

Individual Law: An Islamic Sufi Approach

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Abstract

Purpose: Individual law includes a set of human rights that governments are bound to vindicate by duty. Different law schools' views to individual law are different, and have been shaped differently in various societies and ages. Islamic law view on this topic is in a way that given individualism, how human transcendence might be formed, so that, man not to be ended just to her natural temperaments, but end up to individual spiritual flourishing.

Design/methodology/approach: We deal with individual law, regarding the individual spiritual flourishing as a goal of Islamic Sufism. The main topics of individual freedom are freedoms of opinion, will, religion, speech, meeting, minorities, rule of law, equality before law, rights resulted from implementing justice, ownership, and self-determination of destiny, job and occupation rights. These topics are studied from Islamic Sufi approach and compared with the indulgences and negligence of other law schools.

Findings: Comparing individual law in Islamic law and other law schools, transcendence of the former is more clarified.

Research limitations/implications: Comparative researches in other religions' Gnosticism will be helpful.

Practical implications: These principles can be used for applied debates in the field and ended to promote individual law understanding and recompiling.

Social implications: Delicateness, truthfulness, and righteousness of Islamic Sufism, may turn the attentions of scholars and researchers to this rich approach.

Originality/value: Individual law scholars have not touched the topic from Sufi viewpoint. This paper opens new challenging arena for those who are engaged in.

Keywords: Individual law, Wisdom, Theosophy, Sufi, Mysticism, Sufism, Islamic law.

Paper type: Conceptual paper.

Introduction

Originally, individual law roots in natural law that the nature and creation have bestowed the individuals, and if it be defined in an environment without government, it includes all types of rights and liberties. An individual, who lives alone in an area, logically knows himself as a solo-authority, and generalizes his domination and freedom over whatever exists. When he lives near other people, because the others grant the same right to themselves as well, and the others' rights limit his rights, therefore, limitations occur for individual rights, and if the government be established, necessarily, the individuals are forced to sacrifice and bestow some other parts of their rights to government, so a political society is formed. That is why the main topics of individual law are classified as individuals' freedom and the rights resulted from implementing justice.

The attitude of natural law to individual law is highly in accordance to divine law approach to the subject. Natural law considers that individual law results from his nature and creation, and

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if we mean the word "nature" from the natural law terminology, as the human being's creator, in fact, we have reached the same meaning of divine law in creation of man. So, originally, no principal difference is observed in the main meaning, but this difference is seen in its interpretation, that is the aim of creation of man by the creator is also added to it in divine law. In other words, Islamic law provides this question in addition to natural law that: **"What, did you think that We created you futile, and that you would not be returned to Us?"**²

Individual Freedom

Generally, freedom is not of the rights which man gives to another man, but, freedom is of the human being's natural rights, whether accepted by government and society or not. If government and the statute law restrict this right, it would be practically for preserving the society and its collocation, otherwise it would be considered as oppression and aggression against individual rights. Preserving and collocation of the society are interpreted differently by different legal systems, and rules of statute law have been formed on this basis. These interpretations have always been faced with indulgence and negligence, and transcendence of the society has been explained due to the interpretations of the types of restrictions done by members of the society and the formed governments. This was the process that in different societies the borders of individual freedom had been defined differently; and an action in one society is regarded as correct and in another society is guilt. Achieving balance in law-making process is certainly of the most complicated rational criterion which draws the borderline for individual rights and freedom. Islamic law view to this borderline does not stand in the defined conditions of individualism and socialism systems, and it not only considers both individualism and socialism, but also, looks for how the human being's transcendence regarding individualism should be regulated within society, so that the man and his society would not be ended in his natural temperaments, but moreover cause to his spiritual glorification.

Freedom of Opinion

Freedom of opinion is an important debate in individual freedom. Liberal systems have also recognized and accepted this principle, but, some political systems with different ideologies in some stances various types of discriminations have been legislated for people. Usually, these regimes are those ideological systems that legitimacy of individual rights is defined on their ideology. In Islamic legal system, ideology is not the base for discrimination in law, except for encouraging people to promote their thoughts. For example, having polytheism or idolism, upon which a statue is considered as the creator, is rationally a false belief, and certainly, restricting people to have such a worthless belief, even by legal limitations, may cause these types of believers to think more about their beliefs deeply. They are encouraged to quit or move to think at a higher level. Even though, it should be said that these types of limitations were enforced at the early years of Islam, that Islamic government was established, and dissubmission to Islam in that special era was meant as disobeying government rules, and perhaps, these regulations might not be generalized to the afterwards times, because in the afterward ages concomitance of submission to Islam and obeying government did not exist; and after the Prophet (PBUH), except for four years of ruling Ali (AS), no real Islamic government was established yet.

Explicitly, The Glorious Quran commands: **"No compulsion is there in religion."**³ Although the word "religion" in this verse conveys various meanings and includes a wide range of beliefs extending to lifestyles as well, but, the meaning of this recitation returns to the belief of the narrator or that one to whom this verse has been revealed representatively. Also, it has been

² - Quran: Surah: Momenoon, Verse: 115. «أَفَحَسِبْتُمْ أَنَّمَا خَلَقْنَاكُمْ عَبَثًا وَأَنَّكُمْ إِلَيْنَا لَا تُرْجَعُونَ»

³ - Quran: Surah: Baqarah, Verse: 256. «لَا إِكْرَاهَ فِي الدِّينِ»

said in this regard that:⁴ **"And say, the truth is from your Lord, so let whosoever will believe, and let whosoever will disbelieve."**

Freedom of Will

Freedom of will and individual authority have been uttered in various words and in many ways in different law discussions that other types of freedom and rights, such as religion freedom, body freedom, freedom of belief, social freedom, etc. are considered as types of freedom of will. From the Islamic law viewpoint, no individual has superiority to the other; in a way that cannot deprive him from his rights and legitimate wills, except in the cases of implicit social contract and the statute law based upon that individuals have bestowed their rights to the society to possess social life. Except it, the right of having hegemonic dominancy and superiority over the others' wills is considered as divestment of individual's freedom of will, which is illegitimate. It has been cited in Glorious Quran, addressing to the Messenger (PBUH):⁵ **"You are not charge to dominate over them."** In other words, God Almighty forbids even His Messenger to have domination and hegemony over His people, and this right has not even bestowed to him, even though he is being addressed as: **"The prophet is nearer to believers than themselves"**⁶.

Principle of freedom of will is in fact derived from innate individual's right, and this freedom has been brought to life with him by his creation. It should be mentioned that imposing the social will, on the base of the statute law regulations, or other types of it, such as parents' will imposing on the children, are of the cases that society and nature of preserving and saving children provide.

Approaches and views in recent centuries in Marxism and similar philosophies, which forbid exploitation of individuals by individuals, is in fact an aspect of freedom of will principle upon which no rights should be given to an individual that leads to exploitation of the others. Regarding this subject, abolition of slavery would be set forth, although this phenomenon would be included in this category considering some exceptions, saying that; at those special time with special laws and customs of the society, Islam did not want to disrupt the foundation of the society suddenly which was based on slavery, and solved this problem by legislating special regulations which made enslavement difficult and releasing slave easy leading to vanishing slavery during time. If the Messenger had abolished slavery at that time suddenly, more severe problems outbroke, for instance, the slaves would fail procuring their subsistence, because this group were weak and could not provide livelihoods for themselves, and from the other side, no organization and apparatus had been established to organize and maintain the captives and provide them security and food; the number of captive in the battles and wars was not few, so, the method of slavery originally was used to protect them. But in other side, liberalization of slaves was legislated equal to paying alms and atonements, and was considered as emphasized recommendatory, so that slaves could gradually use their social rights as well as other citizens and dissolve during time.⁷

Freedom of Religion

To avoid rulers to expend for expansion of specific beliefs and religions and not weaken the other beliefs and religions, and from the other side, do not act to legislate against or in line with different beliefs owners and lords of religious, prevailed constitutions throughout the world have raised freedom of religion and belief principles as the main principles of their constitutions.

⁴ - Quran: Surah: Kahf, Verse: 29. «وَقُلِ الْحَقُّ مِنْ رَبِّكُمْ فَمَنْ شَاءَ فَلْيُؤْمِنْ وَمَنْ شَاءَ فَلْيُكْفُرْ»

⁵ - Quran: Surah: Qashiyeh, Verse: 22. «لَسْتَ عَلَيْهِمْ بِمُصَيِّرٍ»

⁶ - Quran: Surah: Ahzab, Verse: 6. «الَّتِي أُولَىٰ بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ»

⁷ - This subject has been more explained in: Bijan Bidabad, 2007, Sufi foundations of Islamic international relations, public international law, foreign policy and diplomacy, a theosophy approach.

This principle, in fact, divests the government and other different groups for acting in fields of the others' beliefs and religions. This principle also allows the individuals to freely express their beliefs in public and invite the others to their religious belief, custom, ceremony or tradition, so that the people feel free to choose which religion they are interested in and the government not to prevent them. Exceptions of this freedom are in the field of criminal law, that some of religious customs, traditions are defined as crime. Although, this subject cannot be so expanded that it causes the criminal law be in conflict with constitutional law, but, it should just cover the exceptions which are presented as defined crimes in criminal laws, and the spirit of the constitution also confirms it. For example, although the ritual of sacrificing a man for an idol is of the barbarism era, but is considered as an exception in freedom of religion principle in constitutional law, and can be prosecuted legally as a crime. These exceptions are examined practically, in situations that someone' right is violated or ignored. These situations are in accordance to the definition of crime in criminal law.

Freedom of belief and religion is accepted as a general principle in Islam. Various verses in Quran approve this principle. Maybe the considerable difference in freedom of religion in Islam is about polytheism. That is certain rights of the owners of this belief are divested specifically to enforce them to leave their superstitious beliefs. For example, that one who makes a statue and worships it as his creator, actually is suffers from a kind of thinking disability, and for helping him to leave this worthless idea, a general solution has been invented that is degrading this belief and divesting some of social rights or limiting them, so that they are forced to leave it by thinking and raise their consciousness gradually. From the other side, exit from this limitation is just restricted to reciting the uniqueness of God and not necessarily attesting the messengership of the Prophet or Imam, and everyone who expresses: "**There is no god but Allah**"⁸ will be legally treated equal to the others in the Islamic society, without considering that whether he is honest in his recitation or not.

In this regard, and opposed to polytheism, all divine beliefs and religions are accepted legally. It is said in Quran:⁹ "**Surely they that believe, and those of Jewry, and the Christians, and those Sabaeans, whoso believes in God and the last Day, and works righteousness their wage awaits them with their Lord, and no fear shall be on them, neither shall they sorrow**". The above verse is not in conflict to the verse:¹⁰ "**The true religion with God is Islam**". Islam means submission, and whoever submits his accepted messenger's command is a Muslim, and in fact this verse follows the expression that comes for the mentioned verse, and in other words, is a notice to the other religions' followers, which says: the path of the followers of the previous messengers ends to Islam. Following this verse it continues:¹¹ "**Those who were given the Book were not at variance except after the knowledge came to them being insolent one to another. And whoso disbelieves in God's Signs, God is swift at the reckoning.**" And it is also said:¹² "**Whoso desires another religion than Islam, it shall not be accepted of him; in the next world he shall be among the losers.**" And losing is attributed to the next world which has known

⁸ لا اله الا الله -

⁹ - Quran: Surah: Baqarah, Verse: 62.

«إِنَّ الدِّينَ أَمْنٌ وَ الَّذِينَ هَادُوا وَ النَّصَارَى وَ الصَّابِئِينَ مَنْ آمَنَ بِاللَّهِ وَ الْيَوْمِ الْآخِرِ وَ عَمِلَ صَالِحًا فَلَهُمْ أَجْرُهُمْ عِنْدَ رَبِّهِمْ وَ لَا خَوْفٌ عَلَيْهِمْ وَ لَا هُمْ يَحْزَنُونَ»

¹⁰ - Quran: Surah: Ale-Imran, Verse: 9. «إِنَّ الدِّينَ عِنْدَ اللَّهِ الْإِسْلَامُ»

¹¹ - Quran: Surah: Ale-Imran, Verse: 9.

«وَ مَا اخْتَلَفَ الَّذِينَ أُوْتُوا الْكِتَابَ إِلَّا مِنْ بَعْدِ مَا جَاءَهُمُ الْعِلْمُ بَغْيًا بَيْنَهُمْ وَ مَنْ يَكْفُرْ بِآيَاتِ اللَّهِ فَإِنَّ اللَّهَ سَرِيعُ الْحِسَابِ»

¹² - Quran: Surah: Ale-Imran, Verse: 85. «وَ مَنْ يَتَّبِعْ غَيْرَ الْإِسْلَامِ دِينًا فَلَنْ يُقْبَلَ مِنْهُ وَ هُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ»

the concept of Islam as faith.¹³ And also it is said generally:¹⁴ "Nay, but whosoever submits his will to God, being a good-doer, his wage is with his Lord, and no fear shall be on them, neither shall they sorrow".

It is clearly stated in Glorious Quran about freedom of religion principle. It is said:¹⁵ "Rectitude has become clear from error; no compulsion is there in religion". There are other verses stating this subject clearly. It is said¹⁶: "We know very well what they say, you are not a tyrant over them, therefore remind by the Quran him who fears my threat". And it is said¹⁷: "And if your Lord willed, whoever is in the earth would have believed, all of them, all together. Would you then constrain the people, until they are believers?"

Paying attention precisely to the verses of Glorious Quran clears this point that although the Prophets' attempts to guide people to righteousness and salvation, the people were left free to approach their method and religion. Many verses testify this meaning. It is said¹⁸: "Say, the truth is from your Lord, so let whosoever will believe, and let whosoever will disbelieve." And it is said¹⁹: "Clear proofs have come to you from your Lord, whoso sees clearly, it is his own gain, and whoso is blind, it is to his own loss, I am not a watcher over you". And it is said²⁰: "If they cry lies to you, then do you say: I have my work, and you have your work, you are quit of what I do, and I am quit of what you do". And it is said²¹: "And say: I believe in whatever Book God has sent down, I have been commanded to be just between you, God is our Lord and your Lord, we have our deeds, and you have your deeds, there is no argument between us and you, God shall bring us together and unto Him is the home".

Almighty God assigned His prophet's duty by deliver, inform and mentioning the message. And says²²: "It is only for the Messenger to deliver the Message". And it is said²³: "And obey God and obey the Messenger, and beware, but if you turn your backs, then know that it is only for Our Messenger to deliver the Message Manifest". And it is said²⁴: "Then remind them, you are only Reminder, you are not charge to oversee them", that you want to make them reluctantly to obey you. And it is said²⁵: "But if they turn away, We sent you not to be a guardian over them, it is for you only to deliver the Message". But the Messenger's duty is

¹³ - There are differences between Islam (submission) and faith in Islamic literatures. Islam (*Shariah*) rules on bodily commandments and faith (*Tarighah*) is about hearty beliefs.

¹⁴ - Quran: Surah: Baqarah, Verse: 112. «بلى من أسلم وجهه لله وهو محسن فله أجره عند ربه ولا خوف عليهم ولا هم يحزنون»

¹⁵ - Quran: Surah: Baqarah, Verse: 256. «لا إكراه في الدين قد تبين الرشد من الغي»

¹⁶ - Quran: Surah: Qaf, Verse: 45. «نحن أعلم بما يقولون وما أنت عليهم بجبار فذكر بالقرآن من يخاف وعيده»

¹⁷ - Quran: Surah: Yunus, Verse: 99. «ولو شاء ربك لآمن من في الأرض كلهم جميعاً أفأنت تكفر بالإناس حتى يكونوا مؤمنين»

¹⁸ - Quran: Surah: Kahf, Verse: 29. «وقل الحق من ربكم فمن شاء فليؤمن ومن شاء فليكفر»

¹⁹ - Quran: Surah: Anam, Verse: 104. «قد جاءكم بصائر من ربكم فمن أبصر فلنفسه ومن عمي فعليها وما أنا عليكم بحفيظ»

²⁰ - Quran: Surah: Yunus, Verse: 41. «وان كذبوك فقل لي عملي ولكم عملكم أنتم بريئون مما أعمل وأنا بريء مما تعملون»

²¹ - Quran: Surah: Shoura, Verse: 15.

«وقل آمنت بما أنزل الله من كتاب وأمرت لأعدل بينكم الله ربنا وربكم لنا أعمالنا ولكم أعمالكم لا حجة بيننا وبينكم الله يجمع بيننا وإليه المصير»

²² - Quran: Surah: Maidah, Verse: 99. «ما على الرسول إلا البلاغ»

²³ - Quran: Surah: Maidah, Verse: 92. «وأطيعوا الله وأطيعوا الرسول وأخذوا فإن توليتم فاعلموا أنما على رسولنا البلاغ المبين»

²⁴ - Quran: Surah: Qashiyah, Verses: 21-22. «فذكر إنما أنت مذكر. لست عليهم بمصيطر»

²⁵ - Quran: Surah: Shoura, Verse: 48. «فإن أغرَضُوا فما أرسلناك عليهم حفيظاً إن عليك إلا البلاغ»

limited to the same divine mission that was supposed to behave with the people in this way²⁶: "Surely, We guided him upon the way whether he be thankful or unthankful". And God the Almighty prescribes for His Messenger to invite people to religion with wisdom and good speech, and orders His Messenger²⁷: "Call you to the way of your Lord with wisdom and good admonition and dispute with them in the better way"²⁸, and other type of disputing is forbidden²⁹: "Dispute not with the people of the Book save in the fairer manner, except for those of them that do wrong".

Freedom of Speech

Speaking is communication mean among creatures. In today's terminology it is called information, and methods of its circulation and transfer. Principally, human being life is so short that cannot finish and complete his information and discoveries in this world to become absolutely free of need, therefore, in the process of man's life his knowledge in all eras, is based on and accomplished by experiences of previous generations. Transfer of this experience would be carried on in form of speech or transfer of information. And if this process would not be happened, development of culture, science and knowledge of man would stop. Speech, in any form of language, written scripts, or other media and information and communication technology (ICT) devices, sends messages of an individual to other people. Speech, in the framework of dialectic philosophy, acts as thesis, that with the thoughts of the listeners as anti-thesis, would produces the phenomenon of synthesis, which is the basis for development and growth of human being. Synthesis at the position of thesis, in form of speech, is again transformed to others, and creates the same process more completely. Any form of obstacle in the way of transformation of information, or in other words, any restrictions in the way of freedom of speech, is considered as a cruelty to human being, because the stream of information movement coincides to human being's development, and ceasing this stream means stopping material and spiritual development of human society. That is why freedom of speech principle is generally regarded as a major principle in development and growth of human societies in all directions. Politically, the same importance is being observed in human societies. Freedom of speech can cause behavioral reflection or feedback of the governments' behavior with their citizens, and from this way, governments can understand if she has achieved her policies wrong or right, and can assess her effects and subsequences to the society, and recognize the desires and tendencies of the society better, as well as knowing about her own weak functions. Within the spectrum of all free and despotic governments, existing of such streams pushes the rules towards goodness of the process of political action reflections, because the correct stream of information cuts the hands of government in doing whatever is opposite to innate nature of human being. When governments allowed the right information circulation, they should also correct their actions regarding their own activities, otherwise, transformation of information to the public opinion would cause the effects of their incorrect activities be changed to a kind of social power against the government. The reason for this point is that speech, in practice, is acting like a projector in location of an action, and makes the people with their committed actions be observed by public. And by freedom of speech, every anomalous which is in opposition to accepted norms and laws in the society would be transferred to public opinion, and make the society stands against the abuses, evildoings, loafing around and mistreatments of the government.

²⁶ - Quran: Surah: Insan, Verse: 3. «إِنَّا هَدَيْنَاهُ السَّبِيلَ إِمَّا شَاكِرًا وَإِمَّا كَفُورًا»

²⁷ - Quran: Surah: Nahl, Verse: 125. «ادْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَ جَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ»

²⁸ - His Excellency Hājj Sultān-Muhammad Beydokhti Gonābādi, "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah". Translated to Farsi by H. Riyazi and M. Rezakhāni. The Organization of Publication and Printing of the Ministry of Culture and Islamic Guidance, 1998, Tehran. Vol. 8, pp.212-214.

²⁹ - Quran: Surah: Ankabut, Verse: 46. «وَلَا تُجَادِلُوا أَهْلَ الْكِتَابِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ إِلَّا الَّذِينَ ظَلَمُوا مِنْهُمْ»

If freedom of speech be restricted, it will suppress individuals' enthusiasms practically, and may lead to political or social isolation of individuals, and the reflection of this isolation may cause violence behaviors or revolutions, or may weaken the curiosity power and dynamism of the people and passives the society. Both effects of these restrictions will be manifested as maltreatments and abuses in society, which will subsequently weaken the society and consequently, the humanity.

Upholders of speech freedom emphasize on this principle to such extents that they believe any type of restriction on it would collapse the society bases so freedom of speech must be paid attention absolutely. In ideological systems, freedom of speech is welcomed by the rulers within the ideological framework. That is they define the sovereignty of values within the ruling ideology in advance and goodness and badness are determined with its criteria; and thus, does not allow individual to have freedom of speech in domain of bad-defined values. The same process, in other societies happens with the accustomed values of the society, and the society disapproves the behaviors, deeds and speeches of those who are not in harmony and compatibility with the customs and traditions of the society. Anyhow, restricting freedom of speech is against the interests of society, but as it is possible to use it as a tool for deviating public opinion, so, it should be said that freedom of speech cannot lead the society and government to its interests and success definitely, because, the media and media owners can deviate public opinions to any direction, and ultimately, by lying and publishing incorrect things and disseminating opposite subjects against the others' beliefs, religions and opinions, or by spreading obscene subjects and motivating people towards the crimes, open the ways to get their own benefits and handling losses to others' rights. Therefore, in all legal systems, expanded definition for freedom of speech is not provided, and some exceptions restrict it, but the intense of restrictions in different systems is different as mentioned. Certainly, there is a fact that freedom of speech should be so free that does not harm the others' righteous rights, and it should be expanded to that extent that does not provide insults or ridicule of the others and should be free to such extents that does not threaten the innate ethics of human being in the society, and be free to that extent that can clarify the depth of government's operations for their citizens. And certainly, freedom of speech should be in the realm of truths, and not lies, and it should be so that the observer or reader does not be misunderstood realities and truths. In other words, freedom of speech is defined in the domain of truth and honesty, and not in the realm of lies, distortions, mockery, insults and calumny. Also, freedom of speech should not cause the disclosure of the secrets and information belonging to the society; for example, revealing the war or defense plans of the society, or the military secrets which are as the tools for defense and are the shelters of the society are not classified as freedom of speech, but are counted as treachery. Trespassing boundaries of individuals privacy is of restrictions in freedom speech about which ordinary people and rulers there are two different views. Trespassing individuals' privacy is forbidden except that law allows the executive or juridical powers by reason; and the acquired information by this way is not publishable. In many laws of many countries, in order to monitor the well-deeding of executives' and government agents trespassing private boundaries of the rulers, authorities and civil officers and investigating their properties before and after appointment to specific positions is established. And this point is considered as a way for preventing authorities from abusing their bestowed authorities.

The freedom of speech principle, with the mentioned considerations, has also been regulated in Islam, and has been supported by verses of Glorious Quran, and traditions of the prophets as well as the pious men's. Generally, "*inba*" means "to bring news", and "*nabi*" (messenger) is the one who brings the news, so, during the human history, prophets are called literally "*nabi*" which means "those who bring the news", and although "the great news" which has been cited in Qur'an, refers to existence of universal guardianship, but scientific discoveries, inventions and innovations of scientists locate under the meaning of "*inba*" but with different ranks, till its lowest rank includes bringing news about the ordinary subjects. And messengers' duty is "*nabovvat*" which means "bringing news" and means: making the men aware of their

unawareness which compromises of lack of knowledge about this nature, world and existence. This affair has resulted in lack of truth expansion within the societies during the history, because of suppression of messengers by opponents. It should be said that news boycott practically stands against the divine will concerning the growth of society, because science, knowledge, information and experience which bring natural and spiritual development of human society is a certain principle in religion, and whenever transferring process of these knowledge be stopped, in fact stands against the innate of human evolution. Moreover knowledge is not limited to the well-known sciences, and every kind of information contains this specification more or less, according to the communication scientists' view would have this property but with different intensities. Regarding the theory of information, the smallest part of news is called an information bit, and collection of the bits will end in human's knowledge and science finally. Therefore, from all general aspects, freedom of speech is in direction of this very principle which is of the major material and spiritual elements of growing and developing of societies.

From the other side, not ignoring the truth is by itself a duty, due to Quran, which is assigned for the society members. It is said³⁰: **"Say: O followers of the Book, why do you confound the truth with the falsehood and hide the truth while you know?"** And in the same direction, in another place it is said³¹: **"And do not mix-up the truth with the falsehood, nor hide the truth while you know it."**

These verses, in practice, explains the phenomenon of news-broadcasting and not distorting news generally and specifically, and regarding this point that the greatest news for prophecy position is to inform about divine guardianship, these words are around this subject; but by using this very word, it is easily perceived that Holy Quran forbids mixing-up the truth with falsehood, and that the truth must not be confound either, and all these lead to correctness of information and news stream that is contained in freedom of speech topic.

And again in another place it is said³²: **"Do you dispute with us about Allah, and He is our Lord and your Lord, and we shall have our deeds and you shall have your deeds, and we are sincere to Him?"** And again in another verse it is said³³: **"But if they dispute with you, say: I have submitted myself entirely to Allah and everyone who follows me. And say to those who have been given the Book and the unlearned people: Do you submit yourselves? So if they submit then indeed they follow the right way. And if they turn back, then upon you is only the delivery of the message. And Allah sees the servants"**.

Freedom of Meetings

Medias, including written materials and press in real and virtual spaces (cyber) to other methods of traditional and modern broadcasting, from hawking in streets to using satellites, internet, radio, television and other audio-visual equipment, all are contained in freedom of speech principle as different types of news broadcasting. One other type of these methods is meeting formation, and participation of individual in meeting practically transforms information from individual to individual, and is known as a tool for fulfillment of freedom of speech principle, and, as a result, in the same way that freedom of speech is considered legitimate, freedom of meeting is legitimate too. Meetings are usually formed with specific goals, and the

³⁰ - Quran, Surah of Ale-Imran, Verse: 91. «يا أَهْلَ الْكِتَابِ لِمَ تَلْبِسُونَ الْحَقَّ بِالْبَاطِلِ وَ تَكْتُمُونَ الْحَقَّ وَ أَنْتُمْ تَعْلَمُونَ».

³¹ - Quran, Surah of Baqarah, Verse: 42. «وَ لَا تَلْبِسُوا الْحَقَّ بِالْبَاطِلِ وَ تَكْتُمُوا الْحَقَّ وَ أَنْتُمْ تَعْلَمُونَ».

³² - Quran, Surah of Baqarah, Verse: 139. «قُلْ أَتَحَاجُّونَنَا فِي اللَّهِ وَ هُوَ رَبُّنَا وَ رَبُّكُمْ وَ لَنَا أَعْمَالُنَا وَ لَكُمْ أَعْمَالُكُمْ وَ نَحْنُ لَهُ مُخْلِصُونَ».

³³ - Quran, Surah of Ale-Imran, Verse: 20.

«فَإِنْ حَاجُّوكَ فَقُلْ أَسْلَمْتُ وَجْهِيَ لِلَّهِ وَ مَنْ اتَّبَعَنِ وَ قُلْ لِلدِّينِ أُوتُوا الْكِتَابَ وَ الْأَمِّيِّينَ أَسْلَمْتُمْ فَإِنْ أَسْلَمُوا فَقَدِ اهْتَدَوْا وَ إِنْ تَوَلَّوْا فَإِنَّمَا عَلَيْكَ الْبَلَاغُ وَ اللَّهُ بَصِيرٌ بِالْعِبَادِ»

goals are cooperation and confronting freely or making unity of views in situations concerned by the people, and so, formation of meeting is regarded as an instrument to achieve freedom of speech, and restricting the meeting formation means restricting freedom of speech.

Certainly, the concept of meeting freedom is not equal to freedom of riot, transgression and quarrel as have been defined in law, and establishment of sessions and organizing groups along with making disorders or roadblock resulting to spoiling others' rights are both legally and rationally, and due to public rights preservation basic, are disagreeable. Usually, these arrangements are carried on under police supervision in different countries; and specific times and places are assigned for, so that, meeting formation or marching without disturbing others becomes possible. This subject also exists in Islamic Law and meeting in public roads as well as wickedness in communications and also riots by the participants are concerned.

Rule of Law

The Rule of Law principle in constitutional law states that it is the law that determines the relationships of individuals and government, and not the rulers. Rulers and individuals all are obliged to obey law context, and the ruling body is not allowed to violate the law. Ruler's authority, in all levels and sections of political apparatus is determined by law and their exercise beyond the given authorities by law is considered as violation and crime. Judicial authority also is not allowed either enforces her wills and opinions beyond the law in trials, except for the extenuations and severities foresighted in the law scripts, and the judge is free to implement them. The philosophy of rule of law in Islam is derived from this very source that:³⁴ "The judgment is God's alone" and in Holy Quran it is clearly mentioned that³⁵: "Who listen to falsehood, and consume the unlawful. If they come to you, judge you between them, or turn away from them. If you turn away from them, they will hurt you nothing, and if you judge, judge justly between them. God loves the just. Yet how will they make you their judge seeing they have the Torah, wherein is God's judgment, then thereafter turn their backs? They are not believers. Surely We sent down the Torah, wherein is guidance and light thereby the Prophets who had surrendered themselves gave judgment for those of Jewry, as did the masters and the rabbis, following such portion of God's Book as they were given to keep and were witnesses to. So fear not men, but fear you Me; and sell not My signs for a little price. Whoso judges not according to what God has sent down, they are the unbelievers. And therein We prescribed for them: A life for a life, an eye for an eye, a nose for a nose, an

³⁴ - Quran, Surah: Anam, Verse: 57; and Surah: Yusuf (Joseph), Verses: 47, 60. «إِنَّ الْحُكْمَ إِلَّا لِلَّهِ»

³⁵ - Quran, Surah: Ma'idah, Verses: 42-50.

«سَمَاعُونَ لِلْكَذِبِ أَكْأَلُونَ لِمَسَخَتْ فَإِنْ جَاؤَكَ فَاحْكُم بَيْنَهُمْ أَوْ أَعْرِضْ عَنْهُمْ وَإِنْ تُعْرِضْ عَنْهُمْ فَلَنْ يَضُرُّوكَ شَيْئًا وَإِنْ حَكَمْتَ فَاحْكُم بَيْنَهُمْ بِالْقِسْطِ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ وَكَيْفَ يُحْكُمُونَكَ وَعِنْدَهُمُ التَّوْرَةُ فِيهَا حُكْمُ اللَّهِ ثُمَّ يَتَوَلَّوْنَ مِنْ بَعْدِ ذَلِكَ وَمَا أُولَئِكَ بِالْمُؤْمِنِينَ إِنَّا أَنْزَلْنَا التَّوْرَةَ فِيهَا هُدًى وَ نُورٌ يُحْكُمُ بِهَا النَّبِيُّونَ الَّذِينَ أَسْلَمُوا لِلَّذِينَ هَادُوا وَالرَّيَّانِيُّونَ وَالْأَخْيَارُ بِمَا اسْتُحْفِظُوا مِنْ كِتَابِ اللَّهِ وَ كَانُوا عَلَيْهِ شُهَدَاءَ فَلَا تَخْشَوُا النَّاسَ وَ اِخْشَوْنَ اللَّهَ لَا تَشْرُكُوا بِآيَاتِي ثَمَّنَا قَلِيلًا وَمَنْ لَمْ يَحْكَمْ بِاللَّهِ فَأُولَئِكَ هُمُ الْكَافِرُونَ وَ كَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَ الْعَيْنَ بِالْعَيْنِ وَ الْأَنْفَ بِالْأَنْفِ وَ الْأُذُنَ بِالْأُذُنِ وَ السِّنَّ بِالسِّنِّ وَ الْجُرُوحَ قِصَاصٌ فَمَنْ تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ وَمَنْ لَمْ يَحْكَمْ بِاللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ وَ قَفَّيْنَا عَلَى آثَارِهِم بِعِيسَى ابْنِ مَرْيَمَ مُصَدِّقًا لِمَا بَيْنَ يَدَيْهِ مِنَ التَّوْرَةِ وَ آتَيْنَاهُ الْإِنْجِيلَ فِيهِ هُدًى وَ نُورٌ وَ مُصَدِّقًا لِمَا بَيْنَ يَدَيْهِ مِنَ التَّوْرَةِ وَ هُدًى وَ مَوْعِظَةً لِّلْمُتَّقِينَ وَ لِيُحْكُمَ أَهْلَ الْإِنْجِيلِ بِمَا أَنْزَلَ اللَّهُ فِيهِ وَ مَنْ لَمْ يَحْكَمْ بِاللَّهِ فَأُولَئِكَ هُمُ الْفَاسِقُونَ وَ أَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ مُصَدِّقًا لِمَا بَيْنَ يَدَيْهِ مِنَ الْكِتَابِ وَ مُهَيِّمًا عَلَيْهِ فَاحْكُم بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَ لَا تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنَ الْحَقِّ لِكُلِّ جَعَلْنَا مِنْكُمْ شُرْعَةً وَ مِنْهَا جَا وَ لَوْ شَاءَ اللَّهُ لَجَعَلَكُمْ أُمَّةً وَاحِدَةً وَ لَكِنْ لِيَبْلُوَكُمْ فِي مَا آتَاكُمْ فَاسْتَبِقُوا الْخَيْرَاتِ إِلَى اللَّهِ مَرْجِعُكُمْ جَمِيعًا فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ فِيهِ تَخْتَلِفُونَ وَ أَنْ أَحْكُم بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَ لَا تَتَّبِعْ أَهْوَاءَهُمْ وَ احذَرْتُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ فَإِنْ تَوَلَّوْا فَاعْلَمُوا أَنَّمَا يُرِيدُ اللَّهُ أَنْ يُصِيبَهُمْ بِبَعْضِ ذُنُوبِهِمْ وَإِنَّ كَثِيرًا مِنَ النَّاسِ لَفَاسِقُونَ أ فَاحْكُم الْجَاهِلِيَّةَ يَبْغُونَ وَ مَنْ أَحْسَنُ مِنَ اللَّهِ حُكْمًا لِقَوْمٍ يُوقِنُونَ».

ear for an ear, a tooth for a tooth, and for wounds retaliation, but whoever foregoes it as a freewill offering, that shall be for him an expiation. Whoso judges not according to what God has sent down, they are the evildoers. And We sent, following in their footsteps, Jesus son of Mary, confirming the Torah before it, and We gave to him the Gospel, wherein is guidance and light, as a guidance and an admonition unto the god-fearing. So let the People of the Gospel judge according to what God has sent down therein. Whosoever judges not according to what God has sent down, they are the ungodly. And We have sent down to thee the Book with the truth, confirming the Book that was before it, and assuring it. So judge between them according to what God has sent down, and do not follow their caprices, to forsake the truth that has come to you. To every one of you We have appointed a right way and an open road. If God had willed, He would have made you one nation; but that He may try to you in what has come to you. So be you forward in good works. Unto God shall you return, all together; and He will tell you of that whereon you at variance. And judge between them according to what God has sent down, and do not follow their caprices, and beware of them lest they tempt you away from any of what God has sent down to you. But if they turn their backs, know that God desires only to smite them for some sin they have committed, surely many men are ungodly. Is it the judgment of pagandom then that they are seeking? Yet, who is fairer in judgment than God, for a people having sure faith?"

The above verses indicate that after revelation of the divine Book of Torah, judgments should have been perceived upon its script, and after that, Bible was the resource script for judgment, and then, in the era of Islam appearance, judgment should have been perceived due to its script. Certainly, due to the above verses, those traditions are accepted which are in agreement with Holy Quran, otherwise, suspicious should be made toward its attribution to Prophet (PBUH) or the Imams (AS). That is tradition cannot be considered as law, or even a resource for Islamic law, unless being in full agreement with Quran.³⁶

Right of individual's litigation should be added to this discussion and ruling according to law requires investigating individuals' pleading for justice. God has permitted the oppressed to loud his voice. He says³⁷: "**God likes not the shouting of evil words unless a man to whom injustice has been done**". This subject refers to this point that individuals have the right to plead for justice and because this right has been legislated, Islamic government is also responsible for restitution of right to oppressed one.

Equality before Law Principle

The principle of equality of individuals before law is of the known principles in constitutions of most of legislative systems throughout the world. According to this principle, criminals done by every individual or authority should be investigated and sentenced legally, just similar to other individuals. And also all the rights enacted by government for particular persons must not be discriminating due to specialty of position of people. For example, hiring people should include all eligible applicants, and discriminated appointments are not acceptable upon this principle. When taxes are levied, it should be implemented equally for all the members of the target tax class. And if a juridical authority passes a judgment, it should be done without concerning that the crime has been done by which person and must be dealt just as same as other members of the society. Other similar cases are placed under the principle of equality of people before law, including so many items.

Equality of individuals before law principle does not mean that all the people are always equal to each other and the same but it means that discrimination among them is not for their ancestral and political identities or their positions. Because, it is obvious that people are always

³⁶ - This is a controversial discussion and for more discussions see Bijan Bidabad series of Sufi foundations books.

³⁷ - Quran, Surah: Nisa, Verse: 48. «لَا يُحِبُّ اللَّهُ الْجَهْرَ بِالسُّوِّءِ مِنَ الْقَوْلِ إِلَّا مَنْ ظَلَمَ»

different in eligibility for doing the affairs and two similar individuals may not be found with the same qualification. Generally, equality before law principle emphasizes strongly on this point that no class in the society is superior to the other classes, and people belonging to all classes are obliged to obey and implement law, and law does not distinct and differ specific group or class, and the courts are subsequently obliged to follow it, and are not allowed to exempt or abolish the law for some individuals or groups which all the citizens are obliged to follow.

Equality of people inherently means that all people are not different in having social rights, because of differences of their parents and their specialty of group or personality. Even though there are distinguished implications in different verses of Quran regarding this principle, but concerning some groups of society, more clarification is needed. At the time before Islam, slavery was strongly expanding and it was accepted as a social rule by the people, but the Messenger did not abolish this phenomenon at once, because if this rule were abolished in Arab society at that time, freedom of huge number of slaves who belonged to lower class of the society, not only met serious problems in their livelihood matters, but they might hurt others severely; because liberating lots of slaves in the society could cause many social subsequences, but the slavery system of that time had to be corrected in some way, and not being destroyed completely. From the other side, in battles ("*Ghazawat*" and "*Soryehs*"), many warriors were taken as war prisoners by Muslim army. These prisoners should have been cared and supervised. At that time there was no system of supervisory for prisoners, and the best way for keeping prisoners was using the system of slavery, that distributed the prisoners among Muslims as slave, and Muslims were responsible to provide them livelihoods, shelters, foods, and clothes, and in return, the slaves had duty to do some affairs that their owners had counted for them. Regarding these dilemma, the Prophet did not abolish the slavery system directly, but, he regulated some rules due to which, this phenomenon be vanished gradually in long run and its injury not to be suddenly and be decreased to the less. In this regard, he reformed slavery as a system with small input and large output. Severe rules were regulated upon which everyone could not take someone as a slave easily, because there was an accepted custom at that time that if someone did not belong to a known family, he might have been taken as a slave, but the Prophet restricted this rule to the war prisoners and the slaves' children only, and from the other side, enacted the rule of "*Reghab*" as an atonement for sins and people could release their slaves as a compensation for their sins. "*Reghab*" was considered as an emphasized recommendatory action, so everyone who wanted to do a good deed could release his slave, or could buy a slave and release him. Continuation of this policy caused, after some time, there were no religiously legal slaves anymore. Glorious Quran says³⁸: **"O mankind, We have created you from a male and a female, and appointed you races and tribes that you may know one another, surely the noblest among you in the sight of God is the most god-fearing of you, God is All-knowing, All-aware."** In other words, difference of skin color, race, family and tribal specifications, language, faces ... are all factors for distinguishing the differences for knowing people not for superiority, because superiority in God's view, not in people's view, is god-fearing and righteousness.

There are other verses in Quran mentioning this very point of innate equality of people. It is said³⁹: **"Mankind, fear your Lord, who created you of a single soul and from it created its mate, and from the pair of them scattered many men and women. And fear God by whom you demand one of another and the wombs. Surely God ever watches over you."**

³⁸ - Quran, Surah: Hojarat, Verse: 13.

«يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ»

³⁹ - Quran, Surah: Nisa, Verse: 1.

«يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا.»

All these verses and also other verses⁴⁰ imply on innate equality of people. But regarding this very principle it should be considered that equality does not mean that people's qualifications are equal too. Various verses despite of human innate equality count innate differences of people concerning their efforts and endeavors for having knowledge and experiences. It is said⁴¹: "**Are they equal, those who know and those who know not?**" And also says⁴²: "**Not equal are the blind and the seeing man, the shadows and the light, the shade and the torrid heat, not equal are the living and the dead.**"

Also people should have equal juridical rights before law, and juridical authority has duty to consider justice, and it is said⁴³: "**O believers, be you securers of justice, witnesses for God, even though it be against yourselves, or your parents and kinsmen. Whether the man is rich or poor God stands closest to either. Then follow not caprice so as to swerve, for if you twist or turn, God is aware of the things you do.**"

And it is said⁴⁴: "**O believers, be you securers of justice, witness for God. Let not detestation for a people move you not to be equitable, be equitable, that is nearer to god-fearing. And fear God. Surely God is aware of the things you do.**" And also it is said⁴⁵: "**And when you speak, be just, even if it should be to a near kinsman.**" And in general, it says⁴⁶: "**Surely God bids to justice and good-doing.**" And God has said⁴⁷: "**And act justly towards them, surely God loves the just.**" And He says⁴⁸: "**If they come to you, judge justly between them, God loves the just.**" And it is said⁴⁹: "**And if two parties of the believers fight, put things right between them; then, if one of them is insolent against the other, fight the insolent one till it reverts to God's Commandment. If it reverts, set things right between them equitably, and be just, surely God loves the just.**"

In conclusion of this discussion, mentioning this verse⁵⁰: "**(O Messenger) say: I am only a mortal the like of you**" ends principle of equality of people in society in Islam that: God's Messenger who at that time was also the chief political ruler, was an individual like the others, and God orders him to announce this subject so that all know that God's Messenger is someone

⁴⁰ - Quran, Surah: Isra, Verse: 70. "And surely we have honored the children of Adam" «وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ»

⁴¹ - Quran, Surah: Zomar, Verse: 9. «هَلْ يَسْتَوِي الَّذِينَ يَعْلَمُونَ وَالَّذِينَ لَا يَعْلَمُونَ»

⁴² - Quran, Surah: Fatir, Verses: 19-22.

«وَمَا يَسْتَوِي الْأَعْمَى وَالْبَصِيرَ وَلَا الظُّلُمَاتُ وَالنُّورَ وَلَا الظُّلُ وَالْحُرُورَ وَمَا يَسْتَوِي الْأَحْيَاءُ وَالْأَمْوَاتُ»

⁴³ - Quran, Surah: Nisa, Verse: 135.

«يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ وَلَوْ عَلَىٰ أَنفُسِكُمْ أَوِ الْوَالِدِينَ وَالْأَقْرَبِينَ إِن يَكُنْ غَنِيًّا أَوْ فَقِيرًا فَاللَّهُ أَوْلَىٰ بِهِمَا فَلَا تَتَّبِعُوا الْهَوَىٰ أَن تَعْدِلُوا وَإِن تَلَوُوا أَوْ نَعَرَضُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا»

⁴⁴ - Quran, Surah: Maidah, Verse: 8.

«يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا اعْدِلُوا هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ»

⁴⁵ - Quran, Surah: Inam, Verse: 152. «و إِذَا قُلْتُمْ فَاعْدِلُوا وَلَوْ كَانَ ذَا قُرْبَىٰ»

⁴⁶ - Quran, Surah: Nahl, Verse: 90. «إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ»

⁴⁷ - Quran, Surah: Momtahanah, Verse: 8. «و تَقْسِطُوا إِنِّيهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ»

⁴⁸ - Quran, Surah: Maidah, Verse: 42. «وَ إِن حَكَمْتَ فَاحْكُم بَيْنَهُم بِالْقِسْطِ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ»

⁴⁹ - Quran, Surah: Hojrat, Verse: 49.

«وَ إِن طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ فَاصْلِحُوا بَيْنَهُمَا فَإِن بَغَتْ إِحْدَاهُمَا عَلَى الْأُخْرَىٰ فَقَاتِلُوا الَّتِي تَبْغِي حَتَّىٰ تَفِيءَ إِلَىٰ أَمْرِ اللَّهِ فَإِن فَاءَتْ فَاصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ»

⁵⁰ - Quran, Surah: Kahf, Verse: 110. «قُلْ إِنَّمَا أَنَا بَشَرٌ مِّثْلُكُمْ»

like the others, and this equality for him, results in equality before law similar to the others. And also another verse emphasizes this very point that⁵¹: "**Am I aught but a mortal, a Messenger?**"

Rights Resulted from Implementing Justice

Concept of justice in society, as was mentioned before, is a strait, narrow and sharp path that its elegance will be cleared through social evolution of societies, and quarrels, fights and disputes help its clarity, but what is laid beneath human being as conscience, if awakened will perceive and remember all its elegances. On the basis of this very instituted innate in human being justice can be defined, because justice proof exists in human's conscience and if man allows his conscience to judge, conscience always clarify the borders of justice to him.

Derived from the very potential power within human being that perception of judgment and justice implementation and the rights resulted from justice would be appeared in society, and would cause some statute principles to be defined and settled that are in full agreement with principles which free conscience rules on them. Quran has also total clarifications in this regard.
52

Therefore, that is on this basis that in processes of prosecution, trial and punishment the guilty should be treated on the basis of a principle which individual and social consciences approve. Prosecution and trial which are on the way of investigation and proving the crime, should be free of prejudice, and proving crime should not be done by threat, force or by using hurtful or torture tools, or by secret arresting, and actions like these. Basically, the burden of proving the fault rests with claimant who accused the suspect, and arresting people without written order of juridical authority – except in the cases that police system legally has the right to temporarily arrest people – is forbidden. Police is bounded to bring the arrested suspect to court to investigate about arrestment, and the court is responsible to rule for him, and police system has no right in this subject, and has no right to oblige the suspect to confess by force, reluctance, threat, violence, fear or hurt. And if, in the process of interrogation, investigation the house, office or residency places of suspect are needed, police has no right to act without written permission of the court to search and investigate, and the judge should also has enough persuasive reasons to issue this permission. Even inspecting the letters, correspondences and written materials including hardcopies and internet virtual scripts and listening to conversations and controlling communications of the people should certainly be done via permission of judge and having strong persuasive reasons for investigation, and the police system is not allowed to give any obtained information via these ways to irresponsible persons or to the public. And the court is not allowed to repeat the trial and to prosecute the acquitted accused, except new evidence is added to the accused's file that necessitates repeat of trial by enough reasons, and the judge is not allowed to retroact the new law for the accused, and generally, legislator is forbidden to retroact the law, and in all process of trial, from the date of arrestment, interrogation in prosecutor's office and trials in court of first instance or court of review or appeal court in superior courts like high court of cassation, the suspect has the right to have attorney.

As it was mentioned earlier as a general principle, trespassing people's privacy and dissemination of personal information is not acceptable in different legislative systems. In Islamic law also, this principle is presented in this way that snooping is forbidden generally. Quran, concerning avoiding snooping, has clear expressions.⁵³

Snooping by any means is considered as snoop, either by tools and equipment, or without using any means, and trespassing personal privacy is not allowed for snoopers by any means.

⁵¹ - Quran, Surah: Isra, Verse: 93. «هَلْ كُنْتُ إِلَّا بَشَرًا رَسُولًا»

⁵² - In this direction regarding explanation of the articles 5-7 of Declaration of Human Rights see: His Excellency Hājj Sultān Hussein Tābandeh, "Religious standpoints on Universal Declaration of Human Rights". Saliḥ Publication, 2nd ed., 1975, pp. 52-54.

⁵³ - In explanation of the article 12, see: *ibid*, pp. 55-57.

Trespassing individual's privacy by stepping, looking, hearing, reviewing letters and correspondences and listening to conversations is forbidden by all means. It is said in Noor Surah⁵⁴: "O believers do not enter houses other than your houses until you first ask leave and salute the people thereof that are better for you; haply you will remember. And if you find not anyone therein, enter it not until leave is given to you; and if you are told return, return. That is purer for you, and God knows the things you do. There is no fault in you that you enter houses uninhabited wherein enjoiment is for you. God knows what you reveal and what you hide." It can be perceived from these verses that trespassing individuals' privacies, by any means, without getting permission is forbidden. For example, by using microphone or camera or any other enquiry means, or in internet and virtual spaces through hacking, sniffing (intercepting and logging traffic passing over a digital network), phishing (attempting to acquire other's information) and etc. trespassing personal privacy of others is forbidden. Using these tools is equal to entering the houses from the back, not from the doors. In Quran it is said⁵⁵: "It is not piety to enter the houses from the backs of them, but piety is to be god-fearing, so come to the houses by their doors".

And in the case that the people's faults were discovered, dissemination of them that is called spreading indecency is forbidden in Islam. And about avoiding spreading indecency, like defamation, slandering or gossip, it is said⁵⁶: "Those who came with the slander are a band of you. Do not reckon it evil for you; rather it is good for you. Every man of them shall have the sin that he has earned charged to him, and whosoever of them took upon himself the greater part of it, him there awaits a mighty chastisement. Why, when you heard it, did the believing men and believing women not of their own account think good thoughts, and say, this is a manifest calumny. Why did they not bring four witnesses against it? But since they did not bring the witnesses, in God's sight they are the liars. But for God's Bounty to you and His mercy in the present world and the world to come, there would have visited you for your mutterings a mighty chastisement. When you received it on your tongues, and were speaking with your mouths that whereof you had no knowledge, and reckoned it a light thing, and with God it was a mighty thing. And why, when you heard it, did you not say, "It

⁵⁴ - Quran, Surah: Noor, Verses: 27-29.

«يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتًا غَيْرَ بُيُوتِكُمْ حَتَّى تَسْتَأْذِنُوا وَ تَسَلِّمُوا عَلَى أَهْلِهَا ذَلِكُمْ خَيْرٌ لَكُمْ لَعَلَّكُمْ تَذَكَّرُونَ فَإِنْ لَمْ تَجِدُوا فِيهَا أَحَدًا فَلَا تَدْخُلُوهَا حَتَّى يُؤْذَنَ لَكُمْ وَإِنْ قِيلَ لَكُمْ ارْجِعُوا فَارْجِعُوا هُوَ أَزْكى لَكُمْ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ لَيْسَ عَلَيْكُمْ جُنَاحٌ أَنْ تَدْخُلُوا بُيُوتًا غَيْرَ مَسْكُونَةٍ فِيهَا مَتَاعٌ لَكُمْ وَاللَّهُ يَعْلَمُ مَا تُبْدُونَ وَمَا تَكْتُمُونَ»

⁵⁵ - Quran, Surah: Baqarah, Verse: 189.

⁵⁶ - Quran, Surah: Noor, Verses: 11-26.

«إِنَّ الَّذِينَ جَاءُوا بِالْإِفْكِ عُصْبَةٌ مِّنْكُمْ لَا تَحْسَبُوهُ شَرًّا لَّكُم بَلْ هُوَ خَيْرٌ لَّكُمْ لِكُلِّ امْرِئٍ مِّنْهُمْ مَا اكْتَسَبَ مِنَ الْإِثْمِ وَالَّذِي تَوَلَّى كِبْرَهُ مِنْهُمْ لَهُ عَذَابٌ عَظِيمٌ. لَوْلَا إِذْ سَمِعْتُمُوهُ ظَنَّ الْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بِأَنفُسِهِمْ خَيْرًا وَقَالُوا هَذَا إِفْكٌ مُّبِينٌ. لَوْلَا جَاءُوا عَلَيْهِ بِأَرْبَعَةِ شُهَدَاءَ فَإِذْ لَمْ يَأْتُوا بِالشُّهَدَاءِ فَأُولَئِكَ عِنْدَ اللَّهِ هُمُ الْكَاذِبُونَ. وَلَوْلَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ فِي الدُّنْيَا وَالْآخِرَةِ لَمَسَّكُمْ فِي مَا أَقَضْتُمْ فِيهِ عَذَابٌ عَظِيمٌ. إِذْ تَلَقَّوْنَهُ بِأَلْسِنَتِكُمْ وَتَقُولُونَ بِأَفْوَاهِكُمْ مَا لَيْسَ لَكُمْ بِهِ عِلْمٌ وَتَحْسَبُونَهُ هَيِّنًا وَهُوَ عِنْدَ اللَّهِ عَظِيمٌ. وَلَوْلَا إِذْ سَمِعْتُمُوهُ قُلْتُمْ مَا يَكُونُ لَنَا أَنْ نَتَكَلَّمَ بِهَذَا سُبْحَانَكَ هَذَا بُهْتَانٌ عَظِيمٌ. يَعِظُكُمُ اللَّهُ أَنْ تَعُودُوا لِمِثْلِهِ أَبَدًا إِنْ كُنْتُمْ مُؤْمِنِينَ. وَبَيَّنَّ اللَّهُ لَكُمْ الْآيَاتِ وَاللَّهُ عَلِيمٌ حَكِيمٌ. إِنَّ الَّذِينَ يُحِبُّونَ أَنْ تَشِيعَ الْفَاحِشَةُ فِي الَّذِينَ آمَنُوا لَهُمْ عَذَابٌ أَلِيمٌ فِي الدُّنْيَا وَالْآخِرَةِ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ. وَلَوْلَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ وَأَنَّ اللَّهَ رَؤُوفٌ رَّحِيمٌ. يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ وَمَنْ يَتَّبِعْ خُطُوَاتِ الشَّيْطَانِ فَإِنَّهُ يَأْمُرُ بِالْفَحْشَاءِ وَالْمُنْكَرِ وَلَوْلَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ مَا زَكَا مِنْكُمْ مَّنْ أَحَدٌ أَبَدًا وَلَكِنَّ اللَّهَ يُزَكِّي مَن يَشَاءُ وَاللَّهُ سَمِيعٌ عَلِيمٌ. وَلَا يَأْتَلِ أُولُو الْفَضْلِ مِنْكُمْ وَالسَّعَةِ أَنْ يُؤْتُوا أُولَى الْقُرْبَى وَالْمَسَاكِينِ وَالْمُهَاجِرِينَ فِي سَبِيلِ اللَّهِ وَلْيَعْفُوا وَلْيَصْفَحُوا أَلَا تُحِبُّونَ أَنْ يَغْفِرَ اللَّهُ لَكُمْ وَاللَّهُ غَفُورٌ رَّحِيمٌ. إِنَّ الَّذِينَ يَزُومُونَ الْمُحْصَنَاتِ الْغَافِلَاتِ الْمُؤْمِنَاتِ لُعِنُوا فِي الدُّنْيَا وَالْآخِرَةِ وَلَهُمْ عَذَابٌ عَظِيمٌ. يَوْمَ تُشْهَدُ عَلَيْهِمْ أَلْسِنَتُهُمْ وَأَيْدِيهِمْ وَأَرْجُلُهُمْ بِمَا كَانُوا يَعْمَلُونَ. يَوْمَئِذٍ يُوقِفُهُمُ اللَّهُ دِينَهُمُ الْحَقَّ وَيَعْلَمُونَ أَنَّ اللَّهَ هُوَ الْحَقُّ الْمُبِينُ. الْحَقِيبَاتِ لِلْحَبِيبِينَ وَالْحَبِيبُونَ لِلْحَبِيبَاتِ وَالطَّيِّبَاتِ لِلطَّيِّبِينَ وَالطَّيِّبُونَ لِلطَّيِّبَاتِ أُولَئِكَ مُبَرَّءُونَ مِمَّا يَقُولُونَ لَهُمْ مَغْفِرَةٌ وَرِزْقٌ كَرِيمٌ.»

is not for us to speak about this, glory be to Thee! This is a mighty calumny"? God admonishes you, that you shall never repeat the like of it again, if you were believers. God makes clear to you the signs and God is All-knowing, All-wise. Those who love that indecency should be spread abroad concerning them that believe – there awaits them a painful chastisement in the present world and the world to come and God knows, and you know not. But for God's Bounty to you and His mercy and that God is All-gentle, All-compassionate. O believers, follow not the steps of Satan, for whosoever follows the steps of Satan, assuredly he bids to indecency and dishonor. But for God's Bounty to you and His mercy not one of you would have been pure ever; but God purifies whom He will, and God is All-hearing, All-knowing. Let not those of you who possess bounty and plenty swear off giving kinsmen and the poor and those who emigrate in the Way of God, but let them pardon and forgive. Do you not wish that God should forgive you? God is All-forgiving, All-compassionate. Surely those who cast it up on women in wedlock that are headless (of the evil) but believing shall be accursed in the present world and the world to come; and there awaits them a mighty chastisement. On the day when their tongues, their hands and their feet shall testify against them touching that they were doing. Upon that day God will pay them in full their just due, and they shall know that God is the manifest Truth. Corrupt women for corrupt men and corrupt men for corrupt women, good men for good women, these are declared quit of what they (the slanderers) say, and theirs shall be forgiveness and generous provision."

In religious jurisprudence texts regarding the cases of prohibition of gossiping and reciting the others' faults, there are three mentioned exceptions in which any individual is allowed to cite the faults of aggressor, the fault of jurist who fails to behave righteous, and cheater of the customers. These three groups are exceptions for reciting their faults. Rationally, freedom of speech in these cases causes society to benefit from act of gossiping.

In continuation of this discussion the principle of non-culpability (exculpation) should be mentioned. Non-culpability principle means that individuals outside the purview of law are free, and also, it is perceived from this principle that individuals should not be known as culpable just for locating in position of suspicion. This principle is accepted in other legislative systems throughout the world, and Islamic law has accepted it too. And also in relation with non-retroactivity of law, remunerating the rightful attorney and punishing untruthful attorney, ignorance of statute law is a good excuse but ignorance of natural law is no excuse, authority of *res judicata*, facilitation in force majeure (distress and constriction), binding to testify truly and/or acknowledgment of faults and prohibition of concealment of truth and/or committing perjury, prohibition of imposing opinions and respecting others' opinion and prohibition of inquisition, prohibition of fabrication of words and lies and false accusations, unauthorization of insulting or mocking, greeting and responding in fair and giving reward by the best, prohibition of inquisition into personal and private affairs of people and obligation for inquisition into performance of government officials, foreigners, enemies and crimes detection and similar topics are all presentable in this discussions resulted from implementing the justice that were discussed in other writings of the author and no more details are needed here to cite.⁵⁷

Freedom of Minorities

Minorities' rights and freedoms are also of noticeable parts of individual rights in constitutional laws in different countries that are dealt with in different ways, and presently, are observed as one of the legal principles of constitutions. Minorities' freedom means that tribal, racial, cultural and religious groups are free to live according to their own methods, customs, habits and religious orders, and governments should not make prevent them.

⁵⁷ See: Bidābād, Bijan, Sufi Foundations of Islamic international relations, public international law, foreign policy and diplomacy, a theosophy approach, 2007.

In Quran it is said addressing to His Messenger⁵⁸: **"And if your Lord willed, whoever is in the earth would have believed, all of them, all together. Would you then constrain the people, until they are believers?"** In other words, God blames His Messenger concerning not to constrain the people for believing and let them be free in choosing their beliefs and preferences. This notification is the basis for minorities' rights and freedom that even the messenger of God is also blamed in this regard.

Regarding minorities' rights, Quran divests some social rights of the idolaters in order to elevate their level of thoughts who ignorantly know some materials (statue) as their creator, so, persuading them to leave this wrongful belief and grow culturally. Therefore it is said in Quran⁵⁹: **"O believers, the idolaters are indeed unclean; so let them not come near the Holy Mosque after this year of theirs. And if you fear poverty, God shall surely enrich you of His bounty, if He will, God is All-knowing, All-wise."** And this exception includes just the idolaters not the followers of divine religions at all. Some jurisprudents know the followers of other Books as unclean, and perceive that from this verse⁶⁰: **"The Jews say, Ezra is the Son of God, the Christians say, Messiah is the Son of God. This is the utterance of their mouths, conforming to the unbelievers before them. God assail them! How they are perverted!"** Or addressing to His Holiness Jesus (AS)⁶¹: **"O Jesus son of Mary, did you say to men, Take me and my mother as gods, apart from God? He said, to you be glory! It is not mine to say what I have no right to. If I indeed said it, you know it, knowing what is within my soul, and I know not what is within Your soul, you know the things unseen."** Or about uncleanness of the Christians, they refer to this verse that⁶²: **"They are unbelievers who say, God is the Messiah, Mary's son. For the Messiah said, Children of Israel, serve God, my Lord and your Lord. Verily whoso associates with God anything, God shall prohibit him entrance to Paradise, and his refuge shall be the fire; and wrongdoers shall have no helpers."** In the next verse after the above verse, the doubt made concerning uncleanness of Christians is removed. It is said⁶³: **"They are unbelievers who said, God is the Third of Three, no god is there but One God. If they refrain not from what they said, there shall afflict those of them that disbelieve a painful chastisement."** The explanation for this verse also affirms the removal of doubts for Christians' polytheism. It is said: "From the explanation of the mentioned verses it is perceived that; opposing perceptions of some jurisprudents, it is not possible to reach to this meaning that the followers of the Books are polytheists and unclean, and even, some jurisprudents do not refuse the polytheism matter, but they reason that their polytheism is not bodily, because the body

⁵⁸ - Quran, Surah: Yunus, Verse: 99. «وَلَوْ شَاءَ رَبُّكَ لَأَمَنَّ مِنَ فِي الْأَرْضِ كُلَّهُمْ جَمِيعًا أَفَأَنْتَ تُكْرِهُ النَّاسَ حَتَّىٰ يَكُونُوا مُؤْمِنِينَ»

⁵⁹ - Quran, Surah: Tobah, Verse: 28.

«يَأْتِيهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْمُشْرِكُونَ نجسٌ فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ بَعْدَ عَامِهِمْ هَذَا وَ إِنْ حَفِظْتُمْ عَنَلَهُ فَسَوْفَ يُغْنِيكُمْ اللَّهُ مِنْ فَضْلِهِ إِنْ شَاءَ إِنَّ اللَّهَ عَلِيمٌ حَكِيمٌ»

⁶⁰ - Quran, Surah: Tubah, Verse: 30.

«وَقَالَتِ الْيَهُودُ غَيْرُ ابْنِ اللَّهِ وَقَالَتِ النَّصَارَى الْمَسِيحُ ابْنُ اللَّهِ ذَلِكَ قَوْلُهُمْ بِأَفْوَاهِهِمْ يُضَاهَوْنَ قَوْلَ الَّذِينَ كَفَرُوا مِنْ قَبْلُ قَاتَلَهُمُ اللَّهُ أَنَّى يُؤْفَكُونَ»

⁶¹ - Quran, Surah: Maidah, Verse: 116.

«وَ إِذْ قَالَ اللَّهُ يَا عِيسَى ابْنَ مَرْيَمَ ءَ أَنْتَ قُلْتَ لِلنَّاسِ اتَّخِذُونِي وَ أُمَّي إِلهِينَ مِنْ دُونِ اللَّهِ قَالَ سُبْحَانَكَ مَا يَكُونُ لِي أَنْ أَقُولَ مَا لَيْسَ لِي بِحَقِّ إِنْ كُنْتُ قُلْتُهُ فَقَدْ عَلِمْتَهُ تَعَلَّمَ مَا فِي نَفْسِي وَ لَا أَعْلَمُ مَا فِي نَفْسِكَ إِنَّكَ أَنْتَ عَلَّامُ الْغُيُوبِ»

⁶² - Quran, Surah: Maidah, Verse: 72.

«لَقَدْ كَفَرَ الَّذِينَ قَالُوا إِنَّ اللَّهَ هُوَ الْمَسِيحُ ابْنُ مَرْيَمَ وَ قَالَ الْمَسِيحُ يَا بَنِي إِسْرَائِيلَ اعْبُدُوا اللَّهَ رَبِّي وَ رَبَّكُمْ إِنَّهُ مَنْ يُشْرِكْ بِاللَّهِ فَقَدْ حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ وَ مَا وَاوَدَ النَّارُ وَ مَا لِلظَّالِمِينَ مِنْ أَنْصَارٍ»

⁶³ - Quran, Surah: Maidah, Verse: 73.

«لَقَدْ كَفَرَ الَّذِينَ قَالُوا إِنَّ اللَّهَ ثَالِثُ ثَلَاثَةٍ وَ مَا مِنْ إِلَهٍ إِلَّا إِلَهٌ وَاحِدٌ وَ إِنْ لَمْ يَنْتَهُوا عَمَّا يَقُولُونَ لَيَمَسَّنَّ الَّذِينَ كَفَرُوا مِنْهُمْ عَذَابٌ أَلِيمٌ»

cannot be polytheist that they become unclean. The above verses practically refer the uncleanness of superstitious being of the beliefs of some followers of Jews or Christians, and not the monotheist Jews or Christians. And even, some of their followers have linked some material concepts to the divine aspect of their messengers' guardianship that this point caused some mixture in their utterances, and has not become the belief of some of their followers, as it is clearly perceptible from the above verses. Although, there are other verses that clearly reason for cleanness of the followers of the Books. Quran says⁶⁴: **"Today the good things are permitted to you, and the food of those who were given the Book is permitted to you, and permitted to them is your food. And the chaste from among the believing women and the chaste from among those who have been given the Book before you (are lawful for you); when you have given them their dowries, taking in marriage, not fornicating them for paramours in secret. Whoso disbelieves in the faith, his work has failed and in the world to come he shall be among the losers."** And here, pointing to the word: **"today"** refers to the last days of the prophethood for Mohammad, and the word **"food"**, includes both eating and drinking things, is a clear reason for cleanness of those who were given the Book, and **"taking in marriage"** their women is directly a reason for their cleanness. This verse, in practice, cancels the doubts raised by some jurisprudents and might be perceived from the above verses too.

Ransom is another item concerning minorities' rights. As it has been explained⁶⁵ levying ransom had been a tax levying system at the beginning times of Islam that the government was Islamic and refusing to accept Islam meant refusing submitting to the government, and therefore, it was regulated for enforcing a civil necessity for opponents to obey the current civil law. Certainly, this verse can be implemented when the above condition, that is co-occurrence of Mohammadian Islam and the government is settled, and it has no legitimacy to be implemented in other times, and it is meaningful when God's messenger was at the top of the government. In this relation, this verse has been revealed⁶⁶: **"Fight those who do not believe in Allah, nor in the latter day, nor do they prohibit what Allah and His apostle have prohibited, nor follow the religion of truth, out of those who have been given the Book, until they pay the ransom in acknowledgement of superiority and they are in a state of subjection."**

Ownership Right

Ownership right is one of the most major, complicated and basic discussions in public administration. In public law, practically, definition of ownership determines the border for interaction of government and public. In other words, it is the accepted ownership definition that establishes the basic structure of all laws and frameworks in a political system. Ownership definition distinguishes the area of government intervention in private affairs of people, and protection of government by people as well, because the government is owner of the right that people by sacrificing their rights have given to her. This latter sentence has a strong ideological basis in Islam, and Islamic government, after determining lawful and illegal affairs borders, will trespass the borders of the people's affairs to that extent that people accept it. That is, collective

⁶⁴ - Quran, Surah: Maidah, Verse: 5.

«الْيَوْمَ أَجَلٌ لَّكُمْ الطَّيِّبَاتُ وَ طَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَّ لَكُمْ وَ طَعَامُكُمْ حَلٌّ لَّهُمْ وَ الْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَ الْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أُجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ وَ لَا مُتَّخِذِي أَخْدَانٍ وَ مَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ وَ هُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ»

⁶⁵ - Bidabad, Bijan (2003), Sufi foundations of Islamic economic, Usury, Banking, Insurance, Finance, a theosophy approach.

⁶⁶ - Quran, Surah: Tubah, Verse: 29.

«قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَ لَا بِالْيَوْمِ الْآخِرِ وَ لَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ وَ رَسُولُهُ وَ لَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَ هُمْ صَاغِرُونَ»

decisions and opinions, on the basis of collective wisdom, will be the borderline for separating rights from people and giving them to the government as their representative.

Amounts and limits that allow the government to intervene in individual ownership rights legally, differ in different judicial systems. Government intervention usually differs on the basis of ideology and political goals of different societies and governments. In systems with socialistic tendencies, usually, the ownership of most of establishments, mines, and public service systems, banks, transportations and also productive firms belong to government, but in liberal political systems, private entities are allowed to own these properties. The common item in most political systems concerning possession and ownership and also intervention of government in financial affairs of people, is tax levying. Levying tax by government has been based upon this fact that individuals should pay the government expenditures and her services' costs. These two groups of costs for running government incumbency and developing, constructions or civil services expenditures, are two major parts of reasons for collecting tax. Actually, by paying taxes, implicitly, incumbency of the government is being accepted by the people of the society, and if civil institutions act strongly, people of the society can bring the legality of a government into question and limit the government incumbency by not paying taxes. Because the life and effect of laws are usually longer and more than the age of governments, actually, it does not let the people provide sectional confrontations with the governments by not paying taxes.

Other case for intervention of governments in individual's ownership right is divestment of ownership of individuals via transferring their ownership because of the expediency of public. This very case, concerning compulsory possessions, or at least, purchasing on a fair price, by governmental organizations like municipalities, is obviously observable and governments are usually obliged to compulsory possessions of individuals' ownership rights for building establishments, public passages, etc..

Government supervisory on public welfare affairs is also of shapes of government intervention in individual's ownership rights and in this way by intervening into the affairs concerning owners of establishments which are essential for the public welfare tries to consider provision of people's needs to preserve them. Cases like communications, electricity, water etc. are of this group. Of course various problems in this regard, especially concerning pricing of public goods and services are presented, and different political outlooks in different societies have various opinions in this subject. Wide spectrum of these opinions is observed from confiscation of agencies providing public services, to independency and absolute ownership of them.

In Islam, ownership is respectable and no limitation is considered to it, and just some specifications are considered for it which is resulted from the property possession ways. In this regard, the property must be obtained from a legal source and there is no problem in owning properties, even though not baksheeshing has been blamed in Quran's verses, but except common legal taxes there is no command regarding excuse for confiscating others' properties. On this basis, ownership border has an indicated crucial border in Islam that distinguishes the borders of people's activities and governments' to stop offending individual's ownership. Changing this limitation should be based on public agreement, and political and legislative mechanisms should be established for this change. And certainly removing this limitation should not be done by unilateral outlook of ruling party.

General intervention of Islam in people's ownership rights is based on distinguished principles, including respecting individual's ownership in all fields is in some way resulted from people's natural rights that expresses their freedom in owning possessed properties via legal methods. But, in contrast, complementary moral orders exist that encourage people not to hoard their owning properties and spend them for welfare of weak groups of people as possible, and this baksheeshing has been defined as atonement of many sins and as good recommendatory deeds and peoples have been encouraged in this regard.

One of the other principles banning ownership exists for particular cases. The possessed properties through some ways are considered as illegal. These cases in addition to other illegal

cases are also seen in all countries. For example, banning usury or producing and trading alcoholic drinks and stupeficient drugs and other forbidden products of these kinds are forbidden in Islam.

The other case that presents the government's intervention in individuals' ownership rights is to speculate public aliments during years of famine. And this case is just limited to public aliments and only during the years of famine, that at this time government is allowed to break the doors of storehouses and distribute foods among people, and if such conditions do not exist, she is not allowed to do it. And about this question that, "what the public aliments are", most of the jurisprudents believe that it inclusively is wheat which is public aliment and during the years of dearth is necessary for people's survival. Of course, public aliment in different countries can be different, for example, in Mexico, corn is known as public aliment, and in that country corn bread is used instead of wheat bread. Except this case, for intervening in market, even in pricing the products and services, there is no Quranic evidence, even though some people, according to *Sunnah* (tradition), legitimate some interventions in pricing of products and services; but by paying attention to this verse from of Quran it is not acceptable; that says⁶⁷: **"O believers do not devour your property among yourselves falsely, except that it be trading by your mutual consent, and do not kill your people. Surely Allah is Merciful to you. And whoever does this aggressively and unjustly, We will soon cast him into fire, and this is easy to Allah"**. This verse shows that dissatisfaction in trading cancels it, and satisfaction of two parties is the condition for correctness of trade, and certainly the third person's intervention like government results in canceling the trade. This means that if government prices the goods, even if the consumer is satisfied by this pricing, but because of dissatisfaction of the other side (seller), the satisfaction condition is lost, and if the transaction is done, it is considered as **"false devour"**.

In another verse in Quran, the Prophet is missioned to inform that⁶⁸: **"O children of Adam! Attend to your embellishments at every time of prayers, and eat and drink and be not extravagant. Surely He does not love the extravagant. Say: Who has prohibited the embellishment of Allah which He has brought forth for His servants and the good provisions? Say, these are for the believers in the life of this world, purely (theirs) on the Resurrection Day. Thus do We make the communications clear for a people who know. Say, my Lord has only prohibited indecencies, those of them that are apparent as well as those that are concealed, and sin and rebellion without justice, and that you associate with Allah that for which He has not sent down any authority, and that you say against Allah what you do not know."** Reasoning to this verse, we can say that governments should not prohibit the ownership which are lawful religiously, or by tarrification or pricing them, intervene in the process of people's transactions, and generally, governments should have neutral functioning in these affairs.

But as it is said in Bagharah Surah⁶⁹: **"And if you repent, then you shall have your capital neither shall you make (the debtor) suffer loss, nor shall you be made to suffer loss."** In other words this principle presents conditions of equilibrium and market prices within

⁶⁷ - Quran, Surah: Nisa, Verses: 29-30.

«يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا وَمَنْ يَفْعَلْ ذَلِكَ عُذْوَانًا وَظُلْمًا فَسَوْفَ نُصَلِّيهِ نَارًا وَكَانَ ذَلِكَ عَلَى اللَّهِ يَسِيرًا»

⁶⁸ - Quran, Surah: Araf, Verses: 31-33.

«يَا بَنِي آدَمَ خُذُوا زِينَتَكُمْ عِنْدَ كُلِّ مَسْجِدٍ وَكُلُوا وَاشْرَبُوا وَلَا تُسْرِفُوا إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ. قُلْ مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ وَالطَّيِّبَاتِ مِنَ الرِّزْقِ قُلْ هِيَ لِلَّذِينَ آمَنُوا فِي الْحَيَاةِ الدُّنْيَا خَالِصَةً يَوْمَ الْقِيَامَةِ كَذَلِكَ نَفَصَّلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ. قُلْ إِنَّمَا حَرَّمَ رَبِّي الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَّنَ وَالْإِثْمَ وَالْبَغْيَ بِغَيْرِ الْحَقِّ وَأَنْ تُشْرِكُوا بِاللَّهِ مَا لَمْ يُنَزِّلْ بِهِ سُلْطَانًا وَأَنْ تَقُولُوا عَلَى اللَّهِ مَا لَا تَعْلَمُونَ.»

⁶⁹ - Quran, Surah: Baqarah, Verse: 279. «وَإِنْ تَبُيْتُمْ فَلَكُمْ رُؤُسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ»

mechanism of supply and demand in economy, which is of the basic concepts in economics.⁷⁰ If government prices the products or services, in practice, has transferred resources and benefits of trade or productions from the side of seller and producer, to groups of consumers and buyers, and this is an oppression to producer and supplier, and oppression in Islam is prohibited.

Right of Self-Determination

Political participation of people in self-determining the destiny of their society is of major discussions in modern democratic systems. This principle allows all people to commonly participate in determining their society's destiny. Considering this principle, regarding the verses like⁷¹: "**Surely Allah does not change the condition of a people until they change their own condition**", or the verse⁷²: "**Their rule is to take counsel among themselves**", Quran has left the determination responsibility of the society's destiny to the people of that society themselves.

Freedom of Job and Occupation

In all legislative systems, occupation is presented for individuals, and even in completion of this principle, individuals of a society have equal rights to have jobs, and moreover gender discrimination for having equal jobs is rejected in many countries and is regarded as an opponent to the principle of equality for having jobs. Therefore, men and women in all classes of society are concerned to have different jobs equally.

This principle is also considered in Islamic law. Quran says⁷³: "**He it is who made the earth smooth for you, therefore go about in the spacious sides thereof, and eat of His sustenance. And to Him is the return after death**". Even though words of this verse do not mention to jobs and occupation, but freedom in taking benefits from the land is presented generally, and no discrimination among human beings was defined for having this right. Some occupational exceptions based on unlawfulness or detestable jobs in Islamic jurisprudence have been counted, including usury which has been discussed in another place.⁷⁴ Finding illegal sustenance is also prohibited, illegal yields through fraud, cheating, rubbery, transaction of unlawful things, procurement, etc. have been prohibited, and some occupations are counted as detestable so that less people to be attracted to these jobs. Of these types of jobs are, begging, butchery, hunting, corpse washing, etc. In other cases, God the Almighty dislikes obstacles for occupations and addresses His Messenger chastisemently and Says⁷⁵: "**Who (that is no one has right!) has prohibited the embellishment of Allah which He has brought forth for His servants and the good provisions?**", which means; there should be no obstacles economically for producing, transferring and trading the goods that Allah has called them as clean.

⁷⁰ - See: Bidabad, Bijan, 2009, Equilibrium in Ethic Economics.

⁷¹ - Quran, Surah: Raad, Verse: 11. «إِنَّ اللَّهَ لَا يُغَيِّرُ مَا بِقَوْمٍ حَتَّى يُغَيِّرُوا مَا بِأَنْفُسِهِمْ»

⁷² - Quran, Surah: Shoura, Verse: 28. «وَأَمْرُهُمْ شُورَى بَيْنَهُمْ»

⁷³ - Quran, Surah: Molk, Verse: 15. «هُوَ الَّذِي جَعَلَ لَكُمُ الْأَرْضَ ذُلُولًا فَامشُوا فِي مَنَاكِبِهَا وَكُلُوا مِنْ رِزْقِهِ وَإِلَيْهِ التُّسْوِرُ»

⁷⁴ - Bidabad, Bijan (2003), Sufi foundations of Islamic economic, Usury, Banking, Insurance, Finance, a theosophy approach. Monetary and Banking Research Academy, Central Bank of Iran.

⁷⁵ - Quran, Surah: Aaraf, Verse: 32. «فَلْ مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ وَ الطَّيِّبَاتِ مِنَ الرِّزْقِ»

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