

Foundations of International Relations: An Islamic Sufi Approach

Bijan Bidabad¹

Islamic Azad University, School of Sciences and Research, Tehran, Iran

Abstract

Purpose: International relations are involved in an undesirable order at present time. 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.

Design/methodology/approach: We enumerate the principles of Sufi foundations of international relations in Islam by introducing the theosophical standpoints of Islamic Sufism.

Findings: 95 principles in 3 categories of public international law, foreign policy and diplomacy are introduced.

Research limitations/implications: The essence of all religions is unique and comes from their spiritual paths and understandings based on their mystical views. To popularize and internationalize this proposition, comparative researches in other religions' Gnosticism will be essential.

Practical implications: Putting several principles forward, on the next phases, they can be used as the basis for many applied debates in the field and may be ended to a new international declaration/law.

Social implications: Delicateness, truthfulness, and righteousness of Islamic Sufism, which is the gist of thoughts of humankind's elites who are Divine messengers/guardians during millenaries may turn the attentions of scholars and researchers to this viewpoint, and consequently a new set of thoughts/doctrines for regulating international relations to be defined and codified.

Originality/value: International relations scholars have not touched the topic from a Sufi point of view. This paper brings this approach to a new challenging arena for those who are engaged in international relations related subjects of laws, politics, institutions and organizations.

Keywords: Public international law, Foreign policy, Diplomacy, Islamic Sufism, Mysticism, Gnosticism

Paper type: Conceptual paper

¹ Research Professor of Economics. <http://www.bidabad.com/> bijan@bidabad.com bidabad@yahoo.com

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1. Introduction

Background

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 paper 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 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 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

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.

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 2001.

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.

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 paper 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 paper 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.

Objective

To regulate the international relations, we need to revise the ideas that the bases of relations are constructed upon. In this paper 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 has been unable in this provisions 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.

Contents

This study is divided into eleven sections. Section 1 is an introduction. Section 2 gives a brief on methodology. Section 3 opens a discussion on political psychology of tyranny. Section 4 discusses in human transcendence and religion. Section 5 discusses the inference method. In section 6 theosophy of *Shariahs* (legislations) and international relations are discussed. The next three sections are devoted to public international law principles, foreign policy principles, diplomacy principles, and finally section 10 gives conclusion and suggestion. Section 11 lists the references.

2. 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 paper, 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 decline 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 paper. In fact this paper 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.

3. 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 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 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

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

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."

وَإِذْ قُلْنَا لِلْمَلَائِكَةِ اسْجُدُوا لِآدَمَ فَسَجَدُوا إِلَّا إِبْلِيسَ أَبَىٰ وَاسْتَكْبَرَ وَكَانَ مِنَ الْكَافِرِينَ .

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 أَيُّهَا الْمَلَأُ مَا عَلِمْتُ لَكُمْ مِنْ إِلَهٍ غَيْرِي فَأَوْقِدْ لِي يَا هَامَانَ عَلَى الطِّينِ فَاجْعَلْ لِي صَرْحًا لَعَلِّي أَطَّلِعُ إِلَى إِلَهِ مُوسَىٰ وَإِنِّي لَأَظُنُّهُ مِنَ الْكَاذِبِينَ وَ اسْتَكْبَرَ هُوَ وَ جُنُودُهُ فِي الْأَرْضِ بِغَيْرِ الْحَقِّ وَ ظَنُّوا أَنَّهُمْ إِلَيْنَا لَا يُرْجَعُونَ .

¹³ Sād XXXVIII, 71-78 إِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي خَالِقٌ بَشَرًا مِنْ طِينٍ فَإِذَا سَوَّيْتَهُ وَ نَفَخْتُ فِيهِ مِنْ رُوحِي فَقَعُوا لَهُ سَاجِدِينَ فَسَجَدَ الْمَلَائِكَةُ كُلُّهُمْ إِذْ قَالَ رَبُّكَ إِلَّا إِبْلِيسَ اسْتَكْبَرَ وَ كَانَ مِنَ الْكَافِرِينَ قَالَ يَا إِبْلِيسُ مَا مَنَعَكَ أَنْ تَسْجُدَ لِمَا خَلَقْتُ بِإِيْدِي اسْتَكْبَرْتَ أَمْ كُنْتَ مِنَ الْعَالِينَ قَالَ أَنَا خَيْرٌ مِنْهُ خَلَقْتَنِي مِنْ نَارٍ وَ خَلَقْتَهُ مِنْ طِينٍ قَالَ فَاخْرُجْ مِنْهَا فَإِنَّكَ رَجِيمٌ وَ إِنَّ عَلَيْكَ لعَنْتِي إِلَى يَوْمِ الدِّينِ .

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 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.

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.

4. 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".

5. Inference method

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

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 نُنسَخُ مِنْ آيَةٍ أَوْ نُنسِئُهَا نَأْتِ بِخَيْرٍ مِنْهَا أَوْ مِثْلَهَا أَمْ لَمْ نَعْلَمْ أَنَّ اللَّهَ عَلَى كُلِّ شَيْءٍ قَدِيرٌ.

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

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 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 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,

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.com/doc/reba9.html>

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.com/doc/reba-english-4.html>

²⁰ Al-Kahf XVIII, 110. **"Say: I am only a mortal like you. My Lord inspires in me"**. **قُلْ إِنَّمَا أَنَا بَشَرٌ مِثْلُكُمْ 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 وَمَا غَوَىٰ وَمَا يَنْطِقُ عَنِ الْهَوَىٰ إِنْ هُوَ إِلَّا وَحْيٌ يُوحَىٰ**.

²³ There are too many narrations on this subject. In Bahar-ol-Anvar there is a separate chapter with 116 narrations on the subject. Bahar-ol-Anvar, volume 2, chapter 26, p. 182.

بحار الأنوار ج: ٢ ص: ١٨٢، باب ٢٦- أن حديثهم ع صعب مستصعب و أن كلامهم ذو وجوه كثيرة و فضل التدبير 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.

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 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

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**".²⁸ And "**The Torah wherein there exist guidance and a light to judge by them**"²⁹ 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.

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*"³⁰ which is one of the most important Sufi-theosophical exegeses in Islamic world. This book has met with approval of whole great Shiite scholars in and out of Iran. 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 only men of understanding really head.**"³¹ 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.**"³² This knowledge³³ is

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*" مقامات العباده بيان السعاده translated from Arabic to Farsi by His Excellency hajj Sultan Hussein Tabandeh Gonabadi, Haqiqat Publication, 1963.

²⁸ Al-Māidah V, 43. التَّوْرَةَ فِيهَا حُكْمُ اللَّهِ.

²⁹ Al-Māidah V, 44. التَّوْرَةَ فِيهَا هُدًى وَ نُورٌ يَحْكُمُ بِهَا.

³⁰ 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 السعاده في مقامات العباده

³¹ 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.

³² Al-Nisā IV, 162. لَكِنِ الرَّاسِخُونَ فِي الْعِلْمِ مِنْهُمْ وَ الْمُؤْمِنُونَ يُؤْمِنُونَ بِمَا أَنْزَلَ إِلَيْكَ وَمَا أَنْزَلَ مِنْ قَبْلِكَ وَ الْمُقِيمِينَ الصَّلَاةَ وَ الْمُؤْتُونَ الزَّكَاةَ وَ

one, which emanates from "piety" not from learning at school, which is said: "**Observe your pious duty to Allāh, Allāh will teach you.**"³⁴

6. Theosophy of Shari'ahs (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 the realm of political sciences and international law branches. But we are not going to discuss about them here.³⁵ We are going to consider three main and palpable 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".³⁶ 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 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:³⁷ "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

الْمُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ أُولَئِكَ سَنُؤْتِيهِمْ أَجْرًا عَظِيمًا.

³³ 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.

³⁴ Al-Baqarah II, 282. وَ اتَّقُوا اللَّهَ وَ يُعَلِّمَكُمُ اللَّهُ.

³⁵ See: Jacques Huntzinger, "Introduction aux relations internationales" Translated to Farsi by Abbas Aghai, Astan Qods Razavi Publication.

³⁶ 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 ما بيني على شيء غيره.

³⁷ "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.

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 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.³⁸ 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 Boshir-e-Hafi in knowledge, so why do you go to visit him. 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

³⁸ 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.

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."³⁹

In treatise of Dhulfaqar it is said⁴⁰ 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 battle⁴¹ 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 children or generation and so on. And it is narrated from Imam Reza (A) that.⁴² "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)⁴³. Jery fish⁴⁴ 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:⁴⁵ "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 enjoy 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 grandeur of leadership." There is a tradition that says:⁴⁶ "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

³⁹ His Excellency hajj Molla Ali Noor Ali Shah Beydokhti Gonabadi, Salehyeh, 2nd edition, Tehran University printing office, 1967, Haqiqat 384, p. 258.

⁴⁰ His Excellency hajj Molla Ali Noor Ali Shah Beydokhti Gonabadi, Dhulfaqar, in prohibition of opium smoking, fourth edition, Haqiqat Publication, 2003, Tehran, chapter six from fourth part, pp 69-73.

⁴¹ Al-Kāfi, 2, 27, chapter Alkaba'ir, p 276. . ٢، ٢٧٦، باب الكبائر، ص: ٢٧٦، ٢.

⁴² Al-Mustadrak Alvasa'il 16, 165. مستدرک الوسائل، ١٦، ١٦٥، ١-باب تحريم الميتة و الدم و لحم... ١٩٤٧١-٥ - فقه الرضا.

⁴³ "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.

⁴⁴ Jery is a kind of fish.

⁴⁵ Comment on Nahj-el-Blagheh, 19,89, 249. . شرح نهج البلاغة، ١٩، ٨٦، ١٩٤٧١-٥ - فقه الرضا.

⁴⁶ Kashf-ol-Ghamah, 1, 480. p. 449. كشف الغمة، ١، ٤٨٠، فاطمة ع... ص: ٤٤٩.

preventing the commission of cruelty and so on. There is a narration from Imam Reza (A)⁴⁷ 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 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."

7. 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

⁴⁷ Man-la-Yahzarah-ol-Faqih, 3, 565. .۴۹۳۴. باب معرفة الكبائر التي أوعده الله عزّ و جل، من لا يحضره الفقيه، ۳، ۵۶۵،

- 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.⁴⁸ 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, recursing 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

⁴⁸ - 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.”

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.

8. 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

9. 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 comprehensible⁴⁹. In this part, we are going to explain the Islamic attitudes towards the said meanings of diplomacy in conduct of international intercourse⁵⁰.

Our objective here 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 fully detailed⁵¹, 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 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

⁴⁹ 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.

⁵⁰ 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.

⁵¹ - بیدآباد، بیژن، مبانی عرفانی علوم سیاسی در اسلام، سیاست، حکومت، ولایت از دیدگاه حکمت، ۱۳۸۸.

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**".⁵² 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**".⁵³ 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. 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**".⁵⁴ In a comment on the said verse it is said⁵⁵: "**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. 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

⁵² Al-Hujurat XLIX, 13. يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ.

⁵³ Al-Dhariat LI, 56. وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ.

⁵⁴ Al-Mā'idah V, 48, There are several verses similar to the said verse in Glorious Qur'ān.

لِكُلِّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمِنْهَاجًا وَلَوْ شَاءَ اللَّهُ لَجَعَلَكُمْ أُمَّةً وَاحِدَةً وَلَكِنْ لِيَبْلُوَكُمْ فِي مَا آتَاكُمْ فَاسْتَبِقُوا الْخَيْرَاتِ إِلَى اللَّهِ مَرْجِعُكُمْ جَمِيعًا فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ فِيهِ تَخْتَلِفُونَ.

⁵⁵ "Bayan-a-Sa'adah-fi-Maqamat-al-Ebadah", translation, volume 4, pp, 342-344.

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"**.⁵⁶ 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"**.⁵⁷ 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"**.⁵⁸

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"**.⁵⁹ 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: **"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"**.⁶⁰

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

⁵⁶ Al-Hajj XXII, 67 also look at verse 34 in the same sūrah.

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

⁵⁷ Yūnus X, 19. وَ مَا كَانَ النَّاسُ إِلَّا أُمَّةً وَاحِدَةً فَاخْتَلَفُوا.

⁵⁸ Al-Baqarah II, 213.

كَانَ النَّاسُ أُمَّةً وَاحِدَةً فَبَعَثَ اللَّهُ النَّبِيِّينَ مُبَشِّرِينَ وَمُنذِرِينَ وَأَنْزَلَ مَعَهُمُ الْكِتَابَ بِالْحَقِّ لِيَحْكُمَ بَيْنَ النَّاسِ فِي مَا اخْتَلَفُوا فِيهِ.

⁵⁹ Al-Taubah IX, 6. وَإِنْ أَحَدٌ مِنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّىٰ يَسْمَعَ كَلَامَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ.

⁶⁰ 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.

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:

- 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

10. Conclusion and Suggestion

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 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

⁶¹ - بیدآباد، بیژن، مجموعه جهان‌بینی اجتماعی عرفان اسلامی:

▪ مبانی عرفانی اقتصاد اسلامی، پول، بانک، بیمه و مالیه از دیدگاه حکمت. ۱۳۸۳.

<http://www.bidabad.com/doc/mabani-erfani-eqtasade-islami.pdf>

▪ مبانی عرفانی روابط بین‌الملل در اسلام، حقوق بین‌الملل عمومی، سیاست خارجی، دیپلماسی از دیدگاه حکمت. ۱۳۸۴.

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 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.

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⁶² His Excellency Hājj Dr. Nūr-Ali Tābandeh, "A collection of social-jurisprudential articles", Haqiqat Publication, 2001, Tehran.

⁶³ His Excellency Hājj Sultān Hussein Tābandeh, "Religious standpoints on Universal Declaration of Human Rights". Salih Publication, 2nd ed., 1975.

⁶⁴ His Excellency Hājj Sultān Hussein Tābandeh. "Forty radiant jewels", a selection of His Excellency's lectures. Āshnā Publication, 2004, Isfahan, Iran.

⁶⁵ His Excellency Hājj Sultān-Muhammad Beydokhti Gonābādi. "Salihiyeh", 2nd ed., Tehran University Publication, 1967, 3rd ed. 1972. Tehran.

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