



Bijan Bidabad

International Relations Principles, an Islamic Sufi Approach

Public International Law, Foreign Policy, and
Diplomacy, a Theosophical Approach Based on
Islamic Sufism Teachings

 **LAMBERT**
Academic Publishing

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International Relations Principles

An Islamic Sufi Approach

(Summary)

**Public International Law, Foreign Policy,
and Diplomacy**

Bijan Bidabad

Partially Revised Edition

In the Name of Allah
The Most Gracious The Most Merciful

*Be glorified we have no knowledge saving that which Thou hast
taught us Thou only Thou art the Knower, the Wise*

Glorious Qur'an, Sūrah of Al-Baqarah, Verse 32

Dedicated to:

*The Knower, the Wise,
His Holiness Haj Dr. Nour Ali Tabandeh
Majzoub Ali Shah The Second,
The Master of Nimatollahi Gonabadi Sufi Order
And
Distinguished Professor of Law and
Outstanding Scholar of Islamic Jurisprudence.*

*His Merciful Spiritual Protection and
Compassionate Teachings Inspired the Author to
Bring Forth This Book.*

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In the name of God who created the life and wisdom.

Nothing better than this, mind can never imagine

Foreword

International relations are involved in an undesirable and wrong order, at present time, which could be the origin and cause of fundamental harms on humanity. Therefore, it is emphatically necessary to propound firm principles for regulating the relationships among states and nations, and new laws and regulations to be enacted at the international level. In this regard, the spirit of Islamic laws could be one of the most important pillars of this foundation. The aim of this book is to enumerate the principles of Sufi foundation of international relations in Islam. Perhaps the delicateness, truthfulness, and righteousness of Islamic Sufism, which is the gist of thoughts of humankind's guardians during thousands of years lead and

direct the thoughts, writings, and speeches of scholars and researchers to these viewpoints, and consequently a new sets of thoughts, for international relations processes in the world, to be defined and codified. This book by introducing the theosophical views and standpoints of Islamic Sufism and mysticism with respect to the essential topics of international relations, such as public international law, foreign policy and diplomacy, put several principles forward which on the next phases, can be used as the basis for many applied debates in this field of study.

Many laws have been derived from the religions' legislations and lots of them have not the capability of uniqueness and publicity, due to variety of reasons, especially at the level of countries. Because, the different ethnical, government, geographical, political, racial, climate and many other characteristics do not allow to legislate a unique law. But the spirit of legislations in the same and unique in all religions and it is the *Tariqah* (Sufi path), Sufism, mysticism and ethical beliefs that had been stable and unchangeable for millenniums and wisdom has accepted and accepts it in all times and locations. Thus, if the international relations to be defined and designed upon the base of the unique religions' spirit, we will reach to a unique law that has publicity capabilities.

Therefore, we are going to explore the foundation of public international law from the theosophy approach of Islamic Sufism and mysticism. By raising some principles, we are going to touch the theosophical concepts of important public international law subjects to prepare a backbone for recompilation of written law in this subject matter.

Governing principles of the world countries' current foreign policies are based on nationalism and in the realization of this aspiration, human rights in other countries are less considered and demands of national interests on other issues is surpassed. Islam, in principle, is in opposite to this approach. However, national interests are important in Islam, but Islam

does not try to achieve this target in price of destruction of other countries and rights violations of their peoples. Interests of Islam's government are based on expediency of humankind as a whole and in its foreign policy should be arranged in a way to fulfill this target. In this regards the basic principles of foreign policy in Islam based on Sufi standpoint are introduced. Islam aims to improve humanities based on moralities and spiritualities. Some principles for reaching this goal based on Islamic Sufism standpoints are provided. Political scientists have not touched the topic from a Sufi point of view. This brings this approach to a new challenging arena for those who are engaged in.

The general rules of diplomacy and the manner of the Islamic government's behavior with other nations and governments from the viewpoint of Sufi mystics are investigated. The aim of diplomacy in Islam is not only summarized in getting benefits for her country. The aim of diplomacy in Islam is to develop human transcendence by divine teachings and is superior to just material benefits and privileges exchange. Basically, the Islam's government does not look at the other countries as a source of exploitation but as a brother or neighbor attempting to organize relations. In the current system of international relations in the world, so much attention has been paid to material benefits; but ethics and spiritualities are ignored. Islamic diplomacy with the aim of improving the moralities and spiritualities attempts to create relations with other countries. Some principles for reaching this goal based on Islamic Sufism standpoints are provided. Political scientists have not touched the topic from a Sufi point of view. This chapter brings this approach to a new challenging arena for those who are engaged in.

This book is only an introduction to the subject matter. Moreover, it is decided by introducing the views and standpoints of Islam with respect to the essential topics of international relations, such as, public international

law, foreign policy and diplomacy, put several principles forward which on the next phases, can be used as the basis for many applied researches in this field of study.

Some friends recommended that a manifest or preliminary declaration based on the propounded subjects in this book be written, then by exchanging the standpoints and ideas prepare the ground for applying the subjects of this book in international executive issues. Some others recommended that writing critiques about the subjects of this book shall bring about the standpoints of those persons who oppose to them and the result would make a practical method to act upon at the international scene. All these recommendations are good and I accept them by all means. As a matter of fact I have planned during the greater pilgrimage in Mecca, besides exercising the sacred rites of pilgrimage to meet the scholars of our Sonnite brethren and get their standpoints about the subjects propounded in this book.

It is obvious that novelty of standpoints on the subject would result to the abundance of faults and errors of the author in the text. Therefore, it is requested the readers not to refrain from criticism and mentioning the defects and mistakes. It is certain that they will be taken into consideration in next editions.

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Autumn 2014

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GENERAL INTRODUCTION

Introduction

Contemporary international relations have been reached a fragile condition and the prevailed disciplines and arrangements cannot prepare stability and peace at international scene. Public international law could not provide the necessary conditions with its current mechanisms. Generally, many laws have been derived from the religions' legislations but have not the capability of uniqueness and publicity at international scene, due to variety of reasons, especially at the level of countries. Because, the different ethnical, governmental, geographical, political, racial, climate and many other characteristics do not allow to legislate a unique law. The differences at country/local levels are reasonable but to handle the international order we need to grasp a consolidated set of unique and popular laws and regulations. Divine laws (*Shariahs*) of different religions have been developed in domestic law and especially in civil and criminal laws; but their developments for international law have not been satisfactory. Historically, majority of works of Islamic law scholars have been devoted to domestic laws and the problems of international laws have been neglected in their works. This is firstly because of extensive applications of domestic law at local level and rare application at international level; and secondly, the unconformity of different Divine laws (*Shariahs*) of different religions did not let different international thoughts get uniformity and conciliation.

In this book we are not going to encounter the pride and conscientious of Islam world², and generalize their findings to other nations and followers of other religions. But at the contrary we are looking to find those common points that all Divine religions religiously confess and intellectually accept

² Abdul Latiff, H.N.M., Abul Hassan, (2008) Rise and fall of knowledge power: an in-depth investigation, Humanomics, Vol. 24, No. 1, pp. 17-27, Emerald Group Publishing Limited, www.emeraldinsight.com/0828-8666.htm.

them. In this regard, we try to explore the concrete principles of the spirits of all religions, and this comes from the theosophy of Sufi paths (*Tariqahs*) in different religions. Since Sufi paths of different religions are based on spiritual and ethical bases of religions and they are so similar and extensively unique.

The development of humanitarian in Islam is not negligible and Islamic scholars have been pioneer in humanities, philosophy and social sciences as well as basic sciences. The works of Sufi Muslims and mystics as Ibn 'Arabi³, Ghazzali⁴, Ibn Rushd⁵, Ibn Khaldun⁶, Ibn Sina⁷ and also their developments in domestic law are resplendent⁸. But, because of appearing weakness of Muslims' governments at international level their philosophy and thoughts did not grow vis-a-vis the emerging problem at international scene.

It should be noted that original Islamic beliefs are not manifested by the Islamic countries and governments and even the Muslims. If we deeply scrutinize the Divine law of Islam, we will find that Muslims are too far from Islamic thoughts.⁹ It is not wrong that if we say the Muslims have

³ See: Halligan, F. R. (2001), The Creative Imagination of the Sufi Mystic, Ibn 'Arabi, Journal of Religion and Health, Vol. 40, No. 2, Summer.

⁴ See: Choudhury, M. A. (1997), The epistemologies of Ghazzali, Kant and the alternative; formalism in unification of knowledge applied to the concepts of markets and sustainability. International Journal of Social Economics, 24,7/8/9.

⁵ Ibn Rushd (AD 1126-1198) Jurist and philosopher, known as Averroes, Commentator on Aristotle who influenced Western philosophy.

⁶ Ibn Khaldun, His "Introduction" (Muqaddimah) in history made him the founder of sociology and historiography.

⁷ Ibn Sina (AD 980-1037) Sufi Dervish and famous philosopher and physician, known as Avicenna.

⁸ See Malamud, M. (1994), Sufi Organizations and Structures of Authority in Medieval Nishapur, International Journal of Middle East Studies, Vol. 26, No. 3. (Aug., 1994), pp. 427-442. Cambridge University Press,

<http://links.jstor.org/sici?sici=0020-7438%28199408%2926%3A3%3C427%3ASOASOA%3E2.0.CO%3B2-2>

⁹ See: Lewis, Bernard,(2007) Freedom and Justice in Islam, culture and society, Transaction Social Science and Modern Society, Vol. 44, No. 2, January/February, pp. 66-70.

mixed the Islamic teachings with their own beliefs, traditions and customs, and it is necessary to reappraisal our approach to all subjects that we call them "Islamic". Moudoodi (1987) (quoted in Abdul Latiff, and Abul Hassan, 2008) argues: “in my opinion there are three or four areas which require immediate attention: jurisprudence (*Fiqh*), economics, social sciences, philosophy and theoretical sciences. In all these areas research should be conducted with firm belief in the philosophy that Quran and *Sunnah* of the Prophet are really the perennial source of knowledge and we have to draw everything from this source alone” (p.7). Here, in this book we add the particular fields of public international law and foreign policy and diplomacy as fields of political sciences to Moudoodi's items and try to enumerate some of the main guide stones for development of Islamic thoughts in the fields of international humanities. This book is going to bridge the existing gap between Islamic thoughts and modern world problems in the cited fields that Islamic literature has not explained it.

To regulate the international relations, we need to revise the ideas that the bases of relations are constructed upon. In this book we are going to enumerate the principles that need to be revised and rebased. Three important subjects of public international law, foreign policy and diplomacy are under our consideration. After giving a brief overview about theosophy, we will give the main principles in the three cited fields.

One of the reasons that international law and its disciplines have been unable in this provision is that it has gotten away from the law of creature and human nature. On the other side, the behaviors of the governments have been diverted from righteousness and humanistic considerations. Thus, if new mechanisms based on common sense of human nature to be designed in such a way that not to consider the interests of countries unilaterally, might be able to take step into improvement of international relations in this period of human history.

In this regard, some ethically-based frameworks may be affective –if be popularized and accepted by global community. The Spirit of legislations in all religions can help peoples and politicians and law scholars to increase this popularity. The *Tariqah* (Sufi path), Sufism, mysticism and ethical beliefs in different religions are the same and unique and had been stable and unchangeable for millenniums and wisdom has accepted and accepts it in all times and locations; because they are based on conscience, ethic, wisdom and intellect. Thus, if the international relations to be defined and designed upon the base of the unique religions' spirit, we will reach to a unique law that has publicity and acceptability capabilities.

Methodology

Development of religious jurisprudence in public international law domain is ignorable and it is because of juristic conflicts of different religions and sects. Therefore, we need to use the approach of theosophy to understand the secrets of religious ordinances/commandments; because, all the messengers have been wise and their decisions and ordinances are completely intellectual. In formal jurisprudence, the jurist just try to explore and issue judicial decrees according to the appearing formal meaning of Qur'an and tradition and does not scrutinize the deep meaning of Qur'an and *Sunnah*. This is long-term prevailed methodology for inference of commandments. In view of this book, this inference method does not suffice to understand the reasons of ordinances descent. We need to find out the secrets of ordinances. These secrets must be fully based on intellect. This is why we need to use theosophy to understand the reasons of commandments.

Dialecticians and theosophists distinguish the definitions of knowledge and theosophy. They believe that knowledge is to understand truth of the world and theosophy is to understand the secrets of things.

Though, both of them reach each other in higher ranks. Metaphor of theosophy in our view is the descent declination of the glimmer of the matured theosophy of the Legislator that has been is the reason for legislation of formal and minor commands at different religions. The general rule of the "principle of theosophy" that expresses the necessitous of wisdom and *Shariah* (as legislation) provides the main foundation of our approach to solve the problem.

So here, considering this rational manner which comes from the unique spirit of all religions we try to explore a set of general principles. Bidabad (2006)¹⁰ by this way explored a collection of diverse and remarkable principles from the books of Sufis and mystics that can be used as a basis at this time. In that book some important principles in three chapters of public international law, diplomacy and foreign policy are proposed that we are going to touch their generalities in this book. In fact this book is a brief summary of that book and the detailed reasoning can be accessed in the cited book.

These principles are more probable to be accepted by the world peoples and governments. These principles should be able to determine necessary framework of governments' behaviors in their mutual interactions.

Political psychology of tyranny

The word "Arrogance" literally means: "behaving in a superior manner" and is considered as one of the most detestable phenomenon in religion. The said phenomenon takes a special notice while achieved against divine commands, indicating that the arrogant believes to be in a higher position than Divine Master of Affairs and Authority. The origin

¹⁰ Bidabad, Bijan (2006) Sufi foundations of Islamic international relations, public international law, foreign policy and diplomacy, a theosophy approach, 2005. <http://www.bidabad.ir/doc/mabani-erfani-ravabet-beynolmelal-en.pdf>

and basis of all corruptions, deviations, and violations are "arrogance". The reason why "*Iblis*"¹¹ (Satan) was expelled from the heavenly court was "arrogance" and the arrogance of Pharaoh brought him to destruction and death.¹²

From the individual psychological point of view, arrogance makes a person feel as if he is in a superior and higher position than others; and *Iblis* was under the same illusion. The case is mentioned in Glorious Qur'an as follows: **"When your Lord said unto the angels: I am about to create a mortal out of mire. And when I have fashioned him and breathed into him of My Spirit, then fall down before him prostrate. The angels fell down prostrate every one, saving Iblis he was scornful and proud and became one of the disbelievers. He said: O Iblis! What hindered you from falling prostrate before that which I have created with both my hands? Are you too proud or are you of the high exalted? He said: I am better than him. You created me of fire, while you created him of clay. He said: Go forth from hence for you are outcast. And my curse is on you till the Day of Judgment."**¹³ *Iblis* considered himself better and

¹¹ Al-Baqarah II, 34. "And when we said unto the angels: prostrate yourselves before Adam, they fell prostrate, all save Iblis. He demurred through pride, and so became a disbeliever."

وَ إِذْ قُلْنَا لِلْمَلٰٓئِكَةِ اسْجُدُوْا لِاٰدَمَ فَسَجَدُوْا اِلَّا اِبْلِيسَ اَبٰى وَ اسْتَكْبَرَ وَ كَانَ مِنَ الْكٰفِرِيْنَ .

¹² Al-Qasas XXVLLL, 38-39: "And Pharaoh said: O chiefs! I know not that you have a God other than me, so kindle for me (afire), O Haman! Bake the mud; and set up for me a lofty tower in order that I may survey the God of Moses; and lo! I deem him of the liars. And he and his hosts were haughty in the land without right, and deemed that they would never be brought back to us."

وَ قَالَ فِرْعَوْنُ يَا اَيُّهَا الْمَلٰٓئِكَةُ مَا عَلِمْتُ لَكُمْ مِنْ اِلٰهٍ غَيْرِيْ فَاَوْفِدْ لِيْ يَا هَامَانَ عَلٰى الطِّيْنِ فَاَجْعَلْ لِيْ صَرْحًا لَّعَلِّيْ اَطَّلِعُ اِلَى اِلٰهٍ مُّوسٰى وَ اِنِّىْ لَاطْمِئِنُّ مِنَ الْكٰذِبِيْنَ وَ اسْتَكْبَرَ هُوَ وَ جُنُوْدُهٗ فِى الْاَرْضِ بِغَيْرِ الْحَقِّ وَ ظَنُّوْا اَنَّهُمْ اِلَيْنَا لَا يُرْجَعُوْنَ .

¹³ Sād XXXVIII, 71-78

اِذْ قَالَ رَبُّكَ لِلْمَلٰٓئِكَةِ اِنِّىْ خَالِقٌ بَشَرًا مِّنْ طِيْنٍ فَاِذَا سَوَّيْتُهُ وَ نَفَخْتُ فِيْهِ مِنْ رُّوْحِيْ فَقَعُوْا لَهٗ سٰجِدِيْنَ فَسَجَدَ الْمَلٰٓئِكَةُ كُلُّهُمْ اَجْمَعُوْنَ اِلَّا اِبْلِيسَ اسْتَكْبَرَ وَ كَانَ مِنَ الْكٰفِرِيْنَ قَالَ يَا اِبْلِيسُ مَا مَنَعَكَ اَنْ تَسْجُدَ لِمَا خَلَقْتُ بِیَدَيِّ اَسْتَكْبَرْتَ اَمْ كُنْتَ مِنَ الْعٰلِيْنَ قَالَ اَنَا خَيْرٌ مِنْهُ خَلَقْتَنِیْ مِنْ نَّارٍ وَ خَلَقْتَهُ مِنْ طِيْنٍ قَالَ فَاخْرِجْ مِنْهَا فَاِنَّكَ رَجِيْمٌ وَ اِنَّ عَلٰیكَ لَعْنَتِیْ اِلَى یَوْمِ الدِّیْنِ .

superior than Adam, and this illusion resulted in descending him to the lowest rank.

From the social psychological standpoint, the said phenomenon can also be observed in, groups, nations and countries. Nationalism is a variety of illusory desire for superiority over other nations. Most of times two countries, having these very same illusions, fight with one other, and kill their fellow human being just for this very reason that "you live on the other side of the border but I live in this side". All different types of desires for superiority, which are based on, groups, nations, races, languages, cultures, religious sects, religions, and even sciences are capable of producing social arrogance, which are the origins and bases of all wars, unfairnesses, cruelties, oppressions, massacres and corruption in the world. Just by a careful consideration of the subject, we will find out that, the only factor leading us to magnanimity and dignity is piety and virtuous behaviors¹⁴. Moreover, belonging to groups, tribes, nationalities, races, cultures and even acquired knowledge shall not produce dignity for a man and or his society as compared with other societies. All human beings and other creatures are created by only one creator who has a unique affection towards all of them. So that how can we think about the pride and superiority.

In today's world, we can see that several issues such as, superior race, superior power, superior economy, superior nationality, superior culture, superior equipments and armament and superior science are all, the causes for destruction and killing the human being. This kind of behaviors has led

¹⁴ -Al-Hujurat XLIX, 13. **"O mankind! Lo! We have created you of a male and a female, and have made you nations and tribes that you may know one another. Lo! The noblest of you, in the sight of Allāh, is the most pious in conduct. Lo! Allāh is Knower, Aware."**

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

the humankind to fall at the level of wild animals, even more inferior to them namely, plantations and inanimate objects. There are few animals, which are accustomed to kill their own kind and this will happen only on the compulsory starving occasions. With the exception of wolves and hyenas, no other animals would kill and eat their own kind. But, the humankind who believes to be civilized and transcendent being, kills his fellow human beings just to satisfy his desires of presidency and arrogance and/or taking more pleasure in his future eating and sexual activities. He wrongfully thinks that he is created to live and grow on the corpse of his brethren, or other ethnic groups, nationalities and races, to be able to eat better, have better sexual intercourses, excrete much easier, and sleep heavier.

It is certain that there have been the same reasons behind waging all wars. Moreover, it is not improbable at all that due to her stupidity of arrogant, the whole humankind had not committed suicide for several times and being born again. Second World War, was another warning for the same teachings of arrogant racism and ethnic superiority which was about to ruin and destroy the humankind through fire and wickedness, so that ambitious persons such as Hitler to be able to acquire their illusory superiority. Suppressing the danger and menace of foolish sovereigns and rulers who have never felt the concepts of humanity and have been remained within the arrogance stupidity and its related ignorance, is a must. The said sovereigns have never thought about their filthy inside; and will bring to destruction those lively, spiritual, affectionate hearts of the children, adults and old ones, whether being a man or woman, just to fill up their dirty stomach as much as possible. Human beings should according to humane covenant, create an environment filled with full of brilliance of knowledge, wisdom and humanities, consequently having started a movement from brutality towards humanity.

The reason for these encroachments and transgressions is the decline of humane standpoints to a lower point namely brutality standpoints. Under the despotism and jungle life the weak is always suppressed. Certainly, this kind of government in the jungle has its own special regulations, and the rule of "survival of the fittest" is exactly observed. Moreover, it has seldom been observed that a wild beast kills its own kind saving at those circumstances that the existence of the kind is based on the killing of the own kind. Regretfully, in human societies, this kind of governance, which is ruled under the nature and criteria of animals, is much worse than the government of jungle life. Because in so-called human societies this straight stature animal (human being) kills thousands of his fellow-human beings not just for subsistence or making a living but to remove obstacles and bothersome persons blocking the way to achieve his desires and/or seeking retribution. Whereas, there is no such an aim amongst animals – unless exceptions- while killing each other.

Human transcendence and religion

As a matter of principle, human societies should take those transcendental issues into consideration, which are not observed in animal societies. One of the subject matters of the said issues is advancement of morality in international relations, which results to the establishment of a transcendental diplomacy amongst societies. This kind of diplomacy is not based on "power"; consequently, its elements and components are not parts of "power". Although during several centuries there has been some narrow efforts about this subject matter, but human beings at present time are not decided yet to establish such a kind of transcendental diplomacy, and there will be a long way ahead to approach this end. Probably those persons can get to this end that evolutionary changes have developed their thoughts. These expectations might happen only on that time when human beings are

succeeded by taking advantage of science and technology to bring some changes in their own body, as a result, to strengthen the transcendental attributes in themselves, and grow the seeds of improved human being. Anyhow, this subject matter corresponds to the materialization of an expectation in a distant future.

All divine religions are founded to attain the said transcendental attribute and the messengers are appointed to attain the aforementioned goal. This order of prophets, divine guardians, and divine executors from Adam (A) to Moses (A) then to Christ (A) then to Muhammad (S) and to present time shall be continued till the end of time. Moreover, in each age according to the circumstances of place and time, the accomplishments of divine manifestations will be enhanced. These divine manifestations are messengers (apostles) who are Divine Master of Authority¹⁵. Therefore, all religions are successively at the same line towards transcendence and perfection. Out of various courses of human endeavors to codify social laws and regulations, the efforts of prophets, divine guardians, and divine executors are much more noticeable. The Reverend Messenger of Islam, who is perfect manifestation of all previous religious thoughts and an advanced heritage of laws and regulations of previous religions, has been a turning point of this evolution. Regretfully through some wrongful commentaries and interpretations made by so-called religious scholars, His precious orders (commandments) have been so distorted that one of the Sufis addressing His Reverend said: "your religion is so decorated and distorted that if you be back you would never recognize your own religion".

Inference method

¹⁵ Al-Baqarah II, 106. "Such of our revelations as we abrogate or cause to be forgotten, we bring (in place) one better or the like thereof. Know you not that Allāh is able to do all things".

ما نَنْسَخُ مِنْ آيَةٍ أَوْ نُنسِئُهَا نَأْتِ بِخَيْرٍ مِنْهَا أَوْ مِثْلِهَا أَمْ تَعْلَمُ أَنَّ اللَّهَ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ.

Islamic standpoints to different problems are consistent and integrated, and sagacious persons believe that true Islamic laws are just the same as unchangeable scientific laws. These laws were made and innovated on the basis of humankind's nature and are fully compatible and in harmony with the states and behaviors of human beings. Different religious sect's jurists have commented on the basic principles of religion in detail. Moreover, it might be that, these detailed commentaries have been the reason for introducing various decisions in religion and the cause of all existing differences. The current jurisprudential methods between various sects of Shiites and Sunnies and the method of reasoning of canon lawyers affiliated to the said sects about reasonability of the sources of jurisprudence are quite different. And this can be the base and origin of discrepancies between decisions and viewpoints, which are principally opposite to the religion's objectives. Unity is the main aim of religion, which said: **"And hold fast, all of you together, to the cable of Allāh and do not separate. And remember Allāh's favor unto you."**¹⁶ Probably the said verse suffices us for setting aside all these argumentation about reasonability of different sources of jurisprudence and different methods of deduction at religious laws, such as: traditions, narrations, analogy, consensus of opinions, juristic preference, reasoning through exigency, blocking the detrimental means and so on. We should use the aforementioned sources just for expansion of thoughts and utilizing the teachings of reasoning. The Lord of the Age is the, possessor of the absolute reasonability, and because of his confirmation, Glorious Qur'an possesses transcendental reasonability. Moreover, all Islamic sects are unanimous on the latter's reasonability. Thus, in defining these principles, it has been made efforts, as far as possible, not to rely on the conjectural

¹⁶ *Āle-Imran III, 103. وَاعْتَصِمُوا بِحَبْلِ اللَّهِ جَمِيعًا وَلَا تَفَرَّقُوا وَاذْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ.*

references and uncertain traditions and narrations,¹⁷ because conjecture can by no means take the place of truth,¹⁸ whereas there are too many traditions, which have different meanings, and even some of them are contradictory with some others. Therefore, invoking this kind of traditions, which results to various interpretations, not only would not resolve our difficulties, but they would introduce contradictory decisions, which are the cause of discord among the nations, instead of bringing unity. On the other hand, the interpreter of the words of the impeccable should have some special requirements that we are not going to discuss about it here.¹⁹ Above all, discernment of the words of the impeccable while they are speaking in their human beings position and/or while they are inspired²⁰ are not so easy to understand.²¹ Although it is said: **"your companion does not err, nor he goes astray. Nor he speaks out of desire. It is naught save an inspiration that is inspired"**²² But understanding and discernment of their statements and words necessitate passing the similar several phases of Sufi paths of those magnanimous and honorable persons, otherwise to

¹⁷ The common belief is that all traditions and narration are to be taken as genuine and correct reference. But with respect to the fact that the impeccable were under dissimulation state and/or they have answered the questions just according to the personality of the persons who have propounded the questions, therefore it seems better their words to be taken as doubtful or conjectural reference.

¹⁸ Yūnus X, 36. **"Assuredly conjecture can by no means take the place of truth"**.

إِنَّ الظَّنَّ لَا يُغْنِي مِنَ الْحَقِّ شَيْئًا.

¹⁹ See: B. Bidabad, A. Harsini (2003) Economic-juristic analysis of usury in consumption and investment loans and contemporary jurisprudence shortages in exploring legislator commandments. (In Farsi). <http://www.bidabad.ir/>

See also: Bidabad (2004), Economic-juristic analysis of usury in consumption and investment loans and contemporary jurisprudence shortages in exploring legislator commandments. Proceeding of the 2nd International Islamic Banking Conference. Monash University of Malaysia. 9-10 September. (In English) <http://www.bidabad.ir/>

²⁰ Al-Kahf XVIII, 110. **"Say: I am only a mortal like you. My Lord inspires in me"**.

قُلْ إِنَّمَا أَنَا بَشَرٌ مِّثْلُكُمْ يُوحِي إِلَيَّ.

²¹ For more information see: "Collection of juristic-social articles", written by His Excellency hajj Dr.Noor-Ali Tabandeh, Haqiqat Publication. Tehran, (2001).

²² Al-Najm LIII, 2-4. مَا ضَلَّ صَاحِبُكُمْ وَ مَا غَوَىٰ وَ مَا يَنْطِقُ عَنِ الْهَوَىٰ إِنْ هُوَ إِلَّا وَحْيٌ يُوحَىٰ .

distinguish the words of the speech from the purport becomes very difficult.²³ In the noble book of Salehyeh it is mentioned that, "Conjectural reference if does not lead to knowledge and understanding would result to conjecture. One who knows the path of tasks and is doubtful about the subject matter and its related doubts, and could not attain the knowledge, is excused to be in doubt. But to take a conjectural order as a certain one, and to introduce it as divine commandment binding on oneself and the followers, and make stalled and dependent divine commandments on an incorrect judgment and baseless analogy and on one's own desire, this is opposition to God and to call oneself as his agent without being authorized, it **"will not avail aught against the truth"**²⁴ although **"will take advantage from the people."**²⁵ In another part of the book, it has been written: "the future and the past news as well as invisible world's news are mentioned in Glorious Qur'an. The appearances of the words are eloquent and their hearts and inwards amplitude, its words are purposeful and each one of its sentences is a complete topic, and together with others are a perfect knowledge, and all of them together are successful at the end".²⁶

In this book, we have made effort to invoke just Qur'an's verses if possible. And on special cases, reference is made to the statements of Reverend Messenger (S) and Imam Ail (A). These two honorable personalities are respected and accepted by all Islamic sects and religious groups. Their remarks and statements are accepted and performed sincerely

²³ Bahar-ol-Anvar has a separate chapter with 116 narrations on the subject. Bahar-ol-Anvar, Vol. 2, Ch. 26, p. 182.

بحار الأنوار ج: ٢ ص: ١٨٢، باب ٢٦- أن حديثهم ع صعب مستصعب و أن كلامهم ذو وجوه كثيرة و فضل التدبر في أخبارهم ع و التسليم لهم و النهي عن رد أخبارهم.

²⁴ Yūnus X, 36. **إِنَّ الظَّنَّ لَا يُغْنِي مِنَ الْحَقِّ شَيْئًا.**

²⁵ His Excellency Noor Ail Shah the second, Salehyeh, 2nd ed., Tehran University Pub., 1967, Haqiqat no. 374, p. 250.

²⁶ His Excellency Noor Ail Shah the second, Salehyeh, 2nd ed., Tehran University Pub., 1967, Haqiqat no. 374, p. 252.

and willingly by all Muslims all over the world.

As it is stated by Molavi: There is an apparent meaning for Qur'an's verses as well as inward meaning. And there is an inward meaning for the latter, and so on. On the basis and to the degrees of suitability of our understanding, different comments and meanings from Qur'an's verses can be understood and/or construed. But generally, that which is not contradictory to the appearance of the Qur'an's verses can be accepted as an exegesis of Qur'an. In other words, a commentator just states his own understanding from Qur'an's verses. From the appearance meaning of the words some various advantages have been taken, in a manner that, some has explicated and paraphrased (interpreted) Qur'an's verses, and some other persons known as "*Batinyeh*" (Esoteric, Batinis) have emphasized on the inward meaning of Qur'an's verses.²⁷

To make comment on Qur'an's verses we have taken advantage of noble exegetic book of "*Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah*"²⁸ which is one of the most important Sufi-theosophical exegeses in Islamic world. Almighty God in Glorious Qur'an says: **"He it is who has revealed unto you (Muhammad) the scripture wherein indisputable verses are. They are the substance of the book- and others (which are) allegorical. But those in whose hearts is doubt and perversity due to seditiousness and inclination to interpretation pursue that which is allegorical. None knows its explanations save Allāh. And those who are of sound instruction, say: We believe therein; the whole is from our Lord, but**

²⁷ For having a full description on this subject see the book of "A guide to prosperity", a translation of the preface of "*Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah*" بيان السعادة في مقامات العباده translated from Arabic to Farsi by His Excellency haj Sultan Hussein Tabandeh Gonabadi, Haqiqat Publication, 1963.

²⁸ Second edition of "*Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah*" was printed in Tehran University printing office, in four volumes (1965). This exegetic book is in Arabic language. بيان السعادة في مقامات العباده.

only men of understanding really head."²⁹ And there is another Qur'an's verse about the persons of sound instruction which says: **"But those of them who are firm in knowledge and deep in thinking (sound instructions) and the believers, believe in that which revealed unto you, and that which was revealed before you, especially the diligent in prayer and those who pay the poor-due, the believers in Allāh and the Other Day. Upon those we shall bestow immense reward."**³⁰ This knowledge³¹ is one, which emanates from "piety" not from learning at school, which is said: **"Observe your pious duty to Allāh, Allāh will teach you."**³²

Theosophy of Shariahs (legislations) and international relations

International relations have been existed since long, between human societies, so that it is not a new phenomenon. However, during past decades this topic has been being taught as an independent field of study at the universities. The object of this field of study is surveying the peculiar method of international life. With respect to the various meanings, deducible from the word "international" several explanations might be understood from this discussion which all of them could be classified under

²⁹ Āle-Imran III, 7

هُوَ الَّذِي أَنْزَلَ عَلَيْكَ الْكِتَابَ مِنْهُ آيَاتٌ مُحْكَمَاتٌ هُنَّ أُمُّ الْكِتَابِ وَأُخَرُ مُتَشَابِهَاتٌ فَأَمَّا الَّذِينَ فِي قُلُوبِهِمْ زَيْغٌ فَيَتَّبِعُونَ مَا تَشَابَهَ مِنْهُ ابْتِغَاءَ الْفِتْنَةِ وَابْتِغَاءَ تَأْوِيلِهِ وَمَا يَعْلَمُ تَأْوِيلَهُ إِلَّا اللَّهُ وَالرَّاسِخُونَ فِي الْعِلْمِ يَقُولُونَ آمَنَّا بِهِ كُلٌّ مِنْ عِنْدِ رَبِّنَا وَمَا يَذَّكَّرُ إِلَّا أُولُو الْأَلْبَابِ.

³⁰ Al-Nisā IV, 162.

لَكِنَّ الرَّاسِخُونَ فِي الْعِلْمِ مِنْهُمْ وَالْمُؤْمِنُونَ يُؤْمِنُونَ بِمَا أَنْزَلَ إِلَيْكَ وَمَا أَنْزَلَ مِنْ قَبْلِكَ وَالْمُقِيمِينَ الصَّلَاةَ وَالْمُؤْتُونَ الزَّكَاةَ وَالْمُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ أُولَئِكَ سَنُؤْتِيهِمْ أَجْرًا عَظِيمًا.

³¹ For a noble discussion on this subject see: "Sa'adatnameh", His Excellency hajj Molla Sultan Muhammad Sultan Alishah Gonabadi. Edited and marginal notes by Hussain Ali Kashani Beidokhti, Haqiqat Publication (2000), Tehran.

³² Al-Baqarah II, 282. وَ اتَّقُوا اللَّهَ وَ يُعَلِّمَكُمُ اللَّهُ.

the realm of political sciences and international law branches³³ but we are not going to discuss about them here. We are going to consider three main and palable parts in international relations in introducing these principles. The three main topics facing governments in relation to other states and nations are public international law, foreign policy, and foreign diplomacy. We have tried to consider the important principles of Islamic government's standpoints with regard to the most important subjects of international relations. Therefore, we have described the important principles in relation to this subject. "Principle" is literally defined by the theologians as "the base on which something is built".³⁴ And as to the Methodists or theoreticians in law (those scholars who deduct their inference based on certain juristic principles), there are some special rules such as evidences, *status quo ante*, and preference which are called principles. And also, the previous state of a thing or ruling is called principle. Our aim by using this peculiar method -namely referring to principles- is to present the structure of thoughts in Islamic international relations. In this regard by presenting some parts, we will mention several principles. Consequently, the spirit of Islamic international relations would be deducible. It is certain that for altering these principles into legal and political rules and regulations and also executive texts, lots of works should be done. It is hoped that this endeavor to be a beginning for this new trend in the field.

The principal outlook of these principles on Islamic commands, concerning the aforementioned three fields of study is based on principle of wisdom. Within the principles of religious jurisprudence, the principle of wisdom is based on this explanation that the sacred legislator of Islam has

³³ See: Jacques Huntzinger, "Introduction aux relation internationales", Farsi translation, A. Aghai, Astan Qods Razavi Pub.

³⁴ The literal meaning of "principle" is origin of an object. The books of comments on parables, *Jame-ol-Moqadamat*, edited by M. Muhammadi Qa'ini, Darul'fekar Publication, 5th edition, 1998, p. 62.

کتاب شرح الامثله، جامع المقدمات. الاصل ماينى على شىء غيره.

always just reasons behind each command which understanding of that reason would lead us to generalize the instructions of the commands over other neighboring realms. On the meaning of wisdom, it is said:³⁵ "Wisdom is a special power, by which, one will gain the ability of understanding the subtleties of matters and secrets behind the creative power. And one can also create some things containing the subtleties of creation. Therefore, wisdom with respect to its dependents consists of two parts. One part that is concerned with ideas is called theoretical theosophy and another part, which is concerned with action, is called practical theosophy. In Persian, they are referred to as scrutinizing and meticulous workings. Occasionally the wisdom is explained as certainty in action, which indicates one of the two parts of wisdom. And sometimes it is explained as perfection and certainty in knowledge, which indicates another part of it. And sometimes it is interpreted to certainty in knowledge and action, which indicates both parts. When wisdom is mentioned with respect to high capability, it means that the knowledge and action must be the basis of the policy of living. In this case, high capability would be its extreme form. The said wisdom is one of the consequences of divine guardianships dignity, because the divine guardian is able to recognize the subtleties of the things due to his incorporeal status. And whenever he wants to know something, it would not be hidden from him. And he can also manufacture and create the subtle designs of creatures by himself because nothing is impossible for him to do and he will not refrain from doing it. The first omniscient is God Almighty and then prophets and messengers due to their divine guardianship and afterwards their successors and then those persons who resemble the said magnanimous and honorable ones. The first stage of wisdom is to

³⁵ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", volume four of translation, pp. 102-104 under the verse 54 of sūrah Al-Nisā. **"But indeed we have given to Abrahams' successors, the scripture and wisdom."** فَقَدْ آتَيْنَا آلَ إِبْرَاهِيمَ الْكِتَابَ وَ الْحِكْمَةَ.

recognize the subtleties of creative power of God in yourself and your body. You should understand that you are created in the limbo of inferior and superior worlds. And your soul has the absolute and full capacity of domination and taking possession of both heavenly realms (celestial worlds). And soul never refuses to dominate and take possession of them. Moreover, domination and taking possession of inferior world would lead the soul towards prison and Hell (Sejgin) and domination taking possession of superior world would lead the soul close to the highest degree in the world. All of these incidents will happen just by way of enlightenment, not by way of learning and surmise which is the method and manner taken by ethical philosophers. The latter are contented to the general knowledge, whereas they are ignorant to their own micro selves. Therefore, they shall not take advantage of their knowledge. But people of enlightenment gain power on subtleties of action to block the ways of domination and taking possession of inferior world, and they open the ways of taking possession of superior world. It is just as the power of Ali (A) during the war who stopped fighting with the enemy right at the time of victory, while having the sword in his hand. He threw his sword away, because his enemy spit on him. For this very reason, that his self was in an angry mood to kill his enemy. So that, when a man takes cognizance, and by gains the said special power and takes appropriate actions, then certainly he would be promoted to the status of servitude and devotion. This is the position of "annihilation in god" and position of divine guardianship. Afterwards when God Almighty notices that he has the talent and capacity of reforming other people then he will restore his humankind state of being and bestows him the robe of honor of prophethood, messenger's mission and /or successorship. Then makes him aware of subtleties of creation in material and heaven worlds. Bestows him the power of domination and taking possession in things. Makes all beings to be at his service. And this is the

last stage of wisdom. When we are speaking of wisdom in this stage, we mean divine guardianship. Because divine guardianship is the result of wisdom. This is presentation of the wisdom in theory and in actions. Various interpretations of their words refer to this situation. Just as to say, wisdom is to recognize the truth of things as to their realities. Or wisdom is the knowledge of benevolence and good deeds. Or doing an action, which has good results. Or following The Creator, up to the strength of humankind. Or resemblance to God in regard to the knowledge and deed, up to the strength of mankind."

There are various explanations about the meaning of wisdom in the books and statements of Sufis. In the sūrah of Luqman, there is a proposal to him, whether to accept the divine successorship and/or adjudication between human beings. He responds: "If it is an order, I will obey it, but if I have any option, I would like to choose deliverance and salvation." So that, God Almighty bestows him the wisdom. In this regard, wisdom is interpreted as seeing the things to their realities.³⁶ Wisdom is classified into several types that we are not going to mention it here. But from the noble book of Salehiyeh the distinction between knowledge, wisdom, and enlightenment will be mentioned, which says: "the theologians say enlightenment is divided into two kinds. One of them depends on viewpoints, thoughts, and reasoning which is the method and manner of those who are concerned with appearance of things. Other one depends on revelation and observation, which is the method of those who are concerned with inwards. But the first one cannot be called enlightenment rather it is called knowledge whenever results to a determined or known fact, otherwise it is called conjecture. Once Ahmad Hanbal was asked "you are higher than Boshre-e-Hafi in knowledge, so why do you go to visit him.

³⁶ His Excellency hajj Sultan Hussein Tabandeh Gonabadi (2004). Forty luminous jewels, selected works, from lectures given by His Excellency hajj Sultan Hussein Tabandeh Gonabadi. pp. 144-154, Ashna Publication.

He answered, "He knows God better than me, though I know sciences (knowledge) better than him". Someone who possesses narrational outward sciences (knowledge) is one who has seen the colour of wine or has heard its description. He who possesses intellectual knowledge is one who has smelt it (wine). And he who possesses wisdom is one who has touched it. But enlightenment belongs to those who have tasted it and have drunk it whether a drop of it or a cup or a jar or a cask and/or have been drowned into it or just have become the same as wine."³⁷

In treatise of Dhulfaqr it is said"³⁸ The reason for prohibition of murder is narrated to be the corruption of people (namely it is against the social order and causes corruption in community and people) and the rule of retaliation is for protection of life. The reason for prohibition of adultery is vice and corruption. The reason for prohibition of misappropriation of orphan's property is preventing assistance in killing the said orphan, because an orphan without having property is not able to afford his means of living and consequently he will die. It is narrated if that orphan grows up he would be the cause of fighting and corruption. And the reason for prohibition of leaving and running away from the scene of battle³⁹ is corruption. And also, the reason for prohibition of usury is omission of giving loans without interests. It also results to destruction of property and human beings and/or committing cruelty. There are too many religious regulations which are recommended but they are not obligatory, and there are also some other actions which are disapproved and blamable. In narrations, it is proved that non-observance of the said rules and regulations would result to poverty or being harmful to human body or harmful to

³⁷ His Excellency hajj Molla Ali Noor Ali Shah Beydokhti Gonabadi, Salehyeh, 2nd edition, Tehran University printing office, 1967, Haqiqat 384, p. 258.

³⁸ His Excellency hajj Molla Ali Noor Ali Shah Beydokhti Gonabadi, Dhulfaqr, in prohibition of opium smoking, fourth edition, Haqiqat Publication, 2003, Tehran, chapter six from fourth part, pp 69-73.

³⁹ Al-Kāfi, 2, 27, chapter Alkaba'ir, p 276. .۲ ، ۲۷۶ ، ص: باب الكبائر، ص: ۲۷۶ ، ۲ ، الكافي

children or generation and so on. And it is narrated from Imam Reza (A) that.⁴⁰ "Everything which is forbidden is due to its harmfulness, therefore all harmful things are forbidden. Everything that is beneficial is permitted. So all permitted things are beneficial. The reason for prohibition of using dead animal's body (carcass) is that they cause some diseases such as rabid, leprosy and sudden death. The prohibition of using blood, as food is that it makes heart to be hard, and also causes large pustules (Debilah)⁴¹. Jery fish⁴² is forbidden to eat because it is harmful. Poison is forbidden because it causes death. Alcoholic beverages are forbidden because they destroy the heart and blacken the teeth and make mouth to have a bad smell. It is narrated that:⁴³ "God has made prayers obligatory to remove haughtiness and pride. Poor-due is a means for daily bread (subsistence). Fasting is for examination of the obedient. Pilgrimage to Mecca is for strengthening the religion. Holy war is for grandeur of Islam. To enjoin the right (good) is for the interests of people. To forbid the wrong (evil) is for disgusting the ignorant. The bonds of relationship (union of kindred) is for being numerically superior. Retaliation is for protection of bloods. Enforcing the law of punishment (Hodood) is for showing the grave danger of unlawfulness. Quitting drinking wine is for protection of mind and reason. To avoid stealing is for confirming the chastity. Avoiding adultery is for protection of parentage. Avoiding sodomy is for increasing the population. Giving testimony is for supporting the denials. Quitting telling lie is for grandeur and importance of righteousness. Greeting is for being secure from the position of fear. Leadership is for social order. Obedience is for

⁴⁰ Al-Mustadrak Alvasa'il 16, 165.

مستدرک الوسائل، ١٦، ١٦٥، ١-باب تحريم الميتة و الدم و لحم ... ١٩٤٧١-٥ - فقه الرضا.

⁴¹ "Debileh" is a tumor larger than pustule; it has a round shape and has the same color as skin. There are several strange things such as nail, hair, clay, charcoal and so on in it.

⁴² Jery is a kind of fish.

⁴³ Comment on Nahj-el-Blagheh, 19,89, 249. . شرح نهج البلاغة، ١٩، ٨٦ .

grandeur of leadership." There is a tradition that says:⁴⁴ "justice is for calmness of heart. Benevolence towards parents is for being secure from divine wrath. Honoring the religious pledge (vows) is for exposing oneself to forgiveness. The rule of prohibition of "imputation of in chastity against married women" is for preventing the existence of illegitimate child. The rule (prohibition) of theft is for keeping chastity. The rule of misappropriation of orphan's property is for preventing the commission of cruelty and so on. There is a narration from Imam Reza (A)⁴⁵ that: "God Almighty has prohibited commission of murder because its perpetration would result to corruption of social order and destruction of community. Disobedience from parent's order is prohibited because the perpetrator would lose respect of God and parents. It will also cause ungratefulness of the favors and cancels the previous thanks to God and cause interruption of generation. Adultery is prohibited because, the consequences of it are commission of murder, elimination of parentage, corruption of heritage, abandonment of educating the children and elimination of the true wisdom is the result of adultery. Misappropriation of orphan's property is prohibited because its commission would help to his death, since he is in need of money and cannot afford his subsistence just by himself and there is no other person to help him. In addition, there is a punishment for commission of this action. Above all, when the orphan grows up he would ask his property to be returned to him and this would result to fighting between the parties and probably to destruction of both sides. Running away from the battlefield is prohibited because this action is directly an insult and disgrace towards religion, prophets, and religious leaders, and make the enemy to become courageous against Muslims. The said action would

⁴⁴ Kashf-ol-Ghamah, 1, 480. p. 449. . . . ص: ٤٤٩ . . . كشف الغمة، ١، ٤٨٠، فاطمة ع ...

⁴⁵ Man-la-Yahzarah-ol-Faqih, 3, 565.

من لا يحضره الفقيه، ٣، ٥٦٥، باب معرفة الكبائر التي أوعده الله عزّ و جل، ٤٩٣٤ .

result to apostasy and abandonment of prophet's way due to leaving the Islam's country after residency in it. Usury is prohibited the same as giving the property to imbeciles. The reason for prohibition of credit usury is elimination of good deeds and feeling of assistance towards other persons and abandonment of giving loans (without interest). Usury would result to destruction of property and the outbreak of corruption and cruelty."

Public International Law Principles

International law is a branch of law, which regulates the relationship between individuals, nations, and states in international arena and on the other hand, the scope of municipal law is relations of individuals with one another and with government within the boundaries of a state through the fields of public and private laws. Law of nations or international law has also the same categories of public and/or private law. In the field of municipal law, public law mostly covers the topics of constitutional, administrative and criminal law. But private law covers various subjects such as, rules of procedures up to matters like adjudication and relations among individuals in the society. Public international law attempts to regulate and exercise rights over diplomatic and consular relations among states and formal relations of states with international organs, institutions, and entities. But private international law consists of a body of rules and regulations regarding the relations of citizens of different states with other and differences and conflicts of laws of nations and adjustment of these differences and settlement of conflicts among them.

In this part, our aim is to survey the subjects of Islamic public international law, and we have tried not to engage ourselves with the subjects of Islamic private international law as far as possible, because the latter needs a completely separate deal. Thus, we are focusing to extend Islamic jurisprudence decisions from a theosophical point of view over the

field of international law. What the theosophy calls for, is that the reasons and secrets behind each order, should be the bases of its enactment. Therefore, by full understanding of reasons and spirit of Islamic laws we are going to extend these rules to the international law level, therefore we encounter the following principles:

- 1- Principle of: General authorization for acceptance of "General Principles of Law"
- 2- Principle of: Acceptability of statutory international law to the limited extent of conformity with Islamic Law
- 3- Principle of: Acceptability of customary international law
- 4- Principle of: Giving priority to forgiveness, benevolence and conciliation of hearts
- 5- Principle of: Honoring the Treaties
- 6- Principle of: Mandatory observation of formalities of contract
- 7- Principle of: Doing justice
- 8- Principle of: Imposition of punishment, based on substantiation of the offence
- 9- Principle of: Equality in law
- 10- Principle of: Continuity of states
- 11- Principle of: Prohibition of abusing the rights
- 12- Principle of: Prohibition of causing harm
- 13- Principle of: Presumption of innocence
- 14- Principle of: Blocking detrimental means in international scene
- 15- Principle of: Exclusive right of "juristic preference" for The Divine Master of Affairs and Authorization
- 16- Principle of: "Reasoning through exigency" in international relations
- 17- Principle of: Observing "International status quo ante" "providing the right is lawful"
- 18- Principle of: Non-retroactivity of statutes

- 19- Principle of: Continuity of uncontested possession
- 20- Principle of: Remunerating the rightful attorney and punishing untruthful attorney
- 21- Principle of: Ignorance of statute law is a good excuse but ignorance of natural law is no excuse
- 22- Principle of: Respecting acquired rights
- 23- Principle of: Authority of res judicata
- 24- Principle of: International responsibility
- 25- Principle of: Compensation for unjustified damage
- 26- Principle of: Preserving the life in retaliation
- 27- Principle of: Prohibition from excessive retaliation
- 28- Principle of: Facilitation in Force Majeure (distress and constriction)
- 29- Principle of: Freedom of trade in international commercial law
- 30- Principle of: Freedom of seas and space
- 31- Principle of: Recognition, on the bases of human beings' dignity rather than government
- 32- Principle of: Full recognition of individuals' rights of ownership and de facto recognition of governments' sovereignty
- 33- Principle of: Granting nationality (naturalization) to applicants
- 34- Principle of: Binding to testify truly and/or acknowledgment of faults and prohibition of concealment of truth and/or committing perjury
- 35- Principle of: Acceptance of inquiry for pacific settlement of international disputes
- 36- Principle of: Negotiation in settlement of disputes and acceptance of arbitration in international conflicts
- 37- Principle of: Obligation for mediation and making peace (voluntary mediation)
- 38- Principle of: Conciliation and interference in international wars (compulsory mediation)

Some of these principles are derived from general principles of law, which are common amongst all states and are recognized by all civilized nation's legal system.⁴⁶ Some principles which can be named as parts of general principles of law read as follows: priority of international law over municipal law, priority of international treaties over law of the land, recouring to municipal courts before resorting to international courts, principle of unauthorization of submission of rights in excess of what one has in one's authority, equality of states sovereignties, principle of non-recourse to force, principle of peaceful co-existence, principle of binding force of obligations, principle of impartiality in adjudications, principle of payment of fees by losing party, principle of lack of jurisdiction over the actions brought to another court, principle of freedom of navigation on the high seas, principle of continuation of uncontested possession in establishment of right of sovereignty, principle of non-discrimination or equality of citizens of states in front of law. Some of the said general principles of law, with respect to the relations among the states are often mentioned in treaties and resolutions of international organizations. For example, the followings are a few principles that are invoked while bringing an action or during legal proceedings before judicial authorities, such as: principle of recouring to municipal courts before resorting to the international courts, principle of priority of international treaties to the law of the land, principle of continuation of government (state), principle of independence of states, which are common between municipal and international law.

⁴⁶ - According to the Article 38 of The Hague Convention 1907 "... general principle of law which are recognized by civilized nations- i.e. they are parts of valid legal systems, and civilized nations have enforced them- are one of the independent and distinct sources of international law."

Foreign Policy Principles

States' foreign policy usually specifies the attitudes and confrontations of a state towards other states. At today's world, the foreign policy-making of states is based on their interest necessitations, whereas, the attitude of Islam in this regard, is quite different. The main objective of Islam is humankind's transcendence rather than transcendence of Islam's country. As a matter of fact, Islam has not come into existence just for Arab ethnics or Persians of Middle East countries. Islam has come, just as a father, to extend its mercy and grace over all human beings. On the other hand, the benefits emanating from humankind's transcendence is so great that Islam's country would automatically get benefit from it. Moreover, this benefit is more than that time which just Islam's country enjoys her maximum interests solely. This theory (viewpoint) has a delicate discussion, which is based on mathematical reasoning, but we are not going to deal with here. We hope to describe this subject in a separate book in the future. Anyhow, we just point to this that maximizing the interests of just one state is less than maximizing the interests of the same state that is emanated from maximizing the interests of humankind. Nearly most politicians of the world are making the same mistake and follow just obtaining the interests of their own party or group. Anyhow, in the following, we are going to point to some principles of Islamic foreign policy, which in connection with other previous and subsequent principles, the spirit of Islam's attitude towards other nations and states could be construed:

39- Principle of: Coinciding the Islam's expediency with the humankind's expediency

40- Principle of: Islam appertains to humankind

41- Principle of: Human being's dignity

42- Principle of: Unity

43- Principle of: Prohibition of racial discrimination

- 44- Principle of: Disdainful of idolaters
- 45- Principle of: Islamic Internationalism versus states' Nationalism
- 46- Principle of: Prohibition of national boasting and seeking national superiority
- 47- Principle of: Peaceful coexistence
- 48- Principle of: Friendship with nations and folks
- 49- Principle of: Protection of all nations' and states' interests whether in their presence or absence
- 50- Principle of: Trustworthiness
- 51- Principle of: Prohibition of impeding the benevolence
- 52- Principle of: Imperfect political neutrality
- 53- Principle of: Negation of protectorship and authorization of protection
- 54- Principle of: Non-intervention in other states' affairs
- 55- Principle of: Obligation for liberalization of oppressed people
- 56- Principle of: International protection of minorities
- 57- Principle of: Inapplicability of slavery and slave trade at this age
- 58- Principle of: Unity for the truth
- 59- Principle of: Prohibition of committing injustice and its aiding and abetting
- 60- Principle of: Unauthorization of hegemony and rebellion
- 61- Principle of: Disinclination to engage in hostilities
- 62- Principle of: Prohibition of aggression and permission of defense
- 63- Principle of: Severe fighting with the belligerent aggressors
- 64- Principle of: Having duty to assist in goodness and prohibition to assist in transgression
- 65- Principle of: Tactics and strategies of wars being at the discretion of the Master of Affairs
- 66- Principle of: Obligation of accepting the peace proposal
- 67- Principle of: Unauthorization of keeping prisoners of war after war

termination

68- Principle of: Prohibition of torturing and molestation of the enemy's captives

69- Principle of: Prohibition of illicit trades and measures against humanity and the environment

70- Principle of: Unauthorization of destroying food sustenance for acquiring material profits

71- Principle of: Prohibition of international hoarding of food and obligation of feeding the world starving people

Diplomacy Principles

Two general meanings are ascribed to the term "diplomacy". Diplomacy, in its first meaning, is the guidelines or policies of a state about international political issues, regarding to foreign states or different regions, and also concerning the treaties whether international or regional. The second meaning of diplomacy is the skill in or art of negotiation for reaching to a common understanding in the international scene. Anyhow, it is, "the conduct of relations and communication", which makes both meanings to become comprehensible⁴⁷. In this part, we are going to explain the Islamic attitudes towards the said meanings of diplomacy in conduct of international intercourse⁴⁸.

Our objective here is to inquire into the general rules of Islamic diplomacy and how Islamic government should behave towards other states

⁴⁷ In foreign sources, the meaning of "diplomacy" consists also of the said two meanings. Although the literal meaning of diplomacy is also "hypocrisy". The following references are of classic sources about diplomacy:

- Sir Ernest Satow, A guide to diplomatic practice, (Longmans, Green & Co. London & New York, 1917).

- Derek McKay and H.M. Scott (1983), The rise of the great powers: 1648-1815.

⁴⁸ Aladpoosh, Ali and Ali-Reza Totonchian (1993) Diplomacy and diplomats, Foreign Ministry Publication and Printing Institute. 46 definitions for diplomacy are given which could be categorized into the above said two concepts.

and nations. As it has already been fully detailed⁴⁹, in the history of Islam, the true Islamic government has only been established at the early Islam and few years of the last part of Imam Ali's life. In other periods, whether in time of Omayyads or Abbasids or other times which several kings have reigned in the Muslim's territories -although they have ruled in the name of Islam- the real objectives and outward forms of their government have been quite different compared with real Islamic government.

In official relations among the states, there are several issues, which could be observed clearly. In other words, the practical diplomacy is based on numerous principles, which the methods of establishment of international relations, leadership of diplomacy, the basic motives and ideologies behind the diplomacy, its aims, and processes and tactics of reaching the objectives are all important factors of diplomacy. The current diplomacy and Islamic diplomacy have some differences in their principles and characteristics, which we are going to discuss the important ones now.

The main objective and motive of diplomacy is principally because of establishment of communication/relation with others in the world. The said motivation has been different due to various ages and world's political systems. For instance, the aims of diplomacy could be different in the following situations, such as: different kinds of international systems, unipolar international power, bipolar or multipolar international balance of powers, the reign of law in the international relations, international feudal system, and so on. But the main common objectives among all forms of diplomacies are, and have been, acquiring security and interests.

Security means survival and self-protection, as defined by theories of political sciences. The following cases could be included in the subjects of

⁴⁹ بیدآباد، بیژن، مبانی عرفانی علوم سیاسی در اسلام، سیاست، حکومت، ولایت از دیدگاه حکمت،

<http://www.bidabad.ir/doc/mabani-erfani-oloome-siasi.pdf> .۱۳۸۸

security such as: protecting the existing situation against others (status quo), foresight to overtake the others in future, fear of losing the possessions, fear of aggression and many other cases. The acquiring interests and benefits could also be included in the following cases, such as: taking advantages from establishment of communication/relation and economic-political relations, or temptation to invade the other's possessions and/or enhancement of international credibility and reputation, and political or economic stability. Acquiring profits, which results from international trade and economic relations, has a major topic in international economics, which we are not going to discuss about it here.

The objective of diplomacy in Islam is not just restricted to acquiring security and benefit. In spite of paying attention to obtain all components needed for establishing security and acquiring interest for the nation and government, Islam follows a higher objective regarding planning diplomacy and establishment of international relations. In noble verse of: **"O, mankind! Verily, We created you all from a male and female and appointed for you tribes and nations to be known. Verily, in Allāh's sight the most honorable of you is the most pious of you".**⁵⁰ The objective of creation is declared to be, devotion (servitude) and knowledge (gnosis). In another verse, it is said: **"And I have not created the Jinn and men except that they should worship Me".**⁵¹ In the latter verse the phrase **"that they should worship Me"** is also reinterpreted as **"that they should know Me"**. That is to say, the objective of creation is knowledge, gnosis, awareness, and devotion (servitude). Some people believe that the term "to be known" is an adverb for nations and tribes; that is to say, the objective of the creation has been being known each other in the nations and tribes.

⁵⁰ Al-Hujurāt XLIX, 13.

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ.

⁵¹ Al-Dhariyat LI, 56. وَ مَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ.

Anyhow, the said verse propounds the means to the ends of creation as similarity of humankind and knowing the others, in other words, establishment of relations amongst tribes and nations.

Multiplicity of nations and tribes is one of the peculiarities of creation. Some people have protested that why Almighty God has not created all human beings in one nation or tribe. In Glorious Qur'ān it is said: **"For each of you, We have given a code of law and an open method and way; and if Allāh had intended, He would have made you one nation. But Allāh's will is to try you in what He has given to each of you. You people should compete one another in goodness. To Allāh is return of you all; and then He shall inform you about what you disputed"**.⁵² In a comment on the said verse it is said⁵³: **"For each of you, We have given a code of law"**. That is to say, there is a relevant law for every sect and community on the basis of their structures. And (in Arabic sentence) placing the term **"of you"** after the verb, indicates this point that, special laws and regulations of each community result from differences of their talents and abilities. **"And an open method"** means that, according to the heart, the way is clear and open. The term **"Sher'atan (way)"** in the Arabic sentence means "waterway" which all humankind would enter it in equal basis and the formal laws and regulations of each community is the true path to the "water of life" (well spring of life) which everyone in the community has an equal share in it. And the term **"Menhāj (method)"** taken from "Nahj-ol-Amr (commanded method)" means "when it is clear", the real meaning is "an open and clear way from heart to the truth". This part of sentence is causal interpretation of what has already been stated.

⁵² Al-Mā'idah V, 48, There are several verses similar to the said verse in Glorious Qur'ān.

لِكُلِّ جَعَلْنَا مِنْكُمْ شَرْعَةً وَ مِنْهَاجًا وَ لَوْ شَاءَ اللَّهُ جَعَلَكُمْ أُمَّةً وَاحِدَةً وَ لَكِنْ لِيَبْلُوَكُمْ فِي مَا آتَاكُمْ فَاسْتَبِقُوا الْخَيْرَاتِ إِلَى اللَّهِ مَرْجِعُكُمْ جَمِيعًا فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ فِيهِ تَخْتَلِفُونَ.

⁵³ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation, Vol. 4, pp. 342-344.

That is to say, do not deviate from your own laws because of the other's laws. Their laws are stipulated just for them and you have your own special laws to observe. **"And if Allāh had intended, He would have made you one nation"**. If Allāh had intended, He could have made a united community with just one set of laws, without any law being abrogated and/or new laws being introduced to them. **"But"** He has made you various communities. **"Allāh's will is to try you in what He has given to each of you"** in order to try you by new laws which has been given to you. Because it is very easy for the soul to accept the things that are used to do them, therefore the truthfulness of faith could not be ascertained just by performance of customary acts. On the contrary, those things, which are not customary for the soul, are difficult to be accepted. Consequently, they would not be accepted unless there exist true faith. **"You people should compete one another in goodness"**. That is to say, when you are informed that differences among communities are for trying you, so that compete one another in goodness, on the basis of what Almighty God has ordained through the statements of His prophet and leave aside the old customs. Namely, by taking control over your souls, perform good things. Because your souls command to perform those things, which you are accustomed to do; or compete your neighbors to locate in a better position. **"To Allāh is return of you all"**. All persons whether previous generations or posterity would return to Allāh no matter if they have acted upon the commands of Allāh or according to their customs. The said phrase is a causal interpretation of God's statement, which **"compete one another"**, is a promise and threat for both groups. **"And then He shall inform you about what you disputed"**, such as the truth, null and void (false) commands and customs. It is also an implicit declaration of divine guardianship and all differences on this subject which occurred after demise of Messenger of Allāh (S)."

In another verse it is said: **"And to every nation, We have appointed ways of worship and rites which the act upon. So they should not dispute with you about the matter, so call them to the way of your Lord, surely you are on the straight path"**.⁵⁴ It means that the laws, regulations, and ways of each nation are respectful for themselves. Therefore, let them be on their religious rites and you on your own religious rites, although your religious laws are shorter and more straight way compared with other religious laws.

It would not be too far from the reality if it be argued that the reason for making various nations, and the will of divine providence to create different tribes and communities, had been their disobedience, because it is said: **"Mankind were but one community, then they differed"**.⁵⁵ And in another noble verse it is said: **"At the beginning, people were one nation; then Allāh sent Messengers as givers of glad-tidings and warners; and sent down (with them) the book with the truth to judge between men in whatever they differed"**.⁵⁶

The objectives of Islamic diplomacy is extension of human exaltation under the divine teaching, which says: **"And if anyone of the idolaters seek refuge in you (O, Messenger) grant him, so that may hear words of Allāh and then escort him to where he can be secured, that is because they are a people who lack knowledge"**.⁵⁷ This verse is addressed to the honorable Messenger of Islam. He is told that you should

⁵⁴ Al-Hajj XXII, 67 also see 34 in same sūrah.

لِكُلِّ أُمَّةٍ جَعَلْنَا مَنْسَكًا هُمْ نَاسِكُوهُ فَلَا يُنَازِعَنَّكَ فِي الْأَمْرِ وَادْعُ إِلَى رَبِّكَ إِنَّكَ لَعَلَىٰ هُدًى مُّسْتَقِيمٍ.

⁵⁵ Yūnus X, 19. وَ مَا كَانَ النَّاسُ إِلَّا أُمَّةً وَاحِدَةً فَاخْتَلَفُوا.

⁵⁶ Al-Baqarah II, 213.

كَانَ النَّاسُ أُمَّةً وَاحِدَةً فَبَعَثَ اللَّهُ النَّبِيِّينَ مُبَشِّرِينَ وَ مُنذِرِينَ وَ أَنْزَلَ مَعَهُمُ الْكِتَابَ بِالْحَقِّ لِيَحْكُمَ بَيْنَ النَّاسِ فِي مَا اخْتَلَفُوا فِيهِ.

⁵⁷ Al-Taubah IX, 6.

وَ إِنْ أَحَدٌ مِنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّىٰ يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ.

make the idolaters hear the words of Allāh; you should grant them shelter and then escort them to a secured place; you have to suffer the hardship of making them hear the words of Allāh through your statements, therefore they might change their way of living and get closer to the path of Allāh. This kind of confrontation reveals the objective of diplomacy in Islam. It teaches us how there should be the method of conducting relations in Islam. In other words, one of the methods of Allāh to make the people approach nearer to His path is that He makes His messenger to suffer hardship until the idolaters being able to hear the words of Allāh through the statements of the messenger. And these words are neither an authoritative order, nor a command and not a prohibition, but just a conversation like common negotiations. This kind of invitation could be seen with subtlety in sūrah of al-Nahl which says: **"Invite (mankind) to the way of your Lord with divine reasoning and fair preaching and argue with them in the best manner. Truly your Lord is in the supreme position to know who has gone astray from His path and who are the guided ones"**.⁵⁸

The methods of conducting diplomacy are almost alike in political systems, which are often performed through negotiations. According to the said methods, the establishment of international relations is influenced by the bargaining conditions and exchanging privileges. In a manner that the governments normally define their relations with other governments just by taking the exchanged privileges into consideration among themselves; Islamic diplomacy by taking the moral and spiritual exaltation of the society into consideration attempts to establish relationship with other countries; and for achieving the said goals follows significant principles that we are going to enumerate some of them:

⁵⁸ Al-Nahl XVI, 125.

ادْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمَةِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِمَنْ ضَلَّ عَنْ سَبِيلِهِ وَهُوَ أَعْلَمُ بِالْمُهْتَدِينَ.

- 72- Principle of: The assignment based on authorization
- 73- Principle of: Obeying the holders of authority
- 74- Principle of: Diplomatic responsibility
- 75- Principle of: Political immunity and social or personal non-immunity for diplomats
- 76- Principle of: Propagation by deeds and restriction on verbal enjoining and forbidding
- 77- Principle of: Prohibition of imposing opinions
- 78- Principle of: Respecting others' opinion and prohibition of inquisition
- 79- Principle of: Harmonization and conformity of words and deeds
- 80- Principle of: Disagreeability of political and economic deception
- 81- Principle of: Honesty in negotiations
- 82- Principle of: Prohibition of fabrication of words and political lies and false accusations
- 83- Principle of: Unauthorization of insulting or mocking
- 84- Principle of: Greeting and responding in fair and giving reward by the best
- 85- Principle of: Unsupporting the traitors and authorization for reciprocity
- 86- Principle of: Unauthorization of giving or receiving bribes
- 87- Principle of: Prohibition of usurpation and unlawful ownership of other nations' and states' properties
- 88- Principle of: Prohibition of the acts of terrorism
- 89- Principle of: Respecting and generosity towards the guest
- 90- Principle of: Prohibition of banishment and revoking the nationality
- 91- Principle of: Freedom of movement and cancellation of visa formalities
- 92- Principle of: Freedom of migration and domicile for all human beings in the world
- 93- Principle of: Obligation to concealment of the secrets

94- Principle of: Prohibition of inquisition into personal and private affairs of people

95- Principle of: Obligation for inquisition into performance of government officials, foreigners, enemies and crimes detection

Conclusion and Suggestion

After the establishment of Islamic community and while Reverend Messenger was in charge of community's management, in different occasions, where a new instruction was needed or a heavier punishment was felt necessary for a special crime, a revelation was inspired by Reverend Messenger. And at those situations where there was no ordinances revealed, Allāh had ordered the Messenger (S) to enforce the laws prescribed in Torah. **"The Torah, wherein there exist commandments of Allāh".**⁵⁹ And **"The Torah wherein there exist guidance and a light to judge by them"**⁶⁰ Whenever it was necessary other verses would be revealed and, as long as, they were not abrogated, the laws and regulations prescribed in Torah were enforced. Anyway, although Qur'an's verses have been revealed due to special occasions and relate to those periods of time but, in all occasions a general rule has also been stated that could be used in other instances. Therefore, it should not be said that some of Qur'an's verses are revealed just for that period, but it should be said that all Qur'an's verses are for all the times, which have been revealed in a special occasion. There is no verse in Qur'an that not to be advantageous for human beings in this age.

There are several principles that are referred to and enforced in international law. Although the aforementioned cases are propounded as new legal terms and seems to be novelties in Islamic jurisprudence, but

⁵⁹ Al-Mā'idah V, 43. التَّوْرَةَ فِيهَا حُكْمٌ مِنَ اللَّهِ.

⁶⁰ Al-Mā'idah V, 44. التَّوْرَةَ فِيهَا هُدًى وَ نُورٌ يَحْكُمُ بِهَا.

after a careful consideration over the subject we will realize that nearly all of the general principles of law, exist in Islam's legal system; and Islamic by approaching delicacy and tacting the said principles has its own special position towards them. As a matter of fact, international law, and public law have been less used and invoked in Islamic countries, than municipal and private laws that is why there is less improvement in these fields of law. Generally, the spirit of law-making in Islam is emanated from the moral perfection of natural law, which is easily deducible by reason and conscience. The individual's interest as egotism is not the objective of Islam, on the contrary, what is propounded is individual's interest as part of "Existence", and by deep thinking over the texts of these pages and other related texts⁶¹ we will understand this very subject which is highest value in Islamic law and this standpoint is the most essential distinction between statutes of contemporary world and Islamic law.

The conventional states in the world always make their foreign policy in such a way that in contrast to the other nations' interests could maximize their own national interests. In Islam, the terms of nationality and ethnicity as well as national and ethnic interests do not conform to the conventional

⁶¹ See:

- بیژن بیدآباد، مبانی عرفانی اقتصاد اسلامی، پول، بانک، بیمه و مالیه از دیدگاه حکمت. ۱۳۸۳.
<http://www.bidabad.ir/doc/mabani-erfani-eqtasade-islami.pdf>
- بیژن بیدآباد، مبانی عرفانی روابط بین الملل در اسلام، حقوق بین الملل عمومی، سیاست خارجی، دیپلماسی از دیدگاه حکمت. ۱۳۸۴.
<http://www.bidabad.ir/doc/mabani-erfani-ravabet-beynolmelal.pdf>
- بیژن بیدآباد، مبانی عرفانی علوم سیاسی در اسلام، سیاست، حکومت، ولایت از دیدگاه حکمت، ۱۳۸۸.
<http://www.bidabad.ir/doc/mabani-erfani-oloome-siasi.pdf>
- بیژن بیدآباد، مبانی عرفانی حقوق در اسلام، حقوق تطبیقی، نظام های حقوقی، حقوق جزا از دیدگاه حکمت، ۱۳۸۸.
<http://www.bidabad.ir/doc/mabani-erfani-hoqooq.pdf>
- بیژن بیدآباد، مبانی عرفانی حقوق اساسی در اسلام، فلسفه حقوق، حقوق فردی، حقوق عمومی از دیدگاه حکمت، ۱۳۸۸.
<http://www.bidabad.ir/doc/mabani-erfani-hoquqe-asasi.pdf>

definitions. Islam follows that kind of policy which secures the expediencies and interests of the whole humankind, and Islam belongs to all humankind rather than Muslims alone.

Diplomatic procedures in Islam are superior to material process of exchanging privileges. The Islamic government basically does not take other countries as the sources of acquiring profit. On the contrary, they will be taken as brothers and/or neighbors for establishment of relations. The brotherly and neighborly tasks are quite different from national and international mutual understanding and friendship as defined in today's world that are all based on martial concerns. Of course, the material things and economy are not precluded by Islam but they are not the main goal of relationship. In other words, material things and economy are used as means for spiritual and moral exaltation of the society and they are not used just for the welfare and bodily pleasures, in Islam. Whereas in international relations of global system, the attention is only focused on acquiring material things so that morality and spirituality are trampled down by economic concerns.

Undoubtedly, development of this approach needs more elaborations and as the extent of this research increases its results will have more publicity. Establishing an institution for research and compilation of public international law declaration with accession to libraries, international texts, reputable international consultants, distinguished scholars, lawyers, political experts, specialized translators of different languages and holding seminars for discussion and debate on the subject is a good step to elaborate the new international relations arrangements and order.

CHAPTER ONE

ISLAMIC PUBLIC

INTERNATIONAL LAW

Introduction

International law is a branch of law, which regulates the relationship between individuals, nations, and states in international arena. Public international law attempts to regulate and exercise rights over diplomatic and consular relations among states and formal relations of states with international organs, institutions, and entities. But private international law consists of a body of rules and regulations regarding the relations of citizens of different states with others and differences and conflicts of laws of nations and adjustment of these differences and settlement of conflicts among them.

In practice, public international law could not provide the necessary conditions with its current mechanisms. And perhaps one of the reasons that international law and its disciplines have been unable in this provision is that it got away from the law of creature and human nature. Thus, if new mechanisms based on common sense of human nature to be designed in such a way that not to consider the interests of countries unilaterally, might be able to take step into improvement of international relations in this period of human history.

In this chapter, our aim is to survey the subjects of Islamic public international law, and we have tried not to engage ourselves with the subjects of Islamic private international law as far as possible, because the latter needs a completely separate deal. In this chapter, we are focusing to extend Islamic jurisprudence decisions from a theosophical point of view over the field of international law. What the theosophy calls for, is that the reasons and secrets behind each order, should be the bases of its enactment. Therefore, by full understanding of reasons and spirit of Islamic laws we are going to extend these rules to the international law level.

The details of reasoning and Qur'anic, exegesis, dialectics and juristic debates of Sufi scholars have been written in a separate book, and in fact,

this chapter is a summary of its public international law chapter.⁶²

1- Principle of: General authorization for acceptance of "General Principles of Law"

There are several principles that are referred to and enforced in international law. Some of these principles are derived from general principles of law, which are common amongst all states and are recognized by all civilized nation's legal system. According to the Article 38 of The Hague Convection 1907 "... general principle of law which are recognized by civilized nations- i.e. they are parts of valid legal systems, and civilized nations have enforced them- are one of the independent and distinct sources of international law."

Some principles which can be named as parts of general principles of law read as follows: priority of international law over municipal law, priority of international treaties over law of the land, recouring to municipal courts before resorting to international courts, principle of unauthorization of submission of rights in excess of what one has in one's authority, equality of states sovereignties, principle of non-recourse to force, principle of peaceful co-existence, principle of binding force of obligations, principle of impartiality in adjudications, principle of payment of fees by losing party, principle of lack of jurisdiction over the actions brought to another court, principle of freedom of navigation on the high seas, principle of continuation of uncontested possession in establishment of right of sovereignty, principle of non-discrimination or equality of citizens of states in front of law. Some of the said general principles of law,

⁶² Bijan Bidabad, *Mystical (Sufi) foundation of international relations in Islam, public international law, foreign policy and diplomacy, a theosophy approach based on Islamic Sufi teachings*. Lap Lambert Academic Publishing, OmniScriptum GmbH & Co. KG, 2014, ISBN: 978-3-659-62906-8.

<http://www.bidabad.ir/doc/mabani-erfani-ravabet-beynolmelal-en.pdf>

with respect to the relations among the states are often mentioned in treaties and resolutions of international organizations. For example, the followings are a few principles that are invoked while bringing an action or during legal proceedings before judicial authorities, such as: principle of recouring to municipal courts before resorting to the international courts, principle of priority of international treaties to the law of the land, principle of continuation of government (state), principle of independence of states, which are common between municipal and international law.

Although the aforementioned cases are propounded as new legal terms and seems to be novelties in Islamic jurisprudence, but after a careful consideration over the subject we will realize that nearly all of the general principles of law, exist in Islam's legal system; and Islam by approaching delicacy and tacting the said principles has its own special position towards them. As a matter of fact, international law, and public law have been less used and invoked in Islamic countries, than municipal and private laws that is why there is less improvement in these fields of law.

However, while surveying every one of general principles of law, the distinct Islamic viewpoints will be considered as well. Generally, the spirit of law-making in Islam is emanated from the moral perfection of natural law, which is easily deducible by reason and conscience. The individual's interest as egotism is not the objective of Islam, on the contrary, what is propounded is individual's interest as part of "Existence", and by deep thinking over the texts of these pages we will understand this very subject which is highest value in Islamic law. This standpoint is the most essential distinction between statutes of contemporary world and Islamic law.

2- Principle of: Acceptability of statutory international law to the limited extent of conformity with Islamic Law

The statute law and international conventions are acceptable by

Islamic legal system as long as they are not in direct contradiction to and/or in conflict with the Muhammedan religious law. There are detailed discussions over this subject, which compare the international law-making viewpoints to the ordinances of Islamic law and consequently makes full assessment of their acceptability or non-acceptability.⁶³ According to article 38 of statute of International Court of Justice, sources and rules of international law consists of international conventions, whether general or particular, establishing rules expressly recognized by the contesting states, and international custom and general principles of law recognized by civilized nations and finally judicial decisions, and the teachings of the most highly qualified publicists of the various nations as subsidiary means for the determination of rules of law.

In Islamic international law, the above-mentioned sources, as a matter of hierarchy, are placed after religious law. At first, the primary Ordinances of Islam, based on Glorious Qur'an and Mohammedan religious law are acceptable sources of adjudication and arbitration. Other sources of law are placed at the next degrees. It is certain that, if secondary sources were not in contradiction to and/or in conflict with Glorious Qur'an, they would be liable to gain acceptability. The main criterion of comparison for sources of statutory international law is conformity with religious law.

As for the new legal institutions/affairs, we ought to take the standpoints of theosophy and apply reason to find out the conformity or contradiction of the subject to the ordinances of Glorious Qur'an. There are many detailed and certain conditions for this reasoning approach (for comparison), which are topics of other books.⁶⁴

⁶³ One of the most interesting researches on the subject is the book of "Religious standpoints on Universal Declaration of Human Rights" which presents positions of Islam, whether in agreement or disagreement towards the Universal Declaration of Human Rights. His Excellency Hajj Sultan Hussein Tabandeh Gonabadi. "Salih Library", 2nd ed. (1975).

⁶⁴ For detailed discussion on the subject see: Bidabad, B. and Harsini, A. (2003), Footnote continues in next page

3- Principle of: Acceptability of customary international law

Sources of law in different levels and divisions, more or less, consist of statutory (written) law, customs and judicial precedents, and even legal doctrines as well. Custom is set up by people during a long period of time and is recognized as an enforceable precedent by public conscience. Old and protracted usages and binding sense of public conscience in the society, makes definition and distinction of custom as legal term. In other words, custom is voluntary and continuous usage, which gradually is recognized as a binding rule in public minds. International custom also proves applicable by the same definition. It is a rule of law, which the states have enforced and observed in their relations during a long period of time, so that the common conscience of states believes then as enforceable.

Custom is also recognized as a secondary source of law in Islam. One of the distinct examples of acceptability of custom in Islamic law can be noticed in the law of marriage. As it will be pointed out later, there are some similarities between international law and the law of marriage. In both of them, guarantee for performance of contract and lack of guarantee to bind parties to perform their obligations to the conditions of contract are the same. Therefore, similar rules of procedure could be applicable for the said topics.

The aforementioned rule of law includes “custom” as one of the sources of Islamic law. We should admit that accepting “custom” as a rule, is not definite and indisputable, because it varies under conditions of

Religious-economic analysis of usury in consumption and investment loans and shortages of contemporary jurisprudence in finding the rules of religion legislator. Monetary and Banking Research Academy, Central Bank of Iran, (Farsi). <http://www.bidabad.ir/> and also: Bidabad, B. (2004), Economic-juristic analysis of usury in consumption and investment loans and contemporary jurisprudence shortages in exploring legislator commandments. Proceeding of the 2nd International Islamic Banking Conference, Monash University of Malaysia. 9-10 September 2004, (English). <http://www.bidabad.ir/>

beliefs and behaviors of states and societies. But it always exposes the standing beliefs in the society and at the international level, which this mode of subject is applicable in settlement of legal actions.

4- Principle of: Giving priority to forgiveness, benevolence and conciliation of hearts

Based on the Islamic teachings, in human relationships, whether municipal or international, forgiveness is always preferred to retaliation. As it is mentioned in Qur'an's verse of Retaliation, retaliation is authorized but forgiveness is preferred and has been placed more stress on it.

To find forgiveness preferable to retaliation, this evidence suffices that on the level of international relations, any evil deed that are perpetrated through foolishness or, the perpetrator looks suitably repentant to his action should not be responded. Because such actions will incite wrath power of some of the heads of governments who are weak in their mind and reason, consequently the flame of war starts and some nations will be burnt in it. The outbreak of many wars, throughout the history, was for the same reason, which has horribly affected several nations. It is worth mentioning that forgiveness and connivance should not lead to establishment of a breeding-ground for oppressors, which in this case the act is worse than cruelty. To find forgiveness preferable to retaliation is a kind of meritorious preference, which is not obligatory. The benevolent has his own choice to do it.

5- Principle of: Honoring the treaties

One of the most important subject matters discussed in religious laws of all religions, is “honoring treaties” which its explanation needs a long discussion. But it is sufficient to mention only a paragraph from Zoroaster’s book: “The Avesta” which reads as follows: “**The wicked**

promise-breaker destroys the whole country ... and his deed is the same as a killer of a pious man. Never break your promise, not a promise with a mendacious nor with a truthful, because both of them are called "promise", whether made with a liar or a truthful."⁶⁵

Concerning the said subject, there are many verses in Old and New Testaments. The Glorious Qur'an also has expressly stressed on the principle of international responsibility. There is an exception in the subject of breach of pledge and covenant, and it is when the adverse party does not honor his/her obligations.

Breach of covenant is also accepted in international law, based on the well-known principle of "*Rebus*" (*La regle rebus sic stantibus*). According to the said principle mentioned by Vienna Convention 1969, if there is a fundamental change of circumstances, upon which the agreement rests, the concerned party may unilaterally abrogate the treaty and consider it as terminated. According to article 64 of Vienna Convention, resorting to principle of "*Rebus*" should meet three requirements: First, the taking places of fundamental changes in the circumstances that the agreement rests upon, should be essential condition to the consent of both parties to the treaty. Second, the said fundamental changes, should lead to an essential change of commitments, and third, the main reasons for revision or abrogation of the treaty must be unpredictable in advance.⁶⁶

From the purport of Qur'an's verse, it is understood that in Islam stipulation of breach of contract (treaty) is based on the non-observance of terms of agreement of the adverse party. Therefore, resorting to the principle of "*Rebus*" and related three requirements is not sufficient for abrogation of a treaty. It means that according to principle of "*Rebus*" if the circumstances for making profit are changed, the breach of contract is

⁶⁵ Doostkhah, J., (1982) *Avesta*, Yashts, Morvarid Publication, Tehran, 3rd ed..

⁶⁶ Ghaem Magham Farahani, A. (1988) *International law to nationalize ...* Pajang Pub., Tehran, pp. 29-32.

acceptable, but Islam does not accept it as a circumstance for breach of contract. Because, as Islam is concerned, there is an implied principle in all treaties, which purports “advancement of humankind” vis-à-vis the unilateral profit. What is important in Islam is the benefit for both sides. In other words, there is a firm conviction in Islam that by changing the circumstances of a contract resulting to the reduction or loss of profit, the contract should not be abrogated and/or the obligations be cancelled.

Some international jurists have interpreted the requirements of principle of “*Rebus*” to definition of “*Force Majeure*”, and believe that by non-observance of principle of “treaties immunity” the world commitment towards the rights of states shall meet with disorders, because those states which don’t want to fulfill their international obligations, by misusing the said principle will bring disorder to the international relations and infringe the rights of the other states.⁶⁷

6- Principle of: Mandatory observation of formalities of contract

There are positive and detailed orders concerning the manner of making contracts in Glorious Qur'an that will suffice us and puts forward this particular idea that, to prevent the international disputes, which emanate from the vagueness and obscurity of various international treaties, we have to make necessary arrangements to predict all disputable and indisputable issues and clearly insert them in the treaties to remove the causes of international differences. On the other hand, such precautions would result to the smooth activities of citizens of nations within the realm of private international law.

⁶⁷ See: Abd-el-Kader Boye, Serie "Tiers monde en marche", Tome 3-L'acte de nationalisation, Berger-Levrault, les Nouvelles editions africaines.

7- Principle of: Doing justice

Prior to entering into the detailed discussion of this section, it seems advantageous to have a general analysis over the purport of justice. According to different school of thoughts, justice has various and distinct meanings.⁶⁸ They are so different that justice in one school seems to be cruelty (injustice) in another one. Different ideologies while dividing equal rights among individuals are mostly involved in deviations resulting from their ideological inclinations. This discussion needs a long and detailed description but the general idea of the case is that, whenever the mankind as a whole has become the focus of attention, justice is inclined towards impartiality in ideology, but when the qualities of human beings is taken into consideration, justice is inclined towards the concerned qualities. Justice is generally defined as: "to place things in their right position". This definition is taken from the opposite meaning of cruelty's definition.⁶⁹ In the humanities, the issue of "placing things in their right position" is very complicated problem, which cannot be solved so easily. If the position of justice is fair allocation of economic resources, then justice takes the meaning of "optimum allocation of resources", which is known as "Pareto optimality" in microeconomics, and the well-known Euler equation defines fair distribution. If we were looking for just and fair position in the realm of society, the concept of individual's values and his efficiency would be our concern, which is not known to have unique optimal solution. When justice is discussed as a legal subject, it means exercising the sovereignty of law over all individuals equally. Even if the law were fair one, the application of justice would be ruled only over the subject matter under consideration and would not include all aspects of the right. When the meaning of justice, within the scope of individual and/or social psychology is under

⁶⁸ See: Otfried Höffe, *Politische Gerechtigkeit*, 1995.

⁶⁹ In the exegesis of *Bahrul khezam*, Seyyed Haidar Amoli, vol. 1, (1989) pp. 402-409, this definition has been cited.

consideration, we would find out that there is no basis to adjudge the feelings, affection, and love of humankind. Anyhow, capability of attaining partial justice in all fields of studies depends on "human justice". Whereas, the general and full justice is related to the nature of the creatures and on the basis of their particularities all over the world, which is under the influence of their creator's justice. Therefore, the individual is the basis for understanding and interpretation of partial justice. In order that an individual be capable of adjudging fairly the interpretation of partial justice, he should necessarily have obtained "justice" within himself, that is to say, the concept of "The Just" must be stationed in his whole existence. The consequence and result of the aforementioned discussion leads us to this point that just and righteous persons are only prophets, Divine Guardians, and Divine Executors. They are the measuring criterion of justice. Their words are law, and evaluation and adjustment of justice. Justice becomes an objective manifestation through the existence of their Holiness. It is due to the light of their beings that line of justice is determined and demonstrated.

In other schools of thoughts, even in Marxism's points of view, there is always a philosopher imagined who is appointed as the head of society and it is supposed, he can be the criterion for settlement and adjustment of arisen problems within the society. However, in all religions this criterion is the appointed agent of God, who is prophets or Divine Guardians and/or Divine Executors. They are the ones who are criterion, because "The Just" is invested with their beings.

In any case, doing justice is the tasks and missions of Divine Prophets, Guardians, Executors, and their Agents. These tasks and missions can be observed in several Qur'an verses which His Holiness The Prophet is ordered to persevere in his tasks, and even it is emphasized that if his orders were not admired and favored by the parties, however he should

observe and do the justice.

The task of adjudication and arbitration with Justice and impartiality, which is the duty and obligation of prophets and divine guardians and divine executors and the believers, is common for all groups and nations and there is no preference between parties to the dispute.

Glorious Qur'an assesses that the objectives and goals of prophets and revelation of the scripture and Balance is that the people behave and deal with equity. There is a general indication to the words "prophets", "scripture" and "Balance" and the word "people" includes all people around the world and comments on the formalities of diplomatic procedures as an illustrative of justice and equity among all nations of the world. It should be added that the principle of "doing justice" will not be even dispensed with while dealing with enemies.

There are numerous topics concerning the delicate attention of Islam to the principles of adjudication and observation of justice and equity while rendering a judgment and also behavior of judge during the trial, in Islamic law books.

Strict observance of principle of "doing justice" in international relations indicates this very fact that sending messengers and appointing prophets have not been for acquiring economic gains. No prophet has been appointed just to improve and enhance the interest of his own folk. Therefore, the purpose of Islam's government would not be only gathering wealth and property,⁷⁰ especially acquiring and confiscating other nations' rights. So, contrary to prevailing international attitude that each state is looking for manipulation of others' rights and joining them to its ownership, the Islam's government never follows such on end. The main objective of Islam is spiritual-physical transcendence of individuals of

⁷⁰ Bidabad, Bijan (2006) Expenditure in Islamic public finance. Monetary and Banking Research Academy.

humankind as well as their communities. So that Islam shall pursue continually the principle of "doing justice" in international scene. Because its national interest is bound on the same direction as others' national interests. All states consist of human beings and the final goal of Islam is improvement and guidance of all human beings, no matter if they are living in this side of the border or in the other side.

8- Principle of: Imposition of punishment, based on substantiation of the offence

The imposition of punishment in Islamic religious law will be admissible, just while the commission of unlawful acts is definitely proved. Therefore, punishment of unlawful acts shall be only authorized, if their perpetration is certain.⁷¹ As a general rule, and according to clear Quran's verses "conjecture" has no room in substantiation of the right.

In the history of Islam while describing the assassination of Commander of the Faithfuls Ali (A) it is written that His Holiness was told Abd-el-Rahman-ibn-Moljam has a criminal intent to kill you, so that let us arrest him. Ali (A) answered: "He has not committed any criminal act yet to be an excuse for his detention". Such a statement and also his conduct after assassination is the best guidance for all Muslims in similar cases.

This rule is thoroughly applicable in many international relations' cases such as: putting forward some excuses for waging war⁷² against other states, malevolence against other nations, confiscation of their properties, calling their governments as wicked or terrorists, and making them to go through hardship. Even in some cases, they have attacked an airliner just

⁷¹ His Excellency Hajj Sultan Hussein Tabandeh Gonabadi, Religious standpoints on Universal Declaration of Human Rights, 2nd ed. (1975), Tehran, pp 53-54.

⁷² For example: the Nazi Germany by designing such a kind of plots attacked Poland and started World War II, which is mentioned in the books of international relations. Look at public diplomatic history.

for a bare suspicion that it might have been a military aircraft or a fighter. This kind of cases, due to their conjectural conditions and uncertainty for perpetrating a criminal action cannot be used as justification for a counter attack. For example, we cannot attack an airplane just for this probability that it might be a fighter. Therefore, the Islam's government has no right, just the same as other aggressors, to propound conjectural excuses, for taking hostile policies at international scene. The Islam's government is only authorized to take such kind of measures when the commission of the crime is proved to be certain.

9- Principle of: Equality in law

Construed from the principle of "unity" and principle of "human beings dignity" it is easily understood that no one of us is superior to the other one. We are all creatures of unique creator and children of one Father. Our nation or tribe is not the reason for our superiority. The only distinction between an exalted person and an ordinary person is performance of pious duty towards Allāh whose criterion rests with Allāh and no other criterion is left for people to measure it. On this basis we can take it that all persons are considered equal by law and there is no difference between an internal accused or criminal or the subject (citizen) of the state and/or foreign accused and criminal having foreign nationality. With regard to the principle of "respecting the guests", it would be preferable if there be a mitigation of punishment for a foreign criminal as compared with the punishment of municipal criminal, because he/she is a guest and respecting a guest is an Islamic as well as Muslims' duty. The equality of municipal and foreign national can be extended to the political considerations, and principle of "truthfulness in international relationships" makes it obligatory to remove all and every political considerations".

From this Qur'an's verse, it is inferred that there is no difference

between people and it is meritorious to obey Allāh, and Allāh's ordinances are superior than the interests of one of the parties to the disputes, and no matter, who the parties are, and whoso their relationship is, and how is their wealth, there is no difference between them. Obeying God's ordinances, namely doing justice and equity between the parties is a meritorious conduct and superior than every thing.

Performing this principle shall cancel the principle of capitulation in international law. As it will be discussed later, there is no difference between people in regard to legal aspects, save those cases where the Holy Legislator of Islam has recommended for persuading people to convert to Islam. The spirit of this approach has its own issues in international law that reject and condemn political considerations in international judiciary.

10- Principle of: Continuity of states

This principle indicates that by changing the government of state, there would be no change in sovereignty over territory of the state. Although this principle is accepted by international law and is invoked in practice but there are some defects and shortcomings in it.

From Glorious Qur'an it can be inferred that if the previous governments have made unacceptable treaties with other state, then by changing the government these treaties should be ratified again at their validity, be reduced, or be cancelled. Because the acts and thoughts of the people who lived in the past shall not impose any obligation on those who live in the future. An exception to this rule is the debts of a deceased, which shall be transferred by inheritance to the heir. And if the debt of deceased is more than his wealth and property then this debt shall not be transferred to the heir. This ordinance is based on Qur'an and intellectual reasoning.

This matter is propounded as a new subject to be open for discussion. But it should be noted that according to all divine religions as well as

Islamic tradition, the successors (subsequent Caliphate) should ratify all enactments of previous one, otherwise they will be considered as invalid. If we extend this subject to the principle of continuation of states at the level of international relations, new discussions would arise from the standpoint of public international law. In this regard, the correctness and validity of treaties, especially those that has change the borders of some states and sovereignty over a specified territory, which is taken from a state and given to another state, shall be the subject of the concerned discussions.

11- Principle of: Prohibition of abusing the rights

Whenever a state causes damage and inflicts injuries to another state, by exercising unlimited power, the international court of justice is able to prevent the actions by taking advantage of the rule of "abuse of right". In other words, the states have no right to invade the other states, especially the powerless states pretending that they are exercising their own rights. This principle is accepted and is in general use (current) in international law. This case is similar to misappropriation of orphan's property, which is stated in Glorious Quran. Because an orphan, being similar to powerless states, is not able to recover his rights and there might be occasions that the guardian of a minor attempts to encroach on property of the orphan, the same as invasion of colonials to colonies, which are under their influence at international level. There are several verses revealed in Glorious Qur'an about this subject that the principle of "prohibition of abusing the rights" can be construed from them.

The resemblance between these two subjects encourages the following method of procedure. If you are decided to exploit a powerless country, so with consent of the said country and in fair and just manner, apply for its annexation. In this condition, what happens is the ownership of the powerless country, consequently the severity and hardship of exploitation

will be reduced, and you will not deal with it as colony. Anyhow, due to condition on the ownership, finally, the weak and powerless country gains its strength and economic maturity and in this case, all its authority and power will be returned to it.

There has always been this kind of bribery in the politics and there exists now, and there will also be in future, in such a manner that some countries through subornation of government of weaker countries, take the latter's property into their possession wrongfully. In any case "devouring the property wrongfully" in the national and international scenes is forbidden in Islam

12- Principle of: Prohibition of causing harm

Causing harm in the said principle means to cause a loss, injury or harm to others. There is a well-known rule in Islamic jurisprudence which is called "the rule of prohibition of detriment". According to this rule, an individual has no right to cause harm to others just for recovering his own rights. That is to say, "exercising one's right" shall not be a means for causing harm to others and/or used against others' and public interests. This rule is based on pure reason, although there are also several religious narrations in this respect,⁷³ narrated in brief successive transmission (its subject matter is narrated in different wordings). What the reason commands is that the actions of a person for recovering his rights should not be to the detriment of other persons. In Islamic jurisprudence, obscenity of harm and causing harm is based on the rule of "cases independently accepted by reason". According to this rule, there are some cases that the reason accepts them without argumentation or logical reasoning. Undoubtedly, the cases independently accepted by reason, which is mentioned in Islamic jurisprudence are relative matters, and in different

⁷³ Al-Kāfi, 5, 280, chapter "pre-emption" p. 280.

conditions, they might be contradictory to each other. Because “rational decency and obscenity” can be contradictory pertaining to part or whole. For example, sometimes the performance of an action might be of benefit for an individual but against the interest of many other persons. The subject is related to the rule of: "reasoning through exigency" and the rule of “blocking the detrimental means” that we will consider it later on. But general meaning of this principle, which is under consideration, is that, in principle, one, for recovering one's rights should not act in a way that leads to detriment of other persons.

This principle has varieties of applications in international law and relations among states. For instance while a state is at war with another one, it has no right to use the territory of the third state for recovering its rights. And it should not encroach on third state's sovereignty and/or perform any action to be detrimental to the third state. A set of clear examples of this kind of actions can be noticed in World War II. For example, British and Russian armies, from Allied Forces, invaded Iran from south and north to fight against the United Forces.

There are so many problems that can be included in this topic, such as common borders between states whether territorial, sea or aerial borders. This principle is to such an extent in international scene that covers many infringements of rights of powerless countries by different states in their relationship.

13- Principle of: Presumption of innocence

The concept of “presumption of innocence” relates to the cases where there is a doubt about the enforceability of order, and we want to be certain that we are not bound to perform it. The position of “presumption of innocence” and its application is where, there is a doubt in one's duty. “Presumption of innocence” is different from “principle of non-existence”.

In this regard, the basic conception is “non-existence” of “things” unless its existence is proved. For example, the rule of “burden of proof rests upon claimant and the oath upon one who denies” is based on this principle. It means anyone who alleges to have a right, he should prove it, and “presumption of innocence” is also different from the “principle of permission”. The basic conception of the latter is, while there is a doubt about permission or prohibition of something, the principle stands on the permission. Doubtfulness, suspicion, and validity of innocence on their applications need profound discussions, which can be found in the books of “the principles”.⁷⁴

In the noble book of Salehyeh, it is stated that “principle of non-existence indicates there is no need to prove, but, not to prove the non-existence. And presumption of innocence does not make innocence. Principle of negation negates the essence and cannot prove the existence, and principle of *status quo ante* is executed on the cases where the individuals and conditions are different, and in case of validity, shall bring excuses but cannot confirm a rule”.⁷⁵

“Presumption of innocence” can be inferred from several verses of Glorious Qur'an. That is as long as the ordinances are not communicated, their non-performance shall not impose any punishment by the Almighty God. And many verses indicate that obligation will exist after competence and legislation. Although the question of capability is, separate from “presumption of innocence” but capability is its base and foundation, because as long as a person is not capable or competent to be under the coverage of an order, he/she is not able to cast doubt on obligation, which

⁷⁴ Principles such as “principle of permission” and “principle of non-existence” with small differences are similar to “presumption of innocence”. However, we are not going into differential niceties between them, and “presumption of innocence” is our main topic to be discussed here. See Muhammadi, A., (1977) pp. 215-224.

⁷⁵ His Excellency Noor Ali-Shah the second, Salihiyeh, 2nd ed. Tehran University Pub. (1967), Haqiqat 379, p. 257.

is the way of application of “presumption of innocence” as mentioned above.

This principle with respect to religious characteristics of Muslims is very important in the international arena. Since, Muslims always think because of having the blessed name of Reverend Messenger on them, they have special superiority and human dignity over all nations around the world. And sometimes it has been observed that due to foolish fanaticism, they not only have excommunicated followers of the divine religions as well as the followers of other Islamic sects but they have also fought against their fellow brethren. Most of wars between Islamic countries shall confirm this matter. This principle makes the Muslims to understand, if there has been some enactment for them, it should not be the ground for self-glorification with all other nations in the world.⁷⁶ Because no obligation has yet been imposed on them and acts or omission are both equal for them. But it is not the same for Muslims. Those who know have heavier burden of performing their duties on them. In other words, there is no room for superiority and self-glorification of Muslims over non-Muslims, on the contrary, Muslims should do their best to perform their obligatory duties.

In international law as well as statute law, the “presumption of innocence” which is based on the principle of “*nulla crimen sine lege*” is capable of being used in the vast majority of cases. According to the

⁷⁶ Some people through interpretation of Quran's verses of “... and Allāh will not give the disbelievers any way (of success) against the believers” Al-Nisā 141. And also others by invoking several verses from Old Testament and New Testament think their nations are superior and preferred from the rest of the world, which is a wrong idea. As we will see in other parts of this book being related to a religion is not a good cause for superiority and self-glorification. Now we are going to ask a question from those who are related to a special religion: Who are the best people? Are Muslims the best people who killed and maimed the children of their honorable prophet in Karbala? Or Jews and Christians who used to kill the new prophets? Obviously none of them can be considered as the best people. Therefore, there is no glorification and/or superiority over other people.

principle of “*nulla crimen sine lege*”, no act can be named crime unless, by virtue of law, it is called a crime; and “presumption of innocence” is in accordance with this principle. Therefore, if somebody claims to have a right of claims for a debt, he should prove it otherwise according to this principle the case results to the acquittal of defendant/respondent.

The most important reason of validity of acquittal is the reasonable rule of “shamefulness of punishment without declaration of law”. Reasonable rules do not pertain exclusively to our religion or law or special state or nation. The time and place has no effect on them. For example the reason takes the oppression as an obscene act, and this subject is not exclusive for a special country and the time and place does not either affect on it. For this reason, "presumption of innocence" is the result of a clear understanding of wisdom and can be applied in customary international law.

14- Principle of: Blocking detrimental means in international scene

“Zara’yea” is the plural of “Zar’i-eh” an Arabic word with the meaning of "the means". Some people are of the opinion that every kind of actions, which usually leads to a detrimental situation, should be prohibited and blocked according to the aforementioned principle.⁷⁷ For example, freedom of transit and transportation of illicit drugs from a foreign country through a second state for a third country, even though there might be a freedom of transit of goods of second state, nevertheless, because the transit of drugs will cause damage to the third country, therefore the second state has to block it. In other words, the second state should “block detrimental means” namely transit of illicit drags to the third country.

In addition to this verse, the said principle is also based on other

⁷⁷ Mohaqqeq Damad, M., “Principles of Islamic jurisprudence”, vol. 2, 9th ed., (2000) Islamic Sciences Pub. Center.

Islamic precepts, and the reason will confirm it as well. As it was mentioned earlier, advancement and elevation of humankind depends upon the advancement of every individual of human beings and if the corruption spreads in a country, other states will also be damaged. It is one of big mistakes of people who always mistakenly have separated their individual interests from the interests of world and humankind.

15- Principle of: Exclusive right of “juristic preference” for The Divine Master of Affairs and Authorization

“Juristic preference” is one of the most disputable arguments in Islamic jurisprudence and statute law, which its validity differs between different Islamic sects and is a case open to altercation. “Juristic preference” means to consider something as being good and admirable, therefore approving it. Islamic jurisprudence in different sects gives different definitions of it. By observing several practical examples of “juristic preference”, the following definition might be briefly presented. “Juristic preference” is issuing a rule, which is approved due to its excellence and practical advisability, by taking its expediency for ourselves and the others into consideration. Those who oppose this definition are of the opinion that if the topic of “juristic preference” be open to act upon, everybody would issue a rule covering his own interest and in accordance with his wishes and desires. Therefore, the base and principle of precepts and laws would be into total confusion.

In Glorious Qur'an,⁷⁸ “juristic preference” can be clearly observed in the behaviors and deeds of KHidr (A). None of his deeds as, piercing a hole

⁷⁸ Some people believe that the actions and deeds of KHidr (A) are based on knowledge rather than “juristic preference”. This is a correct idea, because KHidr (A) had foreknowledge, and his “juristic preference” was based on his foreknowledge. For this reason, the principle of “juristic preference” exclusively belongs to those who have foreknowledge. They are Divine Authorized persons and “Master of Affairs”.

in the ship, killing a child, and repairing a fallen wall, which belonged to cruel persons, were in accordance with ordinances and laws of any religions. This kind of “juristic preference” exclusively belongs to those who are bestowed foreknowledge. It is not concern of anybody else.

In the event that "juristic preference" not to be under the control of “Master of Affairs”, certainly the individual and national interests make the border line between nations get more intense, therefore instead of taking the mankind’s interest into consideration, with respect to the excellence and admirability of matters, the efforts will be focused on a special nation's or persons' interests. As a matter of fact, in Islam's government all decisions and orders are under the control of “Master of affairs”. This matter was only mentioned here to make it clear that not everybody is entitled to issue rules, juristic opinion and/or make policies. Because, it was due to this claimed entitlement that after demise of our Reverend Prophet, the path of Islam was changed towards the present situation. To describe this subject in detail, suffice it to be noted that even the Reverend Prophet was not entitled to state anything without permission of Allāh, still less to issue a juristic opinion. As it is stated in Glorious Qur'an about the story of cessation of revelation⁷⁹ for forty days there was no revelation and after that period time verses of sūrah of Al-Kahf were sent down.

16- Principle of: “Reasoning through exigency” in international relations

Islamic law rules are based on virtue and vice (goodness and corruption). “Istislah” (reasoning through exigency) as an Islamic jurisprudence expression has the meaning of “free virtues” (comparing with

⁷⁹ Although, some commentators believe that this happening is due to not excepting by “If God will” (*Ensha'Allah*) but it can be also used in our present discussion. For interpretation of the said verses, see: His Excellency Hajj Sultan Hussein Tabandeh Gonabadi. Glorious Qur'an and Three Mysterious Mystical Stories.

controlled virtues). According to this expression, while considering different issues of “The principles”, “Islamic jurisprudence” and “Law” the policy is that decisions taken should be based on free virtues, because there is no specific evidence to their obligatory observance and/or their prohibition.⁸⁰ On this occasion, the rule of “Istislah” (reasoning through exigency) orders the performance of actions, which are to the interests of humankind. With respect to the most important objectives of religious law, the interests of humankind are summarized into “five goals”, of religion, soul, reason, generation, and property. Therefore, on this basis, the rule of "reasoning through exigency" on the international scene is engaged in issuance of decisions and adoption of policies, which are to the interest of two, or more states engaged consequently and in all, the interest of mankind are taken into consideration with respect to the aforementioned “five goals”. Although, the rule of “reasoning through exigency” covers nearly a small amount of decisions in traditional Islamic jurisprudence, but on the international scene and international law shall have a vast range of applications, and Islamic international law rules shall gain a global acceptability, because they will be issued according to the rule of “reasoning through exigency” rather than the basis of their religious jurisprudence in Islamic jurisprudence. That is to say, acceptability of Islamic law rules by other nations and states are not due to their belief in Islam rather to taking their own interests into consideration, the Islamic rules shall be desirable and acceptable.⁸¹

The aforementioned rule just the same as principle of “juristic preference” is restricted to some limitations, which the most important one

⁸⁰ Muhammadi, A. (1977) “Principles of inference in Islamic law”, Tehran University Publications, pp. 104-170.

⁸¹ For example, there was no legal institution of divorce in Christianity, and Roman government always refused to accept it but the said legal institution was finally taken from Islamic law and consequently it was ratified. Due to the newly accepted law, at the same day nearly fourteen thousands Italian couples were divorced.

is “Authorization”. This limitation is for this very reason that by application of the said rule, the virtuous rules not to be changed to the vicious rules and vice versa.

17- Principle of: Observing “International status quo ante” “providing the right is lawful”

The literal meaning of *status quo ante* (Istis'hab as an Arabic term) is to have with oneself and to accompany with. In Sheikh Ansari Treatise “*status quo ante*” is mentioned as “retaining what has been before” which means to assume the existence of what has been previously known to be existed. Therefore, if we are certain that something has been existed previously and now we are in doubt about its existence, on the basis of our previous certainty we will assume it to be in existence. To describe it in legal terms, it should be noted when it was proved that there existed a debt or right on somebody, so that, on the basis of this principle its existence should be assumed unless it is proved to the contrary. The elements of “*stats quo ante*”, validity, kinds, conflict with other evidences such as acquittal, precaution (indebtedness), right of choice, principle of correctness in acts, principle of irrevocability of contracts, presumption of possession, confession, and/or other kind of “*status quo ante*” they are all important discussions about the said principle that we are not going to consider them in this section.⁸²

This principle has its special place in Islamic international law. Because introducing the Islamic international law a new set of rules enter to the world's scene and these rules will introduce new approaches to all problems. It is obvious that new approaches cast doubt on most earlier orders, which are under execution. Principle of “*status quo ante*” in case of

⁸² See: Muhammadi, A. (1977). “Principles of inference in Islamic law”, Tehran University Publication, pp. 229-245.

existing an established right will authorize the existence of what there has been once existed providing that the right is lawful.

18- Principle of: Non-retroactivity of statutes

Legal expression of “non-retroactivity of statutes” signifies that effect of a statute cannot be extended to the previous rights of individuals, organs and states, which have been acquired prior to the enactment of law in question. By non-acceptance of the said principle, the private life and social life of people would be in jeopardy, because it is likely that, at any time, a new law be enacted and consequently people rights being called into question. Therefore, observance of this principle constitutes one of the based and pillars of the legal systems of civilized nations. This principle has also been taken into consideration by Islamic legal system.

The application of this rule to the international relationship will result in the stability and security of legislation in the global scene. And this stability would be an effective means of social and economic growth and development of all nations in the world.

19- Principle of: Continuity of uncontested possession

This principle shall establish the right of sovereignty. For example, when a country has in its possession a special part of a territory for a long period of time and there is no other state to have an allegation over the said territory, this long time uncontested possession establishes the sovereignty of the said country over the possessed territory. This principle is in a way the same as “acquired rights” and/or “*status quo ante*” which leads to the lawfulness of maintaining what is existing. As it was mentioned earlier, lawfulness of the “continuity of uncontested possession” being similar to the principle of “acquired rights” and “*status quo ante*” is based on lawfulness of the rights as well as not to be usurpative possession. In this

case, it would be confirmed by Islam.

This principle is an illustrative of this particular subject that Islam's government will recognize the usurpative sovereignty of the states within their territory. Exceptions of this rule will be discussed in the principle of recognition of the states.

20- Principle of: Remunerating the rightful attorney and punishing untruthful attorney

Attorneyship is one of the most important subject matters and effective means for recovering one's rights or even perversion of the truth. Having a pessimistic view of attorneyship, it is a profession which an attorney in law by receiving the attorney's fees from his client tries to introduce him as rightful and entitled to the case in front of the court, whether his client be in rightful position or having no right at all. This attitude towards attorneyship is most regrettable and Glorious Qur'an rejects this kind of attorneyship. Glorious Qur'an enjoins being helpful and giving assistance in benevolence and pious duty and prohibits assistance in commission of sin and transgression. Untruthful attorneyship, which means an attempt for predominance of untruthfulness over, righteousness, is similar to accessory of a crime (aider and abettor), therefore to bring the legal proceedings towards its righteous path, the accessory should be assumed as partner in the punishment imposed on criminal. We believe that an attorney should not only defend his client's case but he should do his best to cover the rights of the one who is entitled to it. Of course, there are some exceptions to this matter. Because, most of disputes arise from various interpretation of law by parties to the dispute and their attorneys.

Attorneyship which is a type of intercession and mediation, comes under the concepts of this Quran's verse, therefore if an attorney attempts to recover the rights of a righteous person, he would be entitled to receive

attorney's fees, but if his efforts concentrated towards winning the untruthfulness, then he has to be punished as an accessory to the crime. It is obvious that, enforcing this procedure will lead the attorneyship to a just adjudication and honestly assistance of the attorney to the court, consequently reducing the corruption in this profession.

Discussion about this subject matter with some exceptions can be extended to international law. But in the international scene, the attorneys are representatives of their related government and punishment of accessory to the crime cannot be easily imposed on them. Because, the punishment is so great that an attorney cannot bear it. Anyhow, for leading the international attorneyship towards honesty we have to innovate new ideas in international law. Consequently, the humankind would be secured from the opportunistic behavior of criminals who by taking advantage of services of attorneys try to infringe the rights of others.

21- Principle of: Ignorance of statute law is a good excuse but ignorance of natural law is no excuse

The legal expression of “Ignorance of law is no excuse” has a vast application in domestic law. On this basis if a criminal claims that his criminal acts are due to ignorance of law, his negligence to get acquainted with law shall not remove his culpability. This principle is adopted to bar criminals abusing “the ignorance of law” as means to their ends, and also to encourage other people to get acquainted with the statute law of the land as well. On the other hand, it results the infringement of rights of those who have really been unaware of the statute laws. For this reason, we have to draw distinctions between statute law and natural law. Natural laws concern all those crimes, which the conscience of any person will admit them as being a crime, such as, oppression and cruelty, infringement of other's rights, theft, transgression, and so many other cases, which

everybody knows them as a fault, or crime. There are many people who do not know that to build a storeroom in the parking area of their houses need to obtain a license from municipality. Or there may be some people who are not aware that in some days of the week they are not allowed to take their cars into a special area of the town. All these regulations are the examples of statute laws. And too many other examples of these two groups of law can be named here. Natural laws are based on general rational rules and do not belong to any especial religion, legal system or state. Time and/or place do have little effect on them. They will be approved by conscience and are enforced in all places. Therefore, a criminal, to exonerate from criminal liability, cannot resort to his ignorance of law and also he cannot recourse to the rule of “shamefulness of punishment without declaration of law”. For instance, he cannot claim that he did not know theft, oppression or transgression were vicious acts. But, with respect to the statute law, it is somehow different. The delinquent may argue that he is a stranger in the city and was not aware that traveling into city center by car, during a specific time is prohibited. Therefore, he resorts to the rule of “shamefulness of punishment without declaration of law” as a self-defense. The latter rule is a rational one and rational rules are the basis of distinction between right and wrong. Negation of the said rules results to the negation of rights and/or basically negation of adjudication. So that, it is not rational that a person who is not aware of a crime to be punished accordingly. The order of Glorious Qur'an about natural law is clear and definite. It can be construed that ignorance of natural law is no excuse, but ignorance of statute law is no excuse if the law is not communicated to the criminal. Prohibition of usury is one of the clear examples of the case.

This principle is also extendable to the fields of international law. Because the subjects and nationals of various countries are not fully familiar with the statute law of the other countries. Therefore, by non-

observing the statute laws they are entitled to mitigation of punishment. For instance, the main parts of the administrative and civil law of the countries are included in this category which these foreigners who enter a country are not familiar with them, perhaps it is necessary to inform entrants, foreigners and tourists who enter the country. Of course, we have to find a suitable method for explaining these laws to them. Otherwise, most of entrants might be prosecuted for their acts and omission, which are crimes according to the statute laws, whereas they have not really been aware of the said laws and reasonably, they are not liable to punishment. International law has been silent on this subject matter so far. Therefore, to maintain the rights of the persons who are not the native in the place, the case should be open to discussion until governments think it over and make new solutions for their benefit.

22- Principle of: Respecting acquired rights

“Acquired (or verted) rights” are those which is not naturally bestowed to man, but it is acquired through his own efforts. For example, sovereignty right is among the cases of this principle. According to Article 38 of statute of International Court of Justice, the said principle is considered as one of the sources of International law for settlement of disputes. Rights and privileges gained by lapse of time is one of the cases of "acquired rights" which is resulted from this principle. Principle of “*status quo ante*” in Islamic jurisprudence as per definition given by Sheikh Morteza Ansari in his Treatise is “retaining what has been before” which means to believe the existence for what has been existed in a previous time. This definition opens discussion about the “acquired rights”. Although the aforementioned definition reveals some differences between “*status quo ante*” and “acquired rights” but since both of them consider the previous privileges liable to be existed, they are in this case similar with one another. The same

as “*status quo ante*” which there has been raised doubts about its validity; there are also some doubts about approving “acquired rights”. In Islamic jurisprudence, these doubts are cast with respect to the unlawfulness of the right and/or usurpative possession of right, which in case of removing all doubts; the said principles will be valid. Anyhow, in the realm of public international law, acquired rights relates to the various problems of sovereignty right, which is the main issue in the international law. There are several examples on this subject matter in Glorious Qur'an.

23- Principle of: Authority of res judicata

The meaning of this principle is that while a matter of dispute is adjudged by competent jurisdiction and final decision is announced, this judgment is final for parties to the dispute, therefore there should not be another prosecution for the same allegations. This principle has also an assured and suitable position in international law. In Islamic legal procedure, examples of the said principle can be found.

It is a rule in domestic legal proceedings that when new evidences are acquired indicating discovery of truth, then it will be a ground for rehearing the case. This rule can also be used in international law.

24- Principle of: International responsibility

One of the clearest cases in international law discussions is international responsibility. That is to say, when damage is caused by actions of a state, it has the liability to compensate it. This subject matter is also extended from public international law to private international law; therefore, liability will be extended to the nationals (citizens) of state. In this case, it will be one of the topics of diplomatic protection, which in regard to present discussion is very important. The range of topics of diplomatic protection develops up to capitulation, which defines other

aspects of responsibility in international relations. This kind of responsibility is related to the importance of protection issues, and as a rule, it is different from definition of international responsibility, but because diplomatic protection is within the scope of responsibility's subject matters, therefore this subject is placed under this topic. The topics of international trusteeship are also next to the scopes of this discussion.

The topic of international responsibility within international relations is so developed that if a state authority be contemptuous of or shows lack of respect towards another state he is bound to apologize in public and openly. Even his removal from his position is predictable. The details of these issues are mentioned in international law and the statute of International Court of Justice.

Discussion about the state of responsibility has been ranged from the scope of fault to the domain of culpability. But since, proof of liability within the scope of culpability is very difficult and it is capable of being misused, therefore it is facing some limitations. On the other hand, there are several topics on lawfulness and/or unlawfulness of the actions with respect to the municipal law, injured party's law and international law, which all of them have their own particularities in various subjects.

Sometimes, laws of liability are not capable of being introduced in serious international issues, and even if they be introduced, there would be too many doubts about their sanctions. Too many issues, which are related to the war of aggression, especially those caused by aggression of super powers, are included in this category. On the one hand, the perpetrators of these actions and aggressions are those who are political or military authorities of states. And even if they stand trial for their war crimes at the end of war, they would have only one life to be retaliated. Whereas they might have caused too many people being killed. On the other hand, in cases where damaging state is not prepared to compensate the damages

caused, the injured party has no right to resort to force or war for retaliation. We have to mention again that all these occasions depend on the powers of the parties to the dispute.

Crystallization of this principle can be observed in Islamic law under the topic of “blood money”. In Islamic jurisprudence, blood money is used for compensation of damage caused to infringe the others’ rights. Since, political borders in Islam have not been so defined to separate human beings from each other, therefore infringement of rights of individuals and peoples of other nations, are the same as infringement of rights of individuals and peoples of Islamic nations, and blood money can be imposed on them. The vast range of blood money, which covers various infractions and wrong doings, including faults and culpabilities as well. On the basis of Islamic regulations even if the actions of a person frightens another person there exist a blood money for it. And if the frightening of the other persons causes material, spiritual and/or corporeal damages, the blood money changes as the case might be.

If the person adjudged to pay damage (losing party) is not able to pay the imposed blood money, then, Islam's government is bound to recover the rights of both parties, and pay the blood money to the injured party out of public treasury. Topic of “Third party guarantee” which is the promise of a person to accept the damage caused by another one is not included in this subject, because “third party guarantee” is based on optional responsibility, whereas "blood money" is based on obligatory responsibility.

The rule of retaliation is by itself a clear explanation of accepting the responsibility whether national or international. Because in Islam the borders and frontiers do not differentiate the rights of people, therefore all individuals of human societies from the standpoint of race, nationality and domicile are considered equal. Therefore, principle of responsibility in international law is confirmed by the said rule.

Whosoever commits cruelty and oppression shall have responsibility and should recompense the damage sustained. Generalization of this topic extends to the subject of international responsibility of individuals, which is one of the most important topics in international law. Before World War II, the international crimes, on the basis of international subsidiary rules and treaties were, on the one hand, those crimes which had a general aspect such as piracy, slave trading, Traffic in Woman and Children, Traffic in illicit drugs, publishing obscene publications, printing forged bank notes, and mintage of counterfeit coins, and on the other side, were those crimes related to violations of laws and customs of war. After World War II, some other crimes, such as crimes against Humanity, crimes against peace and Genocide were added to the list of international crimes. Therefore, international criminal law gained a significant role, and at the same time, special courts such as Nürenberg Tribunal and Tokyo Tribunal were established for trial of the war criminals. This was unprecedented in the history of international law.

According to the international laws, customs, and conventional rules, the armed forces of belligerent states are justified to use regular arms and weapons to fight against the enemy but they are not authorized to use all kinds of weapons and/or employ all kinds of measures against the enemy. For example plunder of public and private property and killing the unarmed persons are not authorized, those kinds of actions, at the time of war, which in their specific meaning and according to the international customs are not considered as war operations, are called war crimes. Each one of the belligerent states are authorized to punish the perpetrator of the said crimes, according to their municipal criminal law, as they exercise it for their own citizens. According to an old accepted rule in international relations, it is the right of the states to punish the enemy's personnel who are as prisoner of war under their control, on the basis of their criminal law.

In World War II, the subject of international crimes of individuals found a wider concept and meaning. So that, those persons who violated the international conventions and initiated the war of aggression were found guilty as a war criminal and were liable to punishment. For this reason, the Agreement for Establishment of an International Military Tribunal was concluded at London, August 8, 1949, for the trial and punishment of war criminals of European countries. According to the Article 1 of London Agreement, the said Tribunal was established in Germany for the trial of war criminals whose offenses had no particular geographical location. According to the Article 6 of the charter of the Nuremberg Tribunal, the Tribunal shall have the power to try and punish persons who acting in the interests of European countries, whether as individuals or as members of organizations, committed crimes against peace, war crimes and crimes against Humanity.

Crimes against peace are of those offenses, which had no precedent in international law and quite new legal institution. So that, after the World War II new principles were set up as to the international responsibility of individuals apart from their ranks and positions. According to the Article 6(a) of the charter of Nuremberg Military Tribunal, crimes against peace are: "Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements, assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing".⁸³

⁸³ Although the war of aggression and war in violation of treaties are not defined by the charter of the Nuremberg Tribunal, however from the text of indictment presented to the Tribunal and statements of the representatives of Allied states which requested the punishment of the heads of aggressor states and also the text of judgment of the Tribunal, it can be understood that war of aggression and war in violation of Briand-Kellogg pact (pact of Paris, pact of renunciation of war) -which have prohibited war as an instrument of national policy- and also in violation of other treaties such as Versailles and Locarno treaties; the government of Germany in violation of the said treaties waged war against European countries.

According to the Article 6(b) of the charter of the Nürenberg Military Tribunal, war crimes are: “violations of the laws and customs of war. Such violation shall include, but not limited to, murder, ill-treatment or deportation to slave labor or for any other purposes of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, town or villages, or devastation not justified by military necessity”. Therefore, war crimes as to their specific meaning are violations of rules and regulations that according to the text of international treaties the belligerent states and their respective army personnel have to observe at the course of hostilities.⁸⁴

Crimes against Humanity are also the offenses, which had no precedent or specific title before establishment of Nürenberg Military Tribunal. These offenses according to the Article 6(c) of the charter of the Nürenberg Military Tribunal are: "murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common

⁸⁴ These treaties which are invoked by Nürenberg Tribunal primarily are the Hague conventions of 1899 and 1907 concerning the rules and customs to be observed on Land Warfare, and 1927 convention about prisoners of War, and London Naval Treaty 1930 and 1936 concerning submarine and Navel Warfare. Secondly, the customs and usages observed in international relations. Although according to the conventions and treaties and on the basis of international customs, the observance of rules and customs of war by belligerent states is a recognized principle but, firstly their violation and non-observance is not clearly recognized as international crime, secondly, since, before establishment of Nürenberg Tribunal the states had no criminal responsibility in international relations, therefore, non-observance of the said rules brought only tortuous liability against them. This subject is mentioned in Articles 3 of the Hague convention that violators should make reparation of such loss and damage caused by their citizens.

plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan".⁸⁵

In addition to the offenses mentioned in the charter of the Nürenberg and Tokyo Tribunals and their judgments, the crime of genocide, whether committed in time of peace or in time of war, is considered as an international crime by Convention on Genocide, December 11, 1948, and the perpetrators, whether ordinary people, officials (statesmen) and/or members of the government shall be punished according to the said convention. Article II of the convention defines Genocide as any of the following acts committed with intent to destroy, in whole or in part, a national, ethical, racial, or religious group, as such:

- A) Killing members of group;
- B) Causing serious bodily or mental harm to members of the group;
- C) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- D) Imposing measures intended to prevent births within the group;
- E) Forcibly transferring children of the group to another group.

The judgment of Nürenberg International Tribunal contained a new and unprecedented subject, namely, the responsibility and punishment of individuals concerning the violation of international undertakings of the state. It was explicitly stipulated in the judgment of the Tribunal, that it is a long time where international law has imposed duties and liabilities upon natural (unofficial) individuals and the protection of international law in favor of the representative of a state, cannot be applied to the acts, which

⁸⁵ Crime against humanity is not considered as an independent crime in the charter of Tribunal by the authors of the chapter. It is only a subordinate crime, therefore the perpetrators of crimes mentioned in Article 6(a,b) if during commission of those crimes, commit the crimes against Humanity then they will also be responsible for them. In Draft Convention concerning crimes against Humanity and security of Mankind, which was drawn up by International Law Commission, the crimes mentioned in Article 6(c) of the charter of the Nürenberg Tribunal was recognized as an independent crime.

are condemned as criminal. The authors of these acts cannot shelter themselves behind their official positions, in order to be freed from the punishment in appropriate proceeding.

The principle of individual responsibility due to violation of international treaties is also mentioned and recognized in convention of Genocide. In Article 1 of the “draft convention on crimes against peace and security of mankind” which was prepared on the basis of precedents of charter and judgment of Nürenberg Military Tribunal, and ratified on the sixth session of International Law Commission in 1954, the reference is made to the responsibility and punishment of individuals as follows: "crimes against peace and security of mankind which is defined in this statute is considered as an international crime, and the individuals who are responsible shall be punished". In Article 2 of the said Draft Convention, which has 13 paragraphs, the acts, which are called as crimes against peace and security of humankind, are enumerated. These acts are briefly as follows: “any act of invasion and aggression, planning and preparation for resort to the armed forces, constitution and instigation of armed groups for aggression, all measures taken for initiation of civil war in country, terroristic operations, violation of treaties, intervention with the affairs of other countries, genocide, acts against humanity, acts against laws and customs of war, conspiracy, instigation, assistance, and participating in the foregoing crimes”.⁸⁶

In section of “honoring the treaties”, it is discussed that all covenants and treaties are binding and obligatory, and impose liability. This liability pertains to any kind of covenant whether with God or the people of God. Concerning the subject in question, it should be noted that by conversion to Islam and content of covenants, Islamic actions and behaviors, implicitly or explicitly, become the requirements of taking oath of allegiance -whether

⁸⁶ See: Safdari, M., public international law, vol. 3, Tehran University Publication.

general or special- and consequently they would be obligatory to observe. That is to say, the Islam's country, whether to be one of the parties to the international treaties or not to be, it is bound to observe the Islamic-humanitarian instructions in relation to other nations and states.

25- Principle of: Compensation for unjustified damage

Principle of compensation for unjustified damage or principle of reparation is an accepted legal rule in various legal systems, and rules of procedure and method of redress is also determined in their laws and regulations. According to the general definition of the said legal term, if a person through an action or omission causes damage and injury to another person, he is bound to make compensation for all such losses and damages. Concerning the international law, the reparation is, taking all measures to the interests of a state or an international organization for making reparation for loss and damage done. This principle is mentioned in the Article 37 of the Hague Convention 1907 as a general principle recognized by civilized nations.

As to the Islamic law, the said principle is also discussed and accepted in the section of “civil liability” of Islamic jurisprudence. All injuries and damage caused by an individual or a state, whether in a private action or a public action, require restoration to the conditions as were before causing loss and damage. It should be done in a way that makes reparation of the injuries and damage in question. In private international law, as long as the parties are natural persons, the authenticity (originality) of the said principle is less doubtful than public international law where the parties to the disputes are states. In the latter case, a claim for making reparation of loss and damage from the states needs much more discussion in regard to the quality and quantity. Anyhow, this general principle in public international law (without taking the issues in regard to the proof of the

correctness of the right into consideration) is also recognized in Islamic law.

In Glorious Qur'an, there are many verses about the penalties. In these verses, the sanction is equal to the committed offense which can be an evidence for national, ethnical, and common liability, which its effects are extendable to international issues.

26- Principle of: Preserving the life in retaliation

One of the most important ordinances in Glorious Qur'an is "retaliation" which has a deterrent effect to prevent humankind from violence and killing each other. Nowadays, some countries in the world hardly accept and do not insert death penalty in their municipal law. That is why the crime of murder is increased so much in most societies.

As it was already mentioned, the ordinance of retaliation was also prescribed for previous religions and it has also been mentioned in Torah. The existence and acceptance of an international law concerning retaliation, and obligation of the states to its enforcement is one of the most important factors to prevent violation and transgression. Legislation of the said law and its enforcement by the states would be a warning to transgressors, to forget about violence and transgression. The retaliation and taking reprisal for those who have been killed during wars is not the subject matter of this section. We have discussed it in the section of international responsibility.

27- Principle of: Prohibition from excessive retaliation

On the basis of this principle, whenever a crime is committed by a foreign national against a citizen of Islam's country, the right of retaliation would be restricted to the limit of prescribed punishment imposed for the said crime. Of course, in the sight of Allāh, it would be much better, the criminal be forgiven. The reprisal and reciprocity is on the most inferior

level of moral conduct and is at the low grade of humanity.

Therefore, Islam's country has no right to retaliate or punish in excess of harms sustained while performing reprisal measures. Certainly treating the transgressors with kindness and mercy and forgiveness would be more praised by Allāh. Concerning the aforementioned subject it is said that if the one who has been oppressed tries to retaliate with the like thereof, and at the same time some other persons help the first oppressor, then God will help him. It indicates that, retaliation and reprisal is an indisputable right of people and nobody should interfere with their reactions.

This principle plays an important role in international relations, which its least effect is the prohibition of transgression in excess of harms sustained by the injured party. If the international community recognizes this principle, even at this very level, too many transgressions would be prevented. The contemporary history of international relations reveals that reactions against terroristic operations performed by some groups which were thought to be related to some states, resulted to international transgressions and waging a complete war against those states. If the teachings of the “rule of retaliation” becomes the basis of the reprisal measures in international law and be recognized by international community, the international transgressions and aggressions would decrease gradually.

28- Principle of: Facilitation in Force Majeure (distress and constriction)

The necessary consideration in Force Majeure circumstances and/or state of exigency and of necessity is one of the terms predicted and mentioned in most contracts and treaties. The concept of Force Majeure is existence of some unusual circumstances, which endanger the performance of a treaty or make its performance impracticable. Islam has a thorough

attention on this issue and in case of exigency accepts to facilitate the rigidity of rules and regulations. Essentially the said facilitation is decreasing the Rights of Allāh and increasing the Rights of Man. In other words, where there are circumstances which protecting the life of humankind requires violation of divine limits (rules), then Almighty God has authorized to protect the life of human beings through least violation of divine rules. This flexibility might be construed from the verses revealed about food items. Certainly, one of the limitations concerning violations of divine rules, during period of exigency, is to observe having no intention of violation and/or carrying to extremes.

Although the trouble, concerns the famine and hunger but we can interpret the rule to be extendable on similar cases. We may present this interpretation that Islam surely understands and recognizes the circumstances of Force Majeure and state of exigency and of necessity, consequently removes evils resulting from the circumstances in question. To sum up briefly we can say that legal pragmatism of Islam, to strengthen and protect the human life, facilitates the severity, rigidity and hard treatment of previous religions while there exists state of exigency. Certainly, prohibition of transgressing the limits and disinclination to transgression is the main requirements of this violation of rules.

The rule of “distress and contractions” which is used in Islamic jurisprudence could also be invoked in this case. Where there are some unusual hardships in performance of one’s duties or enforcement of rules, the said duties or rules shall not be operative until the impediments of hardships are removed.⁸⁷

Therefore, the international rule about Force Majeure, which is recognized by international community at this age, could be said as to be in

⁸⁷ See: Gorgi, A. (2001) *Ayat-ol-Ahkam* (Verses of ordinances, civil and criminal). Mizan Publication pp. 57- 60.

direction of Islamic Laws.

29- Principle of: Freedom of trade in international commercial law

One of the main issues in international law is commercial affairs between countries. Certainly, this topic is more pertinent to private international law than public international law, which the former has been paid little attention to it in this book. But since international trade is one of the bases of relationship between countries and Islam's attitudes toward this subject seems to be important, therefore, we are going to have a glance at it briefly.

Contrary to the practices of all different governments, which existed under the name of Islamic government from the early Islam up to the present time, there is no indication that subject to economic policy of our beloved Messenger of God's Government he has imposed barriers or tariffs over import of goods. Undoubtedly, there have been tithes and customs duties as tariffs on importation during sucessionship of Orthodox (*Rashiden*) caliphs and Omayyad's and Abbasids' governments, which seems have been adopted from Iranian and Roman governments of that time rather rules of Islamic Laws.⁸⁸

Import prohibition, namely, import barriers and/or its partial banning by establishing tariffs and non-tariffs barriers are not in conformity with Islamic laws and regulations. The said circumstances also correspond with the export of goods, because the purchasers of the exporting goods are those who import them and consequently are subject to the imports section.

It can be inferred that if you forbid the use of good things then you would have exceeded the limits and transgressed the rules. So do not do

⁸⁸ See: Bidabad, B. (2003) Tax rate and tax base in financial law of Islam and establishment of wisdom in dynamic jurisprudence principles of Imamiyah. Also, Bidabad, B. (2004) Tithes in financial law of Islam. Monetary and Banking Research Academy. Tehran. <http://www.bidabad.ir/>

that and consume those goods, which Allāh has made it lawful and good for you. In other words, enactment of commercial laws for the purpose of making barriers to trade among countries is considered to be infringement of the rights of human beings is forbidden.

At present time, the sections of international trade within commercial rules and regulations of the World Trade Organization (WTO), are all so designed to get close to the said Islamic rule, namely elimination of tariffs and non-tariffs barriers in international trade, for removing economic problems in today's world in relation to optimum allocation of resources and attaining efficiency. We hope to discuss about this important subject in a separate book. But we should refer to this principle that it is about fourteen centuries which Islam is trying to setup a world without barriers in international trade and in this connection the legal concepts taken by Islam into consideration is complete freedom of lawful trade in international scene.

30- Principle of: Freedom of seas and space

The section of freedom of seas in international maritime law is one of the important sections of international law which was introduced and propounded as Doctrine of Grotius (from Holland) in 1609 and rapidly drew the attention of the people and was recognized very soon.⁸⁹ As a general rule when statutory law is not in contradiction with Islamic Laws, it is considered to be lawful. The principle of freedom of seas is one of the statutory laws and is recognized as acceptable rule by world's states. Although this is an agreement contracted by human beings, nevertheless since it is not contradictory to Islamic laws therefore it can be acceptable.

If there be circumstances, which definition of ownership could be

⁸⁹ See: R. Churchill, V. Lowe (1988), The Law of the sea. Melland Schill studies in international law.

extended on surface of the sea and seabed; and seabed or surface and depth of the sea just the same as surface of the land or standing properties could be purchased and sold thorough ownership, then the principle of freedom of the seas might be reviewed. Because on that time the conditions of ownership of seas (would be the same as barren and improved lands). So the users would be obliged to observe the rules of ownership, possession, and usurpation, which are parts of Islamic laws. Anyhow, the principles and rules concerning public roads and highways, which are recognized by Islamic civil Law, on the basis of international conventions, can also be respected and recognized to be used on seas and atmosphere around the earth and outer space.⁹⁰

31- Principle of: Recognition, on the bases of human beings' dignity rather than government

The topic of “recognition” and its effects on relations among states is one of the important sections of public international law. According to the texts of international law, “recognition” is an act by which a state recognizes another state as a juristic person. The effect of this recognition is establishment of legal and formal relations between both parties. There are other definitions that define recognition as acknowledgment of a political entity to be capable of observing and enforcing the international law within a determined territory.⁹¹ The practice of granting “recognition” came into practice in eighteenth century. It is nothing but confession of a state of recognizing the legal personality of another state. Certainly, this action shall produce some legal effects. There are several requisite conditions of statehood for granting recognition to the states, namely constituent elements of the state and/or government such as populations,

⁹⁰ See: Ignaz Seidl-Hohenveldern. International economic law, chapter five.

⁹¹ Safdari, M. (1961). Public international law, Tehran Univ. Pub., vol. 2. Latter defined by International Law Institute.

territory, and sovereignty. And the fact that the new born state should not have come into existence on the basis of war of aggression (according to the rules of Kellogg Briand, Pact of Paris 1928) and also the government should be backed by its people and have sovereignty over the claimed territory, and have capability to perform its international obligations and so on. The latter cases have been always propounded in international disputes but they are not necessary and sufficient qualifications for granting recognition.

There are two types of recognition, *de facto* or imperfect and *de jure* or perfect. At present time and in international diplomacy, granting recognition is used as a weapon for giving some privileges or making some restrictions. In international sphere, the type of recognition depends on advantages received by recognizing state in relation to recognized state.

Before beginning to deal with Islam's viewpoints on the issue of recognition, we should consider this question that, what is the Islam's standpoint on juristic personality of states. According to Islamic rules, although the agreements and treaties are respected by Islamic government, but the borders and frontiers established on the earth are artificial and Islam does not believe in their genuineness. The kings, rulers have no right of ownership and/or sovereignty, and there is no originality for the borders. Contracts of attributing ownership are based on tacit agreement and mutual respect for the borders and frontiers, which makes the states to be distinct from one another. Contrary to the proverb, which indicated, "the sovereignty belongs to one who has dominated",⁹² originally the sovereignty belongs to God. In other words, the governments bring territories and their populations under their own domination and sovereignty.

If this viewpoint is approved, then we should say that according to the

⁹² Al-Kāfi, 8, 206, the story of the Folk of Salih (A) p. 185

said rule, nobody has the right to compel other people to leave their homeland and this subject has been cited in glorious Qur'an. Therefore, as a general rule, Islam does not agree that the territory which is in possession of a special state to be as a criterion for granting recognition. On the other hand, Islam respects dwelling of individuals in any place they prefer to live.⁹³ For this reason and with respect to Islam's viewpoint, the existence of other states that are established through the agreement of their people should be respected which aid: "people souls are sanctified by God". If some people are inclined to live in a special way it would be respected by Islam. Basically, Islam is the religion of freedom. This freedom is only restricted while, in special occasions, the other's rights are going to be infringed. People have the right to live in any manner that they like to live". Certainly, it should be emphasized that the freedom in question is freedom of one's own special life; therefore it should not lead to the encroachment to the rights of society.

In Islam, ethnicity, nationality, race, colour, language, culture, civilization, and other cultural and social particularities shall not be the grounds for political distinction and/or one of the constituent elements of a state. Moreover, citizenship as it is in practice at present time and establishes legal and political relationship between people of different states has no authenticity in Islam and is not the basis of their distinction. In Islam, the parties to be addressed to are human beings rather than governments. There is only one occasion when governments are taken as an opponent party to Islam. That is when a group of human beings who are protectors of government stand at the opposite side and as opponent to

⁹³ It is narrated from The Reverend Messenger (S) who said: "loving homeland results from faith". If it were true -which is doubtful- it does not seem that the meaning of "homeland" be as country or birth place. Molavi says:

The homeland which we are talking about is neither Egypt nor Iraq and nor Syria,
This homeland is a place, where, there is no name for it.

Islam. Otherwise, the method and manner of recognition is based on human beings. In Islam, every person possesses humanitarian rights that should be respected, and since Almighty God has honoured children of Adam, therefore Islam also honours human beings and recognizes their rights one by one. With respect to individual recognition, it would be de jure recognition.

As it has already been stated, if a government which is established through coalition of individuals, starts challenging with Islam, then it would be subject to the rules of fighting. Even in this case, the Muslims are advised and are under obligation to treat the people of the said government with humanitarian behaviors.

With respect to aforementioned statements, we have to admit that Islam believes that human beings are bondmen of Allāh; therefore, protection of the true rights of God's creatures is one of the main tasks of Islam as well as those who are converted to Islam. It so emphasizes on the protection of individuals' rights that makes equal the good deeds with altruism and serving these creatures.

If a group of human beings believed in a government and were satisfied with its policy, Islam would respect the said government because it is respected by its own people. On the contrary, where some people are under oppression of government, then it would be the task of Islam to protect the oppressed ones -we will consider this subject in another section. We may conclude that "recognition" in Islam is an accidental rather than essential phenomenon and as it is discussed in present international law, it is not under consideration by Islam.

32- Principle of: Full recognition of individuals' rights of ownership and de facto recognition of governments' sovereignty

The right of ownership has an important and strong position within

Islamic rules. The limits and framework of this right is so firm and definite that forgiveness of people's rights, as far as concerns Almighty God, rests on the consent of the holder of the rights. The said issue has an important role in general diplomacy and foreign policy in such a manner that expropriation of individuals and/or societies without their consent is unlawful and prohibited.

The principle under consideration - which condemns and negates the authorization for expropriation or infringement of individuals or nations' ownership - within the rules of Islamic laws, whether in the smallest level, namely, individuals' rights or the highest form, namely public international law, has the most firm (stable) base, comparing with domestic anarchistic-revolutionistic standpoints and international aggressive policies. It is necessary to mention that as to the Islamic laws and regulation the individuals rights of ownership is a definite right whereas the right of sovereignty over the territories is not considered as the right of ownership, and has less firmness. For example, the right of ownership of an individual over a piece of land cannot be diverted just by changing the sovereignty of the government over the territory where the land is located. In other words, the sovereignty cannot be the cause of dispossession but it will be the cause of the continuity of ownership.

In Islam the absolute ownership and sovereignty belongs to Almighty God. God has bestowed his ownership as a deposit to the humankind but sovereignty is a usurped right by humankind.

It is clearly understood from the Qur'an that sovereignty is peculiar to Almighty God, but this subject requires special theosophical explanations, which is not within the main objects of this book, for this reason we just give a hint on the subject. Those who are interested to get more information

may refer to the Gnostic's works on the subject.⁹⁴ The Holiest Essence of the Oneness is devoid of any qualifications. The qualifications are dependencies of the concrete nouns and the noun is what which denotes something named. All the beings are His names and the greatest name amongst divine names is the most transcendental being who is the Honorable Prophet (S) and the impeccable (A) and their divine successors (executors/masters) of these Honorables.⁹⁵ They are God's successors in the earth. And this viceroy, on behalf of God, has the God's sovereignty in the earth in a missionary manner; and not in a genesis way, because all human beings are in charge of this viceroy in genesis way.

Islam is not the only religion who has propounded this very subject. All divine religions follow the same philosophy, and in all religions adherence to the successor of God in the earth is obligatory. In all times and continuously; there has always been a successor of God (caliph) in the earth, which also there exists at present time and will exist in the future. For a time Adam (A) was as successor of God and then consecutively the successorship was bestowed to Seth, Noah, Shem, Abraham, Ishmael, Isaac, Jacob, Joseph, Moses, Joshua, Zachariah, John, Jesus, Peter, Abde-Manaf, Hashim, Abdol-Mottalib, Abu-Talib, Muhammad (S) and his True Twelve successors. After the occult of the twelfth Imam, his deputies - that Joneid was as the first one of them- all have been the successors, which have been continued up to this time and will continue one after one. We are now waiting for the advent of the age Imam from occult to take his

⁹⁴ It is not exaggerated if we say that the basis of discussions of theosophy and theology is within the concept of this subject matter. There are many valuable books on this subject. See:

- His Excellency, Noor Alishah, the second, Salihyeh, 2nd ed., Tehran University Printing House, (1967) 3rd ed. (1972). صالحية. <http://www.sufism.ir>
- حضرت حاج ملا سلطان محمد بيدختي گنابادي، بيان السعادة في مقامات العباد، نشر الثاني، في اربعة مجلدات رقعي بلغة العربية، ١٣٤٤ هجري شمسي، دانشگاه تهران. <http://www.sufism.ir>

⁹⁵ Al-Kāfi, 1, 223.

apparent and formal successorship in the world – although this caliph always has the uninterrupted spiritual successorship. By minutely scrutinizing the Qur'an, Torah, Gospel, Avesta, the Books of Abraham, the Psalms of David and other divine and narration's books, the aforementioned subject is clearly understood.⁹⁶

33- Principle of: Granting nationality (naturalization) to applicants

On the basis of this principle, naturalization will be granted to anybody who applies for political and social citizenship of Islam. If the applicant were willing to convert to Islam, then he would enjoy all rights and privileges of Muslims. But if he wants to remain in his religion, namely one of divine religions, then he would be subject to the rules and

⁹⁶ "We are now facing this question that, what is the duty of Muslims and especially the Shiites at this time which they have no access to their Imam? For instance, the spiritual oath of allegiance or devotional oath of allegiance has been one of the pillars of purified religion of Islam. It was prescribed at the time of Messenger of God and there has been no verse or any order to its abrogation. All Imams also used to take oath of allegiance and even the cruel caliphs used to take oath of allegiance. So that, what is the duty of Muslims at the period time of occultation? The successors of prophet, namely, the purified Imams have been always under pressure and repression. There are too many stories about suppression of beliefs at the time of Imams and especially after the time of Imam Riza (A), which are mentioned in the historical books Although the oath of allegiance taken by Imams were not governmental oath of allegiance and/or for gathering the followers, nevertheless, if caliphs knew that Imam would take oath of allegiance, the life of Imam as well as all Shiites would have been in danger. That is why the caliphs were always keeping watchful eyes on Imams. For this reason most of times Imams introduced several delegates and representatives to take oath of allegiance for them. The said representatives were also authorized to appoint new representatives. This sequence and following of authorization of Sheikhs (spiritual leader) and Gnostic instructors is called "Order" in mysticism. The true mystical orders, which were numerous at old times, all connected their chain of authorization to Imam Ali (A). Because the basic rule in mysticism is that, each person should have obtained his authorization from the hand of previous authorized person. According to the belief of true followers of mysticism, this chain and order of Sheikhs (spiritual leaders) shall be continued up to the day of resurrection. But only those mystical orders, which have kept their connection with one of Imams, are considered to be valid. The orders, which have their connection with one of Imams, certainly, shall have their connection with Imam Ali (A). All mystical orders are originated from Ali (A) and Imam Ali has obtained his authorization from the Prophet (S)...". His Excellency Hajj Dr. NoorAli Tabandeh "His Excellency Seyyed Noor-ed-Din Shah Nematollah Vali", Iran Gnosticism (Journal), No. 15, pp. 20. Haqiqat Publication, (2003) Tehran.

regulations of poll tax. This principle has an extensive range of application, in a manner that if a person being in fight with Islamic forces, but converts to Islam, he will be granted naturalization. Conversion to Islam will be ascertained just by saying and testifying to the oneness of God and admitting the prophet as His messenger. The principle in question will also include the idolaters who are at the lowest stage of human thinking (cognition). The word "unclean" is used only for idolaters in Glorious Qur'an, but as it is said when they apply for citizenship, the messenger of God is bound to accept it. From the Qur'an verses, it can be inferred that the Honorable Prophet is bounded to give refuge to the idolaters, it can be construed that, Islam's country is a safe place and whoever enters into Islam's country he will be secure from the foreign forces. And the foreign states and nations are not permitted to reach or attack him. He will be under the protection of Islam. If he receives permanent residency and is granted naturalization, then he will also be subject to the domestic laws of Islam. But if he ends his residency, he will be only under protections of Islam, as long as he is staying in the country. Therefore, on the basis of the said verse, extradition of refugees to states and nations, which are following them, is not authorized. There is an exception to this rule. It is when there is an infringement of the rights of people in other nations, which is one of the sections of private international law and we are not going to comment on it.

As for the people who live in this age, it seems it, would be several decades early yet, if it be suggested that the "law of citizenship" is an uncivilized legal institution, which human beings have to observe it under the yoke of governments. "Citizenship" is defined as political and legal relationship between an individual and a determined state within a specified territory. On the basis of this definition, if a state through legislation disregards and violates the natural rights of an individual, he is

bound to relinquish and dispense with his rights. Whereas, no government has the right to violate the rights of people. Therefore, natural law should be excluded from domestic statute laws, and just special regulations of the region should be made as legal obligations by government and/or political entities. In other words, humankind is not under obligations of states and governments. Human beings are born free and are entitled to enforce their natural rights whether black or white, red or yellow and the governments have no right of sovereignty over natural laws and making distinction between them. Furthermore, the states by drawing some artificial lines on the ground as borderlines have made distinction between people and have defined human beings differently, which reveals the imperfection of the contemporary mankind. It is certain that in future, the perfect mankind would get rid of these kinds of superstitions and would reside in any place in the world that he wishes, in accordance with his nature, desires, and preferences. Consequently, the nationalism superstitions, which are bothersome to humankind, would disappear.

As it was already mentioned, ownership and sovereignty are quite two different subjects. Sovereignty would never be the cause of ownership. It is only the cause of spreading the governmental ordinances throughout the realm of the state. In other words, no government has the right of ownership over the lands of territory under its dominion. Any person in a territory should be entitled to acquire the ownership of the land. This statement is based on the principle that declares ownership just belongs to God. It has been bestowed to humankind to gain benefit out of it.

34- Principle of: Binding to testify truly and/or acknowledgment of faults and prohibition of concealment of truth and/or committing perjury

The task of Islamic diplomacy in international disputes and

adjudications is to strengthen the testifying in equity (justice). Forbiddance of concealment of truth comes from the text of Qur'an. Moghaddas Ardebili with reference to the Qura'an verses prohibits concealment of religious knowledges, whether principles of religion or secondary-rules of religion. He also forbids concealment of all other kinds of sciences, which other people are in need of them.⁹⁷ This subject shall propound important and new ideas in commercial law, especially international trade laws. Therefore, Vienna convention on copyright intellectual rights and trade of services, which is one of the important agreements of World Trade Organization (WTO) would be open to criticism. I hope to discuss about this subject matter in a separate book.

Some verses also indicate for presenting the sciences and technologies to those people who need them; and one of the qualifications of transcendental human being is rising and upholding the testimony. Several verses have also been revealed about acknowledgment of faults just the same as it was about “testifying truly”. Being bound on these principles in international relation shall confirm the truthfulness of statements and good deeds of Islamic government, and it will establish the necessary grounds for attracting other nations towards Islam. Besides, we are not created to get benefit from other’s property by infringement of their rights. All people who live on this planet are the children of one father. In fact, we are all brothers. None of us is superior to other one. The superiority and sovereignty just belongs to the Creator.

Prohibition of committing perjury or giving false evidence is one of the topics to be mentioned in this debate.⁹⁸

35- Principle of: Acceptance of inquiry for pacific settlement of

⁹⁷ Shahabi, M, Periods of jurisprudence vol. 2, Publication Organization of Ministry of Culture, pp 256-257.

⁹⁸ Bahar-el-Anvar, 101, 310, second chapter.

international disputes

The process of “inquiry” is one of the well-known methods for pacific settlement of international disputes. In this method, through investigation and careful consideration of the facts, which have been the origin of the differences, and after proving the faults committed by a state or states, some required measures will be taken to settle the disputes between the parties. Consequently, the war and aggression or hostile actions would be prevented. This method in contemporary international law was introduced and recommended by Russia at Hague Peace Conference I. Subsequently at Hague Peace Conference II of 1907, the provision concerning the International Commission of Inquiry was drafted.

The process of “inquiry” is exactly confirmed by Islamic international law. The essential aspects of this method in establishment of international justice and settlement of disputes among states can be understood from the concept of several Qur'an's verses. In Islam, there are several instructions for inquiry and investigation before taking any decision or committing any action. There is a general instruction for making inquiry in all affairs happening in the life of the believers.

There are also instructions about conducting investigation into received tidings and new allegations, because without making inquiry no proper reactions could be made. While the result of a thorough investigation is received, it should be accepted. The related verses shall suffice us to accept the process of inquiry for pacific settlement of international disputes.

36- Principle of: Negotiation in settlement of disputes and acceptance of arbitration in international conflicts

With regard to careful consideration of various issues, the best way chosen by Islam is the method of consultation and resort to councils. The

exception to this rule is where there is an assignment. The appointments are made upon direct views of the holder of authority. The appointments of divine authorities are specifically done by the authorization of prophets, Divine Guardians and Divine Executors. Under this procedures the authorized person would be regarded as holder of authority and consequently eligible to be obeyed. Glorious Qur'an, as to the other issues says and whose affairs are carried out through consultation amongst themselves.

There are several qualities in consultation, which psychologically the differences and hostilities would end up to unionship and amendment. Consultation is effective to create the required grounds for people's unity. Taking the said subject into consideration, we can conclude that, with regard to the principle of unity and Islam's concern about the unanimity and/or unity of the word, the settlement of differences and disputes through the council is acceptable by Islam. In other words, the method of negotiation is an accepted method in Islam for obtaining different views and opinions, but it should be noted that negotiation does not mean to infringe the rights of opposite or third party by dominion, oppression, or conspiracy. On the contrary, the negotiation is for creating uniformity and accordance for attainment of truth. Therefore, this negotiation and counseling should never impair the equity and justice or eliminate other's rights. There are clear and various verses on this subject, which reprimand those people who follow their passion in doing justice and equity.

Arbitration is the extension of rules of consultation to the settlement of disputes, which has a vast range of applications in public international law. One of the most important problems in public international law is the inadequacy of sanctions, namely compelling the states to accept the International Court's judgments. In other words the states, backed by their powers and strengths, in one way or another, refrain to execute the

international judgments and cast doubts on the judge's opinions. The process of arbitration is somewhat different from recourse to the judges. The arbitrators are appointed by both parties to the dispute, which collectively take necessary actions to settle the differences. Moreover, because the arbitrators are chosen by the parties, so that their awards would be more acceptable by their respected states.

The process of Islamic International arbitration could be taken from the civil law and Islamic rules of procedure on marriage disputes. Glorious Qur'an has stipulated recourse to awards of arbitrators in settlement of disputes between husbands and wives. It is too important to adapt the said process in civil procedure with problems engaged in international procedure, concerning the circumstances of making agreements and adherence of the parties to the terms of agreements. In marriage contracts, if one of the parties desires not to continue the contract then it would be automatically suspended. Moreover, none of the parties could be again compelled to perform his marriage obligations. Therefore, there would be no sanctions on this case. Similar conditions also exist in international treaties among the states. Because if one of the parties to the dispute refrains to fulfill its international obligations there would be no dominant sanction to compel the violating state to observe the terms of the treaty. With regard to this similarity, we can use the same arbitration procedure for both issues. In contemporary international law and in various states, arbitration is accepted as a legal institution. Although, there are some differences in statute laws and customary international law on this case. There is also propounded the rules of procedure for arbitration and requirements and qualifications of arbitrators in various legal sources.⁹⁹ It should be noted that historical precedents of arbitration goes back to the city-states in ancient Greece. In the Hague conference II of 1907 the

⁹⁹ See: Qaem-Maqam Farahani, A., (1988) International law of nationalization.

subject of arbitration was introduced and officially accepted through the endeavors of several states and from that time onwards it was enforced as mandatory arbitration.

37- Principle of: Obligation for mediation and making peace (voluntary mediation)

Mediation and making peace between the nations and folks, is one of the basic tasks of Islamic government, and in this connection, it even retains the right of suppression for itself in cases where after making peace between two parties, one of them again performs act of aggression against other one. This policy is contrary to the current international policy, which, whenever there is a war, all states adopt, the policy of “wait and see”, and even sometimes, they get benefit from the fighting, they start to sell equipments and armaments to both hostile parties. Whereas, contrary to the current policy, the Islamic government is bound to mediate and make peace between the parties and even use military force, to some limited conditions.

“Mediation” is one of the various policies proposed by the Hague convention of 1907 concerning pacific settlement of disputes. On the basis of the said convention a third state, as mediator, has the right to interfere for extinguishing the conflagration of war between two other states and settle their disputes pacifically. The parties to the dispute should not take the said measures, against the principles of friendship and good relations among themselves. Prior to mentioning this subject in the Hague convention, the states would take the measures taken by other states, concerning mediation in the settlement of disputes, contrary to the principle of sovereignty and considered it as and hostile measures and even would fight against the mediating state.¹⁰⁰

¹⁰⁰ There are evidences to this subject in history of international relations. See: Safari, M. (1963) vol. 3, pp 128-131.

“Conciliation” the same as “mediation” is another policy concerning pacific settlement of international disputes. The difference between these two policies is that, in “conciliation” the subject of dispute is referred to a commission composed of experts, lawyers and diplomats whereas in mediation the third state directly would act as a mediator to settle the disputes. The method of conciliation was proposed in Bryan pacts and it was also recommended to the members in General Assembly of League of Nations in 1922 and it is also mentioned in article 33 of the Charter of United Nations but regrettably it is not used in settlement of international disputes.

38- Principle of: Conciliation and interference in international wars (compulsory mediation)

According to the abovementioned principle, the basic task of Islamic government in the international scene is interference to bring about reconciliation between the hostile parties. One of the interpretations of the related verses to this subject is, for justification of the issues, using Allāh’s Name for one’s advantage. It will be performed in this manner that one’s indolence and laziness for not doing good and acting piously or making peace among humankind is to be justified through fabricated quasi-legal evidences.

Negotiation even performed secretly, for the purpose of making peace between different peoples and nations is admired and approved by Islam. In contemporary international law, the covenants are not as progressive as the principle of “compulsory intervention” as it is propounded in Islam. According to the texts of some multilateral treaties, the innovation of “compulsory mediation” could be observed. In this kind of mediation two or more states agree that in case of coming into existence of any dispute and discord among them, resort to a third state which has been chosen as

mediating state, for settlement of their disputes. According to Article 8 of Hague convention of 1907, the state may come into an agreement, that in case of discords and disputes, the mediators, which have already been chosen by them, start their negotiation for settlement of disputes. In this particular case and according to a prior agreement the parties to the dispute shall waive a part of their power and sovereignty and bestow it to mediator. Practically this kind of compulsory mediation has not been paid much attention.

As it has been observed, in Islamic international law the compulsory mediation has been propounded in an advanced form and procedure. That is to say, if there be a war among two or more states, other states must fight with the aggressor until it seeks the armistice and then by negotiation, make an equitable peace among them. This principle could have an important role in public international law, to prevent transgression of states towards each other.

CHAPTER TWO

ISLAMIC FOREIGN POLICY

Introduction

States' foreign policy usually specifies the attitudes and confrontations of a state towards other states. At today's world, the foreign policy-making of states is based on their interest necessitations, whereas, the attitude of Islam in this regard, is quite different. The main objective of Islam is humankind's transcendence rather than transcendence of Islam's country. As a matter of fact, Islam has not come into existence just for Arab ethnics or Persians of Middle East countries. Islam has come, just as a father, to extend its mercy and grace over all human beings. On the other hand, the benefits emanating from humankind's transcendence is so great that Islam's country would automatically get benefit from it. Moreover, this benefit is more than that time which just Islam's country enjoys her maximum interests solely. This theory (viewpoint) has a delicate discussion, which is based on mathematical reasoning, but we are not going to deal with here. Anyhow, maximizing the interests of just one state is less than maximizing the interests of the same state that is emanated from maximizing the interests of humankind. Nearly most politicians of the world are making the same mistake and follow just obtaining the interests of their own party or group. Anyhow, in this chapter we are going to deal with principles of Islamic foreign policy, which in connection with previous and subsequent chapters, the spirit of Islam's attitude towards other nations and states could be construed.

39- Principle of: Coinciding the Islam's expediency with the humankind's expediency

It has been frequently observed that, while discussing about Islamic foreign policy, the Islam's country is defined just the same as conventional states in the world, as if she is seeking to safeguard its own national interests. The conventional states in the world always make their foreign

policy in such a way that in contrast to the other nations' interests could maximize their own national interests. In Islam, the terms of nationality and ethnicity as well as national and ethnic interests do not conform to the conventional definitions. Islam follows that kind of policy which secures the expediencies and interests of the whole humankind, and as we will mention it later on, Islam belongs to all humankind rather than Muslims alone. Islam is divine Mercy, sent down in the earth, to cover all creatures and especially all human beings around the world.

On this basis, the expediency of Islam and Islam's country coincide with expediency of humankind. There is only one exception to the said rule and it is while other states intend to transgress the inviolable border of Islam through practical war operations. That is to say, if they take aggressive measures, then the Islam's expediency would be superior to the aggressor's expediency of aggressive state, and Islam shall as hard as possible, confront with the aggressor. As it will be mentioned later on, the confrontation would be so hard that never permits another rebellion being carried out by the aggressor. With the exception of the said issue, the expediency of Islam coincides with the expediency of every one of human beings. Since Islam has been sent down for all human beings and all creatures are regarded from unique point of view, and all of them are believed to be creatures of the One who has sent down Islam, therefore all human beings are dearest, beloved creatures of the Unique Nurturer. And if they have not endeavored to obey Almighty God, the messenger of Allāh (S) and the Holder of Authority from among themselves, and are abandoned and forlorn, it would not mean that they are of lower classes in creation. On the contrary, their abandonment would be a good cause, that Islam should have shown more compassion and affection toward them. For example if a child does not obey his father, then the father would have more trouble, hardship to protecting, and taking care of his child. In Islam,

taking care of the said forlorn is the obligation of viceroy of God in the earth, the prophet (S), divine guardian, or divine executor, who have the position of paternity over the creatures of God. Which said (Al-Baqarah II, 30): **“I am about placing a viceroy in the earth.”** This verse (as to the Arabic grammar) is a noun based sentence and the word **“placing”** is a constant adjective which both of these points indicate continuity of **“placing viceroy”** in the earth. This viceroy is the prophet or Holder of authority (Divine Master of Affairs) who are viceroy of the whole world. The abovementioned verse is addressed to the angels for introducing Adam (A) who was the only viceroy in the earth at the time. The authorization issued by Adam (A) to other persons, created several chains of authorizations and the Holders of authority in the earth, consequently divine viceroys are dispersed throughout the world and for each nation and folk there exist a guide and a messenger, which said (Al-Ra’ad XIII, 7): **“And for every folk there is a guide.”** And (Yūnus X, 47): **“And for every nation there is a messenger.”** And the most meritorious¹⁰¹ and ornament of the said viceroy is the Honorable Messenger of Islam (S) and the successors of the chain of authorization from Adam (A) up to Muhammad (S) and from Muhammad (S) to the Upholder, Lord of our age who is alive at any time and stationed at the throne of divine successorship and will exist also in future. In addition, this successorship cannot be usurped and/or be changed. It will be constituted just by Almighty God and the Holder of authorization.

In a comment on the verse (Tā-Hā XX, 86): **“Then Moses returned unto his folk angry and distressed”** it is written¹⁰²: “The prophets are all just as kind fathers for their community and the people of community are

¹⁰¹ (Al-An’ām VI, 165). It is addressed to Honorable Messenger **“Say (from the previous verse): He it is who has placed you as viceroys in the earth and has exalted some of you in rank above others.”**

¹⁰² "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", volume 9 p. 248.

their beloved children. Their belief is regarded as their perfect health and deficiencies in belief or lack of faith indicate their illness or death. The mood and status of a prophet as to the health, illness, or death of his community is the same as mood and status of an affectionate father towards his children. Certainly the kindness and affection of prophet is much excessive than a father.”

Anyhow, the said viceroy who is representative, governor, and obligatory successor of Almighty God in the earth is appointed for all people in the world. In addressing to David (A), it is said (Sād XXXVIII, 26): **“O David! Lo! We have appointed you as viceroy in the earth; therefore judge (rule) among men according to justice.”** In this verse, David (A) is instructed “to judge (rule)” which has the meaning of governorship and also arbitration, and object of the verb is humankind so that it is not specified for Muslims or the followers of David (A). It means that O David we have appointed you as governor in the earth and the people in the world are under your governorship. So, you should rule and make decisions and judgments according to justice. So that, with regard to the meaning of the said verse, which sets people of the world under the paternity and governorship of divine viceroy in the earth, we may conclude that Muslim’s expediency coincides with human beings’ expediency, therefore Islam following this approach, should make its foreign policy. This principle is regarded as one of the most important principles in foreign policy of Islam's government. On this basis, the expediency of human beings is the same as Islam and Islamic government’s expediency.

Probably the believers of other religions might raise an objection that, the said subject could also be applied to all religions, because the religions belong to whole humankind and this subject is not an exclusive issue for Islam. We admit that it is certainly a correct statement to say that all true religions have been sent down for this purpose and the prophets are also

appointed to achieve these objectives. But with respect to this objection, we have to mention that each one of the prophets is successively more perfect than the previous one. This is a standing rule that the Existence (The world) is moving towards progression and perfection, so that prophet, who is appointed, by taking the time of appointment into consideration, should be more perfect than or at least equal to previous prophet. On the other hand, all prophets are trained by previous prophet and divine guardian or divine executor, and the trainee possesses both the rank of the instructor and his own altogether. In Glorious Qur'an, it is said (Al-Baqarah II, 106): **“None of our Decrees do We abrogate or cause to be forgotten, unless We substitute something better or similar, (O, man) do you not know that Allāh is powerful over all things?”** That is the reason why Shiites believe in the Messenger of End of the Time.

The above said reasoning indicates that there is no difference between the prophets as to their main objective. But any of the prophets, with regard to their ranks and the requirements of place and time and also the talents of human beings, have brought laws and regulations, which are suitable for that age. That is the reason why religious law of Moses (A) was ratified by Jesus (A) who said (New Testament, Mathew, chapters 5, 17): **“Never think that I have come to abrogate Torah and written work of other prophets. I am not here for abrogation. I am for perfection.”** Jesus (A) was one of the trainees of prophets who were subsequent to prophethood of Moses (A). Jesus obtained religious laws, mystic path and the truth of Moses from John (A) and the latter from Zachariah (A), hand-to-hand back to Moses. Muhammad (S) who reached this position was under training of the latest prophets of Christ's religion. He was trained by Baradeh (A) (Abu-Talib) and the latter was trained by Abdol-Mottaleb (A). He was trained by Hashim (A) and the latter was trained by Abde-Manaf (A) back to Peter (A) who was trained by Jesus (A). Therefore, there is no difference

between religions, and they are all appointed for a unique word, which said (Āle-Imran III, 64): **“Say (O, Messenger) O people of the scripture: come to the Word of (monotheism) which is common between us and you.”**

The religions are at a subsequential direction; therefore, to be stationed in a previous religion would be because of fanaticism.

40- Principle of: Islam appertains to humankind

Some lawyers are of the opinion that the origin of “the right” is based on the concepts of natural laws, which are emanated from the rules and laws governing the nature and the Being. Therefore, the theory of natural law has been shaped in this fashion. The sources of these thoughts and reflections could be clearly observed in true religions and divine scriptures. The maturity and growth of this course of thinking could be traced back to ancient Greece. Surveying the said course of thinking and comparing it with religious instructions and teachings, reveals that each subsequent prophet has been more perfect than the previous one, consequently by careful consideration of the requirements of a special period of time and qualifications of human beings within the nature's container and its laws, the prophets have instituted or ratified certain decrees and rules and have caused the maturity of religious laws. That is to say, the religious commandments have been legislated in accordance with the nature and talents of human beings. That is the reason why the religion's precepts, due to their conformity with the nature and being based on wisdom, are suitable for all humankind. Specially the religion that possesses the comprehensive laws and regulations.

According to the abovementioned reasoning, religion of Islam does not pertain exclusively for Muslims. On the contrary, it belongs to all humankind. Islamic instructions are also for those people who are inclined

to follow Islam and taking advantage of its instructions. In sūrah of Saba says (Saba XXXIV, 28): **“(O Messenger) We did not send you but as a guide to all mankind in order to give glad-tidings to the believers and to warn those who have gone astray, but the majority of the people are ignorant.”** And in another verse, it is ordered the Honorable Messenger that (Al-A'rāf VII, 158): **“Say (O Messenger) O men! I am sent to you all, as the Messenger of Allāh.”** To sum up this discussion we can conclude that, bountiful table of Islam is at hand and it is not specifically for Muslims or the believers. It is a general invitation to take advantage of this vast divine blessing. Through this standpoint, all humankind are honored by Islam. The cause and objective of advent of Islam is for all humankind. Therefore, Muslims have no right to consider themselves superior than other folks or nations. That is nothing to boast about. They should not guide others just by putting them under pressure. Due to this principle, it is said (Al-Anbiā XXI, 107): **“We sent you not save as mercy for the people.”** That is to say, the purpose of appointing Honorable Messenger was a mercy for all humankind rather than making trouble for them.

41- Principle of: Human being's dignity

In Glorious Qur'an, it is stated (Al-Isra XVII, 70): **“Verily, We have honored the children of Adam.”** While Almighty God honors the children of Adam, certainly every one of us as Muslims should also observe this dignity. No one has the right to degrade the children of Adam's dignity and/or humiliate them or treat them disrespectfully. On the basis of this principle, every individual of human community is taken as being honorable, and Islamic government is bound to respect the humankind,

whether individually or collectively.¹⁰³

On the basis of the said principle all humankind in the world are taken to be honorable by Islam and Islamic government, without taking their color, race, and/or nationality into consideration. This principle shall not permit to degrade and humiliate human beings in different ways and without due cause or legal permission. At present time and in current international relations, the great powers would degrade and humiliate undeveloped or hostile states and their citizen or would make a great show of reluctance towards them. These kinds of actions are rejected and forbidden in foreign policy of Islam's government. If there be any hostility with a foreign state, this hostility should not be extended to their citizens and/or take hostile confrontation with them, because they are the same children of Adam.

42- Principle of: Unity

Contrary to the standpoints of narrow-minded persons such as Machiavelli¹⁰⁴ who established the foundation of government on the basis of discord and disunion, the principle of unity is one of the most indisputable principles of all true divine religions. It is the constituent element of religious and Islamic foreign policy and diplomacy. On the basis of the said principle, all humankind are placed in the impregnable fortress of the goodly saying (word) of **“There is no God but Allāh”**. They are all brethren and are entitled to equal and brotherly rights. Obtaining these rights is not based on religions, ideologies, and creeds of the people.

¹⁰³ See the comment on Articles 22-25 of Universal Declaration of Human Rights, His Excellency Hajj Sultan Hussein Tabandeh “Religious standpoints on Universal Declaration of Human Rights” pp 108-113.

¹⁰⁴ Niccolo Machiavelli (1469-1529) from Florence the author of the book: “The prince” introduces a new policy for obtaining political aims namely to use cheating and deception and disunion as the means to the ends.

Islam's government is bound to grant equal rights to all individuals and groups having different faiths, opinions, and religions. There is only one exception to this principle, which is applicable for restricting the aggressors from infringement of others' rights.

In Glorious Qur'an, apart from several verses in sūrah of Al-Taubah and other sūrahs, which are sent down about fighting against the aggressors to the limits of Islam, the tasks of Honorable Messenger (S) and Muslims towards non-belligerent disbelievers are generosity and respect. In the noble verse, which is addressed to Honorable Messenger (S), it is said (Āle-Imran III, 64): **“Say: O people of the scripture come to the word of (monotheism) which is common between us and you”**. It is ordered to His Reverend, to invite and summon everybody for unity under the aegis of the words **“There is no God but Allāh”**. According to the noble verse (Al-Baqarah II, 213): **“At the beginning, people were one nation; Allāh sent the Messengers as givers of glad-tidings and warners; and sent down (with them) the scripture with the truth to judge between men in whatever they differed”**. One of the aims of appointing the prophets is adjustment of disputes among people. In other words, the objective of appointing the prophets is establishment of unity between all people rather than the believers of a religion. The word **"people"** in the said verse indicates all humankind without any particularization. With regard to the Islamic foreign policy, it means that any kind of differences among human societies is considered to be disagreeable. The aim of great legislator is also settlement of disputes and establishment of **“one nation”** because at the beginning of the verse it is said: **“people were one nation”** and the prophets are appointed for revival of this unity.

In the inaugural message addressed to the “Conference on peace

between religions”, it is stated¹⁰⁵: “... Religion is a specific matter that belief in it cannot be imposed by force. On the contrary, every one of us has chosen our religion knowingly and consciously. We, as Muslims have chosen Islam and we believe that Islam is the last divine religion and the most perfect of all religions. But this belief cannot be imposed on another person by force, because he/she should also do the inquiry and research until he/she definitely arrives at the same conclusion. Therefore, as long as the followers of different religions have not arrived at the same conclusion, for establishment of universal peace, all religions should be respected and considered to be important. And to achieve the desired end of unity of religions, the necessary facilities should be prepared for them to be able to continue their own inquiry ...”

In sūrah of Al-Mumtahanah, concerning the way of behavior and friendship with ex-enemies says (Al-Mumtahanah LX, 7-9): **“It may be that Allāh will cause friendship between you and those whom you hold as enemies. Allāh is the Absolute Power, and Allāh is Forgiving, Merciful. Allāh forbids you not, those who warred not against you on account of religion and drove you not out from your homes, that you should show them kindness and deal justly with them. Lo! Allāh loves the justdealers. Allāh forbids you only those who warred against you on account of religion and have driven you out from your homes, and helped to drive you out, that you make friends of them. Whosoever makes friends of them- (all) such are wrongdoers”.**

The Reverend Messenger (S) in the “Farewell address (sermon)” says: “O people, be aware that your Lord is just “The One” and your father is just

¹⁰⁵ The text of inaugural message of his Excellency Hajj Dr. Noor-Ali Tabandeh, MajzoobAlishah, to the Conference of Peace among Religions. (Foundation for Religious Harmony and Universal peace) (18-20, April 2005) New Delhi, India. Collection of essays on “peace among religions. Mysticism in Iran (journal), compiled and edited by Dr. Seyyid Mostafa Azmayesh, No 22, Haqiqat Publication, 2004, pp 5-9. by Hussein-Ali Kashani, pp. 125-136.

one. There is no superiority of Arabs to non-Arabs and Non-Arabs to Arabs, blacks to reds and reds to blacks. The superiority and excellence is just through piety".¹⁰⁶ The principle of unity can be clearly understood from this verse, which says (Al-Nisā IV, 1): **“O people! Be careful of your duty to your Lord, who created you of a single soul and from him created his mate and from the two of them created many men and women scattered all about; be careful of your duty toward Allāh that by swearing to His Name you claim (your right) of one another, and be mindful to interrupt from your relatives”**. Surely Allāh is the Ever-Watcher over your deeds” From the first part of this verse it can be inferred that all humankind due to the oneness of their father are all relatives. In the second part, by stating that **"not interrupt you're your relatives"** emphasizes that on the basis of the first part of the verse, all individuals in the earth - from the past up to present time - are relatives. In other words, the emphasis of this verse is on the principle of unity of all humankind in all times and places.

In another verse that is addressed to all people in the earth it is said (Āle-Imran III, 103): **“And hold fast, all of you together, to the cable of Allāh, and do not separate, and remember Allāh’s favor unto you. How you were enemies and He made friendship between your hearts so that you became as brothers by His grace, and (how) you were on the brink of the pit of the Hell-Fire and He saved you from it”**.

In subsequent verses of this sūrah by forbidding discord and division says (Āle-Imran III, 105): **“And you do not be as those who were divided and disagreed with one another after clear signs came to them, it is they whom there is a grievous chastisement”**. And in sūrah of Al-An'ām says (Al-An'ām VI, 159): **“Verily, those who divide religion and became**

¹⁰⁶ The exegesis of Al-Mizan, Allamah Tabataba'i, vol. 18, p 334. Ma'dan Al-Javahir, 21.

sects (schismatics) you should have no concern in them; their affair is only with Allāh Who then (on the Resurrection Day) will inform them about what they used to do”.

In sūrah of Al-Anfāl it is said (Al-Anfāl VIII, 46): **“And obey Allāh and Allāh’s Messenger and do not quarrel with one another, lest you may get weak-hearted and your spiritual power may go away; and be patient in Allāh’s way, surely Allāh accompanies the patient”.** Interpretation of this verse at the international level would lead us to this point that war among nations would cause, the capabilities and economic resources to be destroyed, which would result to the weakness of humankind, and would harm all people in the world. Whereas unity, with regard to the optimum allocation of resources from the economic aspects, will increase social welfare among all nations. Moreover, the additional inertia of this unity will result to extra productivity, compared with previous conditions, which means taking advantage of “economies of scale”. And this will be to the benefit of the whole humankind. Nations and people cannot get the real meaning of the said inertia. They are not aware that unity of nations and elimination of war would result to their exaltation. They are content with their illusion and cannot understand the concept of glad-tiding and warning of messenger of God, which is said (Al-Rum XXX, 32): **“And do not be of those who divided their religion and became sects, and also were happy and content with what they had received from the past”.**

43- Principle of: Prohibition of racial discrimination

The principle of prohibition of racial discrimination could be easily inferred from the other principles, but due to the importance of the subject, we are going to discuss it under this topic and in a separate section. In the noble verse in sūrah of Al-Hujurāt it is said (Al-Hujurāt XLIX, 13): **“O**

mankind! Verily, We created you all from a male and female and appointed for you nations and tribes until you may know. Verily the most honorable of you, in the sight of Allāh, is the most pious of you”.

From the said verse, it is clearly known that the nations and tribes, which are the origin of races and differences between them, cannot be the main factor for supremacy and superiority of the races. The only factor for honorability and excellence in the sight of Allāh is piety. The Honorable Messenger (S) says: “O people! Your Lord is just one; the father of you all is Adam (A). Adam is created from clay, and the most honorable of you in the sight of Allāh, is the most pious of you. The Arab has no superiority over non-Arab save in piety”.¹⁰⁷

The results and effects of the said principle on foreign policy of Islam's government is that no privileges and/or restrictions should be considered for different races. One of the most notable cases, with respect to the said principle is measures taken by governments through formulating special allocations and selection of people from different races in process of immigration. The aims of this kind of discriminatory regulations are sometimes to prevent the integration of races resulting from immigration of different races and protecting the nobility of the race in the immigrant country. These kinds of allocations and other similar privileges and/or restrictions are prohibited in the foreign policy of Islam's government.

44- Principle of: Disdainful of idolaters

In Islam, the criterion of human dignity is piety, and it is on the said basis, which is said (Al-Hujurāt XLIX, 13): “**Verily the most honorable of you, in the sight of Allāh, is the most pious of you”**. Perhaps the reason behind this subject, which piety is the basis of human dignity is that human knowledge and comprehension can only be acquired through piety. That is

¹⁰⁷ Behar-ol-Anvar, 73, 348, chapter 67.

to say, humanity and superiority of human beings are the very knowledge that results from piety. In Glorious Qur'an it is stated (Al-Baqarah II, 282): **“Observe your pious duty to Allāh, and (then) Allāh will teach you”**.

Therefore, as it is noticed, in the sight of Allāh, the human superiority and supremacy in preference among human beings, is distinguished with the measure of piety because, he who is the most pious, he is the most knowledgeable. It is likely that there be a non-Muslim who due to his piety would be considered as a real Muslim and there be a Muslim who due to having no piety not to be considered as a Muslim. On the other hand “piety” cannot be acquired unless through deep thinking about his self and other beings. When, one through deep thinking finds out that the existing order in the universe is not baseless and causeless and everything is situated in its right place and follows its relevant rules, then he would be afraid of his own actions and behaviors and attempts to make some changes and reform in them, consequently he would acquire the “piety”. So that, thinking, piety and knowledge are inter-related and religions are sent down for humankind's enlightenment. And the attempts of prophets, divine guardians and divine executors have been and still are just to enlighten the people's mind.

Some people are of the opinion that establishment of rules of distinction and believing in superiority of Muslims to the idolaters is somehow an oppression and humiliation of non-Muslims. In this respect it should be mentioned that the above said statements are resulting from a wrong inference of the whole discussion. Because whoever says **“there is no God but Allāh”** even though he lies, he should be called a Muslim and should be entitled to all rights, which a Muslim has in Islamic society. The severity concerning some rules of fixed punishments (Hodood) and blood money (Diyat) against idolaters are legislated to make pagans think about their narrow-mindedness, and at least by encouraging them through their

interests to worldly affairs and fear from punishment, to avoid worshipping statues, which are made of stones, woods, metals and/or Jewels as their God. And then by thinking about the book of creation and creator have new motives to study about this world. Perhaps, this is the best method to reform the antiquated and old-fashioned people to thoughtful persons; otherwise, they would remain at the same stage of antiquated conditions. Therefore, Islam on the one hand, by way of opposition and threatening would endanger this kind of narrow-mindedness and on the other hand by way of accepting them easily just by uttering the words of “monotheism” even though it be a lie invites the idolaters to accept the oneness (of God). This method, namely using both repulsion as threatening and attraction as encouragement follows this end that one is placed between two forces of repulsion and attraction to make him move towards salvation as soon as possible. This is the best nurturing and training method the holy Prophet of Islam (S) has had in his mind.¹⁰⁸

Taking severe measures and disdainful of idolaters and threatening them to leave their inadmissible and antiquated beliefs is easily shown in the first verses of sūrah of Al-Taubah. The rough words and verses in this regard, in one hand is a grave threat and in another hand show a firm hope. From the educational psychology viewpoints, this kind of confrontation is considered to be one of the most important methods for reforming the thoughts and deeds of criminals. As long as severe measures are not taken, the criminals would never think and would never change their way of living. The foundation of Islam is based on thinking, and Glorious Qur’an in all parts of it, invites humankind to thinking. From the beginning, the

¹⁰⁸ In the book of religious standpoints on Universal Declaration of Human Rights, in relation to the abovementioned discussion and while giving explanation to Article one of the said Declaration there are detailed explanations. His Excellency Hajj Sultan Hussein Tabandeh. Religious standpoints on Universal Declaration of Human Rights, pp 38-44.

Holy Qur'an commands to recite the "Name". This recitation is nothing but thinking. "Name" is everything, which indicates what is named, that is to say, the Essence of Almighty God. On this basis the noble verse of **"In the name of Allāh the Beneficent the Merciful"**, is repeatedly revealed and sent down. By deep thinking about the "Name" and seeking assistance of **"Great Name"** who is the perfect human being and God's viceroy in the earth, one can acquire the grades of humanity. Anyhow in this regard¹⁰⁹ it is said that (Al-Taubah IX, 1-8): **"Disdain and freedom from obligation (is proclaimed) from Allāh and His Messenger towards those of the idolaters with whom you (Muslims) have made a covenant. Travel freely in the land for four months¹¹⁰, and know that you are not able to escape Allāh, and that Allāh will confound the disbelievers. And this is a proclamation from Allāh and His Messenger to all people on the Day of the Greater pilgrimage that Allāh is free from obligation to the idolaters and (so is)His Messenger. So, if you repent, it will be better for you but if you are averse, then know that you are not able to escape Allāh. Give tidings (O Muhammad) of painful chastisement to those who disbelieve. Excepting those of the idolaters with whom you (Muslim) have a treaty, and who since abated nothing of your right nor have supported anyone against you. (As for these), fulfill their treaty to them till their term. Verily, Allāh loves those who keep their pious duty (unto Him). So when the sacred months are passed,¹¹¹ then slay the idolaters wherever you find them and seize them, and besiege them, and wait for them to capture them in every corner. But if they repent and establish prayer and pay the poor-due, then leave their way free.**

¹⁰⁹ This sūrah is also called "Bara'at" its meaning is "disdain" which is mentioned in the first verse.

¹¹⁰ It is addressed to the idolaters, which had violated their promise.

¹¹¹ The four months of Rajab, Zilqa'dah, Zilhajjah, and Muharram were those months for idolaters as the respite.

Verily Allāh is Forgiving, Merciful. And if anyone of the idolaters seeks refuge in you (O, Muhammad) grant him, so that he may hear the word of Allāh, then escort him to where he can be secured. That is because they are a people who lack knowledge. How can there be a covenant with Allāh and His Messenger for the idolaters? Except those with whom you made a covenant near the Sacred Mosque (The Inviolable Place of Worship). So long as they are faithful to their covenant, you too be faithful to your covenant. Verily Allāh loves those who keep their pious duty. How (can there be a covenant with them) whereas when you are over powered by them, they do not regard the ties, either of kinship or of covenant with you? They please you with nice words with their mouths, but their hearts are averted from you; and most of them are rebellious and corrupt”.

45- Principle of: Islamic Internationalism versus states’ Nationalism

Nationalism is regarded as a term, which is employed for strengthening the national and cultural unity and historical identity of nations.¹¹² This standpoint is so prevalent that all nations in the world believe it to be self-explanatory.¹¹³ As to the political aspects of nationalism, it has become a desired means for justification of states’ actions/politics in the world. The political nationalism in authoritarian and totalitarian regimes has made them able to impose themselves on neighboring countries as well as on their own people. Islam by weakening the concept of nationalism and racial, ethnical, and cultural differences attempts to incline people towards principle of equality and omission of superstitions originated from so-called differences between ethnics, races,

¹¹² Sariā-ol-Qalam, M. (1992) “Development, Third world and international system”, Sefid Publication, 2nd ed. p. 15.

¹¹³ Moqtader, Hooshang (1991) “International policy and foreign policy”, Tehran Mafhoos Publication p. 56.

groups and tribes. Glorious Qur'an calls all human beings as brothers and say (Al-Hujurāt XLIX, 13): **“O mankind! Verily, We created you all from a male and female and appointed for you nations and tribes. (But this is not a factor of your superiority over others. It is a factor to make you think and get better understanding). Verily the most honorable of you in the sight of Allāh is the most pious of you”**. Since all humankind are brothers, therefore the illusory borderlines which are established by governments to protect their own benefits, and superiority over other nations, is worthless and barriers in the path of human brotherhood. It is worthy to mention that elevating the illusory nationalistic feelings, is a common trick played by government to continue their governance over the nations. National anthems, military marches, national glories, historical superiority, ethnical distinctions, cultural excellences and other similar issues are all different methods applied by governments to play tricks and fool the nations, as a result to strengthen the illusory distinctions between their people and other nations to be able to rule longer and easier. Otherwise, what is the difference between two persons that one of them is born in this side of the borderline and has obtained the nationality of certain country and another one who is born, in a short distance away, in the other side of the borderline and has obtained another state's nationality. These two persons may take part in a war between the two countries and try to kill their brothers who think they are from another country. All these happenings occur just for this very reason that they are born in different places, which are situated in a short distance away from each other. Islam and all true religions are sent down to eliminate these kinds of superstitions, which are common between people.¹¹⁴ Delusions, which have been the cause of establishment of political borderlines and national and

¹¹⁴ Dr. Hajj Noor Ali Tabandeh, (2000). “Cultural Iran, political Iran”, an essay, Iran mysticism (Irfan Iran), journal. No. 3 pp. 8-14, Haqiqat Publication, Tehran.

ethnic differences, are all of this kind of superstitions. MacIver in his well-known book of “The web of government”¹¹⁵ after giving full and detailed description about this subject matter that no person has more strength than another one, declares that the basis of statesmen’s power is to create differences and ethnic distinctions between their nation and other nations and also creating differences among their own people just through different customs and traditions and ceremonies resulting discord among different groups and rule over them easily.

Islam does not approve this kind of ambition and hegemonism. In Glorious Qur’an, it is addressed to holy Messenger (S) that (Al-Ghashiah LXXXVIII, 22): **“You are not a compeller over them”**. Islamic internationalism is not established for domination and hegemony over humankind. Because domination and ruling over human beings is one of the most worthless and even most unpleasant things in Islam. It is just applicable in Islam for transcendence of humankind and humanity. Therefore, endurance of difficult situations and sufferings of a governor is not due to enthusiasm for ruling, but because there is an order in this regard which said (Hūd XI, 112): **“So stand on the straight path as you are commanded and so do the ones who turn to Allāh with you, and transgress not (that is to say do not get tired and never leave your mission)”**. The honorable Messenger (S) repeatedly would say that “this command in sūrah of Hūd has acted as a heavy burden on me”.¹¹⁶

46- Principle of: Prohibition of national boasting and seeking national superiority

The political and cultural issue of national glorification and/or seeking

¹¹⁵ R.M. MacIver, The web of government, (rev. ed. 1965); translated to Farsi by Ali Kani, printed by Institute of Translation and Publication of Book, 1975, Tehran.

¹¹⁶ Al-Shura XLII, 15, **“And so you invite them (to this religion of Islam) and be firm and steadfast about it, as you have been commanded”**.

national superiority is one of the most prevalent and important controversial topics among the nations. A survey of the social and political behaviors of the states shows that, there are various forms of this kind of boasting among different nations, which by enhancement of economic power and domination over smaller countries it is going to be increased accordingly. The said national boasting and considering that one's nationality to be superior than the other nations, is so dangerous that some people argue that the first and second world wars originated from this kind of seeking ethnical-national superiority. For example, the United Forces and especially Germany by invoking the issue of ethnical superiority of German's Arian race started invasion against the whole world. Other wars, which have taken place in the earth, more or less and in one way or another have originated from this kind of boastings and seeking superiority.

The illusion of superiority emanates from ignorance and unawareness. Because, if we think it over attentively, we will understand that all of us are the creatures of one creator and no one has superiority over the others. We are all brothers and the existence of tribes, nations, countries, nationality and other characteristics and peculiarities would not be the cause of superiority and boasting. We are all equal in the sight of Allāh and the most honorable ones in the sight of Allāh, are the most pious ones (Al-Hujurāt XLIX, 13). Glorious Qur'an says (Al-Nisā IV, 36): **“(O men) Worship Allāh and ascribe nothing as partner unto Him, and show kindness unto your parents, relative, orphans, the needy, the neighbour who is a near relative, the neighbour who is a stranger, the very close friend, the wayfarers and those slaves whom you own. Verily, Allāh does not like the boastful and arrogant”**. The definition of the term **“boastful”** in the said verse is described as follows: **“boastful is the one who thinks of himself as great and distinguished person and the others as inferior and**

object persons”.¹¹⁷ From theosophical standpoints, generalizing the concept of this noble verse to the nations, leads to no difficulty. Its purport could be accepted as a principle to treat other nations in international relations.

Arrogance and egotism is one of the most blameworthy and reprehensible sins. In different occasions and in various ways, several verses have been expressly sent down about it in Glorious Qur’an. This arrogance is introduced through blameworthy manifestation of Iblis egotism, who by seeking superiority over Adam (A) refrained obeying divine commands. Arrogance, in various stages means to believe oneself is superior to other creatures, which is reprimanded in Glorious Qur’an and says (Al-Ahqāf XLVI, 20): **“On the Day when the disbelievers are exposed to the fire they will be told: “You benefited from good things of the world and you enjoyed your life fully. So this day you will be recompensed with a disgracing chastisement because you without due cause behaved arrogantly and made mischief and corruption in the earth”**. The term **“earth”** which is used in this verse means that no country or special zone is excluded, therefore, the people throughout the world are treated equally. And in sūrah of Al-Mu’min, it is said (Al-Mu’min XL, 75-76): **“This chastisement is because you had been busy merry-making and exulting in the earth uprightly. Now enter the gates of Hell to abide there in forever, and it is the worst abode of the arrogant”**. The Glorious Qur’an ascribes arrogance, egotism, and haughtiness to those people who do not believe in the Hereafter. And says (Al-Nahl XVI, 22-23): **“Those who do not believe in the Hereafter, their hearts refuse to know the truth (of Allāh’s Unity) and they are rebellious and arrogant. Assuredly Allāh knows that which they keep hidden and that which they proclaim. However He does not like rebellious arrogant”**. And says (Al-Hadid LVII, 23. Also Al-Nisa IV, 36): **“And**

¹¹⁷ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", volume 4 translation, p 66.

know that Allāh does not like the arrogant boasters” And it is Luqman’s advice to his son in Glorious Qur’an which says (Luqman XXXI, 18): **“And (O my son) do not turn your face away from people out of the arrogance: not walk in the land exultingly; verily! Allāh does not like any self-conceited boaster”**. And says (Al-Isra XVII, 37-38): **“And do not walk in the earth arrogantly; verily you can neither tunnel through the earth nor reach the heights of the mountains. All of those which are mentioned are bad and therefore hateful in the sight of your Lord”**. And on the contrary says (Al-Furqan): **“The (faithful) bondmen of the Beneficent (Al-Rahman) are they who walk upon the earth modestly and when the foolish ones address them answer: peace**. And says (Al-Qasas XXVIII, 83): **“We have appointed paradise as the Last Home for those who did not intend oppression and corruption in the earth, and therefore the best end belong to the pious.”** And also says (Al-Hajj XXII, 34): **“Give good news to the humble worshippers”**. As it is observed in most aforesaid verses, the term **“earth”** is mentioned. Therefore, on the basis of our previous description, the protection of equality and brotherhood in relation to other nations in the world is the practical instructions of Islamic community and Islamic government. In sūrah of Al-Fātir without any exception, it is addressed to all men that (Al-Fātir XXXV, 15): **“O, men! You are all in need of Allāh, and Allāh is praiseworthy, self- sufficient”**. It means that all people in this planet should know that they are all in need of Allāh, and Allāh is the one who has no need at all. He is praiseworthy and you are not deserved to be praised. So that do not be boastful. While one is in need, so how can there be any room for boasting, praiseworthy, and seeking superiority.

47- Principle of: Peaceful coexistence

One of the most important principles, concerning the relationship of

Islam and Muslims with other people, is the principle of peaceful coexistence. This principle applies to the smallest unit of the society namely, the family and neighbors and then foreign neighbors and lastly to all countries throughout the world. Nearly most Islamic jurisprudential rules, with reference to the neighbors could be extended to the international relations. It is said (Al-Nisā IV, 13): **"Show kindness unto your parents, relatives, orphans, the needy, the neighbor who is a near relative, the neighbor who is a stranger, the very close friend, the wayfarers, and those slaves whom you own. Verily! Allāh does not like the boastful and arrogant"**.

The principle of peaceful coexistence with other states is the basis of “relationshipness” expansion of Islam. In other words, this principle is the basic grounds for subsequent expansions of Islam. Because there should exist necessary means for association of nations with one another until the people of the world, become acquainted with the virtue of Islamic rules and then sincerely convert to Islam. Some people are of the opinion that Islam is a religion of fighting, invasion, and transgression¹¹⁸, which is not a true conviction. In some periods of Islam’s history and especially at the time of the honorable Messenger (S), which has been practically the period of materialization of Islam,¹¹⁹ all fighting have taken place as defensive

¹¹⁸ Khadoori, Majid (1956) "Peace and war in Islam", translated to Farsi by Saeedi, Tehran, Eqbal Publication. Also Charles de Montesquieu (1752), *The spirits of Laws*, Translated by Thomas Nugent, revised by J. V. Prichard. Based on edition published in 1914 by G. Bell & Sons, Ltd., London. In comparison of Islam and Christianity, he was of the opinion that religion of Islam was imposed on people just by force of sword, and because its foundation was based on force therefore, it has caused severity so that the spirit and moral of the people is tough. This doubt and confusion is generally resulted from the point that they think the real Islam is what they know about the era of the first Three Caliphs or other cruel (tyrant) caliphs. Whereas it is a paralogism and false reasoning.

¹¹⁹ At those periods of times when the Muslims’ territories were under ruling of elected Three Caliphs and cruel caliphs the situation was not the same. The said governments cannot be included in category of Islamic government. In other words in a territory the government and nation might be Muslim and the Islamic laws be enforced, but this Footnote continues in next page

measures or recovering and vindication of rights. These fightings have never happened for aggression or infringement of others' rights. Having this standpoint in mind, namely, preparation of some grounds for expansion of Islam, the following verse that is addressed to honorable Messenger (S) would find its real application, which said (Yūnus X, 99): **“Can you (O Muhammad) compel people against their wishes to become believers?”**

In the following verse, the concept of peaceful coexistence, even in its idealistic form, is mentioned as says (Al-Mumtahanah LX, 7): **“Perhaps Allāh will (in future) cause friendship between you and whom you hold as enemies”**. From the said verse, this rule could be construed that all Muslims should attempt to remove the barriers of enmity established between them and their enemies, which is a major hindrance of friendship.

48- Principle of: Friendship with nations and folks

Religion is founded on love and amity, which is said: "Is it not religion other than love and friendship?"¹²⁰ Friendship has different stages, and on various grounds shows its special representation. The believers' friendship with people and different groups, after love unto Allāh, prophet, divine guardians and divine executors, takes the following sequence as to their importance:

1. The believers (those persons who have taken oath of allegiance, whether special or general oath, in the order of honorable Prophet (S) or in the order of other divine religions).
2. Muslims (those persons who have taken a general oath of allegiance).
3. Muslims who are stationed within Islamic nations (those persons who

could not be called Islamic government. There might also the government, people, and laws be Christian or Jewish but it should not be called a Christian or Jewish government. We may call a government really a religious government when the viceroy of God be placed as the head of the government and the Divine Holder of Authority, which is determined by Almighty God, take the governmentship.

¹²⁰ Al-Kāfi 8,79.

without taking oath of allegiance live within Muslim's societies or due to their parents who are Muslims or the society where they live are called Muslims).

4. The people of scripture (Jews, Christians, Mandaeans, Zoroastrians, and other orders of divine religions).
5. The people of scripture who are the mockers.
6. Idolaters (those persons who take other things as partner to Almighty God, and worship them as their Lords such as things, human beings, and animals).
7. Disbelievers (Those persons who do not believe in Almighty God).

In other sūrah says (Al-Mā'idah V, 57-58): **"O. you who believe! Do not take for friends those who take your religion as a mockery and fun, whether they be the people of the scripture or the disbelievers, and fear from the disobedience of Allāh; if you are true believers. And when you proclaim the call to prayer, they take it but a mockery and fun; that is because they are people who do not use their reason"**. This verse is about Jews and Christians, which have been mentioned in previous verses, as it says (Al-Mā'idah V, 51): **"O, you who believe! Do not take the Jews and the Christians as friends, they are friends only to one another; and if any among you takes them as friends, then surely, he is regarded as one of them. Verily, Allāh does not guide the wrong doers"**.

Anyhow, if there exist some words about refraining from being friends with the people of scripture it would be about those groups which have hypocritical and mocking behaviors towards Muslims, otherwise in sūrah of Āle-Imran it is said (Āle-Imran III, 113-114): **"Yet they are not all alike; part of the people of the scripture stand for the right and recite Allāh's words of revelation in the watches of the night and they prostrate in adoration. And they (also) believe in Allāh and in the Last**

Day, and enjoin goodness and forbid evil and they compete to do good deeds and they are among the righteous". And in the same sūrah says (Āle-Imran III, 199): **"And there are certainly among the people of the scripture those who believe in Allāh and what has been sent down to you, and what has been sent down to them. Men humble to Allāh, they would not sell Allāh's words of revelation for a mean price; for them there is a reward with their Lord".** And with reference to the Jews it is said (Al-Nisā IV, 162): **"But those among them who are firmly rooted in the divine knowledge and believe in what has been sent down to you and what was sent down before you; and those who perform prayers regularly and pay poor-dues and believe in the Day of Resurrection, to all of them, We shall surely give a great reward".** And as a general rule it is said (Al-Māidah V, 69. Repeated in sūrah of Al-Baqarah II, verse 62): **"Surely, those who believe (in Islam) and those who are the Jews and the Sabians and the Christians and whoever believes in Allāh and the Last Day and do good, no fear shall be upon them and nor shall they grieve".** Moreover, it is said (Al-Ahqāf XLVI, 13): **"Verily, those who said: "Allāh, the One is our creator" and remained steadfast about their Faith, on them shall be no fear nor shall they grieve".**

49- Principle of: Protection of all nations' and states' interests whether in their presence or absence

Islam's Government is the protector of the interests of all nations and states in the world. Such a protection of interests is performed apparently or secretly, whether in the presence or in the absence of them. Refraining to protect others' rights is considered as betraying them. It is said (Yusuf XII, 52): **"I did not betray him in his absence, verily; Allāh does not give way to the guile of the traitors".** The said verse clearly stipulates prohibition of betraying the others' interest in their absence. Therefore,

while protecting others' interests in their absence is obligatory, it is obvious that it would be obligatory in their presence.

The said concept could be construed from the following verse which says (Al-An'ām VI, 152): **"And do not approach the property of an orphan unless it is in the best manner till he attains his maturity, and give full measure and full weigh with justice; We do not task any soul beyond his ability, and when you speak, be just, though it may be against your relatives' benefit. And fulfill Allāh's covenant. Thus does Allāh enjoin you by those decrees (about your duties). So that you may be mindful"**. According to this verse, Almighty God enjoins that: Do not approach the property of an orphan in the absence of his maturity and while he/she lacks required perception. And in the absence of the purchaser, do not give him less than what is due, in measurement and weight. Do justice whether he be present or absent. The said obligation should be performed to the extent of Muslims' abilities. When you are speaking or judging, you should not act in a manner to acquire unjustified benefits for yourselves or your relatives. Including the said commands in the foreign policy of Islamic government and extending the subject to the international relations, seems to be clear and obvious. Since non-Muslim states and nations have not yet acquired the guardianship of the Holder of Authority, and are separated from spiritual father and divine guardian, therefore they are considered to be as orphans. So that different non-Muslim nations are also covered by the concepts of the said verse. Moreover, concerning the Islamic government, the term **"relative"** mentioned in the said verse corresponds with the Islamic community, whose people are relatives of Muslims whether they live in their homeland or other places. Thus, Islamic government is bound to protect the interests of all states and nations throughout the world – even non-Muslims –, in their presence, or in their absence. The Islamic government has no right to infringe others' right just

for protecting the interests of its own nation.

There are exceptions to the said principle. Defense against the aggression of other nations is an exception. Another exception is where there is an oppression and cruelty which the oppressed has the right of objection through shouting. In Glorious Qur'an, it is said (Al-Nisā IV, 148): **"Allāh does not like the shouting of evil words except by one who has been oppressed"**. In this case protecting the interests of oppressed and confrontation with the oppressor is one of the tasks of Islamic government, which is said (Al-Nisā IV, 75): **"And what is it with you that do not fight in the path of Allāh and for those who being weak and oppressed among men, women and children who cry "O, our Lord, rescue us from this town whose people are evildoers and tyrant and appoint for us from your presence a guardian and a protector"**". Seeking help in the matter of religion is included to the said exception, which said (Al-Anfāl VIII., 72): **"And if they seek your help in the matter of religion, it is your responsibility to help them."**

50- Principle of: Trustworthiness

Principle of trustworthiness is one of the special issues of public and private international law at present times. During wartimes, some countries deposit their properties and even their military equipments such as airplanes in some other states. In peacetimes also properties of many states as financial assets are deposited in their own banking accounts in other countries. The said properties belong both to the individuals as well as to the states, therefore, their being as a trust and restoration to their owners are confirmed. In Glorious Qur'an and in the following verse the restoration of deposits are commanded, as it is said (Al-Nisā IV, 58): **"Verily, Allāh does command you that restore deposits to their owners, and when you judge among people you should judge with justice"**. The meaning of the

verse is that whenever there is a special right with a person, it is considered to be as a "deposit" which should be delivered back to the society or individual who is its owner. Having this subject in mind, it should be investigated justly to find the right owner and restore the right.

In another verse as to the qualifications of believers, it is said (Al-Mū'minūn XXIII, 8): "**And the believers are those who return their deposits and observe their covenants**". The Islamic instructions are based on this principle that various properties, which belong to the states and individuals and are deposited with Islamic government and Muslims should be returned to their owners. To refrain from returning the deposits whether being guidance and leadership of people or interference with the affairs of people, Muslims and believers, from the lowest religious missions up to the highest positions that is the position of great divine successorship are among these kinds of deposits. At the time of advent of Islamic government, all said positions should be placed at the control of prophet, divine guardian and/or divine executor. If anybody acts according to his own preference would be subject to the rule of breach of trust. That is why it is said (Al-Anfāl VIII, 27): "**O you who believe! Do not betray Allāh and Allāh's Messenger, nor misuse knowingly properties entrusted to you**".

51- Principle of: Prohibition of impeding the benevolence

The said principle is one of the kinds that does not authorize the Islamic government's officials withhold charitable affairs in the international scene, or make hindrances to charitable measures of the other states. The following noble verse is an indication for reprimanding the "impeding the benevolence" which says (Qāf L, 24-25): "**Cast into the Hell any rebellious disbeliever. The one who hindered others from doing charity and was transgressor**".

The said principle should be taken into consideration during international negotiation and decision-making process, where the representatives of different states are deliberating to make decisions and take actions against a state or states. The prevailing method used by states, usually is that, by considering their own definite and/or probable benefits at present time or in the future, attempt to apply all available bargaining and negotiating power, to restrict other states benefits in favour of their own advantages. Regretfully this international avarice and stinginess is very common among politicians of different states who believe that, if other nations be kept underdeveloped then it would be to their advantage, that is why they become a hindered of good. Whereas, this is basically a wrong idea, since development and economic growth of states is at stake and interdependent with development and economic growth of other states. In this case, the international policy of Islamic government concerning all nations and states in the world is to remove all quantitative and qualitative impediments and barriers regarding their economic, political, cultural and social growths and developments.

52- Principle of: Imperfect political neutrality

Neutrality could be defined as, not to interfere with international relations among two or more states, or not to set out official position for or against one or more states. This definition corresponds, nearly with the term of "non-alignment" which is common in the international scene nowadays.¹²¹

In Islam, position of neutrality is subject to special regulations. In this way that Islam, just the same as a father and/or guardian, possesses divine guardianship over the earth. This guardianship is extended on everyone of

¹²¹ For more information about principle of neutrality and non-alignment, which is a kind of neutrality, see: Abdul-Ali Qavām (2002). "Principles of foreign policy and international policy", SAMT organization, Tehran.

the human beings and all humankind are considered as the children of prophets, divine guardians and divine executors. Therefore, whenever they are under oppression and/or in need of protection, they will be protected and whenever they attempt to oppress other people, they will be confronted and fought against. So that Islam adopts the position of neutrality but in the form of being "potentially active". That is to say, whenever oppression gets to its extent that requires interference, then Islam will take the position of active. When there are many people under oppression then it would not be acceptable for Islam to remain neutral towards the oppressed and the oppressor. Of course, it should be noted that when we are speaking about Islamic government it means that the Government is under the control of The Lord of the Age (A) or his representatives who are authorized by him to take this position, not those who are elected by vote of people or councils. On the contrary, the Leader must have received the clear and authentic command issued by the impeccable in a serial manner (that is one authorized by previous person and the latter be authorized by his precedent up to impeccable).

Neutrality in war means to be in the position of a third party or supervisory member in the war, which would not be one of the belligerents. The defensive regulations in war is another subject, which will be discussed in another chapter. The peace covenants concluded at the time of Honourable Messenger of God (S) have been the same as a non-aggression covenant. They did not mean to take the position of a third party.

53- Principle of: Negation of protectorship and authorization of protection

On the basis of the said principle, the Islam's Government would never be under trusteeship or protectorship of another state. With regard to the international laws and regulations, a state is called a protected state

(protectorate) where by virtue of the terms of an international agreement, she establishes a political and legal relationships with a powerful state, consequently the protected state while maintaining her international status and personality, in some aspects will be under the control of the another state which is called protecting state. The administration of foreign affairs and supervision on parts of her internal affairs will be handed over to the protecting state. The individual international agreement concluded between two states shall determine the limits of authorities and powers of the protecting state concerning the administration of foreign affairs and internal affairs of protected state.¹²²

The Islam's Government shall never be under control and protectorship of any other states. On the contrary, it is the Islam's Government, which stands as a protecting state in relation to other states. The universal guardianship in Islam that is occasioned by the expressly stated authorization is considered to be the guardian and protector of all humankind and takes all human beings under his protectorship. He is the viceroy of Allāh who is God's remainder on the earth. He is the Lord of the Age and successor of Honourable Messenger of God (S) and mediator of divine blessings to human beings. He is domiciled at the borderline the "World of inevitable existence" and the "World of possible existence". He attains the Almighty God's blessings with one hand and gives them to the human beings with other hand. This divine guardianship is quite different from the "jurisconsult guardianship", which is discussed in nowadays. In relation to this viceroy of Allāh, the human beings are stationed in different stages as disbelief, paganism, islam (obedience), faith, and benevolence. Whosoever does not know him, is in the position of disbelief or the one who is under the veil of disbeliefment. Whosoever obeys him along with another one or himself is in the position of paganism. Whosoever is under

¹²² See: Safdari, Public international law. Volume 3, Tehran University, pp. 549-552.

his command is a Muslim. Whosoever really knows him is in the position of faithfulness. And whosoever kills his selfishness and is drowned into his deity, is in the position of benevolence.¹²³

54- Principle of: Non-intervention in other states' affairs

The principle of non-intervention in the affairs of other states is one of the requirements of constitutional law, which is based on independence of the states. All states have the right of self-determination and nobody has the right to determine and/or design her affairs. On the basis of unquestionable principles of public international law, no state has the right to intervene, directly or indirectly, in the internal affairs of another state. The constitutional rights of the state consist of safeguarding and protection, independence, equality, mutual actions and world trading, which nearly most jurists (lawyers) confirm the said principles and consider them as definite and indisputable rights of the states.¹²⁴ There are some exceptions to the said general rules which the states, under the pretext of these exceptions intervene in the internal affairs of another state such as: where a state disregards the principles of international law, or puts pressure on foreign nationals resulting to their detriment and harm, or lacking the required rules of procedure for safeguarding the rights of foreign nationals. These kinds of intervention normally take place by drawing the attention of international public opinions to the subject, and even in some occasions, it may take place through launching international military.

The basic rule in Islam is mutual action and non-intervention in the affairs of states, but with regard to some other principles, the

¹²³ For more information about this personality see: "Instruction and education from the standpoints of Shahid Thani and Imam Khomeini (1984). Translated by Ahmad Fahri, Rejā Cultural Publication Center. Volume 3, Oct. 1984. Offset printing, Allamah Tabātabāie, pp. 17.

¹²⁴ See, Arsanjāni, H. (1963) *The Sovereignty of states*, Jibi Publications, Tehran. And also Safdari, M.(1961), *Public international law*, Tehran University Publications.

abovementioned rule bears several exceptions. For example, where there is a group of people who are under the cruelties and oppressions, Islam is bound to protect them, without taking into consideration that the said group is domiciled in another state. This general principle in Islam, namely protecting the oppressed ones, could be contradictory and in violation of many common principles in international relations. Even if deprived or weakened groups, which are not considered as oppressed people, demand the assistance of Islam's Government, they will not be unresponded. It is addressed to Honourable Messenger of God (S) that (Al-Duha XCIII, 9-10): **"Therefore do not refuse helping the orphans and do not repulse the beggar"**. Certainly, the aforesaid exceptions could be enforceable where numerous conditions are ascertained. These requirements are enumerated and explained in Islamic jurisprudence.

55- Principle of: Obligation for liberalization of oppressed people

As to Islam's point of view, all individuals are personally responsible. The Honourable Messenger of God (S) said: "All of you are to observe and all of you are responsible as well".¹²⁵ When groups of people are under oppression, then the Islam's Government is bound to protect the aggrieved and oppressed people. Islam's Government has responsibility to remove the cruelties imposed on those people who are weak, even by fighting. Glorious Qur'an says (Al-Nisā IV, 75): **"And what is it with you that you do not fight in the path of Allāh? And for those who being weak and oppressed among men, women, and children who cry: our Lord! Rescue us from this town whose people are evildoer and tyrant, and appoint for us from your presence, a guardian and a protector"**. There is a surprising question in this verse about the stop of fighting instead of uprising and removing the oppression from the people who are under the

¹²⁵ Behar-ol-Anwar, 72, 38, chapter 35.

oppression of the governor of a town (or a country). There is no indication about the religion of the aggrieved in this verse; therefore, it includes all humankind. This verse is concerned about those people who demand the oppression be removed from themselves. Whether they know their Lord or not know him. Whether their Lord be addressed as present addressee or as absent one.

As a general rule it is obligatory to assist, where there is a demand of seeking help in the matter of religion, which says (Al-Anfāl VIII, 72): **"But if they seek your help in the matter of religion, it is your responsibility to help them"**. Exceptions to this verse are about those covenants, which have already been concluded. We will discuss about them in another section. At present time the same assistance is produced in launching international military campaign under the pretext of liberalization of nations, which should follow a rational order and on the basis of international laws and international agreements, otherwise the said principle would act as an excuse by powerful states to invade the small states under the pretext of liberalization of nations. The similar case has taken place after the collapse of former Union of Soviet Socialist Republic (USSR) and alteration of bipolar power system into monopole system of power at the international political scene. Anyhow, Islamic government has its own standpoint on the subject that is to say, protection of the rights of the oppressed people.

56- Principle of: International protection of minorities

The phenomenon of minority segregation and distinction has mostly had religious aspects and objectives throughout the history. These kinds of pressures have always been brought by groups of ignoramuses and religious formalists against other religious sects or other religions. And there still exists this problem more or less, among all nations and societies

of the world. Some groups of common people, instigated by so-called-clergymen, who are secretly guided and controlled by political and economic powers, continue to persecute the (religious or ethnical) minorities.

The issue of freedom of religion had been taken into consideration in conventions of Vestfalia and Vienna in 17, 18, and 19 centuries. After Crimea war and in pact of Paris (1856) it was stipulated that there should be no discrimination against citizens of a nation with regard to their religions as well as their races. In Berlin convention (1878), freedom of religion of citizens is expressly recognized. In third conference of League of Nations (1922), the religious, lingual and ethnical minorities were all recognized and protected and it was stipulated that the minorities have the right of exercising their religious services as long as they are not against public order and good character quality. The minorities should have the right of enjoying political and civil rights as other citizens of state and should have right to use their own language, other than the official language of the state, in their private, commercial, religious, journalistic and judicial relations. They should have the right of establishing and managing charitable, religious and social institutes and establishment of schools, training and educational institutes to educate their own language in the said institutes and schools. They should have the right of having citizenship and nationality of the state, where they are stationed and domiciled. Mutually, the minorities are under obligation to be loyal to and cooperate with their respective government.

After World War I, it was prescribed in all conventions that to guarantee the respect and observance of minorities' rights, the states should stipulate the protection of minorities' rights in their constitution, and League of Nations would observe the performance of these obligations. Therefore, the member states of the League of Nations were specifically

bound to take special attention for observing the regulations of conventions concerning minorities. In any case, each one of the member states and the members of minorities had the right to draw the attention of the Assembly of the League of Nations to the breach of covenants concerning minorities, and by submitting their written complaints to the Secretary General; he would have been bound to send them to the Assembly of the League of Nations. The permanent International Court of Justice had the duty of adjustment and settlement of disputes between concerned states and the members of the Assembly of the League of Nations regarding the regulations of covenants concerning minorities.¹²⁶

After World War II, the General Assembly of United Nations in its first session announcement declared: "It is to the best interest of the human society to put an end to the persecution of humankind and racial and religious discriminations". Based on the said recommendation, the Commission on Human Rights and sub-commission on protection of minorities' rights and prevention of discrimination commenced its work in 1947. The Universal Declaration of Human Rights is the achievements of this commission.

In Islam, the minorities' rights are propounded through a special viewpoint. This viewpoint is based on promotion of human thoughts. In Islam, the minorities are divided into several groups:

1. The first group is idolaters who worship the statues and idols as their creator. Islam disdain for this group. This would be an encouraging factor to make them leave their antiquated thoughts. Whenever they stop worshipping the idols then they would become the same as other groups. In the section of "showing disdain for idolaters", we discussed thoroughly about this subject matter.
2. The "people of the scripture" take part in all social, political and

¹²⁶ See: Safdari, Muhammad, (1963).Volume 3, pp. 223-238.

economic affairs of the society, but because the Islamic government shall protect their life, property, chastity and reputation therefore they have to pay pool-tax which is the charges of their protection and during the war they will be excused from military services and taking part in fighting. This group just by "Islamic confession of faith", even if lying or by way of hypocrisy, would be considered as Muslims and never would be treated as the members of minorities. Because one becomes a Muslim just by confession that there is Allāh and Muhammad is the Messenger of Allāh. Islam is quite different from the belief. Islam will secure the social, political and economic rights but "faith and belief" is a spiritual and hearty matter, which shall be attained just through truthfulness and purity of heart.¹²⁷

3. The third groups are the slaves which Islam through its encouraging regulations has attempted to reduce the numbers of this group and remove the cruelties imposed on them. A thorough discussion on abolition of slavery is found on its concerned section.

Apart from the aforementioned cases no other forms of minority is known by Islam and Islamic law. This seeming discrimination is just for encouragement of ethnics and minorities to move them toward thoughts' promotion. However, as conform with minorities' rights in Universal Declaration of Human Rights and also the resolutions taken in the second Universal Conference of Human Rights¹²⁸ (in June 1993) Islam is in agreement with removal of racial discrimination, anti-foreigners actions

¹²⁷ In Al-Hujurāt XLIX, 14-15 it is said: **"The desert dweller Arabs say: "We believe". Say (O, Messenger): "You have no faith, so you only say: "We are submitted to Islam", since faith has not yet entered into your hearts, but if you obey Allāh and His messenger, He will not decrease anything from the reward of your deeds; verily, Allāh is the Merciful Forgiving. The true believers are those only who believe in Allāh and His messenger and afterwards doubt not, but strive with their wealth and their lives, for the cause of Allāh. Such are the sincere".**

¹²⁸ M. Jalal-ed-Din (1995). Public international law and the principles of international relations. Vol. 1, pp. 406-442.

and other forms of inequalities concerning national, ethnical, religious and lingual minorities as well as giving them equal social, political and economic conditions. The freedom of the said groups in their beliefs, conscience (opinions), traditions, customs, religions, languages, ethnicities and nationalities upon their own viewpoints and wills is definitely ascertained. The only restriction is, overtly committing sinful conducts and infringement of others' rights.

International protection of minorities with regard to defense and protection of oppressed people is one of the obligations of Islamic government, which is discussed in the concerned section.

57- Principle of: Inapplicability of slavery and slave trade at this age

Slavery is a highly publicized issue against Islam, which the opponents and adversaries mostly invoke to show Islam's inclination in preference of freeman to slaves. His Excellency Hajj Sultan Hussein Tabandeh in a comment on religious standpoints on Universal Declaration of Human Rights, have explained this special subject.¹²⁹ His Excellency Hajj Dr. Noor-Ali Tabandeh has also given an explication of the said subject in response to an inquiry of a professor of York University of Canada. In his essay, the issue of "slavery in Islam" has been explained and analyzed with regard to the social evolution of Islam.¹³⁰

Anyhow, the Islam's standpoint on the issue of "slavery" could be categorized into two main subjects. The first one is about captives (prisoners of war) who have fought against Islam, therefore they would be considered as slaves. The second one is the encouragement of all Muslims

¹²⁹ Religious standpoints on Universal Declaration of Human Rights; 2nd impression 1975, Tehran, Salih Pub. pp. 45-51.

¹³⁰ The complete text of this essay is printed in the journal of Iran's Mysticism. Collected and compiled by Dr. Seyyed Mostafā Azemayesh, No. 19, Haqiqat Publication, 2004, under the title of "Slavery in Islam" pp. 10-18.

to liberate the said slaves. Concerning the first part, it should be noted that the living conditions of captives were an important issue in early Islam. Because it was impossible to send back the said captives who had fought against Islam to their homeland prior to the settlement of all disputes. Because they were able to take arms and make another invasion. On the other hand, they could not be left without any subsistence. However, there had been no penitentiary or prison to keep them and supply their necessities of life. Therefore, the most desirable method was to put them at the Muslims disposal, so that they would have a job, secondly their food and place of living would be provided, and thirdly they would be under constant surveillance, not to make any trouble again. The social rights of captives were sometimes half of the others, for this reason their punishments (Hodood) were also halved in return. In this connection it is said (Al-Nisā IV, 25): **"And whosoever of you who has not the means to marry free-believing women, may marry believing girls from among those (captives and slaves) whom you own and Allāh is the knower of your faith; you are fellow-creatures; then wed them with the permission of their own masters and give them their marriage-portion according to what is reasonable, provided that they are chaste, not adulterous nor taking boyfriends; and after they have been taken in wedlock, if they commit adultery, their punishment is half of that for a free woman. This (type of marriage) is for those men among you who are afraid of committing sin of adultery, but it is better for you to practice self-restraint, and Allāh is the Merciful Forgiving"**. This standpoint is quite different from the invasions and night-attacks of Arabs against other tribes to take possession of their properties and make their individuals as slaves. Islam has used this phenomenon and the custom of slavery to protect the life of both friends and enemies.

As it was already mentioned, the other part of the said category was

encouraging the Muslims to liberate the slaves. That is to say to cancel the guardianship of their masters and give them social rights the same as other citizens of the society. Encouragement of Muslims to liberate the slaves and declaring liberation of slaves as an atonement of several sins could be understood from the following verses. In sūrah of Al-Baqarah it is said (Al-Baqarah II, 177): **"It is not (the only symbol of) righteousness that you turn your faces towards the east or to the west but true righteousness is to believe in Allāh, and the Day of Judgment, and the angels and the book and the messengers and also spend one's wealth, despite of love for it, (by giving it) to the kinsmen, to the orphans, and to the needy, and to the wayfarers, and to the poor who beg, and to ransom the slaves, and to perform prayers, to pay alms; and those who fulfill their promises when they make them and those who are patient in extreme poverty and ailment and at the time of war, such are the people who are truthful and they are indeed the pious"**.

In sūrah of Al-Mā'idah says (Al-Mā'idah V, 89): **"Allāh will not punish you for what is unintentional in your oaths, but He will punish you for your deliberate oaths: Expiation is feeding to poor persons on a scale of average of that with which you feed your own family or clothing them or freeing of a slave; but whosoever cannot afford (none of these) then he should fast for three days successively. That is the expiation for the oaths you have sworn, so keep to your oaths. Thus Allāh makes clear to you His words of revelation, so that you may be grateful"**. It says (Al-Taubah IX, 60): **"Verily, alms are only for the poor and the needy and those who collect them, and those whose hearts are to be reconciled, and the ransoming of the slaves and for those in debt and in the way of Allāh and for the wayfarers; it is a duty decreed by Allāh. Allāh is Knower, Wise"**. In other sūrah says (Al-Mujadalah LVIII, 3-4): **"And those who do Zehār their wives but then change their mind**

about what they uttered by their tongue, they are liable to expiation of freeing a slave before they approach the wife physically; this is a religious admonition to you and Allāh is well informed about what you do. And a person who cannot find a slave to set free, must go on fast two months successively before they touch each other, but if a person is sick and cannot fast, he should feed sixty of the poor; this is in order that you may find faith for Allāh and His messenger". It was customary among Arabs that if a man addressing his wife said: "you are like my mother" the marriage intercourse between them would become forbidden and prohibited. This custom was called "Zehār". Islam while negating this superstition in pervious verse declares (Al-Mujadalah LVIII, 2): **"Those men who do Zehār with their wives, should know that those women are never their mothers; none can be their mothers except those who gave birth to them. And indeed they utter an evil and a lie. And verily Allāh is Forgiving, Merciful"**. Islam has endeavored to instruct those people who do Zehār with their wives that not to pay attention to this kind of superstition, which makes trouble for them and their family as well. Moreover, has made them to pay atonement which shall be used for improvement of the slaves' conditions and poor people, that is to say the atonement is used to liberate a slave and/or to feed the needy. In sūrah of Al-Balad says (Al-Balad XC, 12-13): **"What would make you know what is "Al-Aghabah". It is to free a salve"**. And in sūrah of Al-Nisā says (Al-Nisā IV, 92): **"A believer should never kill a believer unless it is by mistake; and whosoever kills a believer by mistake must set free a believing slave and blood-wit should be paid to the family of the killed person unless they remit it as a free-will offering. If the killed persons belongs to a people at war with you and he is a believer, then setting free a believing slave is a duty. And if the killed person belongs to a people with whom you have treaty, then the blood-wit is to be paid to**

his family and the slayer shall set free a believing slave. And whoso finds this beyond his ability, two month fasting successively by way of repentance to Allāh (is ordained) for Allāh is Knower, Wise". In the same sūrah says (Al-Nisā IV, 36): "... And do good to your parents, relatives, orphans, the needy, the neighbor who is near relative, the neighbor who is a stranger, the very close friend, the wayfarers and to those slaves whom you own. Verily Allāh does not like the conceited arrogants". In other verse of this sūrah says (Al-Nahl XVI, 71): "Allāh has preferred some of you above others in sustenance, but those preferred ones do not share their provision to those slaves they own, so that they be equal in that respect. Is it the bounty of Allāh that they deny?" In sūrah of Al-Nūr has ordained (Al-Nūr XXIV, 32-33): "Make the single or unmarried people of the family marry and also the male or female servants (slaves); if they are poor Allāh will bestow them the means in abundance, since Allāh is the knowing Bounty-Bestowed. Those who cannot find the wealth and means for marriage they are enjoined to keep themselves chaste until Allāh grants them bounty out of His grace. And those of your slaves who ask for a written contract for their freedom, provide it for them if they are nice and reliable and also give them out of the means, which Allāh has bestowed upon you. Also do not force your maids to prostitution when they are chaste just in order to benefit from the perishable goods of this worldly life; and if the slave-girls do such filthy act under compulsion, Allāh is the Merciful, Forgiving".

58- Principle of: Unity for the truth

The said principle indicates an important issue in foreign policy of the state and international relations during the history of humankind. It has always been observed that different unions established among groups of

states, whether military, political, economic, and commercial, are based on and follow two general goals. The first goal is increase of efficiency of gaining benefits among member states of the union and the second goal is increasing the benefits or preventing the losses caused by non-member states. Most of these unions are established on a geopolitics morphology basis, which the neighboring factors have been the main causes of homogeneity and enjoyment of common interests, culture, manner, race, language, customs, and traditions and so on.

The various unions, which are established on the basis of the said two goals, are always attempting to maximize the collective interests of member states. According to the Islam's standpoints, the establishment of these unions shall be only acceptable when the rights of other states are not to be violated. Entering in a treaty or being a member of a union for exercising cruelty and oppression against another weak state is not authorized. Islamic government is supporter of its friends and non-belligerent enemies' interests, whether being present or absent. And also if the belligerent enemies set aside their arms of fighting, and by uttering the words of: "There is no God but Allāh" they would be liable to be under shelter of Islam, even if they perform it hypocritically. It should be mentioned that although the life, property, family, and honour of the latter are under protection of Islamic government but they shall not be considered as friends of the believers, unless by gaining faith which is another stage after accepting Islam as their religion, which happens by swearing special oath of allegiance. If the aforementioned weak state being among the groups of the believers, then according to the following verse God will be their supporter (Al-Hajj XXII, 38.): **"Verily, Allāh will defend the believers against ¹³¹ their enemies; verily, Allāh does not like the**

¹³¹ Al-Taubah IX, 71. **"And the believers, men and women are supporters and helpers of one another".**

Footnote continues in next page

ungrateful traitors". And also says (Āle-Imran III, 161): **"It is not for any messenger to betray his followers".** And the believers are ordained (Al-Anfāl VIII, 27): **"O, you who believe! Do not betray Allāh and Allāh's messenger nor misuse knowingly properties entrusted to you".** That is to say, when the Islamic union is established nobody should betray it. In sūrah of Yusof, it is said (Yusof XII, 52): **"I did not betray him in his absence; verily Allāh does not give way to the guile of the traitors".** Extending the concept of this verse to international level will prohibit unity and/or any betrayal activity against others. Almighty God prohibits the honorable Messenger (S) showing hostility in favour of the traitors. In Glorious Qur'an, it is said (Al-Nisā IV, 105): **"Do not be a pleader for the treacherous ones".** That is to say, you should not show enmity towards others just by untruthfully establishing union with traitors. If a state by establishment of treacherous union acts against Islam's government, then taking mutual actions (reprisals) would be the command of Allāh. It is said (Al-Anfāl VIII, 58): **"And if you fear treachery from any people, throw back their covenant to them on terms of mutuality, for Allāh does not like the treacherous people".** And to betray messenger of God means to betray God and it is said (Al-Anfāl VIII, 71): **"But if they intend to betray you, no wonder, since they have betrayed Allāh too".**

The command of Glorious Qur'an for being in co-existence and unity with the right, could be understood from the following verse (Al-Taubah IX, 119): **"O, you who believe! Fear from Allāh and be with the truthful".** That is to say, in case of necessity of any supporting, backing and unity, this co-operation and accompanying should be with the truthful.

Extending this principle to international level shall lead to establishment of a universal unity which would be able to stand against the

Al-Taubah IX, 23. **"O, you who believe! Do not take for supports, your father, and your brothers if they prefer disbelief to belief; if any of you does so, then he is also regarded as one of the disbelievers".**

wrong doing states and be a guarantee for enforcement of international law. This unity is to put the concept of the following verse into action, which says (Ale-Imran III, 64): **"Say (O, Messenger): O, people of the book! Come to the word (of monotheism) which is common between us and you"**.

59- Principle of: Prohibition of committing injustice and its aiding and abetting

The said principle is one of the fundamental principles in Islam. The literal meaning of injustice (atrociousness, oppression) is "to place a thing in a position other than its main place".¹³² To sum up the concepts of "right" and "injustice" it should be noted that the maximum and full exploitation of resources is called "right", and productivity under the capacity of resources would be regarded as "injustice".¹³³ According to Qur'an's definitions, the criterion of "full exploitation" is called divine limits. The scale of "divine limits" is social explanation of "full exploitation". In Glorious Qur'an, it is said (Al-Baqarah II, 229): **"And those who exceed and transgress the limits, ordained by Allāh, then such are indeed the transgressors and oppressors"**. The optimal social behaviour in Islam is correspondence of acts and behaviours with divine limits. Explaining divine limits needs a full description, which is out of our present discussion, but to give a hint it should be said that Prophet (S) and Divine Executors (A) are scales and divine limits, and descending of Prophet (S) is Glorious Qur'ān, which is

¹³² Ragheb-Isfahani, "Placing the thing in other than its position", Beirut, Lebanon. p. 326.

¹³³ The aforementioned description gives a comprehensive definition of the subject in question, which embraces several significations. Considering the new terminologies, the phrase of "position of a thing" corresponds with the meaning of following words such as, "optimal", "most efficient", "most applicable", "most desirable", "most transcendental" and "with the highest productivity" utilizing the thing. The term "resources" has also a vast signification. All potentialities and powers inherent in the nature of human beings and/or in a society are included in resources.

explanatory compilation of divine limits.

"Injustice" is a sin in Islam. In other words, loafing (work slowdown), low performance, and non-utilization of maximum yield from potentialities and power are regarded as transgression. For expressing gratitude unto Allāh because of His endowment, which has bestowed us, the maximum yield should be exploited from them, and to refrain from obtaining this maximum yield would be regarded as "injustice". In the noble verse of sūrah of Hūd says (Hūd XI, 116): **"And those who were unjust went after enjoyment of good things of the life, and they were corrupt and guilty"**. (According to the said definition) the unjust pace in a wrong path, which says (Lūqmān XXXI, 11): **"Nay, the unjust are in manifest error"**.¹³⁴ And says it is due to this injustice that (Al-Isrā XVII, 82): **"And it does not add to the unjust but loss after loss"**.

Therefore, "injustice" shall be placed among the crimes and offences and refraining to do justice will be called injustice and deserving punishment. It is said (Al-Shurā XLII 42): **"The way (of blame) is only against those who oppress mankind, and wrongfully rebel in the earth"**. And in another verse while addressing the unjust harshly says (Al-Zukhruf XLIII, 65): **"So, woe to those who were unjust"**. And in another verse says (Al-Baqarah II, 270): **"And the unjust shall have no helper"**. The latter verse admits the interpretation, which claims that there should be no assistance to the unjust.

These statements have apparent applicability in international relations and foreign policy of Islamic government. That is to say, the Islam's government shall perpetrate no acts against other nations or people, which is far from the "right" and close to the "injustice". In this case, it shall never assist those nations or people who are unjust towards other nations and individuals.

¹³⁴ Maryam XIX, 38. **"But the unjust this day are in manifest error"**.

Military unions in recent centuries are apparent examples of the said problem, which several states had been united to transgress and violate other nations' rights. At the early of the century and the late of the last century, military campaigns of some states against different countries are all examples of the subject in question.

60- Principle of: Unauthorization of hegemony and rebellion

"Hegemony" in all its various forms is not authorized in Islam. That is why the honorable Messenger (S) is also prohibited from hegemony. In Noble sūrah of Ghashiyah, it is said (Al-Ghashiah LXXXVIII, 21, 22): **"So, (O, Messenger) remind them since you are one to admonish. But you are not a governor (compeller) over them"**. And in another verse says (Al-Ra'ad XIII, 7): **"you are only a warner and to every nation there is a guide"**. These two verses are the sources of finding various subjects to discuss the matter. The main topic that could be propounded on this subject would be that, when the tasks of the Messenger of God is nothing but reminding and admonition and while the Messenger of God is not authorized to rule over the creatures of God, therefore the competency of other persons whether being scholars, jurisconsults, sultans, kings and so on for ruling over people would be surely obsolete and cancelled. According to the said verses, it is certain that nobody has the right to give a simple order on the basis of religious laws, during the period of occultation. Surely, no one has the right to allege the enforcement of Islamic laws and execution of Hodood and Islamic punishments or religious laws during the period of occultation. This kind of dominatory (legendary) guardianship is not authorized for anybody until the advent of the Upholder (May God hasten his glad advent). This is only the right of the Upholder of the progeny of Muhammad, and anybody who takes this position, by his own choice, to enforce the religious laws, shall have nothing but its evil

consequences. In sūrah of Al-Qasas, it is said (Al-Qasas XXVIII, 83): **"We have appointed paradise as the Last Home for those who did not intend rebellion and corruption in the life of this world; and therefore the best end belongs to the pious"**.

On the basis of the said principle, the Islamic government is not authorized to seek hegemony over the Muslims or non-Muslims communities, in the scene of international relations whether in the peacetime or during the war. The story of conquest of Mecca is a good example to explain this subject matter. In this story¹³⁵ the Islamic behaviors towards a defeated enemy, which had fought against the honorable Prophet and his companions and had martyred many of beloved companions of His Reverend, during the fighting and/or while torturing them would be known and understood. Sa'ad-ibn-Ebadah, the commander of army of honorable Messenger (S) accompanied by a division of Islamic army, while entering Mecca started boasting and bragging that: "Now, it is the day of revenge. Today their women shall become our captives. It is the day that Almighty God abjected the tribe of Quraish". The honorable Prophet discharged Sa'ad-ibn-Ebadah from service, appointed his son, Qais-ibn-Sa'ad-ibn-Ebadah as commander in chief, and ordered him to announce that: "It is the day of mercy. A day which God has honored the tribe of Quraish". And then the honorable Prophet made the house of Abu-Sofyan, which was the origin of all persecutions and disturbances against His Reverend, as a secure place and said "whosoever takes refuge in the house of Abu-Sofyan will be secure".¹³⁶

Another meaning of hegemony can be understood from the verses, which are revealed about rebellion. For giving a definition about "rebellion" it is said: "The meaning of rebellion "Bagh'y" is absolute

¹³⁵ See: Moghazi Vaqedi, vol. 2, pp. 821-2, and also Ja'far Sobhani. The principles of Islamic government pp. 597-8.

¹³⁶ Amin-ol-Islam Tabarsi, 108, p. 106, Publication of Dar-ol-Kotob Islamiah, Qom.

expansion of domination, sovereignty and presidency. Almighty God has confined it as unjust rebellion. The word "Bagh'y" in Arabic language is a derivative of the word Bagha-Baghyān, which means, "getting empowered".¹³⁷ In the following verse it is said (Al-A'araf VII, 33): **"Say (O, Messenger): The things that my Lord has forbidden are: "Shameful deeds, whether committed openly or secretly, and sins and unjust rebellion".** It is said (Yūnus X, 23): **"They rebel and disobey Allāh in the land wrongfully. O, mankind! Your transgression and hegemony (rebellion) is only against yourselves".** The reason why the effects of this kind of hegemony and transgression is against that very same people, is that according to the principles of microeconomics and through mathematical reasoning it could be proved that any kind of transgression or restriction shall cause the welfare of humankind society to be decreased. Therefore, in other sūrah it is said (Al-Nahl XVI, 90): **"Verily, Allāh commands you to establish justice and goodness (in the community) and generosity to your relatives, and He forbids all evil and dishonor deeds and rebellion against the Truth".** In ther sūrah says (Al-Shurā XLII, 42): **"Blame is on those who do wrong to the people and make mischief and rebellion through the land, for such people will be severe chastisement".**

61- Principle of: Disinclination to engage in hostilities

Contrary to most interpretations, Islam could not be called "the religion of war" as some people have propounded in their discussions. And if in some specific times, Islam had been obliged to be engaged in fighting, it would have been due to some special conditions, which we have mentioned them in various sections. In sūrah of Al-Baqarah while giving

¹³⁷ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", volume 5, translation, under the verse 33, sūrah of Al-A'araf, p. 280.

explanation over this viewpoint says (Al-Baqarah II, 84-85): **"And remember when we took your covenant (stating): "Shed no blood of your people nor expel one another from your homeland". And this you solemnly ratified, and to this you bore witness. But after that, it is you who kill one another, and expel a party of your people from their homes; and assist each other in sin and transgression against them, and if they are brought to you as captives you free them taking ransom, although their expulsion was forbidden to you. Do you believe in part of Scripture and disbelieve in the other part? So what shall be the recompense of those among you who behave like this except disgrace in this life and the Hereafter? They shall be consigned to the most grievous chastisement, for Allāh is not heedless of what you do".** And again in another place says (Al-Baqarah II, 216-217): **"Fighting is ordained upon you, though it is resented by you, but (it happens that) you resent a thing whereas it is good for you, and perhaps you like something whereas it is evil for you, and verily Allāh knows (what is best) while you do not know. They ask you (O, Messenger) concerning fighting in the Sacred Month. Say: fighting therein, is a grave sin, but it is a graver sin in Allāh's sight to prevent mankind from following the path of Allāh; to disbelieve Him; to prevent access to the Sacred Mosque; and drive out its inhabitants. And polytheism is worse than killing. And disbelievers will never cease fighting you, until they turn you back from your religion, if they can".**

In spite of hideousness and ugliness of war, its necessity to prevent the corruption cannot be denied. In sūrah of Al-Baqarah it is said (Al-Baqarah II, 251): **"And if Allāh did not repel some people by others, the earth would have been full of mischief".** And in another verse in sūrah of Al-Hajj says (Al-Hajj XXII, 40): **"They were expelled from their home unjustly because they said: "Allāh is our Lord". Had not Allāh to stop**

the aggression of some people by other persons, they would have destroyed monasteries, synagogues, churches and the mosques where Allāh's remembrance is commemorated abundantly".

As a general rule, the wars are divided into four different types such as, Islamic Holy Wars, defensive wars against aggressions, helping the oppressed, and seeking succor for religious purposes. Declaring Holy Wars and responding to those who seek succor for religious purposes are peculiar to the prophet and the Upholder of the family (successor) of Muhammad (S) (The Master of Affairs), and no other person has such a right. The second and third types namely defensive actions against the aggressors and helping the oppressed are obligatory to all persons. In other cases, no one may, under any pretexts, to transgress other ones, no matter what their religions and/or ideologies are. It is even forbidden to excommunicate the people let alone attacking or transgression.

62- Principle of: Prohibition of aggression and permission of defense

The instruction of Glorious Qur'ān is reconciliation and peace amongst the nations. A close study on wars, which have been occurred in the early Islam, reveals that the honorable Messenger (S) and his companions had fought just to recover their rights. There has been no war at the time of the honorable Messengers (S) (whether he has been the commander of the army, or not to be present at the scene of the battle) without taking this aspect of the issue, namely, the aim and objective of fighting has been recovering and restoring the rights of Muslims into consideration, which have been infringed through the oppression. Campaign against oppression is authorized in Islam. On this basis the Glorious Qur'ān says (Al-Hajj XXII, 39): **"Permission is given unto those who fight because they have been wronged; and Allāh is indeed able to give them victory".**

In sūrah of Al-Baqarah says (Al-Baqarah II, 190): **"And fight in the**

way of Allāh (against) those who fight you, but do not exceed the limits; for verily, Allāh does not like the transgressors". This verse is an instruction for defending against those who do the fighting. This verse does not permit "transgression". Because transgression at the beginning of the fighting means waging war against others, and transgression at the middle of the war means to exceed the limits and to harm the enemy, more than what is needed, and/or continuing fighting while the enemy has been surrendered, and/or doing harm against the captives or civilians. The command for defense has been mentioned in the following verse (Al-Taubah IX, 36): **"And fight against the disbelievers collectively, as they fight against you collectively"**. The following noble verse gives also permission for defense and confrontation, which says (Al-Baqarah II, 194): **"The Sacred Month for the Sacred Month, and for the prohibited things there is a law of retaliation. Then whoever commits aggression against you, react you likewise against him, and fear from Allāh, and know that Allāh is the supporter of the pious"**. From the said verse it could be understood that if one's property is usurped he would be able to take it back or react mutually which is called reprisal. This verse also includes revenging and reaction against criminals and is applicable in defensive operations at war and also includes reprisals".¹³⁸

There is a letter from Imam Ali (A) in Nahj-ol-Balagheh addressed to M'aqel-ibn-Qais Riyahi while he was appointed as the commander in chief of a three thousands personnel army dispatched towards Syria which reads as follows: Fear from the God that you shall meet Him inevitably, and there would be no place at the end but His sublime court. Do not fight unless with those persons who fight you Their hatred should never motivate you start fighting with them, save you had already called them to the right

¹³⁸ See: Abolqasem Gorgi (2001) Legal provision verses (civil and criminal) Mizān Publication, pp. 10-73.

path of Allāh and there had remained no excuse for them".¹³⁹

This principle shall diminish the ambitions of waging war against others. For this reason, its observance in the international scene would be accepted, as international customary laws in the world community would have desirable effects on bringing about a detente (de-escalation).

63- Principle of: Severe fighting with the belligerent aggressors

There are many verses, which have been revealed about the tasks and duties of the prophet (S) and the believers concerning the wars. In the following verse which is revealed to warn and caution the belligerents for waging war against Allāh and His Messenger (S) says (Al-Māidah V, 33): **"The punishment of those who raise war against Allāh and His Messenger and do mischief in the land is that they shall be killed or crucified or their hands and their feet be cut off from the opposite sides or (they) be banished from the land. This is their disgrace in this world and a grave torment for them will be in the Hereafter."** In spite of this severity, an easy way to escape from it has been taken into consideration in the next verse, which says (Al-Māidah V, 34): **"Except those who repent, before you gain power over them. You should know that Allāh is the Merciful Forgiving"**. These two consecutive verses bear this message to the transgressors that they should not commit the transgression and if they do, the only way to get rid its consequence is to convert to Islam.

In sūrah of Al-Anfāl it is said (Al-Anfāl VIII, 56-71): **"They are those with whom you made a covenant, but they broke the covenant every time, and there is no piety in them. So, if you could get hold of them in the battlefield, punish them severely in order to disperse those groups behind them and that may learn a lesson. And if you fear treachery**

¹³⁹ Naj-ol-Balaghah, Letter No. 12, Translated by Ja'afar Shahidi Elmi-va-Farhangi Publications, 15th ed., p. 279.

from any people, throw back their covenant to them on terms of mutuality, for Allāh does not like the treacherous people. And those who disbelieve should not think that they can overcome you. Verily, they will never be able to frustrate Allāh's power. And prepare against them to the utmost, such as armed forces, and strong horses and provisions for fighting, in order to fighting the enemy of Allāh as well as your own enemy and others besides them, whom you do not know them but Allāh knows them; and whatever you spend in Allāh's way will be repaid to you and you shall not be dealt with unjustly. But if the enemy shows tendency towards peace, you also tend to it and put your trust in Allāh; verily Allāh is the Knowing, Hearer. And if they intend to deceive you Allāh will suffice you from their harm; Allāh is the One Who strengthened you with His aid as well as with the help of the believers. And Allāh is the One Who caused unity between the hearts of the believers; and had you spent all that is on the earth you could not have caused that union between their hearts, but Allāh caused union between them; verily, Allāh is Mighty, Wise. O, Prophet! Allāh is sufficient for you and such of the believers as follow you. O, Messenger! Urge the believers to fight: If there are twenty steadfast among you, they will overcome two hundred, and if there are a hundred steadfast believers, they will overcome a thousand disbelievers, because the disbelievers are a people who have no power of understanding. For the present situation, Allāh has lightened your burden of task knowing that in your troop there is some weakness: If there are of you a hundred steadfast believers they shall overcome two hundred, and if there are of you a thousand, they shall overcome two thousand by Allāh's leave; and verily, Allāh is the supporter of the patients the steadfasts. It is not fit for the prophet that he should take captives instead of fighting and killing the enemy in the land; you

desire the temporal profit of this world, while Allāh desires (for you) the Hereafter, and Allāh is Mighty, Wise. (It denotes this point that there should not be any carelessness in fighting, just to take captives from the enemy and then taking ransom or selling them as slaves, but you should fight as hard as possible and kill the enemy. Because all those persons who were taken as captives in the Badr (war), and then they were liberated by accepting ransom, at the subsequent year took part in the war of Ohud and killed the believers.) **Were it not for a previous ordained word of Allāh, a severe torment would have afflicted you for that ransom you took. Eat of what you have acquired as war booty, lawful and good, but fear from Allāh. Verily, Allāh is the Merciful Forgiving. O, prophet! Say to the captives who are in your hands: If Allāh finds good intention in your hearts, He will give you something better than what has been taken from you, and He will forgive you; for Allāh is the Merciful Forgiving. But if the disbelievers intend to betray you, no wonder, since they have betrayed Allāh too, but Allāh granted you power over them. And Allāh is Knowing, Wise".**

In other verses in sūrah of Al-Baqarah it is said (Al-Baqarah II, 190-193): **"And fight in the way of Allāh (against) those who fight you, but do not exceed the limits; for verily, Allāh does not like the transgressors. And kill them wherever you get hold of them and drive them out from where they have driven you out; since the evil of mischief making is more grievous than killing; but do not fight them at the Sacred Mosque unless they fight you therein, so if they fight with you there, kill them; such is the recompense of the disbelievers. But if they stop, then (forgive them) verily, Allāh is the Merciful Forgiving and fight them until the evil of mischief making is rooted up and Allāh's religion governs over all, but if they desist, then there should be no aggression, save against the aggressors".**

Taking punishment of the aggressors as a policy, not only would be correctional and punitive action for them, but it would also be a warning to others to refrain from aggression. Severe confrontation of this kind, shall establish the survival of the human society, just the same as the legal institution of retaliation which would do it. If the international community confront rigorously with the belligerent aggressors on the basis of the said instructions, certainly the human society shall continue to live in peace.

64- Principle of: Having duty to assist in goodness and prohibition to assist in transgression

The basis of the said principle is the noble verse of sūrah of Al-Ma'aidah, which says (Al-Māidah V, 2): **"You should help one another in righteousness and piety, but not help one another in sin and transgression. Keep your duty to Allāh. Verily Allāh is the Severe-Retributing"**. In a comment on the said verse it is said: "sin"¹⁴⁰ (which in Arabic is called "ithm") is a kind of evil deed, which does not infringe others' rights but "transgression" (which in Arabic is called "odwān") is an evil deed that infringes the others' rights. Therefore, assistance of all kinds of deeds and behaviors, which is the cause of ill-treatment of oneself or other persons, are prohibited by the said verse.

And says: **"And there shall not be any helpers for the wrong doers"**¹⁴¹, and (Al-Shurā XLII, 8): **"and the disbelievers shall have no guardian and no protector"**. To describe the meaning of Guardian and Protector it is written under the said verse (Al-Baqarah II, 107): **"Do you not know that to Allāh belongs the dominion of the heavens and the earth and that apart from Allāh you (people) have neither any guardian nor any protector?"** The said verses declare that there should

¹⁴⁰ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation, volume 4, pp. 280-281.

¹⁴¹ Al-e-Imrān III, 13, and Al-Māidah V, 72 **"There shall not be any helper for the wrongdoers"**.

not be any assistance to the oppressors. That is to say, nobody should act contrary to the said issue, namely the believers and Muslims should not commit any action to be contradictory to the said general rule. It means that one should not be an assistant to the oppressors.

This principle has an obvious impression in the function of states' foreign policies and the inauspicious union of some great powers, which are planned to invade the powerless and weak countries. Frequently, it has been observed that many states have given their extensive assistance to one or more parties, which are engaged in war, just for the reason of having some probable present or future interests or because of disliking the ideologies of the oppressed state. Anyhow, there had been always some groups in the world who have gotten benefit out of the wars, which happens, among different nations. On the basis of Islamic Instructions all interest acquired through this kind of assistance are unlawful. And the Islamic government, not only finds all the benefit acquired through this kind of assistance disagreeable but they are also scared from the God's severe punishment, which shall be imposed because of the said assistance to the aggressors. Islamic government also makes others to be afraid of this forbidden action.

65- Principle of: Tactics and strategies of wars being at the discretion of the Master of Affairs

Prior to industrial developments of recent centuries, there had been great successes in the subject of international law of war. But the function of political regimes in the past century -especially in the west- and corruption originated from the power of industrial armaments have decreased the importance of most legal criteria of international law. Respecting the said rule was so important in old times that even the bandits and professional thieves also used to observe them. For instance, there was

a unanimous agreement among Arab tribes, to stop robbery and transgression during four months of Zilqa'adah, Zilhajjeh, Muharram and Rajab, which were called Sacred (forbidden) Months. Therefore, during the said four months traveling, trading and communication among tribes were performed freely and in secure circumstances. But during other months of the year they used to fight with each other and by night attacks they robbed the caravans and houses and plundered the others' properties. They even used to take the men and women as their slaves. Respecting the general agreement of international non-aggression during nineteenth, twentieth, and twenty-first centuries cannot be even compared with respecting of bandit of the Pagan Arabs unto the Sacred (forbidden) Months.

War in Islam is based on notions emanated from Islamic Ideology. War and military campaigns, which are for the purpose of transgression and infringement of ownership and others' indisputable rights -called as forcible possession and usurpation-, have no legal position in Islam. War in Islam is based on notions such as defensive war, holy war, war for the purpose of assisting the oppressed people, and responding to those who seek help in the matter of religion. Defense, includes confronting and fighting against an aggression, which in contemporary international law is called legitimate defense (self-defense). Holy war is based on the command of prophet or divine guardian and/or divine executor in each period of time. According to their commands, all believers and Muslims are bound to take part in the holy war. Holy wars could be for the purpose of defense and/or invasion. The Master of the Affairs has the discretion of waging holy war. He is the one who is appointed through the chain of impeccables and he shall be the same as the prophet, divine guardian and/or divine executor of the age. Therefore, no other person -without having the said authorization- has the permission and right of issuing the declaration of holy war. Because only God and/or His representatives -and not anybody else- have authority

over human beings. So that, the heads of the governments who under different pretexts, declare war and make their own and the opposite side peoples to be killed in the battle are all responsible for their commands. They should respond that how and when did they get the permission from Almighty God to make His creatures to kill or to be killed. Did Almighty God enjoin to kill His bondmen or to make them to be killed or they have done it under their own illusion. Dignitary and grandee of the time, by taking the interests of humankind and by the authorization of God - whenever finds it necessary- into consideration shall declare the holy war. Otherwise, other persons who take advantage of the ignorance of the Muslims and declare holy war commit a forbidden act and their deeds would be an interference with the God's Affairs. Declaring holy war is just the same as other rules and divine limits (Hodood) which are at the discretion of the Master of the Affairs who is lawfully appointed and authorized by Almighty God, His messenger and the Imams (right guidance) (A), and whosoever makes decisions other than his command would be disbeliever, unjust and/or evil-doer. As it is said in Glorious Qur'an (Al-Mā'idah V, 44): **"And whosoever does not judge according to Allāh's decrees, then such are indeed considered as disbelievers"**. And in the following verse it is said (Al-Mā'idah V, 45): **"Such are indeed considered as unjusts"**. And in another verse it is said (Al-Mā'idah V, 47): **"Such are indeed considered as evil-doers"**. As it is noticed due to its importance, Almighty God has repeated it on three consecutive verses in Glorious Qur'an. It is also said (Al-Nahl XVI, 116): **"Avoid uttering baseless talks which your tongues spread around such as saying: "This is lawful, and that is forbidden". So that you may ascribe a lie against Allāh, surely those who forge a lie against Allāh will not be salvated"**. This group of persons are included in the following verse that says (Al-A'arāf VII, 37): **"Who is more unjust than the one who invents a lie**

against Allāh or denies Allāh's revelations?" Regretfully, contrary to the Shiite's view as we have already mentioned, our Sunnite brethren believe that whenever the Muslims gain sufficient power, then it would be obligatory for them to declare holy war and start Islamic propagations.¹⁴² this wrongful standpoint has been the cause of several fighting among Muslim countries in recent years. But these transgressions are considered as forbidden in Islam.

Protecting the oppressed persons or oppressed nations is also one of the tasks of Islam and Muslims. This protection is according to the following noble verse, which says (Al-Nisā IV, 75): "**And what it is with you that you do not fight in the path of Allāh? And for those who being weak and oppressed among men, women and children who cry: "O, our Lord! Rescue us from this town whose people are evil doers and tyrants"**.

Responding to those seeking help in the matter of religion could also be propounded within the realm of removing oppression from oppressed persons and/or holy war. It is obligatory for all Muslims to respond to those who seek help in the matter of religion. It is said (Al-Anfāl VIII, 72): "**If they seek your help in the matter of religion, it is your responsibility to help them**". But its legitimacy in the degrees of faiths rests only with the decree of Master of the Affairs. Because it is only within the authority of Divinely authorized persons -and not anybody else- to present the religion to others, which says (Al-Kahf XVIII, 17): "**So whom he guides, he is on the right path, and whom he leaves in his astray, you will not find a guiding guardian for him**". It means that responding to those who seek help in matter of religion is the task of divine guardians, because seeking help in the matter of religion by people is to strive to find this divine

¹⁴² In this connection see: Majid KHaduri (1356) "Peace and war in Islamic Laws" Printed by Eqbal Publication, pp. 102- 104, narrated by Muhammad Riza Zia'ai Bigdeli (1996) Islam and international law, printed by Ganje Danesh.

guardian, therefore, it is said (Al-Ankabūt XXIX, the last verse): "**And those who strive in Our straight path sincerely, We will surely guide them to Our ways (divine guardian)**".

So many topics has been put forward in relation to the Islamic law of war which most of them have no validity and cannot be considered as a reliable inference from the manner and function adopted by honorable Messenger (S). For instance there exist many subjects such as, unity in commandership, resistance and perseverance, retreating and withdrawal, collective duty (sufficient necessity) for taking part in the war, preparedness for fighting and general mobilization, good behaviour towards enemy and observance of human rights issues, war tricks and killing the military personnel and civilian who have been forced to take part in the war, rights of civilians, surrendered persons, deserters (escapees), those converted to Islam, wounded persons and prisoners of war, non-military targets, economic blockade, destroying enemy's properties using war tactics and chemical, biological and radiological warfare, war booties whether movable or immovable, cessation of hostilities, making subsidiary treaties and other subjects related to international law of war which are approved on the basis of Islamic principles and the viewpoints of some Islamic sects and the practical and executive procedures have also been developed and prepared for them.¹⁴³

With regard to the said subjects, it should be mentioned that most of them, are in accordance with the Islamic humanitarian principles, which their observance are obligatory in time of war. It is certain that the followers of prophet or divine guardian or divine executor are also bound to observe them. For instance prohibition of attacking the residential areas and civilians is one of the obligatory issues, which the common sense will approve its humanitarian aspect, as well as its prohibition. Other cases

¹⁴³ See: "Islam and international law", Muhammad Riza Zia'ai Bigdeli, pp. 116-172.

concern those issues happening in the battle scene, and the prophet or divine guardian or divine executor are supposed to take decision about them. In other words, it is only the Master of the Affairs who is in charge of taking decision. These cases could not be settled through independent judgment of the other people.

66- Principle of: Obligation of accepting the peace proposal

It has been always an instruction in Islam to exercise the least confrontation and fighting while engaged in wars. In other words, fighting is authorized up to the time that the aggression is successfully suppressed and the excess fighting is not permitted. This subject is expressly mentioned in the following verse, which says (Al-Baqarah II, 190): **"And fight in the Way of Allāh (against) those who fight you, but do not exceed the limits; for verily, Allāh does not like the transgressors"**. This verse refers to this point that Almighty God says: I like whatever I have created and you (believers) have no right to destroy them, in excess of what seems to be necessary. And in another verse addressed to Honourable Messenger says (Al-Anfāl VIII, 61): **"But if the enemy shows tendency towards peace, you (O, Messenger) also tend to it"**. This verse purports that whenever you overcome the enemy, and if they surrender and request for peace between the parties, then do not continue attacking and do not behave unjustly. Make peace with them, because your aim and objective of fighting has been to obtain peace.

As a general rule, the following verse is an order to accept the peace proposals, which says (Al-Baqarah I, 208): **"O, you who believe! Enter you all into submission to Allāh (in peace and without dispute)"**.¹⁴⁴

¹⁴⁴ In "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah" under the term "Kāffatan" it is written: "Kāffatan" in Arabic means "altogether, totally" and it is participial from the subject of the verb "enter" or it is participial from the term "submission" which means to enter into submission with all different grades. It might be gerund of the term "Kaff" with the Footnote continues in next page

Therefore, making peace is the duty of all believers (and Muslims). Anyhow, if the enemy does not accept the proposal of peace, the rules of following verse will be applicable to them, which says (Al-Nisā IV, 91): **"Therefore if they do not withdraw from you and not surrender seeking peace and nor restrain their hands, then seize them and slay them wherever you find them"**. This verse is a threat against those who do not seek peace. That is to say, when somebody transgresses, you should fight against him until he seeks peace and accepts peace, and as to the intervention to the other's affairs takes a neutrality policy.¹⁴⁵ Prior to the said verse, it is said (Al-Nisā IV, 90): **"Then if (they) withdraw from you and do not fight against you and offer you peace, then Allāh has not given you any reason (to fight) against them"**. It means that by offering peace from the enemy, you have no right to continue fighting. Thus, we have to admit that Islamic government is based on peace seeking. Almighty God says (Al-Nisā IV, 128): **"Since making peace is the best"**. Though the said verse has been revealed for the relationship between husband and wife but its concept is extendable to international relations level.

Imam Ali (A) in his decree to Mālik Ashtar says: "Do not reject the peace enemy offers you. It should be that kind of peace, which while making it, Allāh's consent, has been taken into consideration When peace treaty is concluded, you should always remain vigilant and alert. Since there is a possibility that the enemy through offering the peace treaty intents to surprise and trap you. Or he may want through this opportunity,

meaning of prohibition and added "an" at the end is for exaggeration. In this case it is participial from the term submission that is to say, enter you all into submission, and your entrance shall prohibit you to exit and/or you are prohibited from the wrongdoing of violation.

¹⁴⁵ In sūrah of Muhammad, verse 35, says: **"Do not feel weak and do not appeal for peace from the enemies while you are the uppermost, since Allāh supports you and will not decrease the reward of your efforts and good deeds along His path"**.

This verse alludes this point that the believers should not appeal for peace due to their weakness. They should overcome the enemy until they request the peace and they should accept it.

make himself prepared, and start another war against you and defeat you. So it is recommended by accepting the peace to be vigilant and alert so that not be deceived. Exercise prudence, attention and foresightedness. Do not take the war issues so simple. Evaluate the consequences of peace treaty meticulously and do not be very optimistic on the case. Because the enemy is the enemy ...".¹⁴⁶

The abovementioned exception and admonition could be found in Glorious Qur'an. It is said (Al-Anfāl VIII, 62): **"They are those with whom you made covenant, but they broke the covenant everytime and there is no piety in them. So if you could get hold of them in the battlefield, punish them severely in order to disperse those groups behind them and that they may learn a lesson. And if you fear treachery from any people, throw back their covenant to them on terms of mutuality, for Allāh does not like the treacherous people. And those who disbelieved should not think that they can overcome you. Verily, they will never be able to frustrate Allāh's power. And prepare against them to the utmost, such as armed forces and strong horses and provisions for fighting, in order to frighten the enemy of Allāh as well as your own enemy and others besides them, whom you do not know them but Allāh knows them; and whatever you spend in Allāh's way will be paid to you and you shall not be dealt with unjustly. But if the enemy shows tendency towards peace you also tend to it and put your trust in Allāh; verily, Allāh is Knowing Hearer. And if they intend to deceive you, verily, Allāh will suffice you (from their harm)".**

As it was already mentioned, war is not the main objective in Islam. Although it is one of the greatest business for producing short term or medium term benefits for great powers and their agents. Islam does not

¹⁴⁶ Decree to Malik Ashtar, Letter No. 53 Nahj-ol-Balaghah, Mostadrak-ol-Wasail, 11, 43, 18.

consider war as a necessity unless it is for exaltation of humankind, humanitarian objectives, to restore one's rights, and/or self-defense and defending the oppressed persons. This attitude is quite contrary to the manner of traders and traffickers who benefit from war whether during or after its cessation. On the basis of this principle, whenever the aggressor offers peace without having the intention of deceiving then it would be a must for Islamic government to accept it. Because the advent of Islam is for establishment and development of friendship among humankind, which is said: "Is the religion other than love and friendship?"¹⁴⁷

67- Principle of: Unauthorization of keeping prisoners of war after war termination

There are especial regulations in wartime and relevant laws in peacetime that should be observed accordingly. A severe confrontation is a must against the enemy forces while they are in attacking operation, but when the aggression is suppressed and the enemy forces are taken as captives, then there would be no permission to keep the prisoners of war. They should be released or ransom should be taken for their liberation. Glorious Qur'an says (Muhammad XLVII, 4): **"When you meet with the disbelievers in the battlefield smite at their neck until when you have overcome them, and then bind the captives together tightly, and afterwards either set them free as a favor or ask for ransom until the war terminates"**. Anyhow, the kings are reprimanded by Glorious Qur'an concerning their actions when they overtake the other countries and says (Al-Naml XXVII, 34): **"Verily, when the kings overtake a land they spoil and plunder it; and cause disgrace and affliction to the noblemen of the community and this is how they act"**. It is from the aphorisms of the Leader of the believers Ali (A) who says: "When you overcome your

¹⁴⁷ Al-Kafi 8, 79.

enemy then for expressing your gratitude for the victory, forgive him".¹⁴⁸

It should be mentioned that holy war in Islam is quite different from those wars waged by Islamic governments (which bear only the name of Islam but are not under the control of prophet or divine guardian or divine executor). In early Islam, the government was under the commandship of the Messenger of God (S) and in other periods of time should be under the control of the Upholder of Muhammad's progeny (may God hasten his glad advent). No other person, save His Holiness, is in the position of declaring a holy war. It is for this reason that holy war in Islam is specifically reserved for the time of the advent of His Holiness the Upholder. In early Islam, the captives were taken as salves in holy wars, which had its own specified social objectives. We have covered these objectives in the section of "non-applicability of slavery at this time".

68- Principle of: Prohibition of torturing and molestation of the enemy's captives

As a general rule molestation of enemy's captives and even the criminals are considered as transgression, which its prohibition was discussed in several sections. It is said (Al-Baqarah II, 190): "**And fight in the way of Allāh (against) those who fight you, but do not exceed the limits; for verily, Allāh does not like the transgressors**". And addressing the honorable Messenger (S) says (Al-Ahzab XXXIII, 48): "**Don't conform to the caprices of the disbelievers and the hypocrites; and disregard their annoying words, and put all your trust in Allāh, and Allāh is sufficient as a protector**".

In Islamic criminal law, there exist determined punishment for each crime, but torturing and molestation of enemies have never been authorized. On the contrary, the torturers and molesters are all liable to be

¹⁴⁸ Nahj-ol-Balaghah, translated by Shahidi, p. 362.

punished. There are two groups of punishment in Islamic criminal law, the first group are those whose penalties are predetermined, and the second group which are called "ta'zir" are those whose range of penalties are not stated definitely.¹⁴⁹ Imprisonment is considered as secondary punishment. Islamic imprisonment has been established to prevent the freedom of movement and domicile as well as restricting the individuals in their affairs. It is obligatory that the imposition of the said punishment to be free from any kind of molestation.¹⁵⁰

To murder the divine guardians is one of the most serious crimes in Islam. The way Imam Ali (A) treats his own murderer would be a clear example for us to learn how to treat the captives and/or the criminals. His Honorable said: "Put this captive into jail. Give him enough food and treat him in good manner."¹⁵¹ In Islamic criminal law, those cases whose penalties are imprisonment as "Ta'zir" will not exceed from thirteen items.¹⁵² It is said (Al-Borūj, LXXXV, 10): **"Verily, those who tortured the believing men and women and then did not repent, for them shall be the chastisement of the Hell. And for them will be the chastisement of the Fire"**. The Glorious Qur'an encourages us to give the captives whatever we use as our own food. In sūrah of Al-Insān concerning the benevolent persons it is stated that (Al-Insan LXXVI, 8): **"And for Allāh's pleasure they feed the needy, the orphans, and the captives. Though themselves go hungry"**. It means that while keeping and guarding the captives, the latter are to be preferred to themselves and they even give them their own favorite foods.

Imam Ali (A) in Seffain Battle before getting to the enemy, advices

¹⁴⁹ Ja'far Sobhani (1983) "The principles of Islamic government", vol 2, p. 430, Tohid Publication, Qom.

¹⁵⁰ Mawardi, "Al-ahkam soltaniah wa al-wilayat al-diniyyeh".

¹⁵¹ Al-Mustadrak Al-wisa'il, 11, 78, 30-12467-1.

¹⁵² Ja'far Sobhani (1983), "The principles of Islamic government", vol 2, p. 431, Tohid Publication, Qom.

his military men that: "Do not fight them unless they begin fighting. Because, thanks to God, you are right and have the valid evidence, and leaving them until they begin fighting would give you another evidence against them. If with the God's will they be defeated and runaway, do not kill those who are retreating and do not harm those persons who are not able to defend themselves. Do not kill the wounded persons. Do not provoke the women even if they insult you and your commanders, because they have little strength and they are weak in their body and defective in their reasoning. When the women were in disbelieving conditions we were bound not to bother them. In the Age of Ignorance (paganism) if a man attacked a woman with a stick or a stone, he and all his children who helped him would have been reprimanded for their deeds".¹⁵³ In narrations and traditions books such as "Osūl-al-Kāfi"¹⁵⁴ and "Al-Wasāil-e-Shiāh"¹⁵⁵ and "Mustadrak-al-Wasilah"¹⁵⁶ there are special chapters concerning the goodness of feeding prisoners and friendship with the captives; and lots of narrations on this subject could be found in the said books.

It has been frequently observed that some governments in wartime for putting the opponent forces under pressure make use of the captives as means to their ends. For instance, they ill-treat the captives and torture or even kill them. As it was already mentioned, on the basis of this principle molestation of captives is forbidden, so that, it is clear that killing or taking reprisal actions against the captives just because of new invasions of the enemy would also be forbidden. That is to say, because of enemy's attacks and invasions we cannot kill the prisoners of war who had been taken as captives in earlier military operations and retaliate or torture them in revenge of the said attacks. In other words, we cannot make use of the

¹⁵³ Nahj-ol-Balaghah, translated by Shahidi, letter no. 14, p. 280.

¹⁵⁴ Al-Kāfi, volume 5, p. 35.

¹⁵⁵ Wasail-al-Shi'ah, vol. 15, p. 32-91.

¹⁵⁶ Al-Mustadrak, vol. 11, p. 78.

captives in wartime, because they are also human beings who are defeated by Islamic government and operating procedure of Islamic governments towards those who are defeated is the same procedure that the Muslims are expecting and looking forward the Omnipotent of the world, namely Almighty God takes towards them.

69- Principle of: Prohibition of illicit trades and measures against humanity and the environment

This principle is one of the most important principles of Islamic foreign policy. The aim of Islam is exaltation of humankind and full height of dignity in humanity. What the "exaltation" is meant by holy Prophet of Islam is qualitative and quantitative improvement of human beings. As a general rule, the ecosystem which human beings are parts of it should be protected so as the said goal be attained. Therefore, the attention of holy Prophet of Islam has also focused on protection of animals and plants as well. By careful attention to, and analyzing the Islamic rules and regulations, even in minor and subsidiary cases, it could be understood that one of the aspects of Islamic rules and regulations is protecting the rights of individuals in their relations with one another. In other words, each person is a constituent source of rights for other persons. For instance, "man" is the source of sexual pleasure for "woman" and vice versa. So that a man, as a member of ecosystem has no right to refrain from marriage which results to the infringement of the women's rights. Although there is no obligation concerning the religious rules on the subject in question but the subtle hints made by religious rules show that its praiseworthiness is nearly equal to an obligation. It is written that:¹⁵⁷ "Once Imam Sadiq (A) was asked why the punishment of adultery is a hundred lashes but the punishment of drinking

¹⁵⁷ His Excellency, Hajj Mullah Ali Beidokhti Gonabadi. Zulfiqar, "On the prohibition of opium smoking", Haqiqat Publication, (2003) Tehran, pp. 75-76.

wine is eighty lashes? Why adultery is more serious than drinking wine? His Holiness said: "The reason is because of spoiling the sperms and laying it in a place other than the position that God said "it is your sowing place". It is written in Fegh'h-ol-Riza that the Reverend Messenger of God said: sodomy is prohibited because of its corruption and infringement of the women's rights that Almighty God has encouraged to observe it. So it is obvious that the reason behind the unlawfulness of sodomy is infringement of women's rights and spoiling the generation, and wasting the sperms. That is why, masturbation is also forbidden. And sexual intercourse with the anus of the women and bestiality and lesbianism are also forbidden. Because if men be sufficient for each other and also the women be sufficient for each other the issue of reproduction and generation would be exterminated". From the said religious legal provisions, it could be understood that with regard to the rules of ecosystem, the life of every living creature is a source of rights for other ones; therefore, no one is authorized to infringe the others' rights through his selfishness.

This subject is also extended to plantations and livestock. Therefore, protection of the environment is considered as one of the topics of Islamic foreign policy. It is said (Al-Baqarah II, 205): "**And when he turns away (from you) his effort in the land (earth) is to make mischief therein and to destroy the crops and the cattle; and Allāh does not like mischief-making**". That is to say, destroying the plantation and the livestock is considered as corruption which Allāh does not like these kind of actions. Destruction of the plantation and the livestock, whether being directly or indirectly through destruction of the environment, and/or creating imbalance in ecosystem is considered as corruption. In the said verse the ownership of the plantation and the livestock is not restricted and particularized to the Muslims, and by using the term "**land**" (earth), all the lands in the world is taken into consideration. This attitude represents so

many rules to be observed by Islamic government. That is to say, Islamic government has no right to commit corruption in the planet of the earth.

According to the said noble verse "corruption in the earth" is composed of a body of activities, which are the cause of destruction of the environment, whether plants, animals and/or human beings. Extending the said subject to the human beings shall propound other issues, which we are going to discuss them in detail. There are so many activities that are the cause of corruption in the earth. The followings are some of them which could be mentioned under the title of this subject, such as; producing and trading the harmful materials and poisonous chemicals for the purpose of killing the human beings and destroying the farms and livestock for damaging the others, offensive and mass-destruction weapons, burying the nuclear wastes in territory of the weak countries through conspiracy with their leaders and agents, production, consumption, exportation and importation of all kinds of raw and intermediate materials which are the cause of harm and damage to the plants, livestock and human beings and the like.

In Glorious Qur'an "corruption" is also attributed to the kings, which says (Al-Naml XXVII, 34): **"Verily, when the kings overtake a land, they spoil and plunder it"**. And also says (Muhammad XLVII, 22): **"If you were given the power and authority, all you would do is but mischief-making"**. And also says (Al-Baqarah II, 11-12): **"And when it is said to them: Do not make mischief in the land, they say: We are but peace-makers. Now surely they themselves are the mischief-makers, but they do not perceive"**. And in another verse it is said (Al-Ra'ad VIII, 25): **"But those who break the covenant with Allāh after they have made it; and cut off the relations that Allāh has commanded to be joined; and make corruption in the earth, for them shall be the curse and the evil abode"**.

There are so many infractions, which have been described as corruption in various verses. For instance, according to the following verse which says (Al-Baqarah II, 30): **"They said: (O, our Lord) Do you appoint the kind of creature who will make mischief therein and shed blood?"** To shed blood is one of the cases of corruption. In another verse, it is said (Yusuf XII, 73): **"They: By Allāh! Indeed you know that we did not come here to make mischief in the land, and we are not thieves"**. It means that theft is one of the cases of corruption. And in another verse, concerning the rebellion it is said (Yūnus X, 91): **"Indeed you rebelled before and you were of the mischief-makers"**. That is to say, rebellion and disobeying the God's ordinances are considered as corruption. Shortchanging is also considered as corruption, which says (Hūd XI, 85 also Al-Shura, 183): **"O, my people! Give full measure and exact weight; and do not diminish the goods of the people (while selling); and do not make mischief in the land"**. Injustice, murder and transgression are also considered as corruption, which says (Al-Qasas XXVIII, 4): **"Surely PHaraoh considered himself above all and made its people into sects, weakening one party from among them; he slaughtered their sons and let their women live; surely he was one of the mischief makers"**.

To produce, purchase and sale of wine and other intoxicants, for the purpose of being intoxicated are forbidden in Islam. Because drinking wine will deteriorate the mental and reasoning faculty (power) for a while, consequently the man's virtue namely the awareness of his perception would be weakened or stop working. For this reason, the holy Prophet of Islam has forbidden it. Certainly, the said prohibition shall cover the narcotic drugs, which its usage is common in today's world. The trade of narcotic drugs is one of the largest illicit trades in the world, in such a way that in some years the revenues gained by transaction of narcotic drugs is more than the oil revenue in the world. Islamic government has no

permission to be engaged in the transaction of narcotic drugs or even take part in their distribution. Glorious Qur'an says (Al-Mā'idah V, 2): "**you should help one another in righteousness and piety, but do not help one another in sin and transgression**". The term "**sin**" is also used in the verse that forbids the wine, and in that place, it is called "**grave sin**". It means that taking part in the said "**grave sin**" namely, transaction of intoxicants, which also includes the narcotic drugs, is forbidden. In Glorious Qur'an it is said (Al-Baqarah II, 219): "**They ask you concerning intoxicant and gambling, say: In both of them is a grave sin, although there is some profit for some men in them, but the sin of them is graver than their profit**". In a comment on the said verse, the noble exegesis of Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah, for the first time has forbidden the usage of opium and narcotic drugs¹⁵⁸.

On the basis of the abovementioned explanations the concept of the said principle could be extended on all sins and even moral issues. But we are not going to describe the issue anymore. It should be only noted that one of the difficulties of today's world is immoral trading which have specifically devoted a large part of the world's commercial transactions, and on the basis of the above-mentioned explanations all of them are considered as corruption which are not authorized by Islamic government. The foreign policy of the Islamic government has taken these principles from the bases of its ideology and is bound to observe them.

70- Principle of: Unauthorization of destroying food sustenance for acquiring material profits

As it was already mentioned, the various concepts of the "corruption in the earth" indicate this point that destruction of farmlands, livestock and human generation are principally prohibited; and protection of the

¹⁵⁸ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation volume 2, pp. 450- 460.

environment is one of the most important issues in the foreign and domestic policies of Islam. Generalization of the said subject, leads us to the following point namely, Islamic government has no right to destroy a part of food substances, in order that their prices being increased. In the past, it has been observed that some countries such as U.S.A carried a part of their wheat products by ship to the sea and emptied them out into the ocean just to prevent the decrease of wheat price, whereas at the same time there were so many people in Africa who were starving to death. There are even uncertainties and doubts originating from Islam's standpoint on the case of imposing prohibition in producing and cultivating grains just to prevent a decrease in their prices, which would be due to the abandonment supply of their products. As to the victuals and means of subsistence of population of the world, we can declare this point of viewpoint that Islam never authorizes any restriction on producing the means of subsistence unless the foods needed by all individuals in the world have been produced. With regard to the following verse which says (Al-Baqarah II, 205): "**And when he turns away (from you) his effort in the land (earth) is to make mischief there in and to destroy the crops and the cattle; and Allāh does not love mischief-making**". Even that kind of "corruption in the earth" which causes a decrease in productivity of production of farmlands and livestock are also prohibited. In recent century, it has been observed that most governments through progressive tricks - and in earlier centuries through conventional tricks - and by distribution and/or secret exportation of parasites and plant diseases and livestock pests have tried to inflict sufferings upon the other nation's farming and livestock productions. For instance the epidemic factors of the outbreak of disease among livestock, birds and plants such as rice stem-worm, fruit trees stem-worms, potatoes and summer crops' wireworm, fungus infection of the wheat, pathogenic fungus, aphids, and bacteria were secretly distributed by some states in

other countries. All of these occasions are within the scope of this section.¹⁵⁹

All of the above said measures at the international level are considered as prohibited actions in Islam. There has been determined a special portion out of the properties of Islamic government for the poverty-stricken persons and the needy which the dispossessed of other states are also included in the plan. In Glorious Qur'an, it is said (Al-Dhariyat, LT, 19): **"And they consider a due portion of their wealth and property for the needy"**. The said **"due portion"** which is known and definite in the wealth and property of the believers; for sure it is also known and determined in the public treasury of the Islamic government; and no matter where the needy and deprived persons are stationed, they are all entitled to receive it.

There is a verse in sūrah of Al-Isrā concerning the extravagance and squandering which Almighty God says (Al-Isrā XVII, 26-27): **"Give to the relatives their due rights and also spend on the needy and the wayfarer, but do not squander your wealth wastefully. Verily, the squanderers are brothers of devils, and Satan was ungrateful to Allāh"**.

As it was thoroughly explained, "squandering" might be used as an established base for the said principle in international relationships concerning the weak and powerless nations of the world. That is to say, the rights of powerless and disabled persons of other nations should not be ignored. We have no right to acquire profits just to achieve our national interest and refrain to give the due rights of the deprived nations as it is instructed by Almighty God, for the needy and disposed persons, out of the wealth and property of Islamic nation.

71- Principle of: Prohibition of international hoarding of food and

¹⁵⁹ The eye witnesses have repeatedly stated that in late forties and after world War II American planes while flying over Gilan and Mazandaran provinces unloaded small packs on the rice fields. They said packs contained rice stem-worms.

obligation of feeding the world starving people

Starvation is one of the prominent phenomena at the international level in recent centuries. The rate of starvation casualties is much more than the casualties of accidents throughout the world. Hoarding of the public sustenance and/or exercising common methods for preventing decline in price of foodstuffs - such as, destroying the products and declining in cultivated areas of lands for the purpose of reduction of products supply in the market that leads to food prices increase - are not authorized in Islam. And whenever the people are in the state of hunger, then the Islamic judge is authorized to order, to open the warehouses and people sustenance to be distributed amongst them. By taking the said subject into consideration, it is obvious that Islamic government has no right to hoard the people's public sustenance, and make the people die due to famine and hunger.

Concerning the said subject, we read in Glorious Qur'ān, sūrah of Joseph, that Joseph (A) said (Yusuf XII, 47-48): **"For seven consecutive years, you shall sow as usual and you should store the harvest that you reap in its ear, except a little of it which you shall eat. Then after that shall come seven years of hardship of famine that you shall eat what you have stored beforehand except a little that you shall save for sowing seeds".** ... (Yusuf XII, 58-59) **"Then his brothers came to him; and he recognized them, but they did not recognize him; and when he provided them with the provisions which they demanded, Joseph said: Bring to me that brother of yours from your father. Do you not see that I fill up the measure and I am the best host"?**... (Yusuf XII, 62) **"And Joseph told his servants: Put their money into their bags, so that they might know it after their return to their town and they might come back"**. The above said verses imply that Joseph (A), in time of famine, gave full measure of food supplies to those persons who were from another territory and had exercised a grave injustice to him. Joseph (A) was

Aziz (ruler) of Egypt at that time and the entrants had come from another territory, namely from Canaan to Egypt. In other words, Joseph (A) deemed it obligatory to give them foodstuffs on the basis of per capita namely each person's needs to be covered. Because in the following verses when the brothers demand to take Benjamin with themselves they argue that (Yusuf XII, 65): **"So we shall obtain more food for our family, and we shall surely take care of our brother; and we shall obtain an extra camels load; what we have now is a small amount of food supplies"**. The said verse show that Joseph (A) used to divide sustenance on the basis of the members of persons in the family, and the last sentence, which says: **"what we have now is small amount of food supplies"** shows that each person's portion would suffice the least amount of food needed for the persons in the family. And since Joseph's brothers had not taken Benjamin with themselves, therefore they said that the acquired grains were less than what they needed to live. In other place, it is said (Yusuf XII, 65): **"And when they opened their bags they found their money had been returned to them"**. That is to say, the purchase price of the grains had been returned to them. What we understand from the abovementioned verses is that when the people are in hardship with regard to the foodstuffs - no matter where they live and without paying attention to their nationality and religion - the Islamic government is bound to provide them sufficient sustenance without receiving purchase price or any other consideration.

In sūrah of Al-Nisā it is said (Al-Nisā IV, 37): **"Those who are niggardly and enjoy niggardliness on other people and hide away what Allāh out of His bounty has bestowed upon them (should know that) We have prepared for the disbelievers a humiliating torment"**.

In sūrah of Ale-Imran, it is said (Ale-Imran III, 180): **"And those who niggardly withhold of that, which Allāh has bestowed on them of His bounty, should not think that it is good for them. Nay, it will be the**

worst for them; the things, which they covetously withheld, shall be tied to their necks like a collar (of fire) on the Day of Resurrection. Verily, to Allāh belongs the heritage of the heavens and the earth". And also says (Muhammad XLVII, 38): "You are the ones who are asked to spend your wealth on Allāh's way, but among you are some people who are niggardly, and whosoever is miser is against himself. However, Allāh is the Absolute Independent and you are in need of Allāh's favors and bounties. If you turn back from Allāh's way He will substitute another nation instead of you, a people not like you". And in other place says (Al-Taghabun, LXIV, 16): "Fear from Allāh as much as you can; listen to His commands and obey; and spend in charity; and you will profit from doing all those. And whosoever is delivered from the greed of his own passionate-self, he is indeed of the salvated ones".

All of the above said verses are emphasizing a special subject, that is to say, whosoever not to be niggardly and contributes in charitable donations; he has done it for his own benefit. Contrary to the common belief and on the basis of microeconomic and international trade theories and by resorting to mathematics, we are able to prove that the interests of humankind are based on exaltation of the whole humankind. It is hoped to cover the said issue in a separate book in the future.

Anyhow, niggardliness is one of the characteristics of human beings, and in Glorious Qur'an those persons who perform their prayer regularly, namely, they are always remembering Allāh, are considered as an exception. In sūrah of Al-Ma'arij, it is said (Al-Ma'ārij, LXX, 18-25): **"And those who collect money and store it. Verily man is very greedy and impatient creature. When some harm touches him, he is fretful and keeps complaining. And when wealth comes to him, he is miser. Those who perform prayers out of real devotion they are exceptioned. They are the ones who perform their prayers regularly. And those in whose**

wealth is an appointed share, for the needy who demands and the one who is deprived".

Those cases that were mentioned about contribution and niggardliness, in spite of their being for individual persons, could be extended to the government and enforced at the level of nations and states. It is said (Al-Hashr, LIX, 7-9): **"What Allāh has put at the disposal of His messenger, taken from the people of the townships, belongs to Allāh, to His messenger and his relatives and orphans, and to the poor and to the wayfarer: Since these booties should not fall in the hands of the wealthy men among you; so take what your messenger gives you, and whatever he forbids you, abstain from it; and fear from Allāh. Verily Allāh is the severe retributing. Some of the booties should be given to the needy of the Emigrants who are seeking Allāh's grace and pleasure; and they do help Allāh and His messenger in Allāh's path and they are indeed sincere in their deeds. And those who before the emigrants remained at their homeland and became as believers. They love those who came to them as emigrants, and they do not envy them for what they are given and they prefer them over themselves even if they need the same things, and those who are secure from the greed of their own souls, they are indeed the salvated".**

Certainly, moderation is ordered in contribution of charitable donations, which says (Al-Isrā XVII, 29): **"Do not keep your hand chained to your neck. Nor be extravagant in spending your earnings so that out of poverty you may become distressed and self-blaming".** And in sūrah of Al-Forqān it is addressed to honorable Messenger (S) and says (Al-Furqān XXV, 69): **"Those who while spending in Allāh's way they are neither extravagant nor niggardly, but they are moderate between the two extremes".**

CHAPTER THREE

DIPLOMACY IN ISLAM

Introduction

Two general meanings are ascribed to the term "diplomacy". Diplomacy, in its first meaning, is the guidelines or policies of a state about international political issues, regarding to foreign states or different regions, and also concerning the treaties whether international or regional. The second meaning of diplomacy is the skill in or art of negotiation for reaching to a common understanding in the international scene. Anyhow, it is, "the conduct of relations and communication", which makes both meanings to become comprehensible¹⁶⁰. In this chapter, we are going to explain the Islamic attitudes towards the said meanings of diplomacy in conduct of international intercourse¹⁶¹.

In current world's political systems the foundation of diplomacy is based on constituent factors of power such as geographical position, military forces, economical power, social and humanitarian characteristics, political stability and popularity amongst other states, which everyone of them plays special role for a state's interaction in the global system. For instance the size, situation, regional factors, natural conditions as geographical points of view could be the cause of power and dominance of a state in a region. Or the air force, the navy, the ground forces and/or the systems of mobility of forces - which is called "push button age" in this period of time - and strategic weapons and their ranges, constitute the military component of the power. Firms, production technology, economy, and contribution of state in international and regional trade all conform

¹⁶⁰ The meaning of "diplomacy" also consists of the said two meanings. Although its literal meaning is also "hypocrisy".

• Sir Ernest Satow, A guide to diplomatic practice, Longmans, Green & Co. London & New York, 1917. Now in 5th ed. (1998).

• The rise of the great powers: 1648-1815 Derek McKay and H.M. Scott (1983).

¹⁶¹ Aladpoosh, Ali and Ali-Reza Totonchian (1993) Diplomacy and diplomats, Foreign Ministry Publication and Printing Organization. 46 definitions for diplomacy are given which could be categorized into the above said two concepts.

economic component of the power. The national characteristics, individual's morale in the society, solidarity of and homogeneity of people, ethnical-racial particularities of people, national zeal, patriotism and many other factors are among constituent elements of humanitarian -social components of the power of state. The political stability and other characteristics, which lead to the political stability of the government of a state and international prestige of country in the public opinions of the world and other states, are also considered as other components of the power of a state.

The history of human societies shows that whenever there has been a balance of powers in the international scene, infringement of rights of states and nations has seldom been occurred, and international social contract (as it has been propounded by Jan Jack Rousseau - but in its global range) has been observed to a greater degree. But whenever one of the states has acquired a better position with regard to the power, it has started the infringement of rights of the other states and nations. There are too many examples of the said subject in the history of nations, which numerous books are required to mention all of them. The history of humankind is full of this phenomenon.

Our objective in this chapter is to inquire into the general rules of Islamic diplomacy and how Islamic government should behave towards other states and nations. As it has already been mentioned, in the history of Islam, the true Islamic government has only been established at the early Islam and few years of the last part of Imam Ali's life. In other periods, whether in time of Omayyad or Abbasids or other times which several kings have reigned in the Muslim's territories -although they have ruled in the name of Islam- the real objectives and outward forms of their government have been quite different compared with real Islamic government.

In official relations among the states, there are several issues, which could be observed clearly. In other words, the practical diplomacy is based on numerous principles, which the methods of establishment of international relations, leadership of diplomacy, the basic motives and ideologies behind the diplomacy, its aims, and processes and tactics of reaching the objectives are all important factors of diplomacy. The current diplomacy and Islamic diplomacy have some differences in their principles and characteristics, which we are going to discuss the important ones now.

The main objective and motive of diplomacy is principally because of establishment of communication/relation with others in the world. The said motivation has been different due to various ages and world's political systems. For instance, the aims of diplomacy could be different in the following situations, such as: different kinds of international systems, unipolar international power, bipolar or multipolar international balance of powers, the reign of law in the international relations, international feudal system, and so on. But the main common objectives among all forms of diplomacies are, and have been, acquiring security and interests.

Security means survival and self-protection, as defined by theories of political sciences. The following cases could be included in the subjects of security such as: protecting the existing situation against others (status quo), foresight to overtake the others in future, fear of losing the possessions, fear of aggression and many other cases. The acquiring interests and benefits could also be included in the following cases, such as: taking advantages from establishment of communication/relation and economic-political relations, or temptation to invade the other's possessions and/or enhancement of international credibility and reputation, and political or economic stability. Acquiring profits, which results from international trade and economic relations, has a major topic in international economics, which we are not going to discuss about it here.

During the history, the security has been established just by strengthening of the military forces, stationing the populations in safe and secured areas, and construction the protective fortifications. After growth of technology and development of communications and getting access to the long-range weapons, there has been a change in the conditions of acquiring security. Concluding multilateral treaties, using the method of Machiavellism and causing discord and disunion among other states, struggling for self-sufficiency and relative independence in national technology, and monitoring international or regional economic-political changes, they all have been among the measures and peculiarities of acquiring security in last century, although most of the said methods have also been used as methods of acquiring security in old times. Most of the said methods are considered as the bases of diplomatic procedures in acquiring security, which through establishment of international relations are manifested, in the forms of practical diplomacy.

The objective of diplomacy in Islam is not just restricted to acquiring security and benefit. In spite of paying attention to obtain all components needed for establishing security and acquiring interest for the nation and government, Islam follows a higher objective regarding planning diplomacy and establishment of international relations. In noble verse of (Al-Hujurāt XLIX, 13): **"O, mankind! Verily, We created you all from a male and female and appointed for you tribes and nations to be known. Verily, in Allāh's sight the most honorable of you is the most pious of you"**. The objective of creation is declared to be, devotion (servitude) and knowledge (gnosis). In another verse, it is said (Al-Dhariat LI, 56): **"And I have not created the Jinn and men except that they should worship Me"**. In the latter verse the phrase **"that they should worship Me"** is also reinterpreted as **"that they should know Me"**. That is to say, the objective of creation is knowledge, gnosis, awareness, and devotion (servitude).

Some people believe that the term "to be known" is an adverb for nations and tribes; that is to say, the objective of the creation has been knowing each other in the nations and tribes. Anyhow, the said verse propounds the means to the ends of creation as similarity of humankind and knowing the others, in other words, establishment of relations amongst tribes and nations.

Multiplicity of nations and tribes is one of the peculiarities of creation. Some people have protested that why Almighty God has not created all human beings in one nation or tribe. In Glorious Qur'ān it is said (Al-Mā'idah V, 48 and several similar verses): **"For each of you, We have given a code of law and an open method and way; and if Allāh had intended, He would have made you one nation. But Allāh's will is to try you in what He has given to each of you. You people should compete one another in goodness. To Allāh is return of you all; and then He shall inform you about what you disputed"**.

In another verse it is said (Al-Hajj XXII, 67 also XXII, 34): **"And to every nation, We have appointed ways of worship and rites which they act upon. So they should not dispute with you about the matter, so call them to the way of your Lord, surely you are on the straight path"**. It means that the laws, regulations, and ways of each nation are respectful for themselves. Therefore, let them be on their religious rites and you on your own religious rites, although your religious laws are shorter and more straight way compared with other religious laws.

It would not be too far from the reality if it be argued that the reason for making various nations, and the will of divine providence to create different tribes and communities, had been their disobedience, because it is said (Yūnus X, 19): **"Mankind were but one community, then they differed"**. And in another noble verse it is said (Al-Baqarah II, 213): **"At the beginning, people were one nation; then Allāh sent Messengers as**

givers of glad-tidings and warners; and sent down (with them) the book with the truth to judge between men in whatever they differed".

The objectives of Islamic diplomacy is extension of human exaltation under the divine teaching, which says (Al-Taubah IX, 6): **"And if anyone of the idolaters seek refuge in you (O, Messenger) grant him, so that may hear words of Allāh and then escort him to where he can be secured, that is because they are a people who lack knowledge"**. This verse is addressed to the honorable Messenger of Islam. He is told that you should make the idolaters hear the words of Allāh; you should grant them shelter and then escort them to a secured place; you have to suffer the hardship of making them hear the words of Allāh through your statements, therefore they might change their way of living and get closer to the path of Allāh. This kind of confrontation reveals the objective of diplomacy in Islam. It teaches us how there should be the method of conducting relations in Islam. In other words, one of the methods of Allāh to make the people approach nearer to His path is that He makes His messenger to suffer hardship until the idolaters being able to hear the words of Allāh through the statements of the messenger. And these words are neither an authoritative order, nor a command and not a prohibition, but just a conversation like common negotiations. This kind of invitation could be seen with subtlety in sūrah of al-Nahl which says (Al-Nahl XVI, 125): **"Invite (mankind) to the way of your Lord with divine reasoning and fair preaching and argue with them in the best manner. Truly your Lord is in the supreme position to know who has gone astray from His path and who are the guided ones"**.

The topic of conducting diplomacy returns to the subject, definition and particularities of Islamic government. The Islam's government is principally under the control and sovereignty of the prophet, divine guardian or divine executor, otherwise the government bears only the name

of Islam. In Islamic government religious adherence is obligatory, but in those governments which bear only the name of Islam there is no religious obligation to obey them. For instance, there is no religious obligation to obey the tyrant caliphs of Omayyads and Abbasids and/or the like governments. On the contrary, cooperation with them might cause weakness of the impeccables. As it is mentioned in the story of Safwān Jammāl, who was cautioned by His honorable Imām Sadiq (A) not to lease out his camels to the caliph. The story is explained in the narrational books in details. His honorable criticized Safwan on this very point that: "Because you desire your camels return back safely, consequently you desire heartfully that the caliph be also back safely, even this amount of your hearty inclination is not desirable.

Anyhow, if the authorization of the prophets and divine guardians and divine executors be attached to the government authorities, then the government would be considered as Islamic government, that is to say, in one way or another the sovereignty is under the control of those persons who are religiously authorized or under the control of the holders of the authority, which is said (Al-Nisa IV, 59): **"Obey Allāh and obey messenger and those governors among you who have received divine authorities"**. Otherwise, obedience on the basis of religious laws shall not be applicable but obedience on the basis of statutory laws as well as legal legitimacy is justified. Because it is based on "social contract" among the people of the society which is respectable and binding within the realm of law.

In political systems, the management and conducting diplomacy is under the control of the head of executive power and his executive organizations. This subject has its own special differences in various systems. In Islamic government the prophet, or divine guardian or divine executor are responsible for the management and conducting the

diplomacy. As a general rule, the holders of authority have the responsibility of management and conducting diplomacy as well as leadership of the society.¹⁶²

The methods of conducting diplomacy are almost alike in political systems, which are performed through negotiations. According to the said methods, the establishment of international relations is influenced by the bargaining conditions and exchanging privileges. In a manner that the governments normally define their relations with other governments just by taking the exchanged privileges into consideration among themselves.

Diplomatic procedures in Islam are superior to material process of exchanging privileges. The Islamic government basically does not take other countries as the sources of acquiring profit. On the contrary, they will be taken as brothers and/or neighbors for establishment of relations. The brotherly and neighborly tasks are quite different from national and international mutual understanding and friendship as defined in today's world that are all based on martial concerns. Of course, the material things and economy are not precluded by Islam but they are not the main goal of relationship. In other words, material things and economy are used as means for spiritual and moral exaltation of the society and they are not used just for the welfare and bodily pleasures, in Islam. Whereas in international relations of global system, the attention is only focused on acquiring material things so that morality and spirituality are trampled down by economic concerns. Therefore, Islamic diplomacy by taking the moral and spiritual exaltation of the society into consideration attempts to establish relationship with other countries; and for achieving the said goals follows significant principles that we are going to enumerate some of them.

¹⁶² Bidabad Bijan (2003), Religious-economic analysis of insurance and characteristics of Islamic government. Monetary and Banking Research Academy, Central Bank of Iran, 2003. <http://www.bidabad.ir/>.

72- Principle of: The assignment based on authorization

In Islam, attaining religious, judicial, political and executive assignments are based on authorization. Nobody has the right to interfere and/or make decision using his own discretion, even, in trivial secondary issues. In Āyat-al-Korsi (the Throne verse) of Glorious Qur'ān, the intercession is exclusively based on authorization, which says (Al-Baqarah II, 255): **"Who dares to intercede in Allāh's presence without His leave"**. According to the said verse, the intercession and consequently the oath of allegiance and connection to God and as a general rule "the religion" are exclusive rights of the holder of authorization. The Leader of the believers, Imām Ali (A) addresses Shoreih (the judge) and says: "O, Shoreih, the position you are holding is the position where only the prophet or divine executor and/or a wretched person shall hold it",¹⁶³ That is to say, the position of judging and making decisions on ramifications of the religion and trivial religious issues are all exclusive rights of the prophets or their appointed divine executors; and the truth of the said issues are restricted to the holders of authorization. Therefore, at present time, the true religious scholars observe the narrational authorization. They connect their narrational authorization through correct ways/connections to the impeccable. And he who has no authorization for narrating the traditions, shall be even excused and forbidden to narrate or state the narrations and traditions, otherwise their rulings would be the cause of lewdness, injustice and disbelief of the persons who give the rulings. Because it is said in Glorious Qur'an that (Al-Mā'idah V, 44): **"And whosoever does not judge by Allāh's words of decrees, such are the disbelievers"**. And following the said verse says (Al-Mā'idah V, 45): **"such are the unjust"**. And then follows that (Al-Mā'idah V, 47): **"such are mischief makers"**. Almighty God due to the importance of the subject has repeated it for three

¹⁶³ Al-Kafi 1, 406.

consecutive times in Glorious Qur'an.

In early Islam all official positions were assigned by the Messenger of Allah which was due to the importance of authorization, and obedience of all persons from the holder of the decree. Because Allāh has restricted the obedience to Himself and His messenger and the holders of the authority (Al-Nisā IV, 59), and this obedience is prerequisite of growth in inward guidance and keeping order in political government of Islam. In other political governments, only the second part of the latter is taken into consideration but in Islam the spiritual growth and human moral transcendence of people is also taken into consideration. The said transcendence and evolution would not take place unless through the guidance of those persons who are assigned to train and educate the people, which said (Al-Kahf XVIII, 17): **"So whom He guides, he is on the right path and whom He leaves in his astray, for whom there has not been any guiding guardian"**.

So that the official positions of taking oath of allegiance, guidance, proselytizing, directing, narration of the traditions and issuing religious rulings, whether during the occultation and/or at the time of advent are restricted to the Upholder of Muhammad's progeny or his representatives, and judicial, political and emissary positions at the time of rising of his honorable and assuming the control of the government would also be restricted to him and those representatives who are appointed by him. It should be noted that all official positions, which leads to the governance over the people, belongs also to his honorable; and the kings and rulers have usurped and appropriated them wrongfully and are ruling over the people without having authorization from the Almighty God. Glorious Qur'an says (Yūnus X, 3): **"There is no intercessor, save after Allāh's leave"**.

In international diplomacy, similar issues could also be observed. The

official representatives who are accredited by the head of a government act as the main mediators. The titles and diplomatic hierarchy in accordance with the conditions of those days had been propounded in Vienna Congress (1815) and Aix la Chapelle (1818). The Vienna Convention¹⁶⁴ (18 April 1961) on Diplomatic Relations, binds contracting parties to observe the formalities of presenting the credentials of the ambassadors to the officials of receiving state. And if, for any reason, one of the parties (whether sending state or receiving state) loses its legal legitimacy then the ambassador's assignment would also be terminated. For instance after replacement of the king or the president, the ambassadors should present their credentials to the new king. Or whenever the diplomatic rank of a diplomat is changed, his competency should be renewed and when the assignment of an ambassador is terminated his successor should present his credential to the head of receiving state.¹⁶⁵ Another instance is when there is a change in the governments. When a government or sovereign is changed in a country, whether legally or through using force, renewing the covenant with other states or governments and with the representatives and ambassadors of new government is necessary. This procedures and formalities are similar to the ceremony of renewing the oath of allegiance in Islam. That is to say, after demise of the viceroy of Allāh in each time, the believers should swear (renew) oath of allegiance with the new viceroy and/or his representatives again. The story of Qadir-e-KHom (the pond of Qadir) and setting up a tent by Imam Ali (A), which all believers took oath of allegiance with His Excellency even prior to demise of honorable Messenger of Islam is, due to its importance, recorded in the history. Glorious Qur'an says (Al-Baqarah II, 134): **"They were a nation who**

¹⁶⁴ American journal of international law (1961) pp. 1062-1082.

¹⁶⁵ About the said subjects and similar issues see: Kazemi Aliasghar (1986), Modern diplomacy in the age of changes in international relations, the Bureau political and international studies, affiliated to Foreign Affairs Ministry, Tehran, Iran.

passed away; they shall receive the reward of what they did, and you of what you did; and you shall not be questioned of what they did". It denotes this very point that subsequent governments and sovereigns should ratify and confirm the past decrees, assignments and treaties again.

73- Principle of: Obeying the holders of authority

As it has been already mentioned, holding religious positions in Islam and social positions in Islamic government are all based on authorization, and every measure taken without having the permission of the holders of authority would be considered as meddle in the Almighty God's affairs. Therefore, it is only ordered to obey Almighty God, the messenger (S) and the holders of authority, and this obedience is obligatory. The Glorious Qur'ān says (Al-Nisā IV, 59): **"O, you who believe! Obey Allāh and obey messenger and those from among you who have received divine authorities. If you differ in anything among yourselves, refer it to Allāh and His messenger, if you believe in Allāh and in the Last Day, this is better and more suitable for final conclusion"**.

This principle is one of the principles, which has deterrent effect on self-imitated diplomacy, or discretionary judgments, which could be one of the sources of diplomatic corruption in the international scene. Therefore, these kinds of powers are removed from the common people and are granted to the holder of authority who has the merits of establishment of Islamic laws and regulation throughout the world.

74- Principle of: Diplomatic responsibility

In common usage of international diplomacy and according to the Article 3 of Vienna Convention on Diplomatic Relations, the political mission/agents and diplomats are sent to perform some special functions. The said functions consist in:

- a- Representing the sending state in the receiving state.
- b- Protecting the interests of the sending state.
- c- Negotiating with the government of the receiving state.
- d- Reporting the conditions and developments in the receiving state to the government of sending state.
- e- Promoting and developing the economic, cultural and scientific relations between the sending state and the receiving state.

The purport and content of the responsibility of Islamic government's political agent, with regard to all of the abovementioned functions, is much broader than those which are taken into consideration by other governments. As a general rule the Islamic agents are not excused but they are all responsible for their actions.¹⁶⁶ That is to say, they are under obligation to perform their functions in such a way that leads to establishment of right rather than performance of their nominal functions. In other words the political agent's missionary in Islam is prevalence of the justice (right) against injustice, in the vast meaning of justice and injustice as it has been already explained. "Justice" (right) means optimum of activities and "injustice" means non-optimal activities as it is used in mathematic and economic terminologies. The functions of political agent in Islam are not just protecting national, ethnical and/or individual interests. And when he is sent as representative or negotiator or reporter and/or for promoting relation, he is principally sent to protect the humankind's interests. He is not sent to protect the interests of sending state or his chief and/or his own interests. Because in the said missionary his tasks are protecting and taking care and paying attention to all bondmen of Allah, according to their dignity and position. For this very reason that Allah loves all His creatures. He has created them and all creatures are cherished by Him. So that His agent should also respect them all, otherwise his Lord,

¹⁶⁶ Behar-Alanwar, 72, 38.

namely God would be filled with anger with his actions. On the said subject, the following verse is the words of Allah who says (Al-Mu'minun XXIII, 115): **"Did you think that We created you in vain and you will not return to us?"** In this way, the diplomats or agents are held accountable for their actions. They are all responsible for their actions and related consequences in front of divine court, whether in this world or in the Hereafter. As a general rule, Glorious Qur'an says (Al-Tur LII, 21): **"Everyone is in pledge of his own deeds"**. The Leader of the believers Imam Ali (A) in the decree to Malik Ashtar says: "O, Malik, when you hear the orders of your superior officer, you should compare it with the commandment of Allah. If Almighty God forbids you to do such an action, beware not to sacrifice the creator's decree in the way of the creature's desires. Never say that I am an agent and excused from any responsibility. Never say that I am ordered to do so, and I have to obey unquestioningly. Never be tempted that other peoples should obey you unquestioningly. Never impose your leadership on other people just for this reason that you are backed by the position of caliphate."¹⁶⁷

75- Principle of: Political immunity and social or personal non-immunity for diplomats

From faraway times up to the present time, diplomatic immunity has been of the most important issues of practical diplomacy which various changes as well as ups and downs have been occurred in the range of its validity. Once there was a custom that, to give a serious warning to the sending state, their ambassadors were decapitated and their heads were sent to the king or the ruler of the sending state. On the contrary there have been occasions that by establishment of the rules of capitulation, the non-

¹⁶⁷ Decree of Imam Ali (A) addressed to Mālik Ashtar, printed by the Ministry of Economic and Financial Affairs, (1992), p. 14.

political attaché of specific governments were excused from being tried in the courts of domestic governments. In Roman Empire, political immunity was considered as one of the divine rights and/or human rights by Cicero. Montesquieu introduces the ambassador as the tongue of sending ruler and says: "the tongue of the king and/or the ruler should be free (from any restriction)".¹⁶⁸ Diplomats' immunities consist of two different parts, namely political immunity and personal immunity.

As to the political immunity the Article 3 of the Vienna Convention on Diplomatic Relations declare that "nothing in the present convention shall be construed as preventing the performance of consular functions by a diplomatic mission". And according to Article 29 "the person of diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention".

The political immunity is also respectable and acceptable in Islam; and pervious or newly agreements in this regard are considered to be obligatory. Political immunity covers all diplomatic activities of sending state in the receiving state and vice versa. As it was mentioned, the functions of diplomats within the enumerated cases in Vienna convention are respected and accepted by Islam. Moreover, the Islamic agent is also bound to protect the interests of other nations by taking the glorification of the right and removal of the injustice and exaltation of humankind into consideration. No fundamental discrepancies could be seen between Islam's position and the Vienna convention. Other kinds of immunities of diplomats such as inviolability of their correspondence, premises, and commodities from inspection and seize and seizure, should be observed as they are observed for other individuals in the society. The topic of espionage is an important issue that we discuss about it in another section.

¹⁶⁸ See: Ali Asghar Kazemi (1986). *New diplomacy in the age of change in international relations*, the Bureau of Political and International Studies, affiliated to Foreign Affairs Ministry, Tehran, Iran.

On the basis of Vienna convention, whenever a diplomatic agent perpetrates an immoral or illegal action, the receiving state has the right to declare that the agent being returned to the sending state. And the delinquent diplomat would be returned to his country with impunity. Although this kind of immunity is an extravagant use of diplomatic immunity but is enacted just to prevent the spitefulness of belligerent states, and it will be acceptable by Islam, because they are enforced within the framework of the rules of covenants and agreements made among societies, unless the said rules contradict with the Islamic laws and regulations. For example, if a diplomat deliberately commits a murder, in Islam's country, the blood-wits have the right to ask for retaliation and execution of divine punishment (Hodood), and the Islam's government is bound to protect the rights of the blood-wits. Therefore, we should say that, if a diplomat infringes the rights of other persons, which requires execution of religious punishment (Hodood) on the basis of Islamic laws and regulations; he will not be exempted from the punishment. But when there is no private complainant and the crime perpetrated is not considered as one of the crimes related to the private right, then by taking the interests of Islam's government into consideration, the diplomat would be pardoned or returned to his country. And since this kind of actions are based on international usages and would be responded mutually therefore measures taken should be on the basis of forgiveness to prevent the enmity amongst nations and states.

The Islam's government is expecting its diplomats to be treated in the same way and on the basis of mutual confrontation, that is to say whenever an Islamic diplomat commits an infraction which is related to the private issues, to be legally prosecuted just the same as Islamic regulations. It should be noted that in spite of inferences made in political jurisprudence

of Islam,¹⁶⁹ the said subject, on the basis of international usages rests on mutual agreement of the parties, but it is not a certain subject, because it is one of the political issues which is based on international agreements. Of course, it should not be contradictory to Islamic laws and Allāh's commandments. At present time and according to Article 31 of Vienna Convention it is internationally agreed that the political agents shall enjoy immunity from criminal jurisdiction of the receiving state. They shall also enjoy immunity from its civil and administrative jurisdiction. The premises of sending state situated in the territory of the receiving state are also exempted from regular taxes of the receiving state. And political agents while entering the territory of the receiving state are exempted from payment of customs duties. It is believed that most of the said cases are in excess of what should be given as additional rights to the political agent but since they are in accordance with the agreements and accepted by the parties on the basis of statute laws, therefore it cannot be religiously criticized.

As it was already mentioned, before and after the advent of Islam, there was a custom that the ambassadors of state were killed just to punish the sending state. In Glorious Qur'an, the inherent obscenity of those kinds of actions is expressly declared. In sūrah of Ale-Imran, it is said (Ale-Imarn III, 21): **"Those who disbelieve in the signs of Allāh and slay the messenger unjustly and slay those who enjoin equity, give them good news of a painful chastisement"**. Although the said verse relates to the messengers, but the ambassadors are, in a way, also a messenger from a government to another one, and by interpreting the said verse (with regard to the subject in question) we can infer that slaying the ambassadors are also an obscene action. On the other hand the term **"unjustly"** which is

¹⁶⁹ For a discussion on this subject, look at Khaduri, Majid (1956) War and peace in Islam, translated by Gholamreza Sa'eedi, Eqbal Publication; and Ahmad Rashid (1974) Islam and public international law; translated by Hussain Seyyedi.

used in the said verse shows that if the slaying of an ambassador is done justly, that is to say he has committed a crime which is liable to be retaliated, consequently his immunity would be cancelled. To sum up the meaning of the said verse, we can say that, an ambassador enjoys political immunity, but he does not enjoy personal immunity, that is to say, he is immune while acting within the range of his political activities, but while acting within the range of his personal activities he would not enjoy the said immunity.

76- Principle of: Propagation by deeds and restriction on verbal enjoining and forbidding

This principle is one of the delicate topics of pedagogical psychology, which is also applicable in the scene of international law. There has always been a contest among the nations - in the past centuries and at the present time - that, which country should take the leadership of Christianity or Islam in the world. Because of this competition, the states used to send religious missionaries to other countries to introduce their religion or sect or even start propagation through mass media. Performing this kind of propagation is not acceptable by Islam. In some jurisprudential works, there have been several notifications that these forms of propagation and imitation (adherence) are somehow problematic. Because the foundation of a religion is based on proper following (imitation), but this kind of imitation is quite different from the situation where a clergyman writes a practical treatise and to be gifted by a missionary and the people follow the instructions written in that book. The proper imitation happens when the holder of authority is found and adherence to him is fulfilled. A thorough description of the said subject could be found in the mystical works.¹⁷⁰

¹⁷⁰ For more explanation about the said subject, refer to the following books written by His Excellency Hajj Mullah Sultan-Mohammad Sultan-Alishah: Besharat-ol-Mu'minin, Footnote continues in next page

If the said method of propagation not be observed, consequently, our imperfect reasoning and statements would make other nations to keep away from Islam, which not only would be of no benefit to Islam, but it would cause harm to it. Therefore, by the way of education, this subject must be made clear to diplomats and Muslims that their propagation should be based on their proper deeds. The verbal propagation is restricted to those persons whose authorizations are hand-to-hand (consecutively) received from the infallibles, otherwise they have no right to enjoin the good and forbid the evil verbally. Ayatollah Hussain Noori enumerates seventy two prerequisites¹⁷¹ for acting as religious preachers as well as enjoining the good and forbidden the evil. The prerequisites of "authorization", "effectiveness", and "independent judgment" for the preachers, which are mentioned in the said book, would suffice us to declare that a few people would have the right to propagate verbally. Moreover the method of preaching must be in accordance with the following verse, which is addressed to honorable Messenger (S) who says (Al-Nahl XVI, 125): **"(O, Messenger!) Invite mankind to the way of your Lord with divine reasoning and fair preaching and argue with them in the best manner. Truly your Lord is in the supreme position to know who has gone astray from His path and who are the guided ones"**.

Nevertheless, the preaching should be effective, which Almighty God addresses His Messenger that (Al-Nisā IV, 63): **"Those are the ones whom only Allāh knows what is in their hearts; so turn aside from them but admonish them and speak to them with penetrating words to reach their hearts"**. Good words are also one of the requirements of

Haqiqat Publication, 1981, Tehran; Sa'adat-Namah, rectification and marginal notes by Hussain-Ali Kashani Beydokhti, Haqiqat Publication, 2000, Tehran; Valayat-Namah, Haqiqat Publication, 2000 Tehran; Majma-o-Sa'adat, Haqiqat Publication, 1999, Tehran.

¹⁷¹ Hajj Sheikh Hussain Noori the owner of Mostadrak-al-Wasileh, has explained the detailed conditions in "Lo' Lo' and Marjān".

"effectiveness" which says (Al-Isrā XVII, 53): **"Tell my worshippers: To speak only with the best and thoughtful words"**. And also said (Al-Baqarah II, 83): **"Speak nicely to the people"**. In spite of the emphasis made on "speaking with the best words" nevertheless "to enjoin the good and forbid the evil" as well as propagation of Islam should be based on proper deeds, which says (Fussilat XLI, 33): **"And who is more excellent in speech than he who invites people to Allāh's path and does righteous deeds and say: I am one of the Muslims"**. That is to say, he invites people to Allāh's path by his righteous deeds and introduces himself as a Muslim.

Anyhow, argumentation and contending is something that the honorable Prophet has also been forbidden to do it. In glorious Qur'an it is said (Al-Hajj XXII, 67-69): **"And for every nation we have appointed ways of worship and rites who they act upon; so they not dispute with you about the matter, and call them to the way of your Lord. Surly you are on the straight path. And if they contend with you, say: Allah is the more knower of what you do. And Allāh will judge between you and them on the Day of Resurrection about what you differed in"**. And in the sūrah of Al-Ankabūt says (Al-Ankabūt XXIX, 46): **"Do not dispute with the people of the book, except the wrongdoers of them, but with proper and sound reasoning; so tell them: We believe in the revelation which have been sent down to us and to you; we both worship our only God and to His will all submit our wills"**. And about disbelievers it is said (Al-Kafirūn CIX, 1-6): **"Say: O, disbelievers. I do not worship what you worship. Nor you worship what I worship. And I shall not worship what you worship. Nor you will worship what I worship. So for you your religion and for me my religion"**. Because (Al-Baqarah II, 256): **"there is no compulsion in religion. The guidance is henceforth distinct from error"**.

77- Principle of: Prohibition of imposing opinions

In Islam, it is not authorized to impose one's opinion and ideas on other persons. On the contrary, freedom of (belief) is regarded as a principle. Basically, the faith is a divine bounty (grace of God) and it is not something to be instilled by force and/or imposition in other persons. The Glorious Qur'ān says (Yūnus X, 99): **"And if your Lord has willed, verily, all those who are on the earth would have believed; do you compel people against their wish to become believers?"** The disconnected response to the said question is: "No, you should not compel them, and if you compelled them, nobody would have believed you". In another verse, it is said (Al-Baqarah II, 256): **"There is no compulsion in religion. The guidance is henceforth distinct from error"**. And it is addressed to the honorable Messenger (S) which says (Al-Kahf XVIII, 29): **"Say, This word of truth is from your Lord, so let him who please believe in it, and let him who please disbelieve in it"**. And in another verse it is said (Al-Hajj XXII, 78): **"And He has not made the religion something hard on you"**. On the contrary it is ordered to invite (people) by divine reasoning, fair preaching, and arguing in the best manner, which is addressed to honorable Messenger (S) (Al-Nahl XVI, 125): **"Invite mankind to the way of your Lord with divine reasoning and fair preaching and argue with them in the best manner"**. In another verse, it is said (Fussilat XLI.34): **"Repel the wrongdoing of men with good treatment instead, then your enemies will turn into intimate friends"**. In another verse, it is said (Al-Ankabūt XXIX, 46): **"Do not dispute with the people of the Book, but in the best manner except the wrongdoers of them"**. At the same time (Al-Zūmar XXXIX, 14-15): **"Say, I worship Allāh making my religion pure for Him. So worship what you choose instead of Him"**. That is you are free to select the religion you choose and worship whoever you like. And (Al-Nahl XVI, 9): **"And guidance to the**

straight path is with Allāh, and there are ways that are perverted from the truth, and had Allāh willed He would have led you all to the right path". And the task of prophets is only conveying the message, which said (Al-Nahl XVI, 35): **"Is there any responsibility upon the messengers save to clear convey of the message?"**. The response to this verse can be found in another verse, which is addressed, to the honorable Messenger (S) (Al-Ra'ad XIII, 7): **"You are only a warner and to every nation there is a guide"**. It means that the Messenger (S) is bound to warn (people) and he is not even responsible to guide them. As it is stated in Glorious Qur'ān, the words of His Reverend have no effect on the ears of many people, let alone the advice of the missionaries who act upon their own judgments.¹⁷² And says (Al-Naml XXVII, 80, 81): **"You cannot invite the dead to listen, and you cannot make them hear, those who are deaf, particularly when they turn away from the Truth in their retrograde. And you cannot guide the blind who have diverted from the straight path. You can only make those hear your voice who believe in our signs and are Muslim (submitted)"**.

We may conclude that there never exists any imposition of opinion in Islamic beliefs. On the contrary, liberty and freedom of conscience is the accepted principle in Islam. There are many other verses that we can infer the said subject from them. In the sūrah of Al-Mā'idah it is said (Al-Mā'idah V, 99): **"The Messenger's duty is but to convey the message"**.¹⁷³ And in sūrah of Al-Baqarah it is said (Al-Baqarah II 272): **"You are not responsible for guiding them; but Allāh guides aright whomsoever He**

¹⁷² "Men-endeeyeh" are those people who without having any authorization from the prophets or divine guardians or divine executors begin to propagate the rules and regulations of the religion and interfere in the life of the worshippers.

¹⁷³ And also Al-Noor, 54 and Al-Ankabūt, 18: **"The responsibility of the messenger is but to convey the obvious message"**, and Ya-Sin XXXVI, 17: **"And our duty is but to deliver the obvious message"**, and also Ale-Imran III, 2 and Al-Nahl XVI, 82: **"Then if they turn away, your duty is only to convey the message"**, and Al-Shurā, 42: **"Your only duty is to convey the message"**.

wills". And in another verse in sūrah of Al-Mā'idah says (Al-Mā'idah V, 92): "And obey Allāh and obey messenger and keep away (from the disobedience); but if you turn away know that it is for Our messenger only to convey the obvious message".

In this connection there is a message sent to the international Conference of Peace of Religions, which reads as follows:¹⁷⁴ "... Religious beliefs are totally personal issue, and could not be imposed on other persons. Obviously, the followers of any religion would think that their beliefs are superior to others, that is why they have chosen their own religion from among all existing religions. The common point of all religions is the "faith", namely accepting the beliefs and spiritual teachings, and being bound and submitted to a special social spiritual system. We as Muslims have chosen Islam as our religion, and believe it to be the religion of peace, sincerity and liberty. We are in spiritual cooperation with all honoured beings (children of Adam), because, we believe that (Al-Baqarah II, 256): **"there is no compulsion in accepting religion"**. Therefore, we maintain this very right -or even duty- for everybody to look for the better spiritual system of thought, and the requirements for having freely the capability of such a searching is establishment of universal peace throughout the world. Our standpoint on this subject is that all human beings, especially the followers of the religions in the world, are duty bound to protect and establish this peace. The mystical journey is especially needed for all the followers of the religions. Because mysticism which is the real meaning and spirit of all divine religions, is means of

¹⁷⁴ The text of inauguration message, by His Excellency Hajj Dr. Noor-Ali Tabandeh, Majzoob-Alishah to the Conference of Peace of Religions, Foundation for Religious Harmony and Universal Peace, April, 18-20 2005, India, New Delhi. The said letter is addressed to Mr. Maharishi Kapil Adwait. Peace of Religions, Iran's Mysticism, collection of essay, compiled and edited by Dr. Seyyed Mostafā Azmāyesh, No. 22, Haqiqat Publication, 2005, pp. 5-9. A short excerpt of the said conference is printed in the said book under the article by Hussein-Ali Kashani, Conference of Foundation for Religious Harmony and Universal Peace, pp. 125-136.

communication and common points among them ...".

Certainly, we have to mention that the beliefs are considered as "faith". Therefore not being bound to individual duties of religious rules of Islam, as long as it does not infringe other's rights, could not be opposed to. But since the social rules of Islam, requires observing other's rights, therefore they can not be ignored and as a general rule the citizens are bound to observe them. So that we should say freedom of conscience and thought and choosing religion bear some restrictions in Islam. The borderline of the said restrictions are nearly those issues that are discussed and mentioned in the principle of today's democracies. That is to say, the range of individual liberties could be extended up to the point where it does not injure other's liberties. In Islam, the range of individual liberties is also authorized to be extended up to the point where they do not injure the liberties and religion of other persons.

78- Principle of: Respecting others' opinion and prohibition of inquisition

In Islam, everybody is free to hold his own opinion and belief and there is no compulsion and/or duress concerning this issue. The most distinguished opinions and ideologies in human societies are religious beliefs, which all persons are free to choose the said beliefs. The following verse (Al-Kafirūn CIX, 6): "**For you your religion and for me my religion**" is a declaration by honorable Messenger addressed to disbelievers, namely everybody shall have his own religion and there should be no opposition and protest against each other's opinion and belief. On the issue of accepting a belief, it is mentioned in sūrah of Al-Zūmar (Al-Zūmar XXXIX, 17,18): "**So, give the good news to the obedient, those who listen to different speeches and follow the best among the variety**".

It is very important to respect others' beliefs in the world and at the

level of nations, because the variety of states and nations has caused many varieties of beliefs to come into existence among the people and nations throughout the world. Islam holds that the belief of each person is respectful with respect to himself, and as it is mentioned in the principle of "prohibition of insulting and mocking other persons", in Islam there is no permission to mock other persons no matter what kind of beliefs he holds.

There is an exception to this principle in Islam that is about paganism (idolatry). For persuading the idolaters to renounce their antiquated beliefs - which they worship the idols as their God - there is a disrespectful attitude towards the said belief. In other cases the beliefs of all people and nations in the world, whether individually or collectively are respectful. This matter was explained by the principles of "disdain from the idolaters" and "prohibition of imposing opinions".

79- Principle of: Harmonization and conformity of words and deeds

This principle propounds a special pragmatism in the unity of knowledge and action in Islam, which could be applicable in all practical fields. Islam takes action on those things which believes; and whatever it does is what is based on its belief. The Islamic teachings are first of all for the Islamic government, the believers and Muslims, and it does not impose any responsibility on other nations. If any method or action is correctly prescribed for a nation, any group of the said nation and/or its government, surely, then it is prescribed for the Islamic government as well. In sūrah of Al-Baqarah it is said (Al-Baqarah II, 44): "**Do you enjoin right conduct and piety on the people, and forget (to practice it) yourselves and yet you recite the Scripture**"? This unity of knowledge and action would produce a profound solidarity in the international scene, which is one of the obligations of Islamic government. For instance if terrorism is prohibited in Islam, then its perpetration is also prohibited in every and all places,

whether being secretly or apparently.

On the inconsistency between words and deeds, the Glorified God says in Glorious Qur'ān (Al-Saff, LXI, 2, 3): **"O, you who believe! Why do you say that which you do not do? It causes Allāh's wrath gravely that you say and promise something that you do not fulfill"**. In other verses, it is emphatically said that the statements should be in conformity with the beliefs. In sūrah of Al-Fat'h while blaming some Bedouin Arabs says (Al-Fat'h XLVIII, 11): **"They say what the do not mean in their hearts"**. And while blaming those persons who act as hypocrites says (Ale-Imran III, 167): **"They were nearer to disbelief than to belief; they speak with their mouths what is not in their hearts"**.

80- Principle of: Disagreeability of political and economic deception

There is a maxim, which says: "salvation is in truthfulness". This motto is one of the origins and fundamental principles in Islam. As it has been already mentioned "principle" is terminologically something on which other things are based or founded.¹⁷⁵ Honesty and truthfulness are also considered as "principles" in Islam and there are too many rulings which are based on the said principles. These rulings can be easily extended from individual life to family, job-related, social and international subjects.

There are several verses about "deception" and the punishment for deceitful person in Glorious Qur'ān which blame this kind of actions and enumerate severe torments for its perpetration. The meaning of stratagem and deception or cunning trick is directly related to the infringement of others' rights to the benefit of oneself. It is done by devising a plot in a way that the holder of the right consciously (knowingly) or unconsciously (unknowingly), voluntarily or involuntarily, with due consent or without consent renounces his legal rights to the benefit of the opposite side,

¹⁷⁵ Sharhe Amsaleh, Jame-ol-Moghadamat, p. 62, Dar-ol-Fekr Publications, Qom 1998.

without receiving a fair consideration.

Giving a definition to the term of "deception" it is said: "Deception is to disguise the purpose and expressing something different because of inability to reach the goal openly. Given this definition, it is not authorized to attribute "deception" to God, unless by the way of resemblance".¹⁷⁶ On the basis of this definition it seems that the deeds and behaviours of nearly most of the people in the world are full of deception. As far as the said deception is changed to truthfulness and honesty, the healthiness of the soul will increase accordingly. But this is a burdensome duty which common human beings are not able to perform and change the delicate cunning tricks of his soul to the honesty. From both social and political points of view, the consciences of an individual or the society shall themselves understand and distinguish the deceptions and tricks devised for gaining the individual and/or social interests. It is far from the Islam's dignity to practice deception to appropriate others' rights just for protection of its interests and take the rights and interests of others into its possession. Islam, Islamic government, prophet, divine guardian, and divine executor are all considered as guardians of humankind. Their purpose is exaltation of humankind rather than their own interests or groups, folks and or national interests. In the same manner that Islam does not believe in borderline at the international scene, therefore at the position of paternity, it will have a fatherly role over the people of the world. A father of a family would never try to gain benefit from his children through tricks and deception. On the contrary, he attempts that all his children prosper and become affluent.

Anyhow, in Glorious Qur'ān it is said (Al-An'ām VI, 123): "**They do not plot unless against themselves, and perceive it not**". That is to say,

¹⁷⁶ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation, volume 3, p. 265 under the verse 54: "**And they plotted, and Allah also devised a plot and Allah is the Supreme-Deviser**".

they shall bear the harms originating from the deception. And says (Al-Nahl XVI, 45): **"Those who conspire evil plot feel secure that Allāh will not cause them to be swallowed by the earth, or to bring affliction upon them from where they have no idea about?"** In sūrah of Al-Fātir it is said (Al-Fātir XXXV, 10): **"Those who plot evil, for them will be severe chastisement and their plot will be perished"**. And in the same sūrah also says (Al-Fātir XXXV, 43): **"They rebelled in the land arrogantly and devised plots, but the evil plots will trap the plotters themselves"**. This verse could also be interpreted as international rebellion against weak countries and evil plotting to misappropriate their indisputable rights. In other words devising evil plots for national arrogance and selfishness causes their harms go back to themselves. In a comment, it is said: "Deception and cunning trick will destroy nobody save the plotter, because the deceitful person becomes the object of derision by Satan and is surrounded by him and will be under his control. Entering under control and sovereignty of Satan is the immediate chastisement against the humanitarian aspect of the man before his deception affects his victim, namely the deceived person. When deception affects the victim, then the deceived person would be upgraded in this world as well as in the Hereafter, or only in the Hereafter, and the plotter will be degraded in this world as well as in the Hereafter or only in the Hereafter".¹⁷⁷

Devising evil plot in commercial affairs is similar to the abovesaid cases. Every step or measure taken to hide the reality in achievement of national interests is among the prohibited issues in Islam. In Glorious Qur'ān it is said: **"Do not devour one another's property unjustly nor use it as a bribe to the judge that you may devour a part of the property of others wrongfully"**. And in another verse says (Al-Baqarah II, 188): **"O, you who believe! Do not devour each other's wealth in vanity**

¹⁷⁷ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation, volume 12, pp. 157-158.

and illegal way. The profit obtained should be by trading or mutual consent". The said two verses have not been particularized for a determined person as the owner of the property, which whose property not to be devoured. The interpretation of the said verses, from public international law aspect would be that, the Islamic government has no right to misappropriate the property of other states or nations through devising plots and tricks - rightfully or wrongfully and/or by bribing or subornation of others - whether collectively or individually. The only way of appropriation of other's property is through mutual consent trading. And while trading, it should act on the basis of just scale, and even its scale must show heavier which says (Al-Muminun XXIII, 102-103): "**And those whose scale show light weight, they are the ones who have caused loss to themselves and they will be the inhabitants of the hell forever**". This is the command of Allāh that (Al-An'ām VI, 152): "**And give full measure and full weight with justice**". And says (Al-Shū'arā XXVI, 181-183): "**Give full measure and do not cause loss to the buyer by diminishing the weight of their things. And weigh with true and correct scales; and do not diminish the things that you sell to the people and do not spread mischief and cheating in the land**". And is sūrah of Al-Mutaffifin the verse of **Woe** has not revealed for those persons who cause decrease in measure which says (Al-Mutafifin, LXXXIII, 1-5): "**Woe to those sellers who cause decrease in measure and weight while selling things to the people. Those who when they buy something they demand full and exact weight, but when they sell something to the people decrease their right and give them less than the due weight and measure. So they not think that there will be a judgment day which they will become alive and (this will happen) in a Great Day**". And also it says (Hūd XI, 84, 85): "**Do not give short measure and short weight, I see your salvation. I fear for you the chastisement of the surrounding Day. O, people! Give**

full measure and exact weight, and do not diminish the goods of people; and do not make mischief in the land". All of the abovesaid verses indicate the obligation of Islamic government for observing the correctness of international transactions.

To complete this discussion we should make the following remark that **"deception"** and **"Cunning tricks"** mentioned in the abovesaid verses are evil plots, but there are many tricks which could be considered as good plots and Almighty God while talking about His plots, is referring to this kind of plans which says (Al-e-Imrān III, 54): **"And they plotted and Allāh also devised a plot and Allāh is the Supreme-Deviser"**. The cunning tricks of Almighty God are whether for punishment and awareness and guidance of the people, or giving reward for humankind's actions. Almighty God's plots will be devised when He wants quicken divine providence to materialize and brought into effect from potentiality faster than development of creative production. One of the said cases is to respond to the tricks of arrogant or unjust plotters. In this case, the Almighty God's tricks are for removing the deceptions practiced by the plotters, which said (Al-Naml XXVII, 50-51): **"They plotted a wicked and cunning plot and We made a strong divine plan against their plot. See! What was the end of their cunning plot"**. And also says (Al-Anfāl VIII, 30): **"They were plotting and Allāh also was planning (against their plot) and verily Allah is the Supreme-Planner"**. And Almighty God says (Yūnus X, 21): **"Say Allāh is supreme swift planner"**. Therefore, on the basis of the said verses we understand that permission for devising a plot is when the unjust plotters are practicing their tricks, so that we shall be able to punish the criminal plotters because of their evil actions. The following verses clearly stipulate that (Al-An'ām VI, 124): **"Humiliation and disgrace and a severe torment from Allāh will soon overtake them for that which they cunningly plotted"**. And again says

(Al-Fātir XXXV, 10): **"Those who plot evil, for them will be a severe chastisement and their plot will be perished"**. All of the above said verses indicate that there should be a response and punishment against evil plots, even by devising a plan.

One of the practical cases of this discussion is devising plots during the fighting, and as it was mentioned in the section of war and its regulations and laws, fights and wars in Islam are based on holy intentions such as defensive wars. Therefore, devising plots against the evil plots of aggressors not only is permitted but it is obligatory. This situation has been observed while His Excellency Ali (A) was fighting with Amr-ibn-Abdowod who was a strong and brawny man and one of the well-known warriors among the Arabs. On the contrary His Excellency Ali (A) was short and seemed to be very weak in hand-to-hand combat. So His Excellency - in the battlefield - told him: You are boasting about your bravery, so why have you brought such an army to help you? Amr-ibn-Abdowod proudly turned to take a look at the army and at this very moment His Excellency cut his feet by the sword, and he fell down. When His Excellency sat down on his chest, suddenly he spat on the face of His Excellency, so he stood up and did not kill him and waited until his anger subsided. Amr-ibn-Abdowod asked him: Why did you not kill me promptly? His Excellency answered: When you spat on me, it infuriated me, so that if I had killed you at that time, I would have had done it just to please my "self". That is why I waited until the anger be subsided. Because I am obedient to God and I fight for the truth not to satisfy my "self"...."¹⁷⁸

81- Principle of: Honesty in negotiations

During the past history, always the representatives of powerful states,

¹⁷⁸ Full explanation of the said story could be found in the book of Mathnavi, Mevlana Jalal-e-Din Molavi, in the story of "while the enemy spit on Imam Ali (A) and he throws away his sword" and two other stories.

while making contracts with the weak and undeveloped states, have tried through various methods and by practicing deceptions and political tricks, to insert some tricky terms in the contracts which have been against the interests of the deprived nations of the said states; consequently they have misappropriated the national interests of the weak countries to the benefit of their own states. Most of the said contracts were considered as friendly contracts but practically they have been the cause of taking advantage from the weakness and backwardness of the contracting nations. This kind of actions is prohibited in foreign policy and diplomacy of Islamic government. The task of Islamic government is not just to obtain material benefits for itself. Islamic government has a greater goal, which is exaltation of humankind that goes beyond the specified borders and spreads its grandiose and bountiful patronage over all nations, especially the oppressed ones in the world.

The principle of honesty and justice is of the issues that should be observed by Islamic government during negotiations. The said duty becomes obligatory on the basis of several Qur'an's verses that say (Al-An'ām VI, 152): **"When you speak, be just, though it may be against your relatives"**. In sūrah of Al-Baqarah says (Al-Baqarah II, 42): **"And do not cloak truth with falsehood, nor conceal the truth when you know it well"**. In another verse, it is said (Ale-Imran III, 71): **"O, people of the Book! Why do you dress up the truth with falsehood and conceal the truth while you know it"**. These words which is addressed to the people of the Book is also addressed to the Muslims at this period of time, because the Muslims are now the same as the people of the Book at the early Islam who do not know the prophet or divine guardian or divine executor of the end of time and deny him because they think he is in occultation. The behaviours of the people of the Book are also applicable to the present day Muslims which said (Ale-Imran III, 187): **"And when Allāh took a**

covenant from the people of the Book stating: Make the truth known and clear to mankind, and do not hide it. They ignored and exchanged with some worthless gain and indeed the worst was the bargain they made". And the Muslims at this time are from among those groups who have been given the book.

In sūrah of Maryam says (Maryam XIX, 54): **"And mention (Ishmael) in this holy Book, verily, he was true to promise and he was our emissary and messenger"**. In this verse, the term **"true to promise"** is used which means being honest when making promise to other persons. Diplomatic negotiations in the international scene whether in the past or at the present time all have been based on political give-and-take. Therefore, the diplomats always try, by taking the said principle into consideration, to get more privileges in exchange of giving less privilege. This kind of negotiation and bargaining for obtaining benefits is of contemporary diplomatic procedures and customs. In Islam, negotiations are conducted for restoration of rights rather than acquiring benefits. When the right in question belongs to the opposite side, it should be given to him. It should not be taken for himself or his government through dishonesty. Because it will be misappropriation of usurped property that is not authorized in Islam. Therefore the principle of honesty in negotiation is based on this issue that the duty and responsibility of an appointed diplomat in negotiations is to restore the right to its real owner even if it be against the interests of his own nation. In Glorious Qur'ān it is said (Al-An'ām VI, 152): **"And do not approach the property of an orphan unless it is in the best manner till he attains his maturity; and give full measure and full weight with justice; We do not task any soul beyond his ability, and when you speak be just, though it may be against your relatives. And fulfill Allāh's covenant, thus Allāh does enjoin you by those decrees. So that you may be mindful"**. Since in the international relations,

the "**relatives**" can be interpreted to (considered as) Islamic nations and the "**orphans**" to non-Muslim nations, therefore in the said verse the decree of honouring covenant and performing duty, as far as abilities permit, can be interpreted to the responsibility of Islamic agent or diplomat.

In multilateral negotiations, also they should back and support that side which is honest. In Glorious Qur'ān it is said (Al-Toubah IX, 119): "**O, you who believe! Fear from disobedience of Allāh's commands, and be with the truthful**". From this verse, backing and accompanying with the truthful in all individual, social, national and international fields are deducible.

82- Principle of: Prohibition of fabrication of words and political lies and false accusations

Regretfully, the scene of diplomatic activities and foreign policy in today's world - without due attention to human moral dignity - is not free from false accusation and lying against various states. It is even seen that false accusation and lying have practically taken the common procedure of international relations and international diplomatic activities towards a special direction that it is impossible to be leaved without paying expense. This international custom is relatively different among statesmen of different countries due to their beliefs in the principles of honesty and truthfulness. The said differences are originated from this principle that: The politicians have been and are always at the service of capital owners around the world and their endeavors and decisions are made just to protect and secure their interests. They are not able and do not want to confess honestly to this issue; that is why the lying process starts at this very point. The election and even appointment of politicians in the world are based on giving promises or threatening to the public and commitments and giving assurances to the owners of wealth and power. It has seldom been observed

that the elected or appointed politicians being assigned to the office just due to their practical, moral and scientific eligibilities, capacities and competencies. This introduction indicates the profiteering and presidency seeking of nearly most of the rulers in the world, whether in the past or present or in the future. Therefore we should expect them while in action and confronting the realities, in case of need, fabricate words, lie, make false accusation, and practice untruthfulness and so on.

The said issue is not a new discussion about behaviors of humankind. This kind of deeds have been existed in the past and there exist at present and will exist in the future. However, its severity and/or weakness are different among nations and followers of different religions and in different times and places. In Glorious Qur'ān there are indications of fabrication for words and their falsifications. In various sūrahs by using phrases such as (Al-Nisā IV, 46): **"deliberately displace words from their original places"** or **"to change the words"**¹⁷⁹ it has been alluded to this kind of fabrication. To tell lies and attributing them to others and disseminating the faults namely making false accusation, slander or calumny are all prohibited and rejected in Islam. It is said (Al-Jathiyah XLV, 7): **"Woe to sinful liar!"** And said (Al-Zūmar XXXIX, 3): **"Allāh deprives of His guidance the disbelieving liars"**. And says (Al-Nahl XVI, 105): **"Verily, those who forge lies they are those who do not believe in Allāh's signs and revelations and they are indeed the liars"**. And says (Al-Nisā IV, 112): **"And whoever commits a fault or a sin and casts (the blame) upon some innocent person, he indeed burdens himself with a falsehood and flagrant sin"**. This rule is applicable from smallest unit of human society, namely the family and relations between the spouses up to the international level. It is said (Al-Nisā IV, 20): **"But if you intend to**

¹⁷⁹ Al-Fat'h XLVII, 15 **"They wish to change Allah's Words of Ordainment"**. And Al-An'ām 15, 35 and Al-Kah'f, 27 **"And none can alter His Words of Ordainments"**. And Yūnus, 64: **"No change can be there in the Words of Allāh"**.

substitute your wife by another and you have given the former a large amount of wealth for marriage-portion, do not take a bit of it back, would you take it by slandering her which is an obvious sin".

To summarize the discussion, we should say that for approaching political goals one should not resort to fabrication of words, lies, slander, and calumny in the international scene. During the history, many occasions have been observed that the governments have committed wrongdoings and have attributed them to other states or nations. These kinds of actions are prohibited in Islam as well as conscience rules to their sinfulness.

83- Principle of: Unauthorization of insulting or mocking

Vilification, insulting and/or mocking are not relevant to the dignity and status of Islam, Islam's diplomats and the Muslims; and are severely prohibited by in Glorious Qur'ān. In sūrah of Al-An'ām it is said (Al-An'ām VI, 108): "**Reville, not those unto whom they pray besides Allāh**". And in another place it is said (Al-Humaza CIV, 1): "**Woe to those persons who expose others' faults and shortcomings through mockery**". These verses indicate that any kind of defamation, chanting slogans such as death to, down with, drawing caricatures, putting into fire the effigies of the heads of other states, to make faces, to put into fire the national flag of a country or to throw it down on the ground, pacing the national flag of a country or its picture on the ground and under the feet of the people for the purpose of its degradation, showing comedy TV shows or telling jokes or singing obscene songs about a country for the purpose of being broadcast from the radio stations and some other actions, they are all against the Islamic instructions, which not only do not bring splendour to Islam, but, on the contrary they would degrade Islam. In sūrah it is said (Al-Hujurāt XLIX, 11): "**O, you who believe! Do not let some men of your group or tribe make fun of other group: It may be that the ones whom are laughed at, are better**

than the ones who make scoff at others. And should not the women of a group make fun of the women of another group: May be those women who are laughed at, are better than the ones who make scoff at them. And do not be sarcastic about one another and do not insult one another by unpleasant nicknames. It is bad to call a newly believer with a name of bad connotation; and those who do not desist, are considered of the wrongdoers". As a general rule in sūrah of Al-Baqarah it is said (Al-Baqarah II, 231): "**And do not take the signs of Allāh for a mockery**". Signs of Allāh consist of all creatures in the world, which are considered as His signs.

In sūrah of Al-Nisā it is said (Al-Nisā IV, 148): "**Allāh does not like the shouting of evil words except by one who has been oppressed**". In other words, nobody has the right to contempt, mock, degrade or ridicule other persons in any form or manner. But the oppressed ones have the right to implore justice. He may shout his protests until the oppression is removed.

84- Principle of: Greeting and responding in fair and giving reward by the best

One of the principles of Islamic ethics is to encounter the people in friendly manner and responding them in a fair way and giving a greater reward than the other party's deed. This is one of the most important social-ethical principles which, regretfully we, as Muslims, pay less attention to it, whereas too many verses have been sent down on this subject in Glorious Qur'ān; and ignoring the said principle have caused other nations and the followers of other religions not to show high tendency towards Islam. Because according to individual and social psychological considerations the humankind is attracted by good tempers and is repelled by bad tempers. There are few people who do not care about the character or

temper, and just focus on the truth or the truthfulness of the subject or assertion. In Glorious Qur'ān it is addressed to the honorable Messenger (Ale-Imran III, 159): **"(O, Messenger). Thus it is a grace of Allāh that you were gentle to them. Had you been severe or hard-hearted, they would surely have dispersed away from around you, therefore, forgive them and seek pardon for them from Allāh; and consult them in the affair, but when you resolve a matter, then put your trust in Allāh alone, for Allah is affectionate to those who put their trust in Him"**. It is addressed to His Reverend (Al-Qalam, LXVIII, 9): **"They desire that you should compromise with them, so that they too compromise with you"**. In a comment on this verse it is said: "The term **"modahenah"** which means flattery and is translated as **"compromise"** in the verse is to state something contrary to what is in one's mind and it also means dissimulation. They like your dissimulation, hypocrisy and compromise which is stating something contrary to what is in your mind, so that they will be able to compromise with you constantly after that".¹⁸⁰ In other word, it is explaining the psychological states of the opponent persons. On this basis the honorable Messenger is ordered that (Al-Isrā XVII, 53): **"Tell My worshippers: To speak only with the best and thoughtful words since Satan provokes dissensions among them"**.

Although retaliation and recompense is stipulated in Glorious Qur'ān but it has made the highest degree of benevolence and kindness more meritorious than reciprocity and says (Al-Shūrā XLII, 40): **"And a recompense for any harm is an equal harm, but if one forgives and makes reconciliation, his reward will be with Allāh, since Allāh does not like the oppressors"**. And in sūrah of Fussilat it is said (Fussilat XLI, 34): **"The good and evil are not equal. Repel the wrongdoing of men with good treatment instead, then he, between whom and you there**

¹⁸⁰ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation, volume 14, p. 267.

was an enmity (will become) as though he was a bosom friend". And says (Al-Mūminun XXIII, 96-98): **"Repel their evil with goodness. And say: O, my Lord! I seek shelter in you from the devil's temptations. And I seek shelter in you from their coming around me".**

The said verses were all about responding the evil deed rather than the good deeds. In sūrah of Al-Qasas it is addressed to the Honourable Messenger that (Al-Qasas XXVIII, 77): **"And be good and generous to the people as Allāh has been good and generous to you".** And also says (Al-Rahmān, LV, 60): **"Is there any recompense for goodness other than goodness?"** And says (Yūnus X, 26): **"For those who have done good, there is a goodly reward and more achievement".** It is said (Al-Nisā IV, 86): **"When you are greeted with a nice greeting, greet in return, with a better one or return it (at least) with equal courtesy".**

At the end of this section, we should point out this subject matter that is said (Al-Isrā XVII, 7): **"If you do good, you do it for yourselves, and if you do evil, you do it against yourselves".** And in sūrah of Fussilat it is said: **"Whoever does righteous deeds, it is for his own benefit and whoever does evil, it is against himself; your Lord is never unjust to His human creatures".**¹⁸¹ That is to say, if the behaviours of the Moslems have been the cause of degradation of Islamic societies in the world, it has been the effect of our deeds rather than the result of the God's injustice Who said (Al-Anfāl VIII, 53): **"That is so, because Allāh will never change the bounty which has bestowed upon a people unless they change themselves".** And says (Al-Raad XIII, 11): **"Verily, Allāh will not change the good and the bestowed condition of a people until they change themselves".**

¹⁸¹ Fussilat XLI, 46 and Al-Jathiyah, 15 **"If a man does a righteous deed it is his own benefit and if he does evil, it will be against himself".**

85- Principle of: Unsupporting the traitors and authorization for reciprocity

Betrayal (treason) is one of the prohibited and wicked attributes, which Almighty God has forbidden its perpetration by the believers, and in surāh of Al-Anfāl it is said (Al-Anfāl VIII, 27): **"O, you who believe! Do not betray Allāh and Allāh's messenger, nor misuse knowingly properties entrusted to you"**. In another verse in the same sūrah, again betraying Allāh's Messenger has been considered as betraying Allāh and says (Al-Anfāl VIII, 71): **"If they intend to betray you (O, Messenger), no wonder, since they have betrayed Allāh too"**. And also says (Al-Hajj XXII, 38): **"Verily, Allāh does not like the ungrateful traitors"**.

In the following verses, the honorable Messenger has been forbidden to support the traitors while judging among people (Al-Nisā IV, 105-109): **"Verily, We have sent down to you the Book in truth, so you may judge/govern among mankind by means of what Allāh has shown you; so do not be a pleader for the treacherous ones. And seek forgiveness of Allāh, verily, Allāh is the Merciful Forgiving. And do not plead on behalf of those who betray themselves; verily, Allāh does not like any sinful traitor. They hide themselves from people, but they cannot hide from Allāh. For Allāh is with them while they hold nightly discourses which displeases Him, since Allāh's knowledge does encompass all they do. Behold! You are those who may argue for those men in the life of this world, but who will contend with Allāh for them on the Day of Judgment, or who will then be their defender"**.

In Glorious Qur'ān, not only the honorable Messenger is instructed to refrain from defending the traitors, but he is also instructed to act mutually. In sūrah of Al-Anfāl the honorable Messenger is commanded that (Al-Anfāl VIII, 58): **"And if you (O, Messenger) fear treachery from any people, throw back their covenant to them on term of mutuality, for**

Allāh does not like the treacherous people". In the subsequent verses necessary instructions are instructed to His Reverend to how to prepare the army and their equipments.

The following cases could be considered as instances of betrayal in the international affairs and diplomatic issues, such as operations of spies which have betrayed their duties, or the governmental agents and delegates who have been neglectful in their tasks, and the foreign states, which have not fulfilled their obligations.

The betrayal of the spies and governmental delegates are considered as one of the most important occasions of treachery. Because, due to their political and executive authorities in various fields of affairs they are able to transgress the rights of people, whether foreigners or national citizens and infringe their rights and as a result, in performing their duties that should be giving service to Islam and exaltation of the religion and Islamic government and the whole humanity commit treachery. The past historical records show that the most treacherous deeds have been committed by the said group against the nations, governments and humankind.

86- Principle of: Unauthorization of giving or receiving bribes

Giving and accepting bribes are prohibited in Islam. There is only one exception of giving bribe, which is just for restoration of right. Since the political borders and national community are not considered as first grade issues in Islam, and the borderline of Islam is the whole world and Islamic community covers human community, therefore majority of laws and regulations which are enforceable in small society and concerns individuals could be extended to the international society and beyond the state.

In Glorious Qur'an and on blaming the illicit gains¹⁸² and bribery it is

¹⁸² The Arabic word "Soht" which is translated to illicit gain is another meaning of bribery. See: "Mo'jam Mofradat Alfaz Al-Qur'ān, Ragheb Isfahāni, Dar-ol-Fekr Footnote continues in next page

said (Al-Māidah V, 62-63): **"And you see many of them hurrying in committing sin and transgression and consuming forbidden things. Evil indeed is what they do! Why do not the learned priests and rabbis forbid them from uttering sinful words and eating forbidden things? Evil indeed is what they do!"**. So that from the Islamic international law standpoint, giving any kind of money to the international organization or other states or their agents and/or representatives for concealment or perversion of the truth in favour of own or other countries are forbidden.

87- Principle of: Prohibition of usurpation and unlawful ownership of other nations' and states' properties

One of the cases which is usually observed among various states is that, under some pretexts, they take it for granted to take possession of, confiscate or lien on the properties, estates banking accounts and tangible or intangible assets/properties of other states and their dependents, and/or take them as a pledge. These kinds of actions are neither acceptable in domestic Islamic law nor in international Islamic law, unless under certain conditions of real war – and not cold war - which is for preventing others to support the hostile parties. In other cases, no permission has been given to perpetrate such transgressions.

On the prohibition of unjust devour (consuming) of other's properties, it is expressly prescribed in Glorious Qur'ān that (Al-Baqarah II, 188): **"Do not devour (consume) (Akl) one another's property unjustly nor use it as bribe to the judges that you may consume a part of the property of others wrongfully while you know"**. The literal meaning of Arabic word "Akl" which is used in the said verse is "to eat" and "to swallow the morsel", but it does not have the said meaning in the verse. Its real meaning

is "to take possession".¹⁸³ This kind of possession does not imply just real possession of properties, but it also includes constructive and legal possession, namely acquisition and appropriation¹⁸⁴. It is said (Al-Nisā IV, 29): **"O you who believe! Do not devour each other's properties in vanity and illegal way; except by trading on mutual consent. And do not kill yourself; Allah is highly Merciful towards you"**.

Usurpation is also similar to forcible possession of other's property, belongings or rights. On the basis of Islamic instructions the usurper should give back (restitution) the property to its owner and if the usurped property be destroyed the usurper will be responsible to give something identical or its price to the owner. The rule of unauthorization of usurpation could be inferred from the following verse¹⁸⁵ (Al-Baqarah II, 194):. **"The Sacred Month for the Sacred Month, and for the prohibited things there is a law of retaliation: Then whoever commits aggression against you, react you likewise against him (retaliate in the same manner), and fear from the disobedience of Allāh's commands, and know that Allāh is accompanying the pious"**. There are other verses which contain the ruling for usurpation, and it is said (Al-Shurā XLII, 40): **"And a recompense for any harm (ill-deed) is an equal harm, but if one forgives and makes reconciliation, his reward will be with Allāh, since Allāh does not like the oppressors"**. In the latter verse the first action is usurpation, that is to say the first ill-deed is usurpation and the second harm doing is its recompensation.

The said principle prohibits devouring (consuming) properties, rights and tangible and intangible assets of other nations or states, unless for some

¹⁸³ Kanz-ol-Irfān exegesis, vol,2, p.33 and Zobdat-ol-Bayān, p.427. Maktab-al-Mortazawiyah.

¹⁸⁴ Gorji, Abolqasim, (2001), Ayat-ol-Ahkām (civil and criminal) Mizān Publication p. 24.

¹⁸⁵ See: Gorji, Abolqāsīm, Ayāt-ol-Ahkām (civil and criminal), Mizan Publication, pp. 70-73.

exceptions we have already mentioned them.

88- Principle of: Prohibition of the acts of terrorism

Glorious Qur'ān after giving an explanation about the story of Abel who was murdered by Cain, which both of them were children of Adam, declares a general rule and says (Al-Mā'idah V, 32): **"If anyone killed a person, unless it be for retaliation of murder or because of making mischief in the land, it would be regarded as if he has killed the mankind as a whole; and he who saves a man's life shall be considered as one who has saved the life of the mankind as a whole"**. The Cain's action in killing his brother was clandestinely and was perpetrated as an act of terrorism without having permission for retaliation or authorization for confronting a corruption. In sūrah of Al-Isrā it is said (Al-Isrā XVII, 33): **"And do not kill anyone whom Allāh has forbidden, except for a just cause, and whoever is killed unjustly We have given to his heir authority (and right of retaliation), so that (he) not exceed the limit in killing"**.

The said verses are indicating the crime of murder and acts of terrorism. When the criminal intends to kill somebody and the killing is done, the crime committed is called murder (intentionally killing). The punishment for perpetration of murder is prescribed in the following verse which says (Al-Nisā IV, 93): **"And whoever kills a believer intentionally, his recompense is the hell fire, therein dwelling forever, and Allāh shall wrath and curse on him, and prepare a grave chastisement for him"**.

As it was mentioned in concerned section, the legal institution of retaliation is prescribed in Islam; therefore the murderer could be killed justly. This kind of killing is not even harmful for the survival of the society; on the contrary it will be beneficial. But the rules of retaliation shall be applicable only when a person intentionally kills another person

which its punishment is retaliation. It does not apply to a person who, without the said justification and only based on his own judgment commits murder or kills another person by acts of terrorism. For example there are some groups of people who just through their own judgment and imagination and by their own thinking and investigation recognize and presume somebody to be a cruel and an unjust person and consequently kill him through acts of terrorism. There is no authorization for such activities, whether the said groups be Islamic groups or non-Islamic groups, to have a religion or being atheists in any case they have no right to commit acts of terrorism. There are certain conditions while enforcing the rules of retaliation, that is to say, the bloodwits have the right of retaliation. Moreover the bloodwits are to be encouraged to forgive the murderer prior to retaliation.

On the other hand, let us assume that a high ranking official has been unjust and has committed several crimes. First of all the question is: Who is the authority to judge his probable crimes and make final decision that he must be killed? Second: Did he have the opportunity to defend himself? Third: Are we authorized to kill the companions of a certain person who is to be killed because of retaliation (for example by explosion)? Forth: While we decide to harm a person or his country, are we allowed to kill his fellow citizens and/or attack the civilians? There are so many questions similar to the said questions which their answers are all negative. Almighty God has only permitted that the murderer to be killed just by observing the rules of retaliation which requires certain conditions and says (Al-Anām VI 151): **"And do not kill the soul which Allāh has forbidden, save in the course of justice"**. On the other hand the word **"brother"** is used while indicating the said murderer and says (Al-Baqarah II, 178): **"O, you who believe! The law of retaliation in punishment is prescribed for you in cases of murder: The freeman for the freeman, the slave for the slave and the**

female for the female. But if any remission is made to any one by his (aggrieved) brother, then prosecution should be made according to usage, and payment should be made to him in a good manner. This is an alleviation from your Lord and a mercy; so whoever exceeds the limit after this, he shall have a painful chastisement".

89- Principle of: Respecting and generosity towards the guest

Making a careful study of different historical and juridical aspects of former nations reveals that, amongst societies, respecting the guest has always been different with regard to their social knowledge and awareness and general perception (of the world), during the history. Whenever the various aspects of unity have been increased in the viewpoints and perceptions of the members of the society and/or the governments, consequently paying attention to the rights of foreigners have been increased. Referring to historical documents would give us some information about the situations of the foreigners in the ancient countries. Among those nations which their political systems were based on religion, the foreigners' conditions were more severe than those countries which their principles of politics have been based on economic affairs and trading. The general principle in those societies which followed the fanaticism of religion was that the foreigners were unclean and unbeliever, so that were deprived from the given rights of the local individuals. In India the law of Manou was making a general distinction among Brahmane and Soutra. Because the Brahmane were victorious and authoritative while the Soutra were captive and subjugated, and they could not have family and/or legal relations with the Brahmane class. There was another lower class than the Soutra class with the name of Paria which their members had no right even being as the slaves of the Brahmane.

In Egypt, during the period of ruling Pharaoh - namely the

government of so-called-clergymen of Noah's religion - while the leaders of the religion and the pharaohs were in power, the foreigners were hated and ill-treated. The Egypt's religious leaders were of the opinions that the rules of divine wrath must be enforced against foreigners, namely those unclean and unbeliever creatures. The Jews nation who thought they were the preferred and chosen nation by God, were not allowed to associate with the foreigners. The bloody massacre of foreigners in Palestine committed by so-called Jewish in past centuries to prevent contacting with them has been recorded in the history. Of course there are several rules of being compassionate towards the foreigners within the rules brought by Moses (A); and even there has been no difference among the Jews and foreigners with regard to the laws of punishment, and the gates of holy places had never been being closed to let foreigners for taking sanctuary. Nevertheless the superiority of the Bani-Isreal and inferiority of foreigners were a political issue which the so-called-clergymen of Jews have always been emphasizing it.

The Iranian governments whether during the period of the Achaemenian or Sassanid were all mostly hegemonic governments but they also were encouraging trade. In Bābakān Artaxerxes' rites and regulations which was considered as Iran's constitution in the period of Sassanid dynasty, it was expressly prescribed that: "If the foreigners see our hospitality and justice, they will convey our benevolence and justice to other people, therefore other nations shall come to our country with their goods, and merchandise and consequently our country would become prosperous and developed. In the inscriptions and historical documents there could also be observed that the Achaemenian and especially Cyrus the great - who is called Zolqarnain and his story has been explained in the

sūrah of Al-Kahf¹⁸⁶ and several evidences have been introduced to prove his messengership - have greatly taken the honorability of human beings into consideration. After the Advent of Jesus Christ (A) the former so-called-clergymen in Rome, used to use the Christians foreigners as food of savage animals, and in Iran those who showed to observe the foreigner's customs were not free of persecution as well. After the advent of Islam, the Muslims were under severe torture and hardship in Christian countries, especially in Spain; and in Muslim countries the non-Muslims were subject to more severe laws, such as the rules of taking usury from non-Muslim which was lawful (allowed) and taking usury from Muslims were forbidden and non-Muslims were also obliged to pay poll-tax.¹⁸⁷

The law jurists have introduced different theories on the cases of foreign nationals. Aubry and Rau, are of the opinion that in all countries, the foreign nationals should enjoy all the rights usually the civilized nations enumerate them as the natural rights of humankind or the laws of the said nations practically have accepted them; and on the contrary, those rights which are especially prescribed for one or several nations and their extension to the foreign nationals are not considered as *prima facie*, or those rights which their establishments are of innovation for a special nation, should not be recognized for foreign nationals. The said theory has been criticized on this very point that the natural laws are not easily distinguished from, those laws which are not known as natural laws. According to Demangeat and Valette, foreign nationals have the same civil rights which the citizens of state are eligible to have them, and also should enjoy those rights which by virtue of the express texts of law are not deprived from them, because divestment of the rights from foreign national is against justice and equity, especially when there is no expressly

¹⁸⁶ His Excellency Hajj Sultan Hussein Tabandeh Gonābadi. *The Glorious Qur'ān and three mysterious mystical stories*", 3rd edition, 1986, Tehran, Haqiqat Publication.

¹⁸⁷ See: Āmeri, Jawād, (1984), pp. 77- 80.

prescribed law for such a deprivation¹⁸⁸.

On the basis of the principle of respecting the guests, whosoever enters the Islam's country, not only enjoy most of the individual rights as well as his own acquired rights but he also enjoys special rights which are specifically known for the guests. On the basis of the said principle a guest who enters the Islam's country would be honoured and consequently the Islam's government is responsible to secure some of his necessities. For example on the basis of many Quran's verses, the wayfarers are entitled to receive different kinds of alms. The wayfarers are those foreigner and people from other cities and towns who enter the Islam's country or travel from one city to another city but cannot afford the charges of their journey. In sūrah of Al-Baqarah, verse No. 177 defines the righteousness with several qualities which includes the actions such as giving one's wealth to the wayfarers¹⁸⁹. In another verse it is said (Al-Baqarah II, 215): **"They ask you (O, Messenger) concerning what shall we spend (in the way of Allah). Say: "It is good whatever of wealth and properties you spend for parents and relatives or orphans and the poor who beg and the wayfarers. And whatever you do of good deeds, verily, Allah is the knower of it"**. In sūrah of Al-Taubah, verse No. 60 the alms have been allocated to eight groups of persons whom one of them are wayfarers¹⁹⁰. It

¹⁸⁸ See: Āmeri, Jawād, (1984), pp. 89-93.

¹⁸⁹ Al-Baqarah II, 177: **"It is not (the only symbol of) righteousness that you turn your faces towards the east or to the west (in prayer), but true righteousness is to believe in Allāh, and the Day of judgment, and the angel and the book and the Messengers and also to spend one's wealth (in the way of Allāh) despite of love for it, to the kinsmen, to the orphans, and to the needy, and to the wayfarers, and to the poor who beg, and to ransom the slaves, and to perform prayers, to pay alms; and those who fulfill their promises when they make and those who are patient in extreme poverty and ailment and at the time of war, such are the people who are truthful and they are indeed the pious"**.

¹⁹⁰ Al-Taubah IX, 60: **"Verily, alms are only for the poor and the needy and the workers and those whose hearts should be attracted (to Islam) and the ransoming of the slaves and for those in debt and in the way of Allāh and for the wayfarers; it is a duty decreed by Allāh and Allāh is the Knowing Decreeer"**.

is the same in sūrah of Al-Anfāl verse No. 41 which one of the cases for spending the one-fifth (Khoms) of gains - which is also defined as revenues - is to give them to the wayfarers¹⁹¹. The said wayfarers are not restricted to the Muslims¹⁹². Having left no money and being exhausted during a journey is one of the special characteristics of the travelers. Whenever a traveler needs other services, he should enjoy the said services, according to his status, just the same as other individuals of the society. In this case the Glorious Qur'an says: **"Give to the relatives their due rights and also spend in needy and the wayfarer; but do not spend your wealth wastefully"**.¹⁹³ And the criterion for the said issue is described in sūrah of Al-Hashr which depends on the Honorable Messenger (S) decision and says: **"So take what your Messenger gives you, and whatever he forbids you, abstain from it"**.¹⁹⁴

When His Reverend Joseph (A) prepared the camel loads of his brothers then he told his brother (Yūsuf XII, 59): **"I am the best host"**. So that, when the Islam's government is under guardianship of prophet, divine guardian and divine executor as it is mentioned in the said verse, has duty to act like the best host towards the entrants. It is certain that the said characteristic of Joseph (A) should be existed with the higher degree in the subsequent prophets and divine guardians.

¹⁹¹ Al-Anfāl, VIII, 41: **"And know that whatever of things that may gain. One fifth of it is assigned to Allāh's way and to the Messenger and to the relatives and to the orphans, and the poor who beg and the wayfarer"**.

¹⁹² Motashabeh-ol-Qur'an, 2, 174.

¹⁹³ Al-Isrā XVII, 26: **"Give what is due to your relatives, and also to the needy and the wayfarers, but do not spend your wealth wastefully"**. The same subject is also mentioned in sūrah of Al-Rūm, 38: **"Give what is due to your relatives, and also to the needy and the wayfarers. This will be good for those who seek Allāh's Face and they are successful"**.

¹⁹⁴ Al-Hashr LIX, 7. **"What Allāh has put at the disposal of His Messenger, taken from the people of the townships, belongs to Allāh, to His Messenger and relatives and orphans and to the poor and to the wayfarers; since these booties should not fall in the hands of the wealthy men among you; so take what messenger gives you, and whatever forbids you abstain from it"**.

The aforementioned remarks are applied to those entrants who enter the territories of Islam's government as guest. If they intend to acquire citizenship and/or seek asylum, then it is obligatory for Islam's government to grant them citizenship and/or giving refuge to them - if we say that all human beings are in one way or another the citizens of Islam's government and are under the protection of Islam's government we would not be away from the tasks of Islam's government. Since a person who utters the words of: **"There is no God but Allāh"** he will enjoy the immunity to his life, property, honour, and reputation under the shelter of this **"goodly saying"** and nobody shall have the right to transgress the said person's rights. And if we say again that all mankind are under the shelter of this **goodly saying** our words would not be futile. Certainly this section needs detailed discussions which could be found in other articles.¹⁹⁵

Seeking refuge even by idolaters, in Islam's government is also obligatory to be accepted by Islam's government. It is said (Al-Taubah IX, 6): **"If any one of the idolaters seek refuge in you (O, Messenger) grant him, so that he may hear the word of Allah and then escort him to where he can be secured, that is because they are a people who lack knowledge"**. This verse, not only binds the Honorable Messenger to grant asylum, but it has also taken the religion of the applicant into consideration as unimportant and has made His Reverend to take the applicant to a secure place.

The acquired nationality which is originated from seeking asylum and/or application for immigration are both the basis of granting citizenship rights of Muslims to the applicant person. The said person principally

¹⁹⁵ See: Bidabad Bijan and Harsini Abdol-Reza (2003), Non-usury Bank Corporation and contemporary usury and non-usury banking operations. Proceeding of the 3rd Biennial Islamic Economics Conference (Islamic economic theory and Iranian economy), pp. 193-224, Economic Research Institute, Tarbiat Modares University, Tehran, Iran, 24-25 December 2003. <http://www.bidabad.ir/>

should not enjoy any of the social rights less than other Muslims in the society. The exception to the said rule is rare and in the case of governance of prophet, divine guardian or divine executor would not happen easily. This issue concerns the political asylum and precautions taken because of hostilities and secret enmities which are taking place under the cover of asylum or seeking nationality and there is no impediment in granting the civil (private) rights. Moreover, on the basis of the "rule of international respect to acquired rights"¹⁹⁶ the acquired rights of refugees or applicants of immigration should be accepted and respected.

90- Principle of: Prohibition of banishment and revoking the nationality

By virtue of the following two verses, it may be argued, as a general rule that Islam's government is not authorized to banish the people, whether in national or international domains (except in certain cases). Therefore it will not be authorized to revoke the nationality of the individuals as well. In Glorious Qur'ān it is said (Al-Baqarah II, 84-85): **"And remember when we took your covenant (stating):"Shed no blood of your people, nor expel one another from your homeland". And this you solemnly ratified, and to this you bore witness. (But) after that it is you who kill one another and expel a party of your people from their homes; and assist each other in sin and transgression against them, and if they are brought to you as captives you free them by taking ransom, although their expulsion was forbidden to you. Do you believe in part of the scripture and disbelieve in the other part? So what shall be the recompense of those among you who behave like this, except disgrace in this life and in the Hereafter? They shall be consigned to the most**

¹⁹⁶ Concerning "the acquired rights" see: Ameri, Jawād, private international law, Agāh Publication Institute, 1983, Tehran.

grievous chastisement, for Allāh is not heedless of what you do".

The exception of the said rule rebellion against God and His messenger or those persons who do mischief in the earth, which says (Al-Mā'idah V, 33-34): **"The punishment of those who raise war against Allah and His messenger and do mischief in the land is only that they shall be killed or crucified or their hands and their feet be cut off from the opposite sides or be banished from the land. This is their disgrace in this world and a grave torment for them will be in the Hereafter. Except those who repent before you gain power over them; you should know that Allāh is the Merciful Forgiving"**. Interpretation of the said verses was mentioned in the section of confrontation with the rebellion.

91- Principle of: Freedom of movement and cancellation of visa formalities

The command of Allāh is traveling on the land who says (Al-An'ām VI, 11,137 and Al-Nahl, 36): **"Say (O, Messenger)! Travel on the land and see what was the end of those who belied the divine signs"**. In sūrah of Al-Naml (Al-Naml XXVII, 69) the said action is ordained for seeing the end of the criminals. In sūrah of Al-Ankabūt the traveling on the land is ordained for observing the beginning of the creation and the end of the last creation, which says: **"Say (O, Messenger)!"Travel through the land and observe how He creates the first creation, then Allāh creates the latter creation"**¹⁹⁷. The said subject has been revealed in sūrah of Al-Rūm (Al-Rūm XX, 42) for taking a lesson from the destiny of idolaters who lived before. In sūrah of Yūsuf (Yūsuf XII, 109) the said issue is propounded as a question for studying the destiny of the past generations. In sūrah of Al-Hajj it is said (Al-Hajj XXII, 49): **"Have they not traveled on the land, so**

¹⁹⁷ Al-Ankabūt XXIX, 20 **"Say: Travel through the land and observe the creation of the creatures of all sorts; and think about the issue that how Allāh has started creation and thus he will create the last creature"**.

that they would have the hearts with which to understand, or ears with which to hear? For surely it is not the eyes that are blind, but blind are the hearts which are in the breasts". In sūrah of Sabā it is said (Sabā XXXIV, 18): **"And between them and the cities which We blessed We set small towns and related to one another. Travel therein securely by night and day".**

As it is understood from the said verses, going on journey and traveling on the land is of divine decrees and the said command should not be prevented by such obstacles like visa formalities and so on. The Islam's government should provide the necessary conditions for carrying out Allāh's command. Moreover it must remove the requirements of acquiring visas for foreign travelers and also ask other states to cancel the formalities of issuing visa. The term "**land**" in the said verses refers to all countries of the world and it is addressed to all people who live in this planet and has not been particularized to the Muslims and/or the believers.

Regretfully the daily political problems of the world's states such as constant fear of terrorism and/or apprehension of espionage and security problems provided some excuses for strengthening the intelligent and security organizations in the states. As a matter of fact the said problems are the main cause of establishment of the said groups in the society and the latters for protecting and strengthening their own social, administrative, and organizational positions are always increasing the fear originated from insecurity and even they perform some operations which lead to insecurity of the society, consequently the necessity of establishment of military, police, intelligence and security forces being reasonable. One of the repercussions of the said problem in international relations concerns the entrance to and exit form a country. It is the intelligence-security control and inspection on this issue which makes the phenomenon of visa to be seemed very important in relations among the states. It is obvious that in

the present world, establishing communication need not people's movement. The communication means are so extensive that every person in every place in the world village is able to exchange the information, and there is no need for movement personally. Therefore, restrictions with regard to the movement of people seem to be disturbing rather than being realistic.

Immigration is also one of the subjects which the states argue that visa is necessary to be issued for. This subject needs a detailed discussion, but it will be mentioned in relevant place that immigration and emigration both are of the rights of the citizen, and the foreigners and/or citizens could not be deprived from the said rights unless in very rare occasions.

92- Principle of: Freedom of migration and domicile for all human beings in the world

The earth belongs to the Creator of human beings and is the homeland of all humankind. Every person has the right to reside in any country who wishes or immigrate to and/or emigrate from it as well. Migration has been permitted by Almighty God to His bondsmen, and says (Al-Nisā IV, 97): **"Was not the land of Allah vast enough for you to migrate therein?"** The Honorable Messenger also says: "All places are the Towns of Allāh so that wherever pleases you, reside there in"¹⁹⁸. On the said subject it is said that: ¹⁹⁹ "During the period of formal (outward) caliphate of the Leader of the Believers, Ali (A) some of his followers migrated to Syria (Shām) and joined Mo'āwiah. His Excellency was requested to prevent their emigration, because of possibility of occurring disturbances. But His Excellency did not accept the proposal and said: "They are free. Sahl-ibn-Honayf who was appointed by Imam Ali (A) as governor of Medinā wrote to His Excellency

¹⁹⁸ Nahj-ol-Fasāhah.

¹⁹⁹ His Excellency Hajj Sultan Hossain Tabandeh, Religious standpoints on Universal Declaration of Human Rights"

that the followers of Mo'āwiah were making the people to break their oath of allegiance with him and encouraged them to emigrate to Syria (Shām) and asked permission to prevent their emigration, but he said: Let them be free. And the governor of Imam Ali (A) in Basra wrote a letter nearly with the following wording that: Several well-known persons and heads of tribes are intending to emigrate to Syria (Shām); do I have to give them permission to leave or should I prevent them from doing so? His Excellency responded: Let them go and do not be sorry that their numbers are decreasing, because they are mammonist (avaricious) and are looking for the vain desire of this world. They are well aware that when we are enforcing the rules of justice, they are as equal as other peoples."

At present international system, entrance and immigration to the states require issuance of visa and residence permit whether permanent or temporary, whereas it is not acceptable by Islamic government. Whosoever applies for immigration to Islam's country, the Islam's government is bound to give him entrance and residence permit, and since the applicant while entering the country is considered as guest, therefore the rules of "respecting the guests" will be applicable to him and most of his lawful necessities should be provided. If the immigrants be the followers of other religions, then they will be free to observe their own rites and religious laws. They are even free to resort to their own courts of justice (for their lawsuits). As to the Islamic jurisprudence a tributary (non-Muslims) is authorized to lodge complaint against a person in the highest position of the Islamic government, in front of Muslim's judge²⁰⁰. It should be noted that residence of the tributary while residing within the territory of Islam are required to pay poll-tax. The tributary shall be under protection of Islam's government provided that they make covenant that they would not fight against Muslims and would accept the Islamic criminal law about

²⁰⁰ Bihār-ol-Anwār, volume 2, p. 595.

themselves and pay poll-tax. The disabled persons, the insane, children and women are excused of paying the poll-tax. The amount of poll-tax is based on per capita and determined by the Islam's government. That is to say a male person who is of age and healthy should pay each year an amount of money as poll-tax by his own hands. It is said (Al-Taubah IX, 29): "**Until they pay tributary tax with their own hands**". And this is to show their observance of the covenant which they have made. Anyhow the tributary are excused to pay other kinds of taxes which the Muslims are bound to pay, and they are also excused from military service and fight. The tributary just by uttering the following words namely "I testify that there is no God besides Allāh" shall be excused from payment of poll-tax. Anyhow whosoever likes to reside in the territory of Islam will be free and shall enjoy all social and security rights of the Muslims. In the book of religious standpoints on Universal Declaration of Human Rights" it is written: "Article 15 also refers to freedom of choosing one's nationality. As it was already mentioned, after the occasion of "Arbitration" and advent of group of Khawarij and their exiting disturbances in the city of Kūfa, Imam Ali (A) was told to prevent their actions or make them leave Kūfa. His Excellency said: They are free, and as long as their opposition is a private one and against my person, they are free in their actions unless their deeds and actions be against the public interest (expediency) and against the security. That is why when they (Khawarij) gathered outside of the city and started their rebellion and murdering and plundering activities, then Ali (A) planned to repel them."²⁰¹

93- Principle of: Obligation to concealment of the secrets

Concealment of the secrets is clearly ordained by Glorious Qur'ān

²⁰¹ His Excellency Hajj Sultān Hussein Tābandaeh, "Religious standpoints on Universal Declaration of Human Rights", pp. 59-60.

which says (Ale-Imran III, 118): **"O, you who believe! Do not take as intimate friends, those who are outside your religion, since they will not fail to do their best to betray you. They desire affliction for you; hatred has already been appeared from their mouths (through their words), but what breasts conceal is far worse (than what they say by tongue)".** It is said (Al-Nisā IV, 83): **"When there comes to them news regarding safety or fear, they spread it everywhere, but if they had referred it to messenger and to holder of authority from among them who could draw the truth in it, they would have known the truth".**

94- Principle of: Prohibition of inquisition into personal and private affairs of people

Basically, inquisition (espionage) is not admirable in Islam, because the faults and shortcomings of people would be revealed by inquisition; and even if the acquired information is not to be accessible others, however the inquirer himself by interference with privacy of a person would become spiritually suspicious about the said person or similar ones in his heart; so, the foundation of brotherhood within social system and consequently political system of a society would become weak. That is why the Glorious Qur'ān has prohibited the inquisition into the faults of people, and has called the information acquired through inquisition as suspicion rather than certain fact. The reason is that, there might be only half of the reality of an event being revealed to the inquirer; as a result he might make unfounded accusations. For example, the inquirer might find out that two persons have committed adultery, whereas he has not been aware of the first half of the reality of the said event; that is to say this fact that they have been already married. Concerning this issue the Glorious Qur'ān says (Al-Hūjurat, XLIX, 12): **"O, you who believe! Avoid much suspicion, for verily some suspicions are sins; and not make inquisition and do not backbite**

about one another. Does one of you like to eat the flesh of his dead brother? You would hate it, and be careful of (your duty to) Allāh. Verily, Allāh is the Merciful Repentance Acceptor".

The inquisitive activities, apart from its method of performance are called espionage, whether to be performed by means and equipments of espionage or without them. The inquisitor (spy) should not interfere with the privacy of the people. Interference with the privacy of the people is not only prohibited by walking into, looking at or eavesdropping, but it is also prohibited with every other possible means. In sūrah of Al-Nūr it is said (Al-Nūr, XXIV, 27-29): **"O, you who believe! Do not enter the houses other than yours without asking permission and salute the house holder; this is more appropriate for you, and you should be mindful about this advice. And if you did not find anybody therein (and your request for permission was not responded) do not enter the house until permission is given to you; and if it is said to you: "Go back, then go back. This is more appropriate for you; and Allāh is aware of what you do. There is no sin on you if you enter the houses not used for living in, where you have deposited some property of yours; and Allāh has knowledge of what you disclose and what you conceal".** With regard to the contents of the said verse it may be concluded that interference with the privacy of the people, without asking their permission, and apart from the applied methods, is prohibited. For example, interference with the privacy of the people should not be even performed by using binoculars or microphones or other means of information collecting. Using the said means of information collecting is just the same as entering the house from the back of the houses. In Glorious Qur'ān it is said (Al-Baqarah, II, 189): **"It is not proper and virtue that you should enter your houses through the back, but the righteous is those who enter the houses through the doors".** By taking the contents of the said verses into consideration it may

be concluded that interference with the privacy of the people is forbidden and unlawful in Islam.

If a person, in one way or another, was informed about the faults and shortcomings of other persons and desired to spread them, he shall be committing a prohibited action which is forbidden by Glorious Qur'an (Al-Nūr XXIV, 19): **"Those who fancy of spreading rumours against the believers, for them there will be a grave chastisement in this world and in the Hereafter. Allāh knows and you do not know"**. One of the meanings of the said verse is that, if a fault has been observed from a believer, nobody has the right to reveal it in any place. It is on the basis of this reasoning that the Compassionate God has called **"a spiteful person"** the man who has transmitted the news and says (Al-Hūjurāt XLIX, 6): **"O, you who believe! If a spiteful person comes to you with certain news, try to verify it before making any decision, lest you may unknowingly harm other people and then become remorseful of what you have done when it becomes obvious"**.

All of the said warnings are applicable when the information received to be correct. But if somebody mixes the news with incorrect information or changes it in a way to cause perversion of the reality, then another crime would be added to the previous one which says (Al-Baqarah II, 181): **"So whosoever alters after he has heard something, the guilt shall be on him who made the change. Truly Allāh is the Knower Hearer"**. In another place alludes to this group and the said changing which says (Al-Mā'iadah V, 41): **"O, Messenger! Do not let them grieve you, those who haste in disbelief; some are men who say with their mouth: "We believe", whereas their hearts do not believe; and some are the Jews who listen to falsehood, also as spies they listen to other folks who themselves have not come to you, those who change the words from their original places and they say to the people: "If you are given this**

(decree) then take it; but if you are not given it, beware"! (O, Messenger) whomsoever Allāh intends to inflict, you cannot do anything to save him; those are the ones whom Allāh does not intend to purify their hearts; for them there is a disgrace in this world and a grave torment in the Hereafter". In a comment on the said verse it has been said²⁰²: "The intention in altering the words or changing the words for changing the form of the words, namely adding or omitting some words, as it has been narrated about some verses, or changing its meaning or changing the object of the word which Almighty God or His messenger have made for it. The meaning of the sentence: **"Those who change the words from their original place"** is to change the words after placement in the right position". According to sūrah of Al-Mū'minūn these persons are introduced by Almighty God in Glorious Qur'ān as devils, and addressing the Messenger (S) says (Al-Mū'minūn XXIII, 97): **"And say (O, Messenger!): O, my Lord! I seek shelter in you from evil suggestions of devils"**. And in sūrah of Al-Qalam in continuation says (Al-Qalam LXVIII, 11): **"A fault-finder who goes around with slander"**. And in sūrah of Al-Hūmazah the verse of **"Woe"** has been revealed for the perpetrators of the said action which says (Al-Hūmazah CIV, 1): **"Woe to every taunter and ill-will backbiter"**.

Due to the above mentioned discussions we may expressly declare that inquisition within people's privacy is forbidden in Islam. This subject-matter could be applied in the international level from this point of view that Islam's government has no right to inquire or interfere with the privacy of political or non-political individuals of the other states in the world. Of course being alert and supervising the hostile measures and movements of the enemies and foreigners are excluded from the said rule, which shall be discussed in its place. As it has been already mentioned, in some cases,

²⁰² "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation, volume 4, p. 331.

inquiry into the activities of those who are the suspect of collaboration with the enemy in war time or those who act as spy for the enemy are authorized.

95- Principle of: Obligation for inquisition into performance of government officials, foreigners, enemies and crimes detection

As it has already been mentioned inquisition into people's private affairs (privacy) is forbidden. But there are five categories of inquisition which are known to be authorized in Islam:

1. Inquisition into activities and performance of government officials' duties and those persons working in public sector to prevent their wrongdoings.
2. Inquisition in the borderlines to prevent the entrance of harmful goods to the public safety and entrance of enemies as well.
3. Inquisition into the activities and movements of foreigners, whether enemies or others, to establish safe conditions and protect the life of the citizens from others' aggression.
4. Investigation for crime detection and punishment of the criminals and restoration of the rights to their owners.
5. Inquisition into activities and performance of inquisitors (nowadays it is called counter-espionage function)

There are various descriptions and discussions²⁰³ with regard to the abovesaid subjects which are all based on traditions and narrations²⁰⁴.

²⁰³ "Investigation, information and espionage", Hussein-Ali Montazeri and chapter 7 of the book: "Fundamentals of Islamic government", Ja'afar Sobhāni.

²⁰⁴ "Welāyatnāmah", His Excellency Hajj Sultan Mohammad Gonābādi, Haqiqat Publication, 2001, pp. 154-163.

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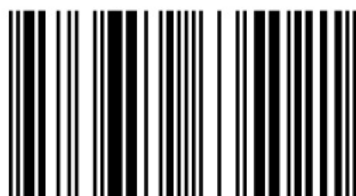
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International relations are involved in an undesirable and wrong order, at present time, which could be the origin and cause of fundamental harms on humanity. Therefore, it is necessary to propound firm principles for regulating the relationships among states and nations, and new laws and regulations be enacted at international level. The spirit of Islamic laws could be one of the pillars of this new foundation. The aim of this book is to enumerate the principles of Sufi foundation of international relations in Islam. Perhaps the delicateness, truthfulness, and righteousness of Islamic Sufism, which is the gist of thoughts of humankind's guardians during thousands of years lead and direct the thoughts, writings, and speeches of scholars and researchers to these viewpoints, and consequently a new sets of thoughts, for international relations processes in the world, to be defined and codified. This book introduces theosophical views and standpoints of Islamic Sufism about the essential topics of international relations, such as public international law, foreign policy and diplomacy, and puts several principles forward that can be used as the basis for codifying new international law.



Professor Bijan Bidabad is an experienced scientist. He received his B.A. in Political Science, M.S., Ph.D. and Post-Doc in Economics from Iran, Switzerland and Greece and has written more than 450 papers and books. Largest Macroeconometric Model of Iran, Rastin Banking and proposition of some international law declarations are of his recent works.



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