and forbid evil. (Q 22:41)

Now we take up some other narratives which clarify that the rulers should be obeyed as long as they command *ma‘rūf*. When they demand from the subjects to do *munkar*, they will not be obeyed. *Ma‘rūf* in this context refers to what is recommended by the *sharī‘ah* and *munkar* stands for what prohibited in the divine law. The *sharī‘ah* has also specified the process through which one can distinguish *ma‘rūf* from *munkar*. The Almighty has commanded us to take the Qur’ān and the *Sunnah* as the only criterion for judging *ma‘rūf* from *munkar*. There is no other source in this regard to turn to. Imām Shawkānī writes in his book *Nayl al-awṭār*:

By *ma‘rūf* is meant what is desirable in the *sharī‘ah* not in intellect and custom.¹⁴⁹

It is incumbent upon a Muslim to listen to and obey (the ruler in all circumstances), whether he is commanded what he likes or dislikes. However, when he is commanded something involving sin he should neither listen to it nor obey [the authorities].” (*Muslim*, No: 1839)

‘Abd Allāh narrated that the Prophet said: “To listen to and to obey (the rulers) is the

¹⁴⁹ Shawkānī, *Nayl al-Awṭār*, 7: 230.

The Islamic State

duty of every Muslim whether he likes what he is commanded or detests it, as long as he is not commanded to do a sinful act. When he is required to do a sinful act then he may not listen to (the rulers) or obey (them). (*Bukhārī*, No: 6725)

‘Alī narrates that once the Prophet sent a battery of soldiers on some military expedition and appointed an Anṣārī (one of the Madinan helpers) over them. He commanded the soldiers to obey their commander. People disobeyed him in some issue. (It enraged him). He commanded them to gather wood. People collected wood. Then he commanded them to light a fire. People then put the wood on fire. Then the commander asked them whether the Prophet had commanded them to obey him. All chorused that he had, indeed. Then he commanded them to jump into the fire. The people were confounded, gazing at each other. They exclaimed: “We have escaped nothing but the fire when we clung to the Prophet. (How can now we jump into it?) They remained in this state of uncertainty for a while till he recomposed his temper and the fire was out. The soldiers narrated the whole incident to the Prophet when they returned back. The Prophet explained to them that if they had jumped into the fire they would never have been able to get out of it. He further explained that the rulers may not be obeyed when what they command involves disobeying God. The duty to obey them pertains only to *ma‘rūf*. (*Muslim*, No: 1840)

It has been narrated on the authority of ‘Ubādah : “You will find rulers after me who will present as *ma‘rūf* what you think is *munkar*. They will present as *munkar* that which you believe to be *ma‘rūf*. (So beware) none has to be followed except in *ma‘rūf*.” (*Mu‘jam al-Awsaṭ*, No: 2894)

It has been narrated by ‘Ubādah that the Prophet said: “Soon you will be ruled by rulers who will command you *ma‘rūf* while they themselves will commit *munkar*. You are not obliged to follow these.” (*Muṣannaf Ibn Abī Shaybah*, No: 37721)¹⁵⁰

Many other *ahādīth* tell us that when the companions would enter into a pledge of allegiance with the caliphs and the rulers they would declare that they would only obey the rulers as long as their commands did not mean defiance to the rulings of God and his Messenger. ‘Abd Allāh b. ‘Umar wrote a letter to one of the caliphs of his time which says:

In the name of Allah, the Compassionate the Merciful. ‘Abd al-Mālik, Chief of the Believers! Peace be upon you! I express my thanks to God, besides whom there is no god. I vow to listen to and to obey your commands to the best of my extent as long as you followed the path of God and the Messenger. (*Muwattaʿ*, No: 1776)

The above quoted *ahādīth* sufficiently prove that the duty to obey the rulers in the Islamic political system is greatly stressed. Equally important are the conditions attached to this duty which the rulers have to fulfil in order to rightfully deserve the right to rule. We see that at the one hand, the right of the ruler to be obeyed is so emphasized that the man who disobeys him in the slightest form will have his religion and worldly benefits in jeopardy and on the

¹⁵⁰ The fourth and the fifth narratives relate to the circumstances in which the rulers do not consider the Islamic teachings as the criterion to judge good from evil and start following exactly the opposite of the Islamic teachings. Things considered disallowable in Islam become desirable in their eyes and the things which are desirable and virtuous in Islam are rejected as irrational and uncivilized.

The Islamic State

other, the ruler too is obliged to establish the rule of the word of God, follow the *Sunnah* of the Prophet, enjoin good, forbid evil and make sure that the Islamic religious and worship rituals are observed by the subjects. If the ruler is not able to accomplish these duties the subjects are no more obliged to obey to his commands that religiously. The obligation to show obedience to the rulers will change in proportion the rulers deviate from religious directives.

12.4 Deviations from the prophetic Model of Governance

There could be three types of deviation from the pure Islamic political order. We will explain the teachings of Islam pertaining to the religious requirement of listening to and following the commands of the rulers and remaining loyal to the authorities in all three forms of rule.

12.4.1 The First Form of Deviation

The first stage of deviation from the prophetic model can be seen even in a state where the constitution is based on the teachings of Islam. For example, the judicial affairs are run in accordance to the Islamic teachings, penal code too is based on the *sharī'ah*, Islamic principles direct the regulations of business and trade, social and civilizational aspects of the country reflect Islamic colour and the allowable and the unallowable is defined and determined by the *sharī'ah*. However, the head of the state and his associates do not observe trustworthiness and God-consciousness, the basic traits of the caliphs following the prophetic model of rule. This fundamental flaw in the moral and religious character of the rulers makes them commit that which is against the spirit of the Islamic *sharī'ah* even if their actions cannot be termed open deviation from the law of God. Some symptoms of this form of deviation in the state are the following: Many spheres of life are afflicted with extravagance and show off. People start to take the obligations lightly. Pride and arrogance reflect from people's talk and behaviour. In this stage of deviation, all the unwarranted acts are committed in such a way that their being at variance with the spirit of the religion is clear to all those having sound understanding. Yet, however, these deviations cannot be conclusively declared *ḥarām*. Those at the realm of authority suffer from greed bordering with hoarding yet ostensibly they continue giving in charity. The true spirit of the Prayer is lost for people offer Prayer after its proper time is past yet it is offered anyway. Many dark ways to satisfy the base desires of the flesh are opened but not with great effrontery. The outer countenance of the *sharī'ah* is apparently respected by the culprits. They achieve their un-Islamic purposes by inventing legal stratagem. Since the overall colour of the society is Islamic it remains impossible for the rulers to openly commit evils. Having lost the fear of God, they can be expected to commit what is forbidden by the *sharī'ah* but still they are hindered from doing so by public pressure. They do not take initiative in such offences before creating a possible explanation for their hideous crime by manoeuvring the loops in the law.

Such a government lies a long way off from the true model of the prophetic rule in its nature and spirit. Thus it deprives itself of the distinctive characteristics of the prophetic model of rule. The decisions reached by the caliphs in such a government will not be considered a legal precedent for the coming generations. Their *ijtihād* will no more be a light of guidance for posterity. Their consensus (*ijmā'*) will not be regarded valid. It is not necessary for the people to obey their commands with true heart. On the contrary, it would be the demand of the faith to be reluctant from obeying them. It would then be the responsibility of every believer who fears God that he admonishes such rulers in person. However, none

The Islamic State

will be lawful to deny them the right to be obeyed. Neither will it be lawful to rebel against them and openly disobey them. Despite their unwarranted behaviour they will be obeyed. The congregational Prayers will be offered under their leadership. *Zakāh* will only be given to them. *Hajj* will be performed under their headship. *Jihād* will not be launched but under their command. Whoever will raise arms against them will be actually creating nuisance in the land (*fasād fī al-arḍ*). They can be easily corrected by the pressure of the public opinion.

The Prophet of God said:

The Messenger of God said: “You will find rulers after me who will prefer themselves over others. You will find them doing evil things against the *sharī‘ah*.” People asked: “What do you guide us to do in such a state of affair?” The Prophet responded: “Fulfil their rights but seek your rights from God.” (*Bukhārī*, No: 6644)

This *ḥadīth* refers to such a deviation from the prophetic model of governance in which the rulers commit injustices and involve in illegal activities. The question the companions asked implied that whether they could raise arms against the rulers who commit such transgressions. The Prophet explained that it is not allowable to fight such rulers. The subjects are obliged to obey them in spite of their evil deeds. All the rights of the rulers must be fulfilled. The rights of the public which such rulers fail to fulfil are to be left to God. The subjects should, in such a state of affairs, seek God’s help. This has been further explained in another *ḥadīth* found in the *Ṣaḥīḥ* of Bukhārī.

Ḥudhaifah b. al-Yamān narrates that he said to the Prophet : “O Allah’s Apostle! We were living in ignorance enshrouded in evil, and then Allah brought to us this good (i.e., Islam). Will any evil follow this good?” He said: “Yes.” I said: “Will that evil be followed by any good?” He replied: “Yes, but it will be tainted with crookedness.” I asked: “What will be the nature of this crookedness?” He replied: “There will be people who will guide others not according to my tradition. They will mix good acts with evil.” (*Bukhārī*, No: 3411)

12.4.2 The Second Form of Deviation

Another form of deviation from the prophetic model of governance is obtained when generally the collective affairs are run and founded in the Islamic teachings and most of the related secondary issues are decided and performed in the name of Islam. Yet, however, unislamic ways and principles too are considered necessary for the existence and stability of the political system. Apparently every act is declared to be done for the uplifting of Islam. However, in fact, it is not done for the promotion of the truth and seeking pleasure of God but for the personal and national interests. The society and the civilization is declared to be founded on the teachings of Islam but practically every social matter is run on the model of ignorance. The moral values of Islam are praised verbally yet the *jāhili* tradition of the time is consistently followed and practically encouraged. The religious rites and rituals are no doubt in vogue not because they are the obligations imposed upon by God but because they are the customs which have become the identity of the civilization and with which the public is emotionally attached. It is feared that disregarding these rites may result in displeasing the public.

In such a model of government Islam is but a national creed. It is not considered a way of life. It is the *jāhili* traditions of the time which enjoys the status of a guide to the desirable way of life. Therefore, in such a system the prints of the *jāhili* tradition are prominent,

The Islamic State

overshadowing that of Islam. In this aspect, this type of government is completely different from the one depicted above. That form of government attaches prominence to the Islamic teachings but some elements of evil are mixed in it. Contrarily in this form of government, power and sovereignty belongs to the evil yet in the bottlefuls of the wine of *jāhiliyyah* are mixed some drops from the *zamzam* of Islam. In the first form of deviant government, departure from the Islamic ideals is covered with the help of crooked interpretations and legal stratagems while in the second form, this deviation is observed openly. The deviant rulers proclaim Islam and claim to be working for the betterment of the Muslims only ostensibly.

Keeping the above kind of difference between these two forms of government deviant from the Islamic model, it would not be possible for us to declare this latter form as Islamic nor can we include it among the governments of the disbelievers. In his book *Manṣab-i Imāmah*, Mawlānā Shah Ismā‘īl Shahīd has not included it in Islamic form nor in the unislamic one. He labelled it as the strayed (*ḍāllah*) form of government. We will reproduce some of the related discussion from his book. While elaborating on the fact that in “the strayed government” the non-Islamic (*jāhili*) laws and customs prevail and not the Islamic principles, the Mawlānā writes:

In this form of deviant state the role of the *sharī‘ah*, as governing all aspects of observable political system in the state, starts to lose impact. In every aspect of human relations, principles parallel to Islam start to work. Thus a new *millah* in the place of the *millah* of Muhammad and a new *Sunnah* in place of the *Sunnah* of the Messenger emerge. The laws governing the political setup go clearly against the divine laws. The new court etiquette are introduced with defy the *sharī‘ah* of God.

Many a thing, which were previously prohibited by the *sharī‘ah* of God, are now binding in all the state departments. On the contrary, things prohibited in Islam, for example using the titles and formal addresses like “*shah jahān*” (ruler of the universe), “*khudāwandi jahān*” (owner of the universe), “*jahān panah*” (shelter of the universe), “*ḥudūr-i aqdas*” (the most sacred entity), “*arsh-i ‘āshiyāni*” (canopy over the abode), “*bandah-i khāṣ*” (your special servant), “*parastār-i bā ikhtiṣāṣ*” (your idolizer), making the courtiers stand before the king with humility, enjoying dance and drink parties, wearing silk garments during ‘īd and other festivals, using utensils of gold and silver, celebrating the festivals of the disbelievers including *nawrowz*,¹⁵¹ *dīwālī*¹⁵² and *holī*,¹⁵³ and thousands of things prohibited in Islam are taken to be a compulsory norms.

Contrarily, things most desirable and compulsory in the Islamic system like, for example, responding to the greetings, attending the congregational Prayers, following

¹⁵¹ Iranian new day or New Year. It is a celebration of spring Equinox celebrated by all the major cultures of ancient Mesopotamia. What we have today as *Nōrōz* with its uniquely Iranian characteristics has been celebrated for at least 3000 years and is deeply rooted in the traditions of Zoroastrian belief system. (translator)

¹⁵² Dīwālī is celebrated for three consecutive days at the end of Hindu month of Ashwayuja. It usually occurs in October/November. (translator)

¹⁵³ Holī is a spring festival. It is celebrated in the month of Phalguna, as the lunar month is locally known in India. It is the month of March that corresponds with this time of celebration. Though originated in the northern part of India, Holī has assumed a national flavour over the ages. Despite being a Hindu festival, it is now regarded as a secular event. For, the entire nation takes the day off, as people, irrespective of race, culture and ethnic background, enjoy the spirit of Holī. Cities and suburbs, towns and villages all come alive to catch the frenzy of March madness with a range of colours. (translator)

The Islamic State

appropriate social dealings, treating the weak with kindness, shaking hands with every Muslim, responding to the invitation of all, influential and the lowly, readily interacting with the fellow Muslims, performing the *hajj*, serving the saints of God continuously, attending the congregations for collectively remembering God, giving ear to the requests of the needy etc become a taboo and objectionable acts in the eyes of the law.¹⁵⁴

Imposing taxes besides *zakāh*, posting intolerant, strict and cruel tax collectors at each river bank, desert highway and city door in order to extract money from the travellers and the like acts which are not tolerable to the divine law become harmonious to the this political system.

Many crimes punishable in the *sharī'ah* of God by a definite punishment are now punished differently. In the divine law, for example, punishment for the crime of theft is to amputate the hand whereas the new system punishes this crime by sentencing to death or by jailing. The divine law requires that the brothers of a king are equal heir to the estate of the [deceased] father yet the national constitution deprives them of this right. [Only one person ascends to the throne and devours all the wealth of the deceased king]. According to the *sharī'ah*, all the Muslims equally share the treasure of *bayt al-māl* but the national law considers it the wealth of the despot.

To put it short, the law of the land includes innumerable laws which are in contrast to the *sharī'ah*. It is based on diverse rules and myriad principles. It is the duty of the state officials and the responsible to teach and learn these principles. A father from the elite class appoints certain trained professionals usually termed *atālīq* to teach all these things to their children. They consider this knowledge a great intellectual and cultural asset to be proud of. The well-wishers of the state and the government, well versed in writing and blessed with power of speech, engage themselves in writing books and magazines in this discipline. They strengthen the reliability of this discipline of the monarchical system with arguments and precedents. A very clear example of this is the renowned booklet written to prove the legality of wearing silk garments. Another example is the famous debate on the issue of legality of prostrating before the kings. *Aā'in-e akbarī* is a very detailed book on this issue.

During the course of discussion, the Mawlānā compares the role of Islamic customs and etiquette with the innovated system and gives his understanding on the Islamic view on the issue.

In reality these rulers and kings are evil disbelievers. They lie among the party of the companions of Hell. However, they do not openly declare their disbelief and keep professing faith. They continue guarding their apparent attachment with the faith by following some of the Islamic customs, for example, marrying their girls according to the Islamic customs, celebrating the *'īd al-fīṭr* and *'īd al-aḍḥā* with grandeur, coffining their dead and burying them, offering funeral prayers, and burying their dead in the Muslim graveyards etc. They do not openly abandon the *sharī'ah*. At the same time they impose and implement their self-devised monarchical code on themselves and their subordinates. Therefore we see them mixing their self-devised code of conduct with the *sharī'ah*. They would say, for example, that though the *sharī'ah* is the principle source of guidance for them, yet it must be complimented by rationality in political affairs. By

¹⁵⁴This prohibition is purely legal. These things go against the norm and accepted social behaviour violation of which is a severer crime than legal prohibition.

this rationality they mean the code and law of the like of Changez Khān.¹⁵⁵

Thus this ostensive adherence to the laws of Islam, which they declare with their tongues, conceals their adherence to the disbelief. Though the hidden disbelief, like this, is sufficient to render one subject to accountability on the Last Day yet their ostensible adherence to Islam deserves that they are treated as Muslims in this world both in religious and worldly matters. For practical purposes, therefore, they should be considered Muslims.

They may be liable to be thrown in the pits of Hell on the Last Day along the disbelievers and the evil people to suffer eternal retribution of the omnipotent God. They may also possibly be receivers of divine mercy and admitted to the Heaven after initial punishment or even without that. We cannot ascertain their fate. What we have to do is to consign this issue to the Almighty, knower of the unseen. We should thus treat them as Muslims in this world.

The Mawlānā goes on to elaborate on his view over the question of legality of following such rulers and rebelling against them.

Though the strayed ruler is the chief of the recalcitrant and the leader of the innovators, his rule is deadly venom for the religion and his leadership is unfounded according to the Book of God and the *Sunnah* of the Prophet, yet, considering the fact that various Islamic directives can only be fulfilled under a ruler, declaring him a *kāfir* is not a clear solution. Therefore, rebellion against his rule and abandoning obedience to him is a disputed issue. A God-fearing believer is therefore obliged not to take such a step. He, however, should not condemn those who do rebel against such a ruler. In other words he himself should avoid from rebellion but if someone else opposes such a strayed ruler he may not be condemned.

However, when there is no possible way for the restoration of just caliphate on the prophetic model except destroying his rule then waging war against him and uprooting the rule of waywardness and misguidance would be greatly beneficial for the *millah* and failing to do so would greatly harm the general public as well as the people of status and influence.¹⁵⁶

This explanation offered by the learned scholar helps us understand that such rulers are to be considered Muslim in their individual capacity. Their rule, however, is not Islamic. The only thing that hinders us from rebelling against their rule is the ensuing anarchy and disorder. It is, therefore, necessary to confine one's action to taking hands off from helping the system. It is, however, incumbent upon the Muslims to peacefully endeavour to topple such a rule. If circumstances develop which are favourable for the establishment of the true Islamic rule then it would be desirable and beneficial for the well being of the *ummah* to take an initiative and uproot the rule of the evil.

12.4.3 The Third Form of Deviation

Still a third form of deviant *khilāfah* rule is exemplified by a state in which the Muslims rule. There are, however, no traces of Islamic elements in the political setup. If any Islamic elements are found in the system they are accommodated only because of their national importance. Every such element draws its value from its status as part of the national tradition. It is not valued for its Islamic origin. The rulers and the ruling party claim to be

¹⁵⁵ The celebrated scholar actually alludes to the origin of the then rulers in India, the Monarchs of Taymūrī descent.

¹⁵⁶ Shah Ismā'īl, *Manṣab-I Imāmāh* (Urdu translation by Ḥakīm Muhammad Husayn 'Alavī), (Lahore, Pakistan: Haji Hanif and Sons, 2008), 167-73.

The Islamic State

Muslims. But they introduce a political setup which is either based on such principles as are completely at variance with the *sharī'ah* and every governmental norm violates the Islamic teachings. The *jāhili* tradition and values are highly appreciated while the Islamic norms are deprecated. Every aspect of Islamic ideology of life is openly ridiculed. Islamic norms of life and Islamic expression of civilization are abolished as outdated mores and a hindrance to progress. All the forces of the state are used for the propagation of purely un-Islamic and irreligious social norms. Those desirous of progress of Islam and adoption of Islamic way of life are wiped from the scene through political measures and administrative schemes. Those opposing Islam are projected and hailed as national leaders. Those desirous of flowering of Islam are declared enemies of national progress and freedom, a threat to the national security. On the contrary, those who audaciously poke fun at the theoretical and practical manifestation of the *sharī'ah* laws are projected as heroes. It would be better to quote the exact words of Mawlānā Shah Ismā'īl that depict the salient features of the form of government under discussion. He writes:

It should remain clear that by our term *salṭanat-i kufr* (rule of the disbelief) we do not mean the rule of the non-Muslims. We, on the contrary, refer to the rule of a party which professes to be Muslim yet openly commits that which amount to *kufr*. Such a group of people violates and opposes the *sharī'ah* laws to the extent that they can validly be considered to have become disbeliever and apostates. To further explain this point I say that some people are naturally heretic and transgressors. Though apparently they enter the folds of Islam by professing it as their faith yet they do not believe in God, his Messenger, the religion, faith and the Afterlife. To them, the real gain and loss is only the worldly and material gain and loss. They believe that achieving grandeur, status, wealth and assets are real objectives to be targeted. They think that the one who wholly pursues this target is truly a genius. According to them those who withdraw from such activities are plainly ignorant and stupid. Anything that is not helpful in achieving the lowly worldly gains is useless and any effort which does not earn fame and fortune is a vain toil. Therefore, they even count the Prophets of God and the pious guides to the path of virtue and truth among the clever pursuers of fame and grandeur. To them the followers of these noble personalities are but stupid people, who, conned by eloquence of these personalities, have been led to believe in empty promises. Such people, in their word and deeds, consider the religion nothing beyond stupidity. To them following the religious directions regarding customs and social etiquette is nothing but an expression of the ignorance of the naïve adherents of the religion. Toil of worship is sheer naivety in their eyes and perseverance and reliance on God is weakness and impotence.

When such a band gains political authority and establishes its rule in a country, they believe that their self devised code, perceived to be the symbol of national flourish, perfectly corresponds to the dictates of reason and reflects great wisdom. In their eyes, the *sharī'ah* of God becomes useless to them and recedes to the status of irrational customs. Thus they are necessarily led to reprobate the *sharī'ah* and make it look insignificant in the eyes of the subjects and government servants. They try to uproot it through various manoeuvres and find ways to transgress it. This they achieve by preferring their self devised court laws while deciding upon every matter and vilipend the *sharī'ah* of God. They also devote all their loquacity to highlight the use and importance of their law code and creatively find faults with the divine law by inventing confusions regarding it.

In short, each and every act of disbelief they commit expresses criticism on the

The Islamic State

sharī'ah of the Lord and mocks the *Sunnah* of the Prophet. They embellish their speech with the waywardness of the poets. They use the sayings and opinions of such scholars who pursue fame and endeavour to establish their views on the basis of conjectures of philosophers and waywardnesses of heretics.¹⁵⁷

The last part of the above quoted statement of Shāh Ismā'īl Shahīd merits serious consideration. Those who have cut off from God and his Messenger sugar-coating their views to make them seem worthy. The ignorant folk very easily fall prey to their schemes.

While continuing the discussion, Shāh Ismā'īl explains the legal status of such rulers. He guides the Muslims how to deal with such evil rulers if they have been unfortunate to live under ones. He writes:

Thus, such rulers are to be counted among the disbelieving transgressors and heretic apostates. To wage war against them is a major directive of Islam. We owe the Messenger of God the right to protect him. This right of his can only be fulfilled by disgracing such rulers. The rule of such rulers does not fall within the category of Islamic State. To obey them is forbidden on the basis of very clear and conclusive textual proof. 'Ubādah b. Ṣāmit narrates that the companions entered into a pledge with the Prophet. They vowed they would not dispute with their rulers till the time the latter openly commit acts which can be considered an expression of disbelief on the basis of clear and conclusive evidence in the religion of God.

Shāh Ismā'īl Shahīd continues the discussion in the following words:

Rule of such apostates is the rule of the disbelievers. Therefore, the Muslims are obliged to wage *jihād* against them and put an end to their rule through armed struggle. If they cannot do so they must migrate from such a country to a true Islamic State.

12.5 Two Relevant Questions and their Clarification

The above discussion may invite two questions.

First, it has been said that the Islamic rule continues to be considered Islamic even if run by the profligate. One is not allowed to put any opposition to such rulers and stop obeying them until the rulers commit clear *kufṛ* (unbelief). Ascribing to these propositions would necessarily result in a catastrophic end. People will keep waiting for manifestation of obvious form of *kufṛ* from the rulers before they can take any practical step to stop them from indulging in evil activities. Meanwhile the amount and severity of the evil spread by the rulers will continue to grow to the level that eventually it will not be possible to correct and reform the system.

The second question in this regard can be put as follows. Are Muslims allowed to directly act and stop such rulers from evil activities and oppose them practically right after they are noticed committing open and clear acts of *kufṛ*? Is the mere fact that the rulers have committed such *kufṛ* requires that the believers either fight them or leave the country?

¹⁵⁷ Ibid.

12.5.1 The First Question

In such a state of affairs, the obligation to obey the rulers, no doubt, becomes hard for the religiously trained souls. They find the obligation to obey such rulers a political need rather than a religious ideal. This is, however, a fact that Islam does not allow the believers to take up arms against the rulers and stop obeying them unless and until the latter openly indulge in matters which are conclusively and clearly known as amounting to *kufr*. Many prophetic narratives leading to this conclusion have been quoted above. Still, in order to explain this all important issue further, we wish to produce some more *aḥādīth* so that it becomes clear that the religious stance in this regard is definitely what we have maintained. Even the companions of the Prophet have been obeying to the strayed caliphs. Who enjoys better understanding of the religion than the companions ? They were indeed as conscious regarding the dictates of the religion as one could be. They never staked their religious self for any political or non-political expediency.

‘Abd al-Karīm al-Bakā’ narrates: “I saw ten companions of the Prophet praying under the leadership of the sinful rulers.”¹⁵⁸

Abū Hurayrah narrated that the Prophet said: “You are obliged to fight in the way of Allah under any ruler, pious or sinful. You are also obliged to offer Prayer behind any Muslim, pious or sinful, even the one committing the cardinal sins.”¹⁵⁹

Imām Bukhārī has recorded a *ḥadīth* reported on the authority of ‘Abd Allāh b. ‘Umar that he would offer Prayers led by Ḥajjāj b. Yūsuf. Imām Mālik recorded a *ḥadīth* in *al-Muwatṭā* that ‘Abd al-Malik, the Umayyad caliph, had strictly ordered Ḥajjāj b. Yūsuf to take guidance from ‘Abd Allāh b. ‘Umar in performing the *ḥajj* rituals. Ḥajjāj followed this caliphal command. He would not take any step in performance of the *ḥajj* rituals without consulting ‘Abd Allāh b. ‘Umar. However, it was Ḥajjāj who led people in performing the *ḥajj* rituals and not ‘Abd Allāh b. ‘Umar. Though the latter had profound knowledge and *taqwā*, yet he was compelled to perform *ḥajj* rituals as well as congregational Prayers in the headship of Ḥajjāj. This was because, as per the directives of the *sharī‘ah*, he could not defy the authority of the rulers as long as they established Prayer and avoided committing *kufr* openly.¹⁶⁰

Imām Muslim recorded a *ḥadīth* which tells us that once the caliph Marwān led people in the Eid congregation. He addressed the sermon before the congregation fearing that people would not listen to his address and leave the mosque whereas according to the *sharī‘ah* the sermon follows the congregation in the Eid Prayer. This was a clear instance of innovation in the religion. Some people stopped him at the spot but he did as he wished. The companion, Abū Sa‘īd Khudrī was present. He too offered the Prayer behind the ruler even after noticing that the latter transgressed against the *sharī‘ah* of God by introducing an innovation. This was because the directive of Islam to hold fast to the collectivity and political system is very crucial. The act Marwān committed was not enough excuse to forego praying under the

¹⁵⁸ Shawkānī, *Nayl al-Awṭār*, 3:163.

¹⁵⁹ Ibid., 3:162-3.

¹⁶⁰ One must keep in mind that the question under discussion relates to the “first form of deviation” in which the state system is established on Islamic principles. Islam rules all the spheres of collective life including national law, judicial system, culture and civilization, and political and social order. The caliphs and the authorities all follow the directives of the *sharī‘ah*. They, however, stick to the *sharī‘ah* merely in their actions. Their hearts and minds are repulsive to the spirit of Islam.

The Islamic State

leadership of an innovator in defiance of the rulers. This consideration stopped this great companion of the Prophet from refusing to pray behind Marwān.

Many prophetic *ahādīth* show that the Messenger of God foretold his companions that a time would come when the rulers would delay the obligatory Prayers and kill its spirit. He stressed that even then the subjects must obey the rulers and offer the Prayers behind them. This prophetic wisdom stresses the importance of the collective system and political setup. At other occasions the Prophet advised his companions to offer Prayers at home in the prescribed time and then attend the mosques to pray behind the rulers, considering it optional Prayer. He forbade them to tell the rulers that they had already offered the Prayer.

We therefore, do not find any reason to doubt the religious stance applicable to circumstances explained above. But this does not mean that the believers are not free to criticize the rulers on this behaviour. They are not obliged to keep their eyes shut to the worsening state of affairs and let the system erode. The Islamic system of political order and directives to obey the rulers do not forbid the believers from pointing out the errors and waywardness of the rulers. They may not remain silent when the religious directives are manifestly disgraced. We reiterate that no doubt the Islamic system of government does not allow any believer to show disloyalty to the state and stop obeying the rulers until and unless the rulers commit *kufṛ* openly, yet they are rightful, but obliged to take two necessary steps in order to correct the state of affairs. The believers are obliged to religiously fulfil both of these requirements of the *sharī'ah*; failing to discharge these amounts to showing dishonesty to God as well as the ruler. These two are:

1. No believer is allowed to obey a command from the rulers with ready heart which defies the command of God and his Messenger. We have already mentioned the prophetic sayings which lead to this conclusion. However, it would not be out of place to repeat some of them to refresh our memory of them.

To listen to (the rulers) and to obey (them) is the duty of every Muslim whether he likes what he is commanded or detests it, as long as he is not commanded to do some sinful act. When he is commanded to do a sinful act then he may not listen to or obey (them). (*Bukhārī*, No: 6725)

Another *ḥadīth* says:

Obligation to follow (the rulers) is only applicable in *ma'rūf* (things which are in harmony with the *sharī'ah* directives). (*Bukhārī*, No: 4025)

Still another *ḥadīth* found in both *Bukhārī* and *Muslim* reads:

(The rulers) may not be obeyed when their command involves disobeying God. This obligation (to follow them) only pertains to *ma'rūf*. (*Bukhārī*: 6830)

2. A believer is obliged to point out moral and collective evils committed by the public or the state officials even in the face of opposition. He should explain to the offenders that such evils are against the *sharī'ah* and contrary to proper religious behaviour. He is expected to show perseverance like a staunch believer even in the face of any hardships resulting from his criticism on such rampant evils both from the public and the rulers. The Prophet said:

The most excellent *jihād* is that of a person who speaks out truth before a king deviant from the right course. (*Ibn Mājah*, No: 4012)

Islam does not consider it an optional act of virtue. This is rather a duty imposed on every believer. If a believer, sees his countrymen or the rulers committing acts in defiance of truth, virtue, the Book of God and the *Sunnah* of the Prophet and then keeps silence over it, he is liable to be held accountable for this crime along with the actual culprits no matter how virtuous and practicing believer personally he is. He will share the same fate with the criminals on the Last Day and also in this world if the Almighty decides to hasten the punishment of the criminals. This principle has been explained in the holy Qur'an:

Avoid the trial which will not specifically fall on those among you who have wronged. [It will rather embrace those too who have been silently observing the crime committed]. Keep in mind that God is strict in retribution. (Q 8:28)

This teaching is found in the previous scriptures as well. God thus addressed Ezekiel in the following words:

If I pronounce sentence of death on a wicked man and you do not warn him to give up his wicked ways and so save his life, the guilt is his; because of his wickedness he shall die, but I will hold you answerable for his death. But if you have warned him and he still continues in his wicked and evil ways, he shall die because of his wickedness, but you will have saved yourself. (Ezekiel, 3:18-9)

The Prophet explained this fact in various ways. We will refer to some of the pertinent prophetic sayings in this regard.

Once the Prophet, using a parable, explained that when, in a society, a particular evil is rampant and those who know that it is evil do not try to stop the offenders the resulting misfortune does not spare any. It befalls all, the sinners as well as those who remained chaste.

Nu'mān b. Bashīr narrated: The Prophet said: The example of the person abiding by God's commands and restrictions and of those who violate them is like that of those who drew lots for their seats in a boat. Some of them got seats in the upper part, and the others in the lower. When the latter needed water, they had to go up to bring water (and that troubled the others), so they said: "Let us make a hole in our share of the ship (and get water) saving those who are above us from trouble." So, if the people in the upper part left the others do what they suggested, all the people onboard the ship would be destroyed, but if they prevented them, both parties would be safe. (*Bukhārī*, No: 2361, 2540)

Narrated Tāriq b. Shihāb: It was Marwān who first delivered the sermon before Eid Prayer first. A man stood up and said: "Prayer should precede the sermon." He (Marwān) replied: "I have done so because people have greatly changed their behaviour. (They are no more conscious over listening to the sermon of the *imām* after the Prayer)". At this Abū Sa'īd remarked: This man (the critic) has discharged the duty laid on him. I have heard the Messenger of Allah say: "He who sees something abominable should correct it by hand. Failing that he should do it with his tongue, and failing that he should (abhor it) from his heart, and that is the least of faith." (*Muslim*, No: 49)

'Abd Allāh b. Mas'ūd narrated: The Prophet of God said: Among the people of all the

The Islamic State

earlier nations among whom the Almighty raised a Prophet, there were companions and supporters (of the Prophets) who followed the *Sunnah* of their Prophets and adhered to their commands. Later on there came a people who professed things which they failed to do themselves and did things that were not commanded by the Almighty. Whoever fights with such a people with his hand is a believer. Whoever opposes such people with tongue is a believer too. Whoever fights them with his heart (by abhorring their practices) is a believer. Beyond this there are no traces of belief (i.e. those who fail to even discharge this duty would not have least amount of faith). (*Muslim*, No: 50)

‘Ubādah b. Walīd narrates from his father who narrates from his grandfather who reported that they pledged to the Prophet that they would listen to and obey him in all circumstances, ease and discomfort, happiness and sorrow and that they would not oppose the rulers and would adhere to the truth wherever they would be, without fearing taunting of those who taunt. (*Muwattā*, No: 960)

Umm-i Salamah narrates: The Messenger of God said: “Soon there will be rulers who, you will see, will have some virtues and vices. Whoever treated the vice as vice, will have his excuse (with God). Whoever objected to it will be safe. However, the one who remained satisfied and followed (such vices, will be ruined).” The companions asked: “Are not we obliged to fight such rulers?” the Prophet said: “No, until they persist in the Prayer. (*Muslim*, No: 1854)

The way the companions and their successors consciously performed this duty can be learned from the following narrative:

Ḥasan narrated: Mu‘āwiyah appointed ‘Ubayd Allāh b. Ziyād as governor in our territory. Now this man was then immature and carefree young man. He heedlessly indulged in bloodshed. ‘Abd Allāh b. Ma‘qil al-Muznī was there among us. Having seen the transgressions and oppression of the governor, he went to him one day and warned him thus: “Hold yourself from the oppressiveness you have adopted.” He responded to al-Muznī: “What concerns you in these matters?” When he (‘Abd Allāh b. Ma‘qil al-Muznī) got back to us in the mosque we asked him, “Why did you say this to the poor mindless person in front of public?” He replied: “I had some (relevant) knowledge from God and his Messenger. I did not want to depart from this world without communicating it to this man.” Soon afterwards he fell ill and died of the illness. ‘Ubayd Allāh b. Ziyād visited him when he was ill. (*Al-Aḥād wa al-Mathānī*, No: 1092)

12.5.2 Conclusion

The teachings of the above mentioned quotes from the Qur’ān, *aḥādīth* and *āthār* can be summarized in the following two points:

1. Every person in the Islamic society is obliged to keep alive to the fact that Islam does not allow us showing obedience to any human authority, the creation of God, when his commands involve defiance of the Creator. He must also make others aware of this.
2. If some people spread evil in the society, those who knowingly shut their eyes to the evil, keep silence over it and let it grow will also be held accountable. They are indeed expected to exhaust all possible measures to curb the evil.

The Islamic State

That both of these proposed steps are based on the *sharī'ah* best illustrates their importance and fruitfulness. In other words, Islam has not considered criticizing the evil one merely a right of the citizens. It has in fact made it a duty of the citizens of the Islamic state. This means that even in the face of state oppression, the citizens have to discharge these duties if they are to please God. God cannot be pleased while disregarding this duty. These are not our rights so that, if these are denied us, we may remain patient and let the rulers usurp them expecting God to look at us with compassion and reward. These are the rights of God which have to be fulfilled. The required perseverance in this case relates to facing the hardships in discharging these duties in spite of all hardships and oppression from the rulers. We are obliged to first perform these duties and then hope God's grace and mercy in recompense to whatever difficulties we forebear in fulfilling these rights of the Lord.

The above mentioned points do not allow us hold that since rebellion can only be opted when the rulers commit some express *kufr*, God has indeed preferred political over the religious ideals and has thus not left the believers with a way to correct the undesirable state of affairs. Obviously, when the majority of the people will be conscious over such evils and will be ready to discharge their duty of enjoining the good and forbidding the evil then there remains no chance for the rulers to indulge in evil or support or protect it. Even if an evil or distortion finds its way among the rulers this state of affairs does not last long. There remains no chance that the situation would go to the extent that armed rebellion is the only measure possible. In case, God forbid, the distortion assumes worst form merely because the citizens are no longer inclined to discharge their duty of enjoining the good and forbidding the evil, then that is a very desperate state which depicts the whole society is afflicted. In such a situation taking up arms would not produce desired results. It would be impossible to establish the true Islamic system before reforming the entire population. This necessitates that the working rulers are let to continue in whatever form they can rule the country as long as they uphold Islam, though ostensibly.

In some cases, people claim, a very handful number of people may be forcing the majority to keep silence when they (the majority) want correction. We, however, believe that such a situation, though theoretically possible, may not practically happen. A great majority out to reform itself cannot be hindered by a handful mischief makers. The majority will never have to take up arms.

12.5.3 The Second Question

Our response to the second question is that according to the *sharī'ah*, one may not take up arms as soon as he or she sees that the government has openly committed an act which is a clear example of unbelief. The allowance to abandon the duty of obeying to the rulers and taking up arms against them is conditional. The *sharī'ah* only says that the citizens are no longer obliged to obey the rulers after they notice that the rulers have indulged in such offences. Thus even the open and clear act of unbelief on the part of the rulers does not require the believers to abandon the system or to fight the rulers. They are only allowed to stop obeying them and take any of the lines of action provided by the *sharī'ah* strictly considering the circumstances. Now the question remains what possible lines of actions the *sharī'ah* has recommended. We say that according to the *sharī'ah* the believers coming under the rule of the unbelief may adopt any of the following three options.

1. The rulers who openly rebel against the law of God are to be ousted by force. The state system may be re-established on the principles of Islam. This line of action may only be adopted when the pious forces are well organized, they have enough power to successfully achieve the targets, the majority population of the country is backing them, or at least they are

The Islamic State

expected to join after the practical revolt is initiated, and that the rule of the evil can be uprooted to be replaced by the pious caliphate without blood shed. In such situation it would not only be desirable for the party of the believers to organize themselves and rise against the evil rulers rather it is their religious obligation.

2. Second possible step for them would be to migrate from such a country. However, this option hinges upon certain circumstances. It may only be adopted when the believers are reduced to a contemptible minority. They are clear that they are not strong enough to harm the rulers in case they decide to confront the system. They are weak and clash with the rulers is expected to bring havoc on them. There is also a *dār al salām* to welcome them where they can live their lives according to Islam. In such situations it would be better to migrate to the *dār-al salām*. It is not lawful for a believer to remain content with living in unfavourable circumstances, under a despotic rule, hostile to Islam while they have a safe heaven in some other Muslim country. One may not live in circumstances which are not liable to be changed by him rather he is the potential target. One has to consider not only about his own faith but also of his family and children. If someone decides to stick to the *dār-al ḥarab* in spite of his ability to move into *dār-al salām* and lets his faith and practices polluted by the forces of the unbelief he is a culprit in the eyes of God. The Almighty will question him on the Last Day to explain why he has been content on living under the rule of the unbelief not caring about his faith:

As for those whom the angels will cause to die while they are trying themselves, (the angels) will say to them: "What have you been doing?" They will say: "We were weak in the earth." They (the angels) will then say: "Was not Allah's earth spacious, so that you could have migrated therein?" So these it is whose refuge is Hell - and it is an evil resort. (Q 4: 97)

3. The third possible approach for such a believer is to remain where he lives. He is expected to exhaust all his powers in calling people to the truth the way the Prophets and Messengers of God do in trying to change the *dār-al kufr* to *dār-al salām* through effective preaching and propagation. The believers should thus exert all their efforts to change the *dār-al-kufr* they are living in to the *dār-al salām*. This approach is open to those only as do not find enough power to change the system to the Islamic one and they do not find any *dār-al salām* to migrate to. They see that the religious plight of the people of all the countries is the same. In this case migration would be useless unless the situation in one's country is so crucial that mere attributing to the religion of Islam and faith is but inviting death and destruction, and it is not possible for the believer to discharge the most basic religious commandments in the present abode. In the present times territorial nationalism has made it almost impossible for any to find refuge in another country. Therefore, in stead of wandering in other countries it would be better to stay in one's homeland and try to collect the scattered believing individuals around him and construct a community of the believer which can later assume the form of a healthy Islamic system. Such an effort may not prove successful practically. However, a true effort itself is a virtue greatly acknowledged in Islam. It is only the internal desire and sincere efforts which earn one the real reward. A task pursued with full efforts and true intent can never be considered a failure in Islam.

12.6 Another Doubt and its Clarification

The above discussion may create a doubt in the minds of the readers. One may think that if the issue of showing obedience to the Islamic government carries so much importance that

The Islamic State

the one who fails to do so can be rendered non-Muslim, and none has the right to rebel against the rulers until and unless the latter commit an open act of unbelief, then how can be the step of Imām Ḥusayn against Yazīd be explained, especially, when the latter never committed such open *kufr*; what he did could only be called *fisq* (sinfulness). Neither did Amīr Yazīd commit a clear *kufr* nor did Imām Ḥusayn and other companions declare that his rule was the rule of the unbelief.

This question cannot be properly explained in the light of the historical narratives regarding the event, all of which suffer from drastic mutual contradictions. Only a very erudite historian can analyze the entire matter and reach to a conclusion. We, however, consider two acts attributed to Imām Ḥusayn which are agreed upon by the Sunnī as well as Shī‘ī scholars. These two facts, we believe, sufficiently remove the doubt.

When Ḥusayn left Makkah for Kūfah all the companions of the Prophet opposed him. The companions of the Prophet are never expected to show expedient leniency with regards to the religious matters. There among them were the companions whose faith, piety and knowledge is recognized by the entire *ummah* with consensus. This makes their opposition to the step Ḥusayn intended very meaningful. If we see the decision of Ḥusayn a product of his *ijtihād* then his *ijtihād* was obviously in contrast to what the other companions concluded.

The second point is that regardless of the view and aims of Ḥusayn before he left for Kūfah, one thing is certain that he reached at a different conclusion afterwards, having studied the other issues and assessed the circumstances. his understanding and his view can be ascertained by the following three points he presented before the commander of the Umayyad army, ‘Umar b. Sa‘d. He asked the commander to let him take any of the three steps he had chosen for himself, the one considered the most appropriate by the commander. These points included:

- a. Ḥusayn should be let to go back where he had come.
- b. He is allowed to go to the Turkish borders and join the armies in *Jihād* for which he intended to spend his life.
- c. He is taken over to Yazīd who could then decide his fate. Ḥusayn would surrender himself before the ruler.

The viewpoint of Ḥusayn is exactly in line with the Islamic teachings enshrined in the Book of God and the *Sunnah* of the Prophet. This explains away the possible doubt regarding his action. As regards the question of what engendered the causality of Karbala that is beyond the scope of this study. It is the task of the historian to critically analyze all the historical data and form an opinion.

Part V: Responsibilities of the State Officials and their Characteristics

13. Islamic Concept of Public Offices

13.1 Introduction

Generally the government offices are considered the easiest way of achieving fame and earning fortunes. They are often taken as the right of the nationals. This is why people try to get themselves appointed on such posts. They adopt every ignoble mean of achieving that end including competition and rivalry, brokering, scheming, favouritism, bribing and forgery, all of which are then considered allowable in this struggle. Every one jumps at public offices considering it their birth right. Since these public offices are considered very paying, which produce fame and fortune, people stake whatever financial, religious and moral possession they have in order to get themselves appointed. They believe that if they won this stake they would not only be able to redeem the losses suffered in the entire past life, but will also obtain the keys to future success.

Contrary to popular belief, public offices are not a right of the citizens in Islam. It is an obligation. In a true Islamic state and in a true Islamic environment, these responsibilities are not coveted; they are avoided. Only the unbelievers in the last accountability in the Afterlife find attraction in the public offices, for they fail to read the responsibilities attached to them. Such people always try to take advantage of all the blessings of God in this worldly life. Similarly, in this case, they do not bother about the nuisance of the last accountability. Undisturbed by the vain talk of the Afterlife, they cannot help plundering and merrymaking. They take these posts as their personal right and misuse them knowingly. True Muslims, on the contrary, believe that every man is a herdsman who will be held accountable for the plight of his herd; every woman will be questioned about her spouse and children; every master about his slave; every ruler about his subject; every family man about his family, wives and children. Believing in the above doctrine, a believer cannot wish to take graver responsibilities such as a *qāḍī* of a town, a governor of a state, or a ruler of a country. Only those who do not have the slightest idea of the responsibility attached with the public offices can dare to willingly take them. Only those who consider themselves free of all other responsibilities in this worldly life can welcome them. A true Muslim, aware of his responsibilities, cannot even think of taking these burdens not to speak of striving hard to take up these responsibilities, adopting political tactics, offering bribes and seeking favouritism. Thus a true Muslims tries his best to refrain from putting himself under such burdens. However, if he is forced by others to accept such responsibilities, he considers it a test from God and makes sure that he fulfils his duties and emerges successful on the Last Day. The Prophet explained this fact to Abū Dhar Ghaffārī when the latter requested him to allow him serve in some important position:

Abū Dhar Ghaffārī narrated: I requested the Prophet to appoint me for some important position. The Prophet tapped on my shoulders and replied: “Abū Dharr, this is a heavy trust. You are too weak for it. On the Last Day, this trust will cause humility and defeat except for the one who takes it up honestly, and fulfils the related duties.” (*Muslim*, No:

13.2 Positions are Trusts of God

In Islam positions are a trust for their upholders from God. There is no concept of positions as a trust in ordinary mundane states. If there is such a concept that too is often blurred and considers the positions a national trust not divine. As a result, in the states where national feelings hold or the people in charge fear accountability, this trust is ostensibly honoured. However, in states where both of the above mentioned forces are absent, the authorities feel free to commit unfaithfulness and adopt dishonesty with impunity. Their conscience no longer rebukes them on dishonesty. Islam has, by making the positions a trust from God, put twofold surveillance over the officials. Nation can fail to observe a person in authority committing dishonesty but nothing can escape the observation of the all knowing God. He knows who commits dishonesty and unfaithfulness and observes the depth of sincerity in the actions of those who seemingly observe faithfulness. He is thus able to hold into account those who observe the limits ostensibly and commit showing off and deceit. All such acts will, therefore, be punished according to the intention of the doers. It is only because of this double surveillance that the posts craved for in the ignorant societies become a burden to avoid in the Islamic state. In the former systems people, driven by the love for such posts, invest all their belongings to get themselves appointed and a blind and fierce competition starts. Contrarily, in the Islamic system, it is difficult to find people ready to offer the services. In the present day we see that some administrative posts are filled through competitive examinations like PAS and PSC. It is usually very expensive to participate in these examinations. In spite of the cost involved with such competitive examinations, the number of candidates is always huge. As a result, it is not the merit which decides the appointments but the amount of bribe supplied. Contrarily, in the true Islamic system, people suitable for such posts are searched through the whole country and when any is found, he does not accept the post. The authorities sometimes humbly request able citizens to help them discharge national duties. I intend to cite some of the traditions which show that the positions, the most cherished wealth for the worshippers of the world, are the most insignificant things for the people living in a true Islamic system. Abū Hurayrah narrates that the Prophet said:

The one who is made a judge to decide disputes among the people is actually slaughtered without a knife. (*Abū Dāwūd*, No: 4607, *Tirmidhī*, No: 1325, *Ibn Mājah*, No: 2308, *Musnad Aḥmad*, N0: 7145)

Ibn Mas‘ūd narrates that the Prophet of God said:

The one who judges disputes among the people will be held into account on the Last Day. An angel will hold him by his hair on the back of his head. Then the angel will raise his head towards the heavens. If God allows the angel he will throw the person in an abyss of forty years of depth. (*Ibn Mājah*, No: 2311)

Abū Hurayrah narrates that the Prophet of God said:

Vow to the rulers. Vow to the chiefs. Vow to those entrusted with trusts. On the Last Day many people will wish if their heads had been tied to the Pleiades and they were suspended between the heavens and the earth instead of being appointed at some responsible post. (*Musnad Aḥmad*, No: 8612)

Abū Amāmah narrates that the Prophet of God said:

The one who is appointed leader over ten or more people will come before God on the Last Day with his hands tied to his neck. Either his good deeds will get him released or his sins will destroy him. The worldly rule is condemnation in the start, remorse in the middle, and finally damnation on the Last Day. (*Musnad Aḥmad*, No: 22354)

Abū Hurayrah narrates that the Prophet of God said:

A time will come when you will covet rule and authority whereas this will bring you humility on the Last Day. How an excellent feeding mother it is and how bad ablactating one!”¹⁶¹ (*Bukhārī*, No: 6729)

All these warnings, no doubt, pertain to those who disregard the responsibilities after assuming the offices. As regards those who fulfil their responsibilities perfectly they are going to be rewarded abundantly. The following prophetic tradition leads to this conclusion:

The just (among the rulers and leaders) will sit at the right hand of the Almighty Allah on the minarets of light. Those who do justice in their decisions, with their family and in all the sphere of their authority, indeed have hand of God on their back. (*Muslim*, No: 1827)

None would dare to accept that he is slaughtered without a knife in spite of the fact a great reward is attached to the faithful discharge of the duties.

13.3 Coveting Public Offices is Betraying God

The above mentioned concept attached with seeking authority necessarily translates into the fact that those who seek authority and try hard for this objective are condemned as dishonest people. Merely applying for a post disqualifies the seeker. A person who offers himself for such a great trial must fall in one of the following two psychological states. a) He is either ignorant of the responsibility he is taking up or b) his intention is not pure and greed has taken over him. In the first case such a person will certainly fail to avoid the trial and will be eluded into committing injustice and taking advantage of his position. Whenever he will face a trial, he will prove an easy prey. In the second case, the individual seeking the post is already harbouring evil intention and is definitely unjust and dishonest. Entrusting such a personal a responsibility means appointing a thief as a guardian. This is why, in Islam, seeking a position is a very valid ground for ineligibility of the candidate.

Abū Mūsā narrates that he met the Prophet along with two other men. One of them said that they had hoping to be appointed on some state office. The other also expressed a similar wish. The Prophet of God replied: “We believe that the worst kind of a dishonest man is the one who seeks positions.” (Abū Mūsā Ash‘arī) said that the Prophet never took help from any of them till his death. (*Abū Dāwūd*, No: 2930)

¹⁶¹ The implication is that at the start power and authority is very pleasing and delicious while it sends to a very dreadful end considering the responsibilities attached to it.

13.4 Coveters of Public Offices lose God's Help

We have seen that the offices are a trust from God and a trial. This means that God helps only those among the rulers and state officials who do not campaign for these posts. They accept this duty only when the others burden them with it. He, however, will not help those who offer their services. Instead of avoiding such responsibilities, they campaign to be appointed and apply for them. It is a universal law of God that he helps people when He himself puts them through a trial. He leads them to success if they endeavour to faithfully discharge their duties. However, if someone offers himself to be burdened with such responsibilities and puts himself in trials God leaves him on his state. He does not help him and remains aloof from the whole issue to see that how the coveter deals with the burden which he so desirously took up.

‘Abd al-Raḥmān b. Samurah narrates that the Prophet of God said: “O ‘Abd al-Raḥmān, do not pursue positions. If you are given one without seeking it then God will help you discharge the duties. If you seek and acquire a position you will be left over to the responsibility you have taken over. (*Bukhārī*, No: 6248)

Anas narrates that the Prophet of God said:

Whoever seeks to be appointed a *qāḍī* he is handed over to his desires and whoever is forced into accepting this position, he is guided by an angel who descends for this purpose. (*Tirmidhī*, No: 1323, *Ibn Mājah*, No: 2309, *Musnad Aḥmad*, No: 12205)

13.5 Duty Consciousness

The above mentioned facts make the pious servants of God avoid willingly taking responsibilities and assuming political and administrative positions. If, however, they are burdened with such responsibilities, in spite of themselves, they spend their life in fulfilling the duties imposed on them. They are never able to enjoy food and drinks nor can they have peaceful sleep. No more do they find pleasure of living with their family and children nor do they have time to enjoy the company of friends. All sorts of pleasures of life, they previously enjoyed, are lost upon them. How could such people celebrate such burdensome posts? How could they indulge in buying comforts and grandeurs for their children and relatives while, totally lost in serving the nation, they even lose the opportunity to serve them out of their personal income? Each and every second of their life is then devoted to the service of the nation and the religion. Their family and other relatives become alien to them. They are found awake the rest of the people are sound asleep. They are distressed while others take rest. They are lost under the burden of the entire community, while others are busy in buying their dear ones comforts. They are no more aware of peace of night nor do they experience cheerfulness of day. We will now give a glimpse of the feelings of such pious servants of God from our history as were fully aware of the responsibilities attached with these positions and who always targeted discharging duties entrusted to them by the nation and the Almighty with religious concern and perfect honesty. It will help us know how painfully such people spent nights on the beds of authority which the seekers of the world enjoy tremendously.

While appointing ‘Umar as caliph, Abū Bakr advised him as follows:

I give you an advice. If you keep it in mind, you will never cherish anything more than

the inevitable death. If, however, you will forget this fact, nothing will be more dreadful to you than death while you can never escape it. You have to fulfil some rights of the Almighty which He will not accept from you if you (delayed them to) the next day. You have upon you certain rights of the Almighty to be fulfilled during the day which he will not accept from you if you discharged them during the (next) night. He will not accept your optional service unless you have already discharged your obligations. Light scales are of only those whose scales will be light on the Last Day for they follow evil in this worldly life, evil which is light and weightless. A scale filled with evil is worthy to be considered light. Heavy scale is only of those who follow truth in this worldly life, truth which is weightier. A scale adorned with truth is worthy of being considered heavier. If you keep this advice of mine in your mind, none among the absent things will become dearer to you than death, the inevitable. If you will forget this advice of mine, nothing among the absent things will look dreadful to you than death which you cannot escape.¹⁶²

Asmā' bint 'Amīs (wife of Abū Bakr) narrates that Abū Bakr also gave another advice to his successor which follows:

Considering the gravity of the responsibility I am leaving behind, I have chosen you as my successor. You have bore the company of the Messenger of God. You have observed how he preferred us over himself and our children over his children. We would gift his children and family from his gifts. You have bore my company too. You have seen how strictly I followed my predecessor. By God, I never went to sleep carefree so that I could have good dreams neither did I ever indulge in daydreaming so that I could go astray. I strictly followed the straight path and never deviated from it. The first thing I warn you of is that every *nafs* has a longing. When this is fulfilled it leads to another. Beware of the people among the companions of the Prophet who have nursed all kinds of desires, whose minds fly in high airs and each and every one among them seeks personal elevation. One of them is going to take one wrong step that will cast them all into a great distress. Beware! You should not be that man. Keep well in mind that as long as you fear God, these people will fear you; as long as you keep on the straight path, these people will remain straightened up for you.¹⁶³

The way the onerousness of this responsibility was felt by 'Umar can be gleaned from the following statement of 'Abd Allāh b. 'Abbās:

I presented myself before 'Umar when he was injured. I said: Chief of the believers, accept the good news of Paradise. You embraced the faith when people rejected it. You fought alongside the Prophet when people abandoned him. When the Prophet departed this world he was pleased with you. Not even two men disagreed on your appointment as caliph. Now, at last, you are dying the death of a martyr. To all these things the caliph responded: "Repeat whatever you have just said." I obeyed him. After hearing all what I said he responded: "By God, besides whom there is no god, if all the treasures of the world come into my possession I would gladly give away them in ransom for saving myself the dread of the day which is going to reveal itself."¹⁶⁴

¹⁶² Abū Yūsuf, *Kitāb al-Kharāj*, ١١.

¹⁶³ Ibid., ١١-2.

¹⁶⁴ Ibid., ١٣.

Every event in the life of the caliph bears witnesses to that he discharged the responsibilities with great concern. We cannot reproduce here, for fear of lengthiness, all the available historical data in this regard. We will, however, mention some incidents happening during the famous drought of *'ām al- ramādah* (Year of Ramādah drought, 17th and 18th year AH). This drought provides us with an opportunity to discern the basic responsibility of the head of the Islamic State. We can also learn how seriously 'Umar took such responsibilities. I take the relevant reports about the incidents from *al-Fārūq 'Umar* by the famous Egyptian scholar Muhammad Ḥusayn Haykal. I am satisfied over the reliability of the author's source.

During the year of the drought of *al- ramādah* people saw that whitish red colour of 'Umar turned into black. This was because he had totally forbidden himself things like milk and ghee etc in order to sympathize with those afflicted by the drought. He would often starve. This went to the extent that people, observing the plight of the caliph, remarked that if God forbid, the drought did not end, the caliph would perish feeling for the subjects.¹⁶⁵

During the drought, the caliph abandoned taking his meals in his home. He would get food prepared for the people outside and eat with them.¹⁶⁶

When the toll of the drought grew severer, 'Umar was once presented with a loaf minced in ghee. He made a hungry Bedouin share his meal. The Bedouin started gathering the pieces of ghee to the corner of the plate. Having observed this 'Umar said: "Perhaps you have not tasted ghee for long." He replied: "Yes, O Chief of the Believers, I have neither tasted ghee nor oil for this long (determining a specific time period). I have even not seen someone eating them." At hearing this, 'Umar was so much moved that he swore he would not eat meat or ghee till the end of the drought. He kept this promise faithfully.¹⁶⁷

Such steadfastly did 'Umar kept his promise that once he noticed that some ghee and milk came in the market for sale. his servant bought it for forty dirham and informed the caliph. The caliph told him that he had made a very costly dealing. Then the caliph advised his slave to give away all he had bought. He said he would not eat something that expensive. He kept standing for sometimes with his head bowed. Then he said: "How will I judge the plight of the subject if I do not go through what they are experiencing."¹⁶⁸

The hardships 'Umar and his family bore during that period can be gleaned from various incidents recorded by Ibn Sa'd in his *Ṭabaqāt*. We mention some relevant reports below:

Once 'Umar was presented with meat cooked in ghee. He refused to eat it saying that either was a distinct complete food and that there was no need to take that trouble (of cooking one in another).¹⁶⁹

¹⁶⁵ Haykal, *al-Fārūq 'Umar*, 1: 267.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid., 266.

¹⁶⁸ Ibid.

¹⁶⁹ Ibn Sa'd, *al-Ṭabaqāt al-Kubrā*, 3:319.

The Islamic State

Once he asked someone to give him some drinking water. The man by chance happened to have honey with him which he offered (instead of water). ‘Umar returned to him the honey and said: “I do not want to add it to the matters about which I will be questioned on the Last Day.”¹⁷⁰

Once he saw one of his children carrying a piece of watermelon in his hands. The caliph pursued him saying: “Son of the Chief of the Believers, you are enjoying watermelons and the *ummah* of Muhammad is starving in the drought.” The child ran into the house weeping. ‘Umar was satisfied only once he was told that the watermelon was bought for a handful of date seeds.¹⁷¹

Once ‘Umar saw an old woman trying to cook something mixing the flour and ghee rationed to her. She was, however, not able to cook something proper. The Caliph saw this and joined her in her struggle. While telling her how to cook he remarked: “This way instead of what were you doing.”¹⁷²

Abū Hurayrah narrates that he noticed that ‘Umar was carrying a pot of ghee and a sack of flour. Then he (the Caliph) saw some poor folks and cooked it and offered it to them.¹⁷³

During the nine months of severe drought he would enter his residence after leading people in the ‘Ishā’ (night) Prayer and would continue beseeching God. He would cry and plead to God that the *ummah* was not destroyed in his hand, his prayers were not heard and God did not send down a drop of rain. At this he wrote to his governors to take their subject with them on a specific day and pray to the Almighty to lift the drought. He himself went out with his people. At this time he put on the cloak of the Prophet. When they reached the prayer station all cried before God and prayed to him. ‘Umar cried so much that his beard got soaked. ‘Abbās b Abd al-Muṭṭalib was standing at his side. ‘Umar took ‘Abbās’s hand in his own and raised it to the heavens and beseeched: “God, we are presenting the uncle of your Messenger as an intercessor before you. ‘Abbās too cried a lot while praying. Thus God accepted their pleadings.”¹⁷⁴

‘Umar endeavoured to fulfil his duties such relentlessly and selflessly that history does not find his equal in this regard with the only exception of the Prophet and the Caliph Abū Bakr. Even after all this hard work he did not feel satisfied for a moment. He would often say: “I have enjoyed the company of the Prophet. He was pleased with me when he died. I also took company of Abū Bakr who too was happy with me when he departed this world. I have no worries other than the responsibilities of this leadership.” He always remained tensed, resting neither during the day nor night. When a few men pointed out to him that this kind of worry would wear him away he responded: “What can I do? If I take rest during night, I am ruined. If I take rest during day, the people are ruined.” He never demanded that all these relentless and wearisome efforts be paid back to him in any manner. This will be discussed later in detail. He was even not expecting any reward for this on the Last Day. He would often wish if he could be saved on equal terms. That would, to him, mean the real gain. What to say of reward! During the last *Hajj* he offered in his life he spread his cloak on the earth to lie on. Then he raised his hands towards the heavens and prayed in a very earnest manner.

O God. I have turned senile. My bones have thinned. My power has dropped off. My

¹⁷⁰ Ibid.

¹⁷¹ Ibid., 3:315.

¹⁷² Ibid., 3:314.

¹⁷³ Ibid.

¹⁷⁴ Ibid., 3:319-21.

subjects have multiplied. Take me to You while I am neither incapable nor blameful.¹⁷⁵

The sense of responsibility ‘Umar showed is well depicted in the following incident. He was on his deathbed, lying in the lap of ‘Abd Allāh b ‘Umar. When he felt that his hour had approached, he told his son to put his face on the earth. When ‘Abd Allāh b ‘Umar put his head on the earth, he straightened up his feet and said: “My mother and I are ruined if God does not forgive me.” With these words he breathed his last.¹⁷⁶

‘Umar b. ‘Abd al-‘Azīz was the only Umayyad ruler who was fully aware of the spirit of the Islamic teachings. When he was burdened with the responsibility of heading the government, it changed his life completely and shook him severely. The scale of difference between his previous lifestyle as a common man and the later one after he assumed the chair of *Khilāfah* is clear to all the students of the Islamic history. What follows is an incident from the time of his rule which will help us have a glimpse of this difference between ‘Umar the commoner and ‘Umar the ruler.

One of the shaykhs of Madīnah says: “I saw ‘Umar b. ‘Abd al-‘Azīz in Madīnah. He wore the excellent dress, used the finest perfumes and walked with an air of pride. Later on, I saw him again after he had assumed the chair of *Khilāfah*. I noticed that he walked like a monk. If someone holds that manner of walking is an unchangeable natural trait he should consider the experience of ‘Umar b. ‘Abd al-‘Azīz which rejects such a notion.”¹⁷⁷

Muhammad b. Ka‘b Qarzī narrates:

When ‘Umar b. ‘Abd al-‘Azīz assumed the chair of *khilāfah* he called upon me. I was in Madīnah. I was greatly surprised to see him. My eyes got fixed at his face out of sheer shock. Noticing the surprise on my face, he asked what the matter was. “You would never gaze me that way before!” he said. I responded: “I am surprised at your present condition.” “On which condition”, he asked. I responded: “At the dullness prevailing over your face, at the weakness of your body, at the outgrowing of your hair.” He said: “What will be the extent of your surprise when, after some days, you will see me being laid in the grave while my nostrils will be bleeding and secreting puss? Then you would be utterly confounded.”¹⁷⁸

When ‘Umar b. ‘Abd al-‘Azīz assumed the chair of *Khilāfah* he continued considering and pondering over the pains and worries this great responsibly would accompany for two months. Then he became engaged in looking after the public affairs and compensating for the injustices previously done to the people. Such was his occupation in this objective that he seemed to have forgotten himself till he wore himself out and left this world in that state. After he died, a few scholars and jurists came to his wife to offer condolence. While discussing the misfortune that had befallen the Muslims in the

¹⁷⁵ The author has not provided the source. I could only find the following version of the narrative in *Muwattā* of Imām Mālik, No: 1506:

God, I have turned senile. My power has dropped off. My subjects have multiplied. Take me up to You while I am neither lost nor unrestrained. (translator)

¹⁷⁶ Haykal, *al-Fārūq ‘Umar*, 2: 288.

¹⁷⁷ Abū Yūsuf, *Kitāb al-Kharāj*, ١٧.

¹⁷⁸ Ibid., 16.

The Islamic State

form of the death of the caliph, they expressed their desire to learn the state of the caliph from his wife for they thought one's wife best knows the circumstances of the husband. She said to them: "The caliph would not surpass any of you in offering Prayers and fasting. However, I never saw a more God-conscious man. He had fully devoted his heart and mind for the service of his people. All day he would remain busy in fulfilling the duties of caliphate and if he could not finish the business at hand he would keep working during the night. One day he finished his daily work before evening. Then he asked for the lamp which would be burnt on his personal expense. He offered two *raka'ah* Prayer and sat down with his hand supporting his chin, tears running down his cheeks until the time of *fajar* (morning) came. He then intended to fast during the day. I asked him: "O Chief of the believers, did something extraordinary happen last night? Why do I see this state of yours?" He said: "Yes, do you know I have been made responsible for this nation, of the blacks and the whites among them. With reference to this responsibility, I considered all those travellers, the poor, and the wronged captives and the like, who are living a worried life of poverty in far flung areas of the country. I thought God is going to hold me in account for their present condition. The Prophet will argue their case with me. My fear was that neither will my excuses work before God nor will I be able to counter the case of the Prophet. This thought greatly perturbed me. [The wife of the caliph continued:] "By God, one moment 'Umar (her husband) would look happy as is any individual enjoying the company of his family. Suddenly he would remember a command of the Almighty Allah and would instantly change to the state of a dove which falls in water, struggling in severe pain. He would then utter cries. I would then pull off the cover from him seeing him in this state. He would say: 'Would that I would be separated from this responsibility of the caliphate by a distance of east to west.'" ¹⁷⁹

The advices of Qādī Abū Yūsuf to the caliph of his time Hārūn al-Rashīd regarding the responsibilities of the caliphate would also be helpful in grasping this point. We will learn that what has been expressed above is not the product of individual's inclinations and natural disposition of these pious caliphs. On the contrary, this is a demand of the religious and legal rulings of the *sharī'ah*. If someone departs from this approach towards this responsibility, he not goes against not only the examples of good natured purely religious people but also the attitude required by the religion. He defies the injunctions of the *sharī'ah*. This will also help us understand how bravely and fearlessly did our pious ancestors advise the despots and how courageously did they advocate justice. Qādī Abū Yūsuf has addressed the caliph Hārūn al-Rashīd in the following words:

O Chief of the believers, God has burdened you with a huge responsibility which attaches great reward. God has made you the caliph of this *ummah*. Therefore, you should serve the people given in your care day and night. You are being tested and tried through your subjects. Keep it in your mind well that the one who does not base his abode on the foundations of God-consciousness, God will shake the building he erects from its foundations and will topple it upon him. Do not ignore the responsibility God has burdened you with and do not defy the commands of God. Real power is obtained by practicing the commands of God. ¹⁸⁰

¹⁷⁹ Ibid., 16-7.

¹⁸⁰ Abū Yūsuf, *Kitāb al-Kharāj*, 3.

He observes:

Do not meet you Lord such that you are considered one of those who abandon the way marked by God Almighty. This I say because the Lord Who will hold retribution on the Day of Judgment will consider nothing but the deeds of the people. He will not consider their social status and political position in this world. God has already warned you of this. Therefore, remain conscious. Keep well in mind that God has not rendered you beyond retribution. He will, therefore, not leave you walk free.¹⁸¹

¹⁸¹ Ibid., 4.

14. Necessary Characteristics of State Officials

Now we take up the qualities required of the political leaders and administrators of the Islamic State. If someone lacking these attributes is appointed at such positions in the Islamic State, he will not only prove a great problem for the people in this world but will also create a great misfortune for himself on the Last Day because of his position. Before we discuss these qualities, it is necessary to address a relevant question: what objectives and tasks does the *sharī'ah* set for the leaders and administrators in the Islamic State? After we have determined the objectives of these position holders, in the Islamic State, it would be easy to learn the required qualities. The nature of the duty itself will tell us what qualities are required in the people pursuing it and what other qualities mismatch them.

This discussion may look weird and strange to all those who are acquainted with only a misinformed view of the government and the government officials in the Islamic state. They keep in their mind the examples of the governments and the rulers of the Great Britain and the USA as a guide. They are usually taught certain concepts regarding the governments and the form of governance in their studies for competitive examinations in the modern institutions. The models of constitutions and etiquette for the rulers they are taught are not only different from that the Islamic teachings intend to set but also contradict the Islamic principles. Things considered to be the primary duties of the officials in Islam for example, are treated by these people as duties of the clerics whose role is confined to leading the Prayers in the mosques. Similarly, the way of life the rulers follow in the modern forms of governance, which is considered the true beauty of effective governance in the present day, is not only Pharaonic but absolutely satanic in an Islamic System. Because of the extraordinary gap between the two systems, the present generations, overawed by the West, are not easily convinced of the Islamic System. Until the present concepts of the ideal way of life are changed completely, the present values are replaced with the true Islamic values, and the Islamic values are loved and cherished, there is not a least chance that people can understand the real responsibilities of the Islamic government. They will not be ready to adorn themselves with the moral behaviour and the qualities which are required for the workers in the Islamic State.

14.1 Basis Responsibility of Public Officials

Let us now see that what target an Islamic system sets for the caliph, the governors, the viceroys, and the lower officials. What is the prime objective they all must work for and which, if ignored, can render them useless for the purpose of the state? We will start with the instrument of instruction the Prophet gave to 'Amr b. Ḥazam when the latter was appointed governor of Yemen. This will help us learn that it is one of the basic objectives of the state to lead the people to seek God's pleasure in a unified and systematic manner under the state authority. The aim of the head of the government and his deputies, therefore, is to make sure that the state meets its objective. They must purify the society of all kinds of evils, big and small, which can hinder progress to the goal on the one hand, and to promote and teach all kinds of virtues, big and small, which are helpful in the journey to the goal on the other. This well defined objective of the Islamic state entails that the government officials are not merely engaged in enforcing the will of the authorities on the subjects and establish the writ of the state. Contrarily, they are to act like loving fathers and compassionate teachers and remove

The Islamic State

the evils from the lives of their subjects, mend their weaknesses and remove their ignorance. The relevant parts of the Prophet's letter of instructions are produced below:

In the name of God, the Compassionate, the Ever Merciful. This is a document of instructions from Allah and his Messenger.

Believers, fulfil the promises you contract. Following are the instructions, the Messenger of God and his Prophet Muhammad has given to 'Amr b. Hazam at the time when he (the Prophet) appointed the latter as governor of Yemen. He instructed him to fear God in every matter; for God is with those only who fear him and are righteous. He instructed him to hold fast to truth, as God commanded; to give the people glad tidings of virtue; to instruct them to righteousness; to teach them the Qur'ān; to create in them understanding of their religion; to stop them from touching the Qur'ān without having performed ablution; to inform them about their duties and rights; to be lenient to them with regards to the truth; to deal them sternly when they commit injustice, for God has disliked injustice and has prohibited it where He says: "beware, curse of God be upon the transgressors"; to give them glad tidings of the paradise and of the actions which lead one to it; to warn them of Hell and deeds which take one to it; to sympathize with them so that they are inclined towards attaining understanding of the religion; to teach them the rituals and etiquette of the *ḥajj*; and to impart to them the importance of this duty. The great *ḥajj* is but the great *ḥajj* and the lesser *ḥajj* is the '*umrah*'. He (the Messenger of God) instructed him to stop people from praying in short clothing; they should be wearing a cloth which they can wrap around both of their shoulders; to stop people from wearing a small piece of cloth so that when they sit their private parts are not revealed; and to stop people from binding their hair behind their heads. If a dispute arises among the people he should see to that the people do not utter tribal and national slogans. On the contrary, their call should be limited to the name of the Almighty Allah, the one and only who has no partners. If they, instead of using the slogan of the name of the Almighty Allāh, insist on using the slogan of tribal and national feelings they should be put to sword until they are made to turn back to the Almighty Allah, the one and only who has no partners, abandoning the slogans depicting their national and tribal feelings. He (the Messenger of God instructed him) to order the people to perform *wuḍū* properly; they should wash their faces and their hands to the elbows, wash their feet to their ankles and wipe their heads, exactly as God has commanded; to direct them to observe the timings for the obligatory Prayers; to offer their bowings and prostrations in the Prayer fully, and with humility. The *Fajar* Prayer should be offered while in the dark, the *Zuhr* Prayer should be offered after the sun declines, and the '*Aṣr* Prayer when the sun turns its face, and the *Maghrib* Prayer when the night sets, it should not be delayed till the time the stars become prominent, and the '*Ishā*' Prayer should be offered in the first part of the night. People should be commanded that when they are called for Friday Congregation, they should actively and diligently turn to the mosques. They should take a bath before leaving their houses.¹⁸²

The document of instructions also deals with many other commands regarding for example, booty, *zakāh*, *kharāj*, *jizyah* etc, which we have not mentioned partly because they are irrelevant to the present discussion and partly for the fear of lengthiness.

This issue has been taken up by 'Umar in one of his sermons in the following abbreviated manner.

¹⁸² Ibn hishām, *al-Sīrah al-Nabawiyyah*, 4: 184.

Allah, I take you as witness against my officials appointed in all the regions. I have indeed appointed them so that they educate the masses in the religion and the *Sunnah* of the Prophet, distribute among them the booty and refer to me the issues which they cannot decide for themselves. (*Musnad Ahmad*, No: 186)

In another sermon he talked about the responsibilities of his deputies. He hinted toward this reality in the following words:

I have not appointed the regents in order that they beat you, dishonour you and appropriate you wealth. On the contrary, I have appointed them to teach you the Book of the Lord and the *Sunnah* of the Prophet.¹⁸³

A little deliberation on the document of instructions issued by the Prophet and the sayings of ‘Umar reveals that the first and the most important duty of the regents of the Islamic government and its rulers is to teach the people the Book of God and the *Sunnah* of his Messenger and to make them practice these in their lives. All the other duties are secondary and, therefore, of lesser importance. They have to fulfil this in its entire dimensions. In case of their failure, the foundation of the Islamic society and the Islamic State will collapse. For according to the Islamic teachings, the rulers are held responsible for the evil, small or big, among the people living in the country under their control. It is not enough for a ruler of a country or a governor of a province to make sure that law and order prevails under his rule and that he makes his subjects pay the taxes. These two achievements are only a part of his duties. These make a fraction of the targets set for him. He cannot be said to have fulfilled all of his obligations. In order to fully accomplish his duty, he needs to construct the government system and design his rule in such a way as to educate his people, improve their moral behaviour and establish peace and justice among them. We learn that ‘Umar would hold people into account for every big and small mistake. Once, during the *hajj*, he learnt that the pilgrims stormed at the spring of *zamzam* and started struggling against each other he instantly reached at the spot and taught them how to behave. This was because he was fully aware of the fact that he had to correct whatever individual or national evil were found among his subjects.

14.2 State Officials are Exemplars

Our predecessors, in their efforts to properly fulfil the duties attached to rulership, followed the principle of demonstration rather than mere exhortation. They practiced what they targeted their subjects to perform. They had to act as exemplars so that people could emulate them and adopt a desired good. Founding an example for an act desired in others is in fact the most important convincing force one can have. If one requires others to adopt a good trait while he himself fails to do so then the others would have a best possible excuse to relieve them of the obligation. They would not take mere exhortations seriously. They would maintain that why they are obliged to do what their leaders can never accomplish. Therefore, we see that all those instructors who fail to adopt what they preach and merely go on to sermon tirades never achieve their target. People find their practical behaviour more convincing than their verbal orders for actions speak louder than words. Words are not deeds. history has never seen adulterers and drunkards making people realize that drinking and

¹⁸³ Haykal, *al-Fārūq ‘Umar*, 2: 196.

The Islamic State

adultery are evil. The dishonest and the prodigal can never bring others to honesty and moderation. The bribable and the black marketers can never convince other people to be truthful and honest. The people whose habits and traits are like that of the disbelievers, the followers of *jāhili* concepts, have never been witnessed implementing the Islamic behaviour of life. All of these things which, I believe, never happened will never happen because this is totally in opposition to the laws of nature. ‘Umar explained this fact principle in the following words:

People will remain straightened as long as their rulers and leaders are on the right.¹⁸⁴

At another occasion he said:

People will keep fulfilling their duties to their rulers as long as the rulers fulfil their obligations towards God. People will go unrestrained when the ruler will show recklessness.¹⁸⁵

‘Umar reminded Abū Mūsā Ash‘arī of this principle in one of his epistle to the latter.

The most fortunate ruler in the eyes of God is the one who is the cause of prosperity for his subjects. The most wretched ruler is the one who causes misery to his subjects. Save yourself from deviation so that those under you do not deviate or else your state will be comparable to the quadruped which spots grass and instantly proceeds to graze there seeking nourishment while this step of it proves fatal.¹⁸⁶

Honesty and trustworthiness of the rulers greatly influences the subjects. It can be realized by the honest behaviour of the Muslim armies when they captured the Persian city of Madā’in. The Muslim army, through this conquest, got such abundant wealth in the form of booty. However, we see that honesty the army showed outmatches the riches they earned. It is narrated that at this juncture of great trial, not even one soldier among the entire army could be doubted. Observing this unmatched show of honesty from his soldiers, the Muslim commander observed: “Had the people of Badr not praised that much (in the Qur’ān), I would have been justified in saying that these soldiers (under my command) obtained the same degree of excellence as that of the participants of the Battle of Badr.” Jābir b. ‘Abd Allāh narrated: “Not one soldier among the army which captured Qādisiyah mixed his liking for the world with his yearns to earn reward in the afterlife. Three people, however, were doubted to have shown dishonesty. In an investigation, it transpired that they were the best among the disinterested (in the worldly gains).” When ‘Umar looked at the riches they had obtained, he spontaneously expressed: “Those who have (honestly) presented this wealth (to the state) are indeed trustworthy.” At this ‘Alī raised a very meaningful and insightful point. While explaining the basic force behind this show of honesty and trustworthiness, he pointed out something which can only be penetrated by the eyes of ‘Alī. He said: “Your subjects are honest because you remained honest; if you were dishonest, they too would follow the suit.”¹⁸⁷

¹⁸⁴ Ibid., 198.

¹⁸⁵ Ibid.

¹⁸⁶ Abū Yūsuf, *Kitāb al-Kharāj*, 4-5.

¹⁸⁷ Haykal, *al-Fārūq ‘Umar*, 1: 188.

14.3 Absolute Justice

Absolute justice is the backbone of the Islamic governance and the guarantee of the Islamic State. This makes it incumbent upon the administrators in the Islamic State not to fear any force while administering justice nor should they make allowance for the influential in this regard. The Prophet said: If Fātimah, the daughter of Muhammad, committed theft I would have got her hand amputated.” (*Muslim*, No: 1688) It was not a hollow claim. It was sure truth. The Islamic rule has to reflect the divine justice. It does not discriminate between an important or ordinary citizen while deciding cases neither does it afford showing expediency or sense of generosity. The Prophet of God has said:

The dearest to God and the nearest to me on the Last Day will be the just rulers. The most disliked personalities to God are the tyrant rulers who will, that day, be facing severest punishment and will be placed in the station farthest from me. (*Musnad Ahmad*, No: 11542)

Abū Bakr explained the basic purpose of his government in the following words:

I consider an uninfluential man among you as powerful until I return him his right usurped by others and the influential among you is nothing in my eyes until I have made him pay the rights of others he usurps.¹⁸⁸

The same was stressed by ‘Umar when he assumed the chair of the caliphate. He said:

By God, under my rule, none is more influential than a powerless person until I make sure that he is given his due, and, none is more insignificant than an influential person till I do not make him pay what is due to him.¹⁸⁹

This means that according to ‘Umar, weakness and strength of the citizens is not judged by their financial, social and political status but by their justness or unjustness. No matter how poor and without support one is, the mere fact that he has been wronged or has been denied his rights makes him the most powerful person in the eyes of ‘Umar. An oppressed person remains the most powerful and most influential until he is paid back his rights for the whole state machinery backs him. Similarly a very powerful and financially stable and socially superior person is, having committed oppression and injustice, is the most weak and rootless individual in the eyes of the law until he is made to amend for his injustice and make compensation for the wrongs he does for until then the whole state machinery pursues him. In the truly Islamic State such a one cannot draw intercessional help from any corner.

‘Umar uncompromisingly showed this conduct and fulfilled this duty without fear. He has set an example for the righteous rulers of the true Islamic State. We will now present two examples of his justice. This will help us see the extent to which the rule of ‘Umar observed impartiality in judging people and disregarded even the interests of his relatives and the influential people in the society. We will also learn that familial and political relations had grown worthless under his rule.

‘Umar would warn his family of the consequences of using their position. He would say:

¹⁸⁸ Haykal, *al-Ṣiddīq Abū Bakr*, 62.

¹⁸⁹ Haykal, *al-Fārūq ‘Umar*, 2: 196.

If I found any among you committing things which I have forbidden you, I will penalize him twice of the original punishment.¹⁹⁰

Once his son, ‘Abd al-Raḥmān, drank and become inebriated. Later on, he presented himself before ‘Amr b. al-‘Āṣ, the governor of Egypt and confessed his crime. He requested the governor to sentence him to the prescribed punishment. ‘Amr b. al-‘Āṣ says: “I tried to dismiss ‘Abd al-Raḥmān after a little rebuke. But he insisted that if he was not sentenced according to the *sharī‘ah*, he would go back to Madīnah and complain before his father. I feared that if I let him go unpunished he would go directly to the caliph and report to him who would instantly dismiss me. This made me punish ‘Abd al-Raḥmān in my house. Later on he shaved his head off in a corner of my house. I did not inform the caliph about this issue. But after a few days later the following letter from the Caliph reached me.

This is from the chief of the believers, servant of God, ‘Umar to the Sinner son of the Sinner. You baffled me by daring to break the promise. I believe you deserve removal from governorship. You dared to implement the punishment on ‘Abd al-Raḥmān in the yard of your house and to shave off his head under your roof. While you well know that this kind of leniency is not my attitude. ‘Abd al-Raḥmān was but one of your subjects. You were obliged to deal with him the way you deal with the ordinary subjects. But you have dealt with him considering him son of the Caliph. While you know that, with regards to justice, I do not show leniency to any. Now I order you to send ‘Abd al-Raḥmān instantly to Madīnah so that I can make him taste what he did.¹⁹¹

‘Amr b. al-‘Āṣ says: “Afterwards I sent ‘Abd al-Raḥmān to the Caliph and confessed that I had committed a great mistake by punishing Abd al-Raḥmān inside the walls of my house while I would not deal with other Muslims and the *dhimmīs* this way. I sent a written confession and ‘Abd al-Raḥmān under the custody of ‘Abd Allāh b. ‘Umar.” Since ‘Abd al-Raḥmān was not allowed to use but a saddle on the back of his conveyance he could not move easily over his mount. When they reached Madīnah, ‘Abd al-Raḥmān b. ‘Awf tried to intercede with the Caliph. He requested the Caliph to forgive his son for he had already been punished. ‘Umar did not consider his requests. When ‘Abd al-Raḥmān saw the rage of his father, he cried and pleaded that he was unwell. He lamented that his father was about to kill him. It has been narrated that “‘Umar punished ‘Abd al-Raḥmān while he was still unwell. He was put in custody till he fell ill and died.¹⁹²

Now we turn to another example set by ‘Umar in this regard.

‘Amr b. al-‘Āṣ was the governor of Egypt. It was he who had conquered the country. It has been narrated that his son Muhammad flogged an Egyptian and while doing so he said: “Take this. I am son of an influential man.” ‘Amr b. al-‘Āṣ held that man in custody fearing that he might go to Madīnah and complain. After some time the Egyptian was released and he went straight to Madīnah and reported to ‘Umar the whole affair. ‘Umar asked the victim to stay there and commanded ‘Amr b. al-‘Āṣ and his son to report to the capital. Both came to the Caliph and were put to trial by a court of retaliation. Then the caliph called upon the

¹⁹⁰ Ibid., 2: 197.

¹⁹¹ Ibid.

¹⁹² Ibid., 2: 198. I have taken this story from Muhammad Ḥusayn Haykal’s *Al-Fārūq ‘Umar*. The author maintains that ‘Abd al-Raḥmān was punished again. I, however, doubt this. Some scholars have explained that ‘Umar did not sentence him to the *sharī‘ah* punishment again. He only punished him just as a father disciplines his child. This I believe is correct.

The Islamic State

Egyptian, gave him a strip and asked him to flog the son of *'the influential person'*. The Egyptian flogged Muhammad till he severely bled. While he was flogging Muhammad 'Umar kept on saying: "beat the son of *the influential man*." When he was through with Muhammad and started to hand over the strip to 'Umar the caliph said: "a few strips to 'Amr b. al-'Āṣ too, for the son has been led to commit injustice only because of his father's position." The Egyptian said that he had revenged the wrong done to him by flogging the offender. Justice had been done. He did not want to flog anyone else. 'Umar told him that he might forgive the governor if he desired but he could strike the father as well and that he would not be interfered till he himself halted. Then he turned to 'Amr b. al-'Āṣ and said to him enraged: O 'Amr, since when have you held the people in bondage while they were born of their mothers free men.¹⁹³

14.4 Fulfilment of Responsibilities and Self-Accountability

Once 'Umar delivered a sermon in which he said:

I am an ordinary believer and a weak man. I rely on God alone for help. The present position bestowed on me will not change my person. All exaltedness and highness is exclusive for God. Men do not partake in it. None among you will, God willing, be able to say that 'Umar has changed after becoming a caliph. I will make myself pay the rights due on me. I will voluntarily explain my position whenever needed. If someone among you is in need or has been wronged or wants to criticize me, he should come to me straight. I am but one among you. Your welfare is dear to me. Your displeasure is heavy on me. I have to be held responsible for the trust entrusted to me. I will directly investigate the matters reported to me. I will not burden someone else with that. However, there are matters which are not in my approach for they happen in the far flung areas of the state. In this case I cannot help burdening with such tasks those among you who are trustworthy and well-wishers of the people. This trust, however, will not be laid but on only the like of these.¹⁹⁴

14.5 Politeness, Tolerance and Generosity

Narrated 'Abd Allāh b. 'Abbās that the Prophet said:

When God intends to do good to a people, He appoints serious and insightful rulers over them. He entrusts their wealth to the generous persons. When He intends to put a people through trial, He puts them under the rule of the dullard and entrusts their wealth to the misers. Beware! If a man of position among my *ummah* fails to diligently fulfil the needs of those under him, God will erect a strong wall of door keepers and concierge between him and his needs. Thus God will conceal himself from him when he needs him.¹⁹⁵

¹⁹³ Ibid.

¹⁹⁴ Ibid., 1: 102-3.

¹⁹⁵ Abū Yūsuf, *Kitāb al-Kharāj*, 8-9.

The Islamic State

Just after assuming the chair of *Khilāfah*, the Caliph ‘Umar prayed to the Almighty in the following words:

God, I am hardhearted. Soften me. I am weak. Give me strength. I am a miser. Make me generous.¹⁹⁶

14.6 Encouraging and Promoting Criticism

It is necessary for the rulers and the administrators of the government to strongly encourage their subjects to point out the flaws and weaknesses of the rulers. Rather than checking any criticism through different ploys and legal references, they are obliged to encourage the public on pointing out their mistakes. The true Islamic system is not weak enough to break apart when exposed to accountability and criticism. If there is any threat to this system, that is only from the failure of the people to perform self accountability and to exhort others on the right and forbid evil. In a state where spirit of criticism is alive among the people, they are daring enough to criticize others on their mistakes and are always ready to hold them into account for their blunders, it signifies life in the system and ensures its continuity. If, however, this feeling to criticize each other on unbecoming and errant behaviour is drying up, then it is the duty of those on the helm of affairs to curb this tendency and cure this evil. For real danger for the system lies in indifference towards the prevalent decay. When indifference to evil prevails in the Islamic State, it becomes difficult for the Islamic State to maintain its necessary elements. This extraordinary importance of criticism and accountability in the Islamic System obliges the Muslims to keep on exhorting each other on good, forbidding evil and pointing out mistakes and shortcomings of others. Every citizen has to perform this duty in his own sphere of influence. Islam warns of grave consequences to those who knowingly avoid this duty. This attitude amounts to the greatest form of treachery and betrayal to the Islamic State. In the eyes of Islam, those who do not stop their fellow Muslims, rules and the administrators in their society while knowing that the latter are treading the wrong path are dumb satans.

The first righteous caliph of the Islamic State, Abū Bakr explained this reality in the very first sermon he delivered after assuming the responsibility. He said:

By God, I have never longed for this position, neither during the night nor in the day. I have never prayed to God for it, neither publicly or privately. I have been burdened with a heavy responsibility. I do not find requisite strength to fulfil this duty. Yet I cannot escape from it. I wished from the core of my heart that someone else, the strongest among all of us, had taken this responsibility. Follow me when you find me following God. When you see me going against the injunctions of God, you are not obliged to obey me.¹⁹⁷

He went on crying:

O People, I have not been appointed at this position so that I behave like a superior to all of you. I desired in my heart that someone else took up this responsibility. If you will measure me with the measure of the revealed guidance through which God kept his Messenger straight, then you will not find me suitable for this position. I am but a

¹⁹⁶ Haykal, *al-Fārūq ‘Umar*, 1: 91.

¹⁹⁷ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, 1: 17.

common man like you. Follow me as long as you find me on the right path. When you see me deviating then straighten me up.¹⁹⁸

Once during the rule of Abū Bakr, people developed a belief that one is responsible for the deeds of oneself alone to the exclusion of others. They believed they would not be called into account by God for other's wrongdoings. None but the offender himself will be questioned. These people founded this belief on the following verse of the Qur'ān:

Believers, save yourselves. The misguidance of the strayed folk will not harm you while you are on the right guidance. (Q 5:105)

When Abū Bakr came to know this, he was greatly upset. He took the matter seriously. He thought if this wrong belief is let to spread, it would kill the practice of exhorting others on good and forbidding them the evil. He knew that the Islamic society and the Islamic political system cannot work properly in absence of this virtue. Therefore, he gathered the people and addressed them in the following words:

People, you refer to the verse *yā ayyuhalladhīna ‘āmanū ‘alaykum anfusakum* [...], interpret it while divorcing it of its true context. Your interpretation is not valid for I have heard the Messenger of God say: "When people stop curing evils which they notice, they can very well be afflicted by a great chastisement sweeping them all." (Abū Dāwūd, No: 4338)¹⁹⁹

‘Umar is renowned for his strictness. Yet, he entertained all kinds of criticism on his policies. He also encouraged others on doing this service. his attitude in this regard is unparalleled. In the following paragraphs, we will discuss some of the examples he set. Hasan Baṣrī narrates:

A man asked ‘Umar : "O ‘Umar fear God." He repeated this severally. Another man interrupted and asked him to stop. He said that it was enough. ‘Umar said to the latter to let the man say whatever he wanted. He said that if those people were stopped from voicing objections then they would be of no good.²⁰⁰

Once ‘Umar explained the rights and duties of the subjects in the following words:

You can help me against my self by exhorting me on good and forbidding me evil. You can also do that by continually counselling me regarding the responsibility of managing your affairs God has entrusted to me.²⁰¹

‘Umar b. ‘Abd al-‘Azīz once said:

¹⁹⁸ Ibid.

¹⁹⁹ The narrator has reported only a part of the sermon. Obviously Abū Bakr must have explained the meaning and implication of the referred to verse in its proper context. Seen in its proper context the verse marks the extent to which the callers to the truth are obliged to go. The verse says that they are obliged only to communicate the truth to others. Having fulfilled this responsibility, they will have saved themselves of any accountability. It is upon their addressees to accept or reject the truth. It is only they who will be questioned on the Last Day. It is not upon the callers to convert the addressees.

²⁰⁰ Abū Yūsuf, *Kitāb al-Kharāj*, ١٢.

²⁰¹ Haykal, *al-Fārūq ‘Umar*, 1: 94.

God does not hold into account the generality on the sins of a few among them. However, when an evil is committed openly in the society and no body raises voice against it, then all deserve equal punishment.²⁰²

14.7 Feeling for the Subjects and Compassion for them

Ma'qal b. Yassār narrates that he heard the Messenger of God saying:

He whom God makes ruler over a people will not be admitted into Paradise if he dies while having cheated his subjects. (*Muslim*, No: 142)

Another variant of the same narrative reads:

A person made responsible of the affairs of the Muslims will never be admitted into Paradise along with his subjects if he does not struggle for their wellbeing and does not wish well for them. (*Muslim*, No: 142)

‘Ā’ishah narrates that she heard the Messenger of God say:

God, be hard on him who after being made responsible for the affairs of my *ummah*, treats them harshly, and treat compassionately the one who when appointed head of my *ummah*, is lenient to them. (*Muslim*, No: 1828)

14.8 Avoiding Bad Temper and Ignorant Behaviour

Abū ‘Usāmah Hudhālī narrates that once ‘Umar addressed the people and said: O People, it is our right upon you that you wish well for us in our absence and help us in good works. Addressing the rulers and the administrators he said:

Longanimity of none is dearer to God than that of a ruler and administrator. Leniency and longanimity of a ruler and an administrator is vastly useful and effective to the generality, something which the same qualities of a commoner lack. Similarly, the most abhorrent form of bad temper and ignorant behaviour is that shown by a ruler and administrator for coming from them, these things are vastly harmful. He who adopts peaceful manner while dealing with the people earns peace and security in reward from God.²⁰³

‘Allāmah Ibn Qayyim explains some intricate points implied in the verse 199 of the *Sūrah al-A‘rāf* (7) of the Qur’ān. The verse reads: "Take to forgiveness and enjoin good and turn away from the ignorant." (Q 7:199) Ibn Qayyim writes:

This verse epitomizes all the moral excellences and positive characteristics of rulers. A ruler can possibly face three kinds of situations in dealing with his subjects. First, the subjects have to fulfil in all circumstances the rights of the rulers imposed on them. Second, the rulers enjoy the right of command and authority. Third, in some cases the

²⁰² Abū Yūsuf, *Kitāb al-Kharāj*, ١١.

²⁰³ Ibid., 12-3

subjects may have shortcomings. Regarding the first case this verse directs the rulers that they should only expect of their subjects what they can do comfortably and what they readily accept. They should not be expected to deliver what is burdensome for them. The word *ufw* in the verse means what is not taxing for the subjects. Regarding the second case, the rulers have been advised to command them what is established as good, is rational, is acceptable to the pure natured people and is generally considered useful by the subjects. Then it has been said that the rulers should command to them, what they intend to command, in a customary manner. They should not be stern in giving them commands and must not show hardheartedness. He who behaves ignorantly and insolently, his evil should not be paid back by evil. Rather he should be shown condonation.²⁰⁴

14.9 Inflexible Adherence to the Truth

Qaḍī Abū Yūsuf offered the following advice to the Caliph Hārūn al-Rashīd:

The rulers will be questioned by their Lord just as a herdsman is questioned by his master. Therefore, you are required to follow the truth in discharging the responsibility God has entrusted you even for a short time. The fortunate ruler in the eyes of God is the one whose subjects are prosperous because of him.

Do not deviate from the truth. If you do then your subjects too will deviate from it. Do not command things based on the desires of your self. Do not hold people into account in fury. When you face two paths, one taking to betterment in the Afterlife and the other ensuring the worldly gains, you should adopt the path leading to the Afterlife and abandon the one paying in this worldly life.

Do not discriminate between your near ones and the strangers regarding the affairs of the Almighty and his laws. Do not fear anyone regarding the religion. Keep fearing God. True fear is found in the heart and not what you say verbally. Adopt *taqwā*. *Taqwā* means avoiding defiance to Almighty God. Whoever desires to avoid defying God, God saves him from doing so.²⁰⁵

14.10 Seeking Guidance from God Alone

Qaḍī Abū Yūsuf continues advising the caliph in the following words:

O Chief of the Believers, I counsel you to guard the trust God has entrusted to you. Carry out your responsibility to guard what God has commanded you to guard. Do not turn to anyone except God for help and guidance. If you will seek guidance and acquire help from any source other than God, you will find it difficult to get to the right guidance. You will lose vision of the signs of the road to guidance and its width will shrink for you. You will start to see good for bad and bad for good. [...] Everyman will be held accountable for the loss occurring in the herd entrusted to his guardianship. For if he willed, he could have saved the herd from suffering loss by keeping it away from the points of danger by the will of God. He could have thus brought it to the path of life and safely. If such a person will look to other than God for help and guidance, destruction will approach him speedily. On the contrary, if he seeks good for all, then

²⁰⁴ Ibn Qayyim, *Zād al-Ma'ād*, 3: 162.

²⁰⁵ Abū Yūsuf, *Kitāb al-Kharāj*, 3-4.

the reward awaiting him on the Last Day will be granted, a far greater success and prosperity than what he enjoys in this worldly life. The loyalty he shows to the Almighty will be paid back to him more abundantly by God than the loyalty he shows in this life. You should, therefore, avoid wasting your subjects. If you do not, you will find yourself forced to repay their rights. Remember, one has to take necessary steps in order to support the building before it collapses. You will surely be rewarded for whatever you do for the betterment of the people put under your rule and given in your guardianship. You will similarly be held accountable for their rights you fail to fulfil. Do not, therefore, forget your duties to the people you have been burdened with, God will not forget you. Do not be indifferent to their rights and betterment, God will not ignore you.²⁰⁶

14.11 Strong Adherence to the Book and the Prophet's Example

Qaḍī Abū Yūsuf points out to the Caliph Hārūn al-Rashīd the most important deeds which can help a ruler keep on the straight path. He says:²⁰⁷

Do not lose the opportunity to earn your share which you can secure by exalting and glorifying God with his praises in your heart days and nights. Invoke Allah's blessings on the Prophet. God has mercifully declared that the rulers are his vicegerents in this world. He has revealed his light for them (in the form of the Qur'ān). It decides the matter disputed among the subjects and judges the disputes about their rights. The rulers and the caliphs can keep this lamp of light shining by implementing the limits set by God. This way the rights of the rightful can be actively and justly fulfilled. The *Sunnah* established by the pious caliphs should be upheld and carefully followed. Keeping the precedents set by the righteous ancestors is an everlasting virtue. Oppression by a ruler is destruction of the subjects. Sharing the rule with the crooked and unreliable men is even more destructive for the subjects. Fulfil the responsibly entrusted to you and be grateful to God. Try hard so that God makes you perfectly able and fit for this service. For God says in his book: "If you give thanks, I will increase my favours on you." (Q 14:07) Nothing is more likeable to God than reform. Similarly, nothing is more abhorrent to God than destruction. Defiance of the directives of God is but ingratitude to his bounties. God takes away the honour granted to a people who do not thank God on his bounties and fail to follow it with quick repentance.²⁰⁸

14.12 Modesty

The true honour for the governors and the administrators of the Islamic State is that which they earn because of God and his religion. This is indeed the everlasting honour. Therefore, they must not yearn for any other honour. Neither should they adopt a path of earning themselves honour other than adhering to the religion and obeying God. All the dark ways of earning fame and honour generally applied by the worshippers of the worldly gains and fame

²⁰⁶ Ibid., 5.

²⁰⁷ While reading through these advices, one needs to keep in mind that they do not emanate from a parochial mentality of a religious cleric. Rather they have been offered by a person who is the Chief Justice of the most advanced and the vastest empire of the time. He was an erudite scholar both in practical and theoretic politics. The one whom these advices are given too is not an ordinary ruler. He could very contemptuously address the European rulers of his time.

²⁰⁸ Abū Yūsuf, *Kitāb al-Kharāj*, 5.

The Islamic State

like court mannerisms, keeping batteries of courtiers, courtly grandeur, batteries of guards, guard of honour, and the like are completely in negation of the spirit of service to the Lord. They reflect human pridefulness and signify human's claim to divinity. All these demonstrations mismatch the Islamic way of life. There are those who adopt these worldly shows of grandeur claiming that this adds to the grandness of the religion of God. Such people, in fact, want to cover their feelings of pridefulness by their untrue religious affiliations. Obviously religion cannot coexist with these evils.

There was no show at the occasion of 'Umar's ascension to the caliphate. Neither any grand court was held, nor was there any procession. Neither were any flags hoisted nor were any guards of honour held. Contrarily 'Alī gave him some golden advices which still survive on the pages of history. The way 'Umar followed these instruction is another chapter of the Islamic history shining to all the students of the early history of Islam. He is reported to have said:

If you want to take the stead of your predecessor, embellish your shirt with patches, keep your lower garment above your ankles, mend your shoes with your own hands, patch your socks, cut your desires and eat not to your fill.²⁰⁹

If superficial shows could have made the religion reign supreme, then the time when 'Umar visited Jerusalem was the most suitable occasion for holding such processions. his visit followed the conquest of the country and the newly conquered people were accustomed to such grand shows because of their interaction with the Roman emperors. 'Umar did not consider anything of the kind. It was not that he avoided such show of grandeur because of his simple nature. We know that many people tried to convince him to observe this decorum and show expediency. Yet he never gave ear to any such advice. He fully made it clear that those who adopt such tactics of earning cheap fame and ignore the religion sink in defame. Now study the following historical narratives which depict the entry of the caliph in the conquered land. These also include his response to the people who advised him to observe some of the mannerisms which were, according to them, a requirement of expediency.

'Umar rode a camel from Madīnah to Jābiyah. He had two sacks with him, one containing flour the other dates. He also had a canteen and a bowl. A group of companions accompanied him. At meal times he would put his bowl before the company. All the people would join him in the meals. The Caliph continued teaching and training the people on his way. Wherever he saw Muslims who lacked little knowledge of their religion, he would educate them. A little before Syria, he met few horseback riders whom Abū 'Ubaydah had sent in order to bring the news about the caliph. When the caliph entered the sacred house in Jerusalem, he wore clothes with fourteen visible patches on it. his companions advised him to ride a horse instead of a camel considering the occasion. They also advised him to put on white clothes. At their insistence 'Umar put on white clothes and took a cotton napkin presented to him by Abū 'Ubaydah. Then a horse was brought for him to ride. He rode it. The horse walked along arrogantly and he got off. Addressing his companions he said: "Believers, forgive me my mistake. Your chief was about to perish. This opulence created a strange pride in my heart." He quickly put off the new clothes and put on the patched dress.²¹⁰

'Allāmah Ibn Kathīr narrates the events of the caliphal journey to Jerusalem in the following words:

²⁰⁹ Ibid., 15.

²¹⁰ Haykal, *al-Fārūq 'Umar*, 1: 235.

‘Umar b. al-Khaṭṭāb rode a white camel to Jābiyah via ‘Īliya. his forehead was exposed to the sun; he was not wearing a cap or turban. his feet suspended from the sides of the saddle. There was no stirrup. He had a blanket with him which he also used as a mattress. When he rode the camel, he put the blanket on the saddle. He wore a worn-out shirt made of khaddar. As soon as he reached his destination, he called upon the leaders of the tribes. People called upon a priest. ‘Umar asked the priest either to wash his shirt and mend it for him or lend him clothing. The priest brought the caliph a linen shirt. ‘Umar asked what kind of cloth that was. Linen, he responded. The caliph asked: What is linen? The priest explained. Then ‘Umar took off his shirt. The priest got it washed and mended. ‘Umar put on his shirt and returned the priest his. The priest said: You are the king of Arabia. This part of the country is not suitable for a camel rider. It would be better if you rode a horse and put on a new dress. The Romans will definitely respect that.

‘Umar responded: The honour God has blessed us with, we draw from Islam, God’s chosen religion. We do not intend to make any other thing a mark of our honour.

Later on, a horse was brought. He got on the horse without any saddle. He put an ordinary piece of cloth its back. Just after getting on the horse, he shouted: "Stop, stop. I have never seen anyone riding a Satan." And he got off. Later on his camel was brought which he rode.²¹¹

Ibn Kathīr has narrated another incident relating to the caliphal journey to Jerusalem. He says:

Tāriq b. Shihāb narrates: On his way to Syria, ‘Umar had to cross water. He got off the camel casually. He took off his leather socks and held them in his hands. While leading his camel he entered the water. The commander in chief of the Muslim armies, was accompanying him. He observed: "O Chief of the Believers, the people of this country would find it very odd." The Caliph said: "O Abū ‘Ubaydah, I wish you had not said this. Do you not know that no nation in this world was humbler than us? None was more contemptible than us. None was of less in number than us. God honoured us through Islam. Keep well in mind that if you targeted honour other than the one granted you through Islam, God will humble you."²¹²

This is the state of the journey of a conqueror through the land he himself had fought into his control, the conqueror whose armies flooded out of Arabia to China and Afghanistan in the east, to Anatolia and the Caspian Sea in the north, to Tunisia in the west and to Abyssinia in the north. He had brought the great Persian Empire as well as the Eastern Roman Empire to the low.

‘Umar behaved the same way during his rule. He made sure that his governors and officials as well as common men under his rule follow the same conduct. Whenever he came to know that a government official deviated from this attitude, he would hold him into account severely disregarding the social status of the culprit and without considering expediency.

Once he came to know that ‘Sa’d, the governor of Kūfah had built himself a palace. ‘Umar dispatched Muhammad b. Muslimah to Kūfah with the command to burn the doors of the

²¹¹ Ibn Kathīr, Ḥāfiẓ Abū al-Fidā’ Ismā‘īl, *al-Bidāyah wa al-Nihāyah*, 5th ed., vol., 7 (Beirut: Dār al-Ma‘rifah: 1999), 64-5.

²¹² Ibid.

The Islamic State

palace and turn back instantly. When Muhammad reached Kūfah, Ibn Sa'd learnt about his arrival. He called on Muhammad in his palace who declined to enter. The governor came out and wanted to show respect to the guest and entertain him. This too was declined by the caliph's envoy who handed over to the governor the caliphal epistle which read:

I have learnt that you have erected yourself a palace rather a castle. It is called Sa'd's Castle. You have established a wall between you and your people. It is not your palace indeed. It is the house of destruction and nuisance. You are directed to settle in a part of the palace adjacent to the *bayt al-māl* and shut the remaining. Do not keep doors which hinder people from accessing you. Do not deny them their rights. Make sure that people have access to you in all circumstances.²¹³

Having read the letter Sa'd explained the whole situation to the envoy of the caliph and he departed satisfied. The caliph desired that similar colour of simplicity and moderateness prevailed in the lives of the commoners. He considered it the *Sunnah* and saw in it the guarantee of the perpetuity of the *ummah*. We see that at the time the garrison town Kūfah was being built, he ordered the Muslims to observe that nobody builds more than three rooms in his house. He also forbade them erecting high buildings. At this occasion, he said: Hold fast to the *Sunnah*, your rule will continue to prevail.²¹⁴

14.13 Remaining aware of Subjects and Sympathizing with them

Umar once explained the rights of the citizens over the rulers in the following words:

It is your right upon me that I do not take anything from your *kharāj* and from your booties unjustly. It is your right upon me that once such income comes under my control, I spent it on just causes. It is your right upon me that I increase your allowances and daily rations, and I guard your frontiers. It is your right upon me that I do not put you in danger nor do I separate you from your children continually. It is your right upon me that I take the stead of a father to your children when you are kept engaged in wars on the frontiers.²¹⁵

In the following paragraphs we will present some examples of 'Umar's conduct which show how he fulfilled the last mentioned right of the citizens. It will help us understand what it means to become a father to the children of the citizens. Many people in the world have claimed this honour. All those who are fortunate enough to rule a people pose to be feeling for the citizens like a father to his children. Under this pretension they have indeed demanded more than their due rights from the subjects. Rarely ever has a ruler acted like a father with his subjects. Theoretically, it is indisputable fact that the rulers are to deal with the subjects as does a father with his children. Yet, practically, people are in fact unaware of such dealing. We will now explain this fact with examples so that we can learn how this idea reflects in the Islamic State.

1. One night 'Umar left the city in the company of his slave, Aslam. Seeing a tent along the way, he turned towards it. When he reached near it, he found out that a woman was going through excruciating delivery pains. 'Umar asked her how she was feeling. She told the

²¹³ Haykal, *al-Fārūq 'Umar*, 1, 203-4.

²¹⁴ Ibid.

²¹⁵ Ibid., 94.

The Islamic State

caliph that she was a Bedouin woman and she had nothing with her which could be of use at that trying hour. Having heard this, 'Umar hurried towards his home and asked his wife, Umm Kulthūm b. Abī Tālib, to get ready to render a service for which God has graciously selected her. Then he narrated the whole affair to her. She was already ready to render such a service. 'Umar put a sack of flour at his back and also some ghee. Umm Kulthūm took all such things as needed in a child birth. Both the husband and the wife hurried to the tent of the Bedouin. Umm Kulthūm entered the tent and the caliph joined the Bedouin and talked to him. The poor Bedouin did not know whom he was talking to. Suddenly the wife of the Caliph spoke from within the tent saying: "O Chief of the Believers, give glad tidings of a son to your companion." At this the Bedouin came to know that he was talking to the Caliph. He was august. He started to apologize. 'Umar consoled him and gave to him some more things of need and departed.²¹⁶

2. One night 'Umar was patrolling when he heard a child crying. He called out to the mother of the child and said: "O woman, fear God and treat the child well." After a while he passed the hut again and heard the child crying. 'Umar called the mother again and repeated what he had said earlier. During the last part of the night, he heard the child crying one more time. At this, 'Umar went near their dwelling and said to the woman: "What a cruel mother you are! Your child kept on crying the whole night." The woman explained that she was trying to wean him but he would not get weaned. 'Umar asked her why she was trying to wean him. Because 'Umar would not issue the grant to him until he is weaned, she replied. 'Umar enquired about the age of the child. She informed the caliph about his age. At this, 'Umar said: "Woe to you! Do not be that hasty." Next morning, he addressed the people after the Prayer, while his eyes were watered. He said: "Woe to 'Umar, how many a believing child he has killed!" Later on, he appointed his caller to declare to the people that thenceforth children on breastfeeding too would get the allowance. They must not be weaned prematurely.²¹⁷

3. One night 'Umar was patrolling the town. On his way, he saw that a woman had put a pot on the stove and was watching over it. Her children were crying. 'Umar asked the woman the reason of their distress. He also wanted to know what was being cooked on the fire. She told the caliph that the children were hungry and that she had put some water on the fire so that they could be lulled into sleep. "God will judge between me and 'Umar " she remarked. At hearing this, 'Umar hurried towards the *bayt al-māl*. He put a sack of flour on his back and got back to the woman. He himself sat down beside the stove and poked the fire to life. He departed the family only when the food was prepared and the children went to sleep having eaten their fill. He repeatedly said in a heartfelt manner: "These children were crying because they were hungry and were awake because of hunger."²¹⁸

14.14 Accountability of the Officials

In the Islamic state system, accountability of the officials is a religious obligation. It cannot be ignored without earning the just displeasure of God. Accountability in the Islamic state system includes ruler's strict observation of the functioning of the officials as well as holding them into account for shortcomings. If they commit oppression while in the office they must be put to retribution. A failure of the rulers in this regard necessarily leads to the diffusion of

²¹⁶ Ibid., 2: 195.

²¹⁷ Ibid.

²¹⁸ Ibid., 2: 195-6.

the evil in the whole society. This ultimately creates nuisance in the land which breaks the whole system apart.

‘Umar would, as a rule, assess the financial worth of a person before appointing him on a key position. He would then continue watching over his financial progress during the period of his service. If income of the administrator did not vary greatly during the period of his service he would not be interfered. However it was found out that his financial status substantially improved after his appointment, an investigation would ensue. If it was proved that the administrator committed embezzlement, the caliph would get his wealth accumulated and distributed among the deserving people. He would make it plain to the person involved that he had been appointed to serve the people and not to trade.²¹⁹

When ‘Umar was informed that the governor of Egypt ‘Amr b. al-‘Āṣ had amassed wealth, he wrote to him as follows: "I have been informed that you have accumulated wealth, slaves, cattle, pottery and the like while at the time of your appointment as governor of Egypt you did not own these things." The governor responded as follows: "This is a country rich in trade and cultivation. We get more than what we need which we easily set aside." ‘Umar wrote back: "I have good experience of dealing with evil administrators. Your letter betrays that it has hurt you that I held you accountable for something. I doubt your conduct. Therefore I am sending Muhammad b. Muslimah to you with the command to distribute your wealth among the deserving. You are required to cooperatively provide him the details he asks of you. Hand over to him whatever he decides to confiscate. If he shows you any strictness in this regard, forgive him."²²⁰

Once ‘Umar was told that Khāild b. Walīd gifted ten thousand dirham to a poet called Ash‘ath b. Qays in prize. The Caliph then wrote to Abū ‘Ubaydah to go directly to Khālid b. Walīd and tie him in the cloth of his turban, to denude him of his cape and ask him from where did he take the money he gifted to Ash‘ath b. Qays, from his personal wealth or from the *bayt al-māl*. If Khālid admits that he took it from *bayt al-māl* that is embezzlement. And if he says that it was his personal wealth, that amounts to extravagance. In both cases, he is worthy to be removed from his position. He should, therefore, be removed.²²¹

14.15 Leniency to the Righteous and Strictness to the Evil

Once ‘Umar addressed the people and said:

O People, I have been given charge of your collective affairs. Beware that my previously renowned strictness has increased. However, it will only be directed towards the oppressors and those who victimize the Muslims. As for those who lead a life of peace, honesty and moderation, I will deal with them more leniently than they can be lenient to one another. I will leave none with a chance to oppress others. If someone dares do so, I will put one cheek of him on the earth and press the other under my foot till he surrenders before the truth. And in spite of this strictness and hardness to the evil factions, I will lay my cheek on the earth.²²²

²¹⁹ Ibid., 2: 202.

²²⁰ Ibid., 2: 178.

²²¹ Ibid., 1: 252-3.

²²² Ibid., 1: 93-4.

14.16 Contentedness on Subsistence

In the Islamic State, the officials cannot be rewarded by lofty salaries, great allowance and opulently furnished mansions. Standard of living for every worker in the Islamic government and especially the high officials has to be kept approximate to that of the commoners so that people take their example and society is not plagued with the ailments like extravagance, show off, pridefulness, usurpation and worship of the mundane gains. When Abū Bakr assumed the chair of caliphate, he did not at first accept any salary from the national treasury. And when he did, after much reluctance, that too after asking the Muslims to ascertain how much he could deservingly take in salary. ‘Umar responded to this enquiry of the caliph upon which the other Muslims agreed. He said:

‘Umar spoke out: “Let me tell you how much you can take from the national treasury. As regards your children, who are no longer living with you and have assumed their financial responsibilities, you should determine a share from the national treasury just like the common Muslims. As regards your younger children and the relatives, who are not able to feed themselves, you should provide them from the treasury along with your family.” Abū Bakr said: “‘Umar, I fear it is not lawful for me to feed myself and my family from the *fay* which belongs to Muslims.” ‘Umar responded: “O Successor of the Messenger of God, you have been able to take up this responsibility only after abandoning the efforts to earn a livelihood for the family.”²²³

Abū Bakr served as caliph a little over two years. During all this period, the money he spent for his personal and family needs, when calculated later on, proved to be only eight thousand dirham. Even this meagre amount he took for himself was returned to the treasury as he left a will to this effect.

Then he asked the people to find out how much of the national money he spent on his personal needs. They looked into it only to learn that it was merely eight thousand dirham. He then directed his heirs to pay the money to his successor.²²⁴

‘Umar explained his understanding of his right over the national treasury in the following words:

What I consider allowable for me to take from the treasury as my personal need is but a pair of clothing in the Summer and one in the winter, two in the whole year, an animal of carriage for *hajj* and *‘umrah*, provision for my family, for each person a share equal to that of an mediocre Qurayshite, who is not opulent not poor. All this done, I am like a common Muslim. I will get a share as does a common Muslim.²²⁵

He believed that the *bayt al-māl* is to the ruler as the wealth of an orphan is to his guardian. The guardian of an orphan, according to the Qur’ān, can take only as much money as to fulfil his basic needs that too if he is needy. A well-off man should avoid taking anything from the wealth of the orphan under his care. This was actually the legal status of the *bayt al-māl* for

²²³ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, 1: 17.

²²⁴ Ibid., 1: 19.

²²⁵ Haykal, *al-Fārūq ‘Umar*, 2: 194.

The Islamic State

the ruler in the eyes of ‘Umar. He took from it only as much money as he considered lawful to take for his personal needs. He explained his stance on the matter so that the people are not led to believe that his attitude was merely a reflection of his personal piety and that he did not believe it to be a divine command. He is reported to have said:

I have put the wealth in the *bayt al-māl* at the stead of the wealth of an orphan. I will avoid taking anything from it when not in need. Whenever I be in need I will take only what meets my basic needs.²²⁶

The view of ‘Umar regarding the right of the ruler over the national treasury resulted in his extraordinary care bordering with extremism. Once he fell ill and needed honey which was there in the *bayt al-māl*. He, however, did not consider it right to take it himself. When compelled to take it, he did so only after seeking permission from the Muslims. He said that if the people did not allow him to take some, it would have been *ḥarām* for him to take it.²²⁷

The Muslims noticed that ‘Umar’s care and consciousness regarding benefiting from the national treasury bordered with extremeness so much so that he avoided to take his obvious right from it. They sent their representatives to the Mother of the Faithful, Ḥafṣah and told her that the caliph had imposed upon himself extreme care with regards to the use of the money he deserves from the national treasury. God had made the treasury grow and the Caliph had the right to meet his financial requirements from it, they added. They further explained that all the Muslims were readily allowing him to do so. They wanted the wife of the Prophet to communicate their wishes to the Caliph. When ‘Umar came to her she told him about the wishes of the Muslims. To this ‘Umar responded as follows:

O Ḥafṣah, daughter of ‘Umar, you have wished bad for your father while intending good for your nation. My family has rights in my life and property only and not in my religion and the trust entrusted to me.²²⁸

‘Alī too showed extreme cautiousness with regards to the *bayt al-māl*. This is evidenced by the fact that, according to Ḥasan, he left behind only seven hundred dirham which he had saved from his salary in order to buy a slave.²²⁹

‘Umar b. ‘Abd al-‘Azīz’s attitude too was the same. After assuming the chair of *khilāfah*, he directly went to his wife, the daughter of the late caliph ‘Abd al-Mālik. He called her and she came to attend him. Seeing her he cried a lot. Later on he asked her either to choose him or continue wearing her expensive clothes, a gift from her father. He told her that if she chose him he would make her hand over the dress to the *bayt al-māl* and if she chose the dress then there would remain no relation between them. She responded: “O Chief of the Believers, what will I do with the dress after abandoning you! You can do whatever you want with it. I would not object.” In the meantime, his son passed by with a worn out shirt on. The Caliph told him to get it patched for he was never more in need to do that.²³⁰

The Islamic government considers the basic and fundamental needs of the workers while deciding their salaries etc. The Prophet himself explained the necessities of the people to be considered in this regard. He has been reported to have said:

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibn Qutaybah, *al-Imāmah wa al-Siyāsah*, 1: 162.

²³⁰ Ibid., 2: 116.

An unmarried state official should get married. He who has no servant, should keep one. He who has no residence should build one. However, those who go beyond this limit are embezzlers or thieves. (The narrator is not sure whether the Prophet used the word embezzler or thief). (*Abū Dāwūd* No: 2945)

This *ḥadīth* relates to all kinds of officials, lower or higher. It also explains that in the Islamic State, all the officials are to be considered equal as far as the basic needs are concerned. The government is responsible to provide all of them similar kinds of basic needs. Thus, as regards the personal needs of the officials, all of them are equal whether they are serving at insignificant posts like that of a peon or a key post like that of an influential governor. During the pious caliphates, the criterion to determine the salaries of the officials working in ordinary posts and the ones working in high positions was the same as stated in the *ḥadīth* mentioned above. War booty, for example, was equally distributed between a soldier and the commander in chief. Similarly, there was no difference between the salary of a governor and a tax collector. The same criterion is applied in determining the salaries of both the high officials and ordinary workers. This criterion was the needs of the personnel. Though, various historical narratives tell us that during the period of the pious caliphate some high officials were granted large salaries etc yet we believe that such isolated reports contradict the established principle which we have produced above and, therefore, should be ignored. We believe that the narrators have misunderstood what they narrated. The truth of the matter is that in those times all the citizens were granted a share in the national treasury. This grant was given to all, the commoners as well as officials. Some narrators have disregarded this difference and included this grant with the salaries of the officials, making it extraordinary amounts.

Since we have referred to the grants given to the Muslims the issue calls for a little explanation. Abū Bakr's policy in this regard was to equally distribute the income from the *fay* among the Muslims that would be over and above the needs of the state. This, according to him, was because the *sharī'ah* declared the citizens of the state as legal owners of this kind of income. 'Umar, however, objected to this equal distribution at two occasions. He believed that the money should be distributed among the people in proportion to their services to Islam and the order of their acceptance of faith. Abū Bakr was not convinced of 'Umar's arguments. He held that one's service to Islam and his outdoing others in accepting the faith was a matter between man and God. God will reward people on this basis in the Hereafter. The issue of distribution of the income in the form of *fay*, however, related to the distribution of wealth in this world. He maintained that it would not be possible to decide a matter which relates purely with this world in the light of an issue which relates to the afterlife.

When 'Umar became a caliph, he adopted a different policy and set the following principle in this regard:

People will be granted share according to their order of entering the faith, the persecution they suffered, the size of their families and their needs. (*Abū Dāwūd*, NO: 2950)

However, we learn that a little before his death he abandoned this view. He is reported to have resolved that he would distribute this wealth equally as Abū Bakr did. He did not survive to implement his new policy.

The Islamic State

We have learnt from the example of the two great caliphs that the *fay* income should be distributed among the Muslims equally. Similar was the view of ‘Alī who managed the affair accordingly during his caliphate.²³¹

In the present times, however, this method of distribution of grants is not possible. It was possible during the time of the rightly guided caliphate because the income was huge, thanks to the conquest, and the needs of the state were little and unsophisticated. The modern states need a lot of resources. There are little chances of any income out of conquests. Moreover, there are various new kinds of welfare works born out of cultural changes. Therefore, it is practically more useful and productive to spend resources on collective good rather than distributing it among the individuals.

14.17 Guarding the National Assets

‘Umar has set an example for the rulers and servants of the Islamic State with regards to the extent they are required to guard the national asset. The example he has set is indeed a unique one in the political history of the world. Some historical narratives tell us that once ‘Alī saw ‘Umar hurrying outside the city. ‘Alī asked him where he was heading in the burning sun. The Caliph replied that a camel belonging to the *bayt al-māl* had lost and that he was going to find it. At hearing this ‘Alī said: “You have indeed worn out the caliphs succeeding you.” ‘Alī meant that if this was the example to be followed with regards to service to the nation and protection of the national assets, then it would be real hard for anyone after ‘Umar to meet this criterion. Who would be willing to be adorned with such a thorny crown?²³²

It was perhaps at the same occasion or a similar one when he was seen leading a herd of camels belonging to the state treasury in the burning sun, heavily sweating. At this Uthmān said to ‘Umar why he was troubling himself. He offered him that he would send his personal slaves to do that chore for the caliph. ‘Umar thanked him and asked the party to rest in the shade. He clarified that the responsibility has to be discharged by the one burdened with it by the Almighty.

14.18 The Ruler and the Ruled are Equal

A very major characteristic of the Islamic political system is that Islam does not condone to an official, no matter how ordinary, to pose himself superior to others, to behave like a self-important way and to brag about his distinctive status. Sayings of Abū Bakr, ‘Umar and ‘Umar b. Abd al-‘Azīz have been discussed above under different topics that substantiate this point. It is, therefore, not necessary to repeat them. We will, however, present some incidents from the early history of Islam which will portray the general atmosphere of the Islamic State. It will then help us understand that in a political system guided by the divine laws, justice and equality prevail in all spheres. The usurpers and the oppressors who claim divinity over the weak practically cease to exist in such a society.

During the Persian conquests, at some place people wanted to entertain the commander in chief of the Muslim army with special food. Those who offered food explained that it was to be presented to the commander exclusively. The commander asked them: “Have you offered such a feast to the Muslim soldiers?” The Hosts responded in the negative. At hearing this, the commander rejected their invitation and said:

²³¹ Haykal, *al-Fārūq ‘Umar*, 2: 210

²³² Ibid., 2 : 196

We do not need this. Abū ‘Ubaydah would be the worst man if he prefers himself over the soldiers once he gets hold of booty after he led his people out, they shed their blood on his command or in some case did not shed it (being victorious)? Never. By God, this servant of God will not take from what God has granted him except what the others can share.²³³

Maqūqas sent some of his representatives to hold talks with the Egyptian governor ‘Amr b. al-‘Āṣ. When his representatives got back to him, he asked them to inform him about the conditions of the Islamic army. In response, the leader of the group of representatives portrayed the Muslim army in the following words:

None among them cherishes love for any mundane thing. They sit on the earth. They eat their food while sitting, their leg akimbo. Their commander is an equal. No discrimination is observed between the elite and the commoners, masters and the slaves. When the time of the Prayer approaches, all of them make sure that they attend the congregation. They wash their hands and faces with water and offer the Prayer with great humility.²³⁴

At hearing this, Maqūqas said: “I swear in the name of the one in whose name people take oath, if such people will attack the mountains they will definitely move them. No nation on the earth can defeat them.”²³⁵

14.19 Voluntary Service for the Sake of God

Serving the state is worship to God. This worship to God is not acceptable to him but only from those who are not infected with dross like power hunger and love for fame and those who do not desire and covet toppling one another in their struggle for the worldly gains. Ibn-i Kathīr narrates that when Khālīd b. Walīd had laid siege on the city of Damascus, a command from Caliph ‘Umar reached Abū ‘Ubaydah directing him to take command of the army in his hand and remove the present commander, Khālīd b. Walīd. Abū ‘Ubaydah kept this to himself till the city was conquered. It had then been twenty days since the command reached him. Later on, when Khālīd was informed by Abū ‘Ubaydah about this matter the former remarked: “May Allah forgive you. Why did not you inform me the moment this directive reached you?” Abū ‘Ubaydah responded:

I did not like myself to disturb your expedition. I do not desire authority in this world nor do I work for the worldly gains. What you see here is ephemeral. We are all brothers to each other. It does not harm religion and the world of a believer that his brother is given authority over him.²³⁶

It will also not be out of place to mention the text of the letter which Khālīd wrote to Abū ‘Ubaydah when Abū Bakr replaced the latter by the former as the commander in chief of the Muslim armies in Syria.

²³³ Haykal, *al-Fārūq ‘Umar*, 1: 107

²³⁴ Ibid., 2: 105.

²³⁵ Ibid., 2: 106.

²³⁶ Ibn Kathīr, *al-Bidāyah wa al-Nihāyah*, 7: 27.

I have got a directive from the successor of the Messenger of God telling me to go to Syria, take charge of the army and lead it. God bears witness that I have never requested him to appoint me as such nor did I write to him in this regard. God bless you, you will continue enjoying your present respect. Neither your commands will be defied nor will any serious issue will be decided without your consultation. You are the leader of the Muslims. We can neither deny your status nor disregard your opinion. May Allah bless you and us and save us from the chastisement of Hell.²³⁷

Both, Khālīd b. Walīd and Abū ‘Ubaydah, were equally great commanders. Both were experts in the same field and enjoyed great respect. Therefore, both had reasons to envy each other’s position. Especially the events quoted above could be very tempting for them. But those who had stood up for the cause of Islam with serious resolve to live and die for the sake of God never permitted their personal desires to spoil their purity of intention even in the most tempting and trying situations.

14.20 Avoiding Nepotism

Officials of the Islamic State have also to avoid spoiling the national assets in unduly favouring their relations. Though favouring the near kindred and their kind treatment is a great virtue rather it is the greatest virtue second only to belief in the unicity of God, yet there is no greater vice than to do so on the expense of the state. When ‘Umar formed a committee of senior companions to select one among them as their caliph after him, he greatly stressed the point that they should make sure that the one selected as the caliph does not force the Muslims to bear the cost of financial betterment of his family and friends. To quote his exact words:

‘Alī, I entreat you in the name of Allah not to load the people with the financial responsibility of the children of Hāshim if you assume the responsibility of leading the people. Uthmān, I entreat you in the name of Allah not to load the people with the financial responsibility of the children of Mu‘īṭ if you assume the responsibility of leading the people. Sa’d, I entreat you in the name of Allah not to load the people with the financial responsibility of your near ones if you assume the responsibility of leading the people.²³⁸

The Caliph ‘Umar set great examples in this regard. He showed extraordinary care while dealing with his family. When he established the office to administer the distribution of the grants the people insisted that he should put himself and his family on the priority list. He did not listen to anyone and decided that the family of the Prophet is made the point of reference and others should be considered in their nearness to it. Thus he put himself and his family beyond those who were nearer to the Prophet. When his family Banī ‘Adī came to know about this, their delegation came to the caliph asking him to place himself and his family at the position in this regard at which the nation has put them. When ‘Umar heard this talk from the delegation he cast upon them a piercing look and said:

Banī ‘Adī, be gone. You want to benefit from my position and make my good deeds go

²³⁷ Haykal, *al-Ṣiddīq Abū Bakr*, 269.

²³⁸ Haykal, *al-Fārūq ‘Umar*, 2: 282.

waste for your sake. Never. For the sake of God, never come to me unless you are called upon. Your names will number last in this register. My two predecessors have developed this convention. If I went against their example, then I will be treading a crooked path. By God, the respect I have earned in this life and the reward I expect in the Afterlife, all I owe to the Prophet Muhammad. It is only the Messenger of God who is the cause of all the respect we enjoy since he is the most respectful among all the Arabs. Other people will be placed (in this register) in proportion to their relation to the Prophet. The nearer a person in relation with the Prophet the weightier his right will be in this regards.²³⁹

The way he treated his son ‘Abd Allah b. ‘Umar at different occasions may seem to a commoner a clear example of usurpation of his rights. Islam targets curbing the practice of favouritism to the extent that such extremist approach as was held by ‘Umar becomes perfectly appropriate. It was so that his act works as an example for the people in this regard in the view of all the political leaders and the scholars of Islam.

Before the death of ‘Umar, someone praised piety and knowledge of Abd ‘Allah b. ‘Umar and followed it with a request to make him his successor. ‘Umar replied: “Woe to you, your intention is not good. How can I make a man my successor who does not know how to properly divorce his wife? Now I do not find it appropriate to interfere in your (Muslims) affairs. If this rulership was a good thing, we have taken our share in it. If it was a bad thing, then God has removed it from us. The family of ‘Umar has had enough to have only one person to be held accountable regarding the affairs of the *ummah*. I have worn myself out in this matter. I denied many rights of my wife and children. If I am saved at par, not gaining nor losing, that would be very satisfying situation for me.”²⁴⁰

When the people insisted that he should appoint a successor to follow him, he said that he did not consider anybody more rightful to leadership than those with whom the Prophet was pleased when he died. He referred to Alī, Uthmān, Zubayr, Ṭalḥah and ‘Abd al-Raḥmān b. ‘Awf and explained that ‘Abd Allāh b. ‘Umar can only be consulted by these people. He should not be given any share in the caliphate.²⁴¹

‘Umar decided that the earlier converts who migrated with the Prophet were given four thousand dirham in grant. In principle the same rule applied to the case of ‘Abd Allāh b. ‘Umar. Still he was granted only three thousand five hundred dirham. When the caliph was asked about the reason of this discriminatory dealing with ‘Abd Allah b. ‘Umar, he replied: “It was his father who took him to Madīnah. How can he be considered equal to the Emigrants who migrated on their own?”²⁴²

14.21 Avoiding Unconditional Adherence to Party Line

The greatest trial of the present time is the ‘party system’. Generally the party in power reserves all the rights for itself. The members of the ruling party are given free hand to indulge in all kinds of dishonesty and frauds. All the party members, leaders and the workers, make the party benefit a criterion to decide right and wrong. Anything that goes in the party benefit is right no matter how manifestly wrong and evil, morally, legally and intellectually. Anything against the party benefit is considered wrong even if it is clearly and unequivocally

²³⁹ Ibid., 2: 209.

²⁴⁰ Ibn Jarīr al-Ṭabarī, *Ṣaḥīḥ wa Ḍa‘īf Tarīkh Ṭabarī*, 2:580.

²⁴¹ Haykal, *al-Fārūq ‘Umar*, 2: 282-3.

²⁴² I could not find the source of this report. (translator)

The Islamic State

declared to be truth by the Almighty Allah, the Messengers of God and his angels. In system so plagued by the party system every function and organ is infected. No institution in such an ailed system can render its natural duty truthfully and honestly. All its functions and organizations revolve around the benefit of the ruling party. So much so that the judicial system treats the affairs in the light of the party benefit alone. The whole political system is affected by this malady like a rabid body. This ignorant party worship is not in line with the true Islamic system. It is rather quite the opposite of it. In the Islamic system, the criterion of good and bad and right and wrong transcends all mundane benefits. The will of God and his injunctions determine what is right and what is wrong. Those caught in any form of worldly bias and feeling for their group cannot establish the religion of God under their rule. ‘Umar has explained this principle in some of the advices to Muslims. He is reported to have said:

The *sharī‘ah* of God can only be implemented by the one who does not indulge in ostentatious acts and flattering, does not become greedy, does not shut his eyes to the injustices of his party.²⁴³

At another occasion, while addressing the people, he explained this fact in the following words:

To see that the subjects are fulfilling their religious obligations to God is the duty of a ruler which demands his utmost attention. It is our duty to command you to follow what God has commanded you, to stop you from disobeying God and doing what He has forbidden and to follow the injunctions of God while dealing with the near ones and remotely related ones, without considering the status of the one on the wrong.²⁴⁴

14.22 Distancing the Subjects

In the discussions above we have referred to various warnings sounded to the rulers who distance their subjects from them through various strategies and who do not keep their doors open for the subjects hesitating to hear the pleadings regarding their difficulties and needs. In the present discussion we wish to present a very important prophetic *ḥadīth* in this regard. It has been recorded by Tirmidhī and Ibn Ḥambal.

‘Amr b. Murrah narrated that he heard the Prophet say: “If a ruler or a governor shuts his door to the destitute, the needy and those in want of shelter, God will close upon him the doors of the heavens on the day when he will be in need, want and poverty. (*Musnad Aḥmad*, No:)

Based on this clear prophetic directive, a group of the jurists including Imām Shāfi‘ī holds that it is not lawful for a ruler to appoint guards and door keepers. Another group of jurists have however allowed this with the following three conditions:

1. The guards are appointed in order to facilitate people, to make better arrangement of the tasks and to save time. They are not appointed merely in order that the rulers are not disturbed while taking rest.
2. Proper management of the meetings with the ruler is targeted. The guards are appointed to ensure that the people can meet the ruler in turn on the basis of first come first served.

²⁴³ Abū Yūsuf, *Kitāb al-Kharāj*, ١٥.

²⁴⁴ Ibid., 13.

The Islamic State

Those coming from the far flung areas are given priority making the local people to wait. The people are not granted access to the ruler only because of their personal influence, their status, and influential links. Any kind of discrimination is avoided.

3. The guards are reliable, trustworthy, pious, good mannered and respectful.

14.23 Advocating and Protecting Falsehood

Islam doesn't allow the believers to advocate fraudulent causes and help out the untruth. The Prophet of God said:

The one who helps a wrongful party in a dispute earns the wrath of Allah. (*Abu Dāwūd*, No: 3598)

No doubt the transgressor too has to be helped. However, the only way to help him is to stop him from committing aggression. Those as who render such a service to the oppressors and help them avoid committing aggression earn blessings of God. Those who help the oppressors in their crimes and prove to be accomplices in the crime driven by ignorant bias and tendency to help the Satanic powers and protect their personal interests may blindly believe that they have launched a *jihād* and favoured their brother. However, they will, in reality, earn the wrath of God.

Another prophetic tradition contains even a severer warning.

He who helps an oppressor, while knowing that the one he is helping is an oppressor, leaves Islam. (*Mu'jam al-Kabīr*, No: 619).

It should remain clear that this sever warning relates only to those who help their brothers in committing oppression under their ignorant group feeling. Though such an ignorant group feeling is a satanic motive, yet it is far lesser evil than pursuing personal interests. If this relatively better motive for helping oppressors earns one wrath of God, the severity of the wrong committed in order to protect the personal interests is obvious. The fate of those who persist in helping the forces of evil on the basis of their personal interests while their whole life is shaped on this behaviour can be clearly seen.

14.24 Avoiding Bribery

The mankind has considered bribery as the worst ailment inflicting collectivity even since the time they developed the sense of collective life and identified elements disastrous to the collective system. The evil of bribery has always been hated as such. Every collective system depends, for its life, on the role of intellectuals and men of understanding who can cure such collective ailments as are the product of forces destructive for the collectivity. Bribery is the most affective weapon that can destroy the power of men of understanding and prudence. A collective system inflicted by bribery becomes barren as far as the production of intellectuals and sages is concerned. If there are a few people of this kind at all they can be blinded by bribery sprayed in their eyes. Consequently we see that a society where bribery is a rampant disease the leadership and guidance goes in the hands of the blind. The destination of a system run by the blind and foolish is predictable. Considering this disastrousness of bribery, Islam has taught that those who take bribe as well as those who offer it are certain to go to Hell.

The Islamic State

Abu Hurayrah narrates that the Prophet of God said: “Curse of God be upon the one who offers bribe and the one who takes it.” (*Ibn Mājah*, No: 2313)

Another prophetic tradition says that the one who works as an agent in the process of bribing will meet the same punishment. This is because he is the one who promotes an evil destined to bring disaster to the collectivity.

Thawbān narrated that the Prophet of God cursed the one who offers bribe, the one who takes bribe and the one who brokers between them. (*Musnad Ahmad*, No: 22452)

14.25 Accepting Gifts and Presents

Muslims have been guided with added stress that, in order to make their lives worth living and beautiful and in order to give life to interpersonal relations, they should offer gifts to their relatives and neighbours and to accept any such good-will from others. However, Islam, at the same time, prohibits this otherwise pious act for the government officials. This is because this creates a subterfuge for the evil practice of bribing.

Abū Ḥamīd al-Sā'idī narrates that the Prophet said: “A government official who accepts gifts, commits dishonesty.” (*Musnad Ahmad*, No: 23649)

Another narrative says:

If a well paid official appointed by us accepts gifts from people, he is corrupt. (*Abū Dāwūd*, No: 2943)

Imām Bukhārī, Imām Muslim and Abū Dāwūd have recorded a narrative that tells us that the Prophet appointed a man called Abu al-Labtiyyay as tax collector on the tribe of Azdar. When the tax collector returned from the tribe he subscribed two separate collections before the Prophet and explained that one part he had received as a *zakāh* and the other had been gifted to him by the people. Later on the Prophet addressed the people. After thanking God he said: “I appoint some people among you to render a certain service and seek their help in managing your affairs given under my command by the Almighty. Then, I see that an official comes back and tells me: “This is the portion of the *bayt al-māl* and this one has been gifted to me.” If they were true in what they state then why do they not sit at their homes and wait that the gifts reach them there.” (*Bukhārī*, No: 1429)

However, in order to strengthen the international relations and ties between the states, the rulers of the Islamic state have been allowed to offer gifts to the rulers of the other states. Various rulers sent gifts to the Prophet Muhammad. The Prophet accepted such gifts and generally gave them away to the companions. The Prophet would sometimes choose something for himself from the gifted items. He would often distribute all the gifts among the public. Imām Bukhārī has recorded a *ḥadīth* that tells us that once the Prophet received some outer garments made of silk with gold work. He distributed them among the companions except one which he separated for Makhramah b. Nawfal. Makhramah and his son went to meet the Prophet. When the Prophet heard him reach his house he felt happy and greeted Makhramah. He called him in and said to him: “O Father of Mansūr, I have kept it hidden for you.” (*Bukhārī*, No: 2514) The Egyptian king, Maqūqas gifted two slave girls, Māriyah and Sīrīn, to the Prophet. The Prophet handed Sīrīn over to Ḥassān. The same king had sent to the Prophet a mule and a donkey. Najāshī too sent a gift to the Prophet. The Prophet not only

The Islamic State

accepted the gift but also sent him some gifts in return. Farwah b. Nafāthah Jadhāmī sent a white mule to the Prophet as a gift which he rode during the battle of Ḥunayn. According to the *Ṣaḥīḥ* of Bukhārī the king of Īliya sent a white mule to the Prophet as a gift. The Prophet gifted a garment to him in return. There are numerous such examples which show that the Prophet received gifts from the kings and gifted many. There is, however, a difference of opinion among the scholars on the question whether such gifts from the kings of other states are the personal asset of the ruler or they must be submitted to the state treasury. The majority holds that all such items will be included in the state treasury. Imām Awzā'ī holds that all such gifts will be considered the ownership of the people and the ruler will pay them from the state treasury if he uses any. Imām Aḥmad and his followers hold that any gifts from the non-Muslim kings to the Muslim rulers or the Muslims will be dealt with as the war booty and will be distributed as such.²⁴⁵

²⁴⁵ Ibn Qayyim, *Zād al-Ma'ād*, 5: 79.