

A MODEL
ISLAMIC CONSTITUTION

MUHAMMAD SHARIF CHAUDHRY

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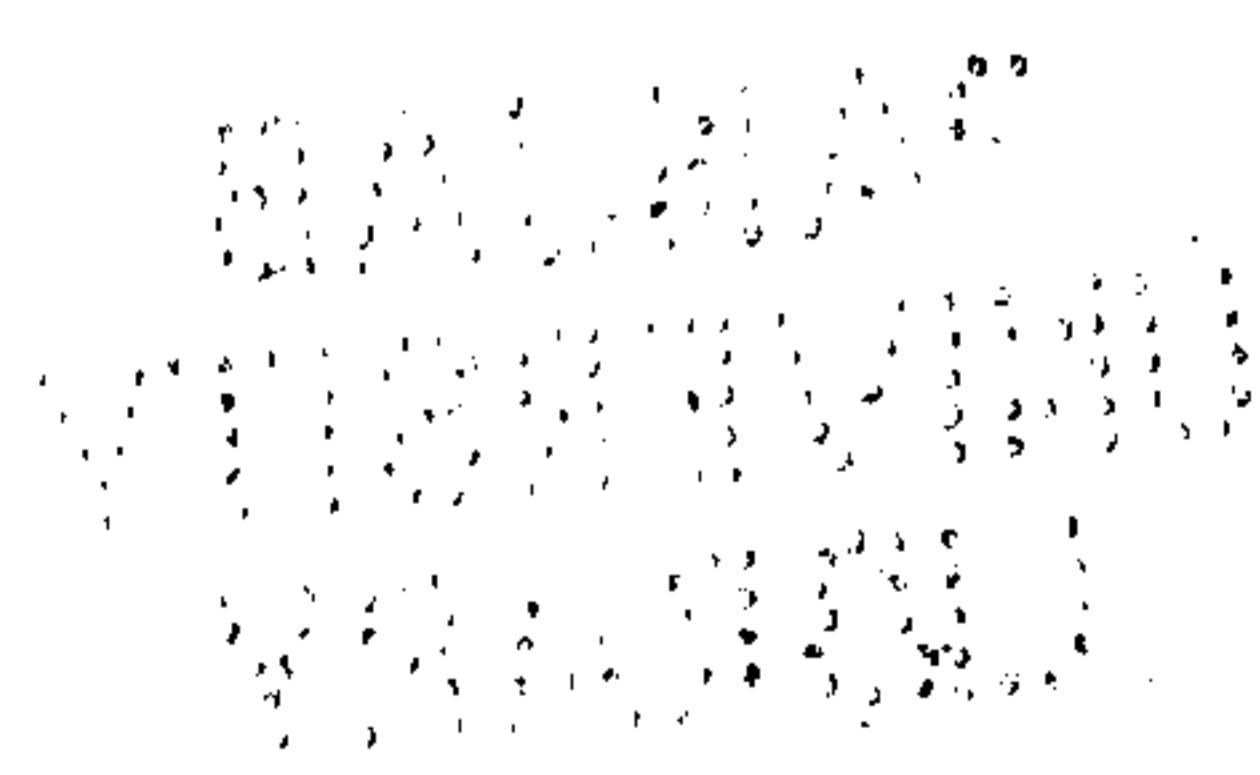
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INTRODUCTION

Islam is today passing through its phase of resurrection and resurgence. The entire Muslim World, having population of more than one billion, is ambitious to rehabilitate Islam and revive its pristine glory. Many Muslim states are eager to base their constitutions and their systems of government on eternal principles and traditions of Islam. Everywhere Muslims are on the march, their common goal being the enforcement of Islamic law and establishment of Islamic state and society moulded on the pattern of first Islamic state set up by the Prophet and his companions at Madinah in the first half of seventh century. But despite all this, there is hardly any Islamic country in the modern world which can boast of having a real Islamic Constitution according to the desires and wishes of its citizens.

The question arises that what is after all the Islamic system and constitution for which the Muslims are so eagerly struggling? Would the enforcement of the Islamic constitution based on socio-economic and politico-legal system of Islam solve all the problems of the poor, illiterate and backward Muslims? Most of the Muslims to whom Islam is more than a mere word, have the firm conviction that the enforcement of Islamic order is the only answer to all the problems which the followers of Islam are facing today.

An ordinary Muslim, when asked what is the Islamic constitution, would answer that it is the Qur'an. The answer though a simple one is absolutely correct but it requires some elaboration. The Qur'an provides a complete code for human life and is the basic source of Islamic constitution.

Besides the Qur'an, the Sunnah (comprising sayings, practices and approbations) of the Prophet of Islam who factually founded the ideal Islamic state and society, provides another primary source of the Islamic constitution. Glorious traditions left by the pious caliphs and scholarly works of Muslim political thinkers provide supplementary sources of inspiration to a curious jurist who intends to reduce the Islamic constitution into black and white. Ijtihad, Ijma, Qiyas, etc. are the various tools which have always helped the Muslim Ummah to frame Islamic law and constitution in the light of the Qur'an and the Sunnah.

The subject of Constitutional Law and the study of Comparative Constitutions have been favourite with me during my life as a student of M.A. and LL.B., while I offered Constitutional Law as one of my optional subjects in my examination for Central Superior Services of Pakistan. What compelled me to undertake this uphill task of preparing a model of Islamic Constitution is, therefore, partly due to my extra-ordinary interest in the study of world constitutions and partly due to the absence of any standard work on the subject of the Islamic Constitution.

The Model Islamic Constitution has been drafted for a modern welfare Islamic state in the light of the Qur'an and the Sunnah. History of the Islamic state under the Prophet (PBUH) and the right-guided caliphs, and also the recent history of some Muslim states has also been kept in view. The study of political history and constitutions of some leading states of the modern world has been of immense help to me, while benefit has also been derived from the constitutions of some contemporary Muslim countries.

Before we embark upon the study of the Model Islamic Constitution, I deem it necessary that some peculiar features

of this constitution must be explained and justification or rationale behind them must be discussed.

Islamic Concept of Sovereignty of Allah and Caliphate of Man : The Model Constitution is based on the Islamic concept of Sovereignty of Allah and caliphate of man which is the fundamental principle of an Islamic state. Islam does not place sovereignty in any king, in any parliament or in any class, not even in the people, but in Allah Who is the real sovereign, being the Lord of the whole universe. He is the Creator, Sustainer, Cherisher, Nourisher, Regulator, Perfector, Law-Giver, Supreme Lord and Most Powerful. Sovereignty in all its dimensions is for Allah Whose Command and Rule in the heavens and the earth is absolute.

The position of man in the earth is not that of a sovereign but it is that of a khalifa (caliph). Allah appointed Adam as caliph in the earth and since Adam is the father of all human beings, the caliphate vests in the whole of humanity. Caliph means a deputy, a delegatee, a viceroy or a vicegerent. Thus man is the viceroy or vicegerent of Allah and has been delegated some authority in the earth. He is obliged to exercise this authority most responsibly in accordance with the terms of the trust. Man is therefore, not an absolute ruler in the earth but is a trustee who is required to fulfil Allah's Will.

Keeping in view the foregoing the Model Constitution places sovereignty in Allah and treats the Islamic state as viceroy or deputy. Allah's Law' as contained in the Qur'an and the Sunnah of the Prophet (PBUH) is supreme in the Islamic state while the constitution and man-made law must be subordinate to divine law. Since the Qur'anic law requires governance in consultation and makes no room for tyrants ,

oppressors and autocrats, so democracy in an Islamic state does not remain a matter of option for the people but is guaranteed by the religion as the only system of government.

The Citizens of the Islamic State would exercise these caliphal powers, which have been vested in them equally by Almighty Allah, in consultation with each other either themselves or through their representatives. Since the direct rule by the people is not possible because of the large size and enormous population of many Muslim countries, the Model Constitution requires that the governmental affairs should be conducted by those persons who must be directly elected by the people in free and fair elections. The elected representatives must exercise the caliphal powers on behalf of the people in consultation and they should consider themselves as the servants of the people and not their masters or rulers. Al-Qur'an requires that only pious and righteous believers are authorised to exercise authority, therefore, this constitution has prescribed certain educational, moral and religious qualifications for the men in authority (ulul amr). Human rights as granted by Islam have been conferred on all the citizens of the Islamic state by the Model Constitution in its chapter 3 of part I, while the rights bestowed by Islam on the women and non-Muslim minorities have been specially guaranteed in chapter 2 of part I.

Nature of the Islamic State : The Islamic State would be an ideal democratic state in which all the governmental affairs shall be conducted by the elected representatives of the people in consultation. Islam requires consultation in governance of mutual affairs and rejects autocracy and dictatorship. Even the Prophet of Islam has been enjoined by

the Qur'an to consult his followers in the conduct of public affairs, despite the fact that the Prophet (PBUH) was not likely to make any mistake because he was always guided by Allah. The Qur'an has condemned despotism in very clear terms and has appreciated those who conduct their affairs in mutual consultation.

Some people, particularly the non-Muslims, fear that the Islamic State would, in fact, turn out to be a theocracy of which the European countries had a bitter experience during the middle ages. Theocracy is a system of government by priests or sacerdotal order who claim a divine Commission and exercise unrestricted powers in the name of God. Such a system of government is generally oppressive and tyrannical having no popular mandate. Islam neither recognises theocracy nor it encourages any class of professional priests. It has, therefore, been provided in the Constitution that the Islamic state shall not be a theocracy.

Organs of the State and their functions : Traditionally a state is supposed to have three organs -- the executive, the legislature and the judiciary --- under which all the functions of the government of a state can be grouped. The Model Constitution too divides mainly the functions of the Islamic state into these three organs. It vests executive functions in the President of the Islamic Republic and his deputies such as the Vice-President, Provincial Governors, and federal and provincial ministers, etc. The legislative functions have been vested in the National Parliament and Provincial Assemblies. For the aid of the legislatures, a body of experts of Islamic law called The Supreme Council of Jurists has been constituted which shall examine the compatibility of the laws passed by the legislatures with Islamic Shariah and advise the National Parliament and Provincial Assemblies.

The Judicial function of the state has been placed in the Judiciary comprising the Supreme Court, the High Courts and other courts.

Basically, all the three organs of the government have been modeled on the principle of separation of powers as the same are required to function independently of each other in their respective domains. The President cannot dissolve the National Parliament and the National Parliament cannot remove the President except by impeachment on serious charges. The President appoints the Judges but cannot remove them from office. The judges can declare the acts of the President and laws made by the Parliament as ultra vires of the constitution but cannot make laws themselves and can neither perform the functions of the executive. However, to check the arbitrary exercise of authority on the part of executive, legislature or judiciary, these organs have been balanced against each other. For example, the President can reject the bill passed by the National Parliament, while the Parliament can refuse to approve certain appointments made by the President and certain acts performed by him. The Parliament can also impeach the President and demand the President to remove a certain minister. The President appoints the Judges of superior courts while the superior courts can declare the ordinances issued by the President or actions taken by him as null and void being unconstitutional. The judiciary can declare the laws passed by the National Parliament as unconstitutional while the Parliament can remove the judges by impeachment. Thus the doctrine of checks and balances has been fully applied to achieve coordination and harmony between the various organs of the state.

Form of Government --Why the Presidential One? In

accordance with the Islamic teachings and early history of Islam, the Islamic State has been declared to be a republic in this constitution and its system of government is democracy. The head of the republic is the President who is elected directly by the popular vote of the whole citizenry of the Islamic state. The President is also the chief executive in the real sense who performs all the executive functions. Thus the form of government adopted in this constitution is nearer to the Presidential System while the Parliamentary or Cabinet System has been discarded. Reasons for my preference of Presidential system over the Parliamentary one are stated briefly as follows :

1. In the Presidential form of government, the President and the Parliament function for a fixed term. Neither the President can dissolve the Parliament, nor the Parliament can remove the President from office by a vote of no confidence. Thus both these organs of the state work independently with confidence till the completion of their term and this thing ensures political stability. On the other hand, in the Parliamentary form of government, the Prime Minister and his cabinet depend on the confidence of the Parliament and their tenure can be cut short at any time the Parliament passes a vote of no-trust against them. Similarly, the Parliament can be dissolved before the expiry of its term at the advice of the Prime Minister. So the uncertainty of the tenure of the government brings political instability which is harmful for economic development and continuation of policies and planning in various sectors.
2. The division of powers between the head of the state (President) and the head of the government (Prime Minister) is another critical issue in the Parliamentary

form of government. Clash of personalities and clash of interests between the President and the Prime Minister often leads to the destruction of the political institutions particularly when they belong to different parties and the President is vested with the power to dismiss the government or to dissolve the Parliament. This is not the case in the Presidential form of government where both the offices of head of state and head of government combine in one person.

3. The division of the Parliament into treasury and opposition and the role generally played by both of them has become unfortunately another serious problem in the parliamentary system. The government and the opposition are thirsty for the blood of each other. The Parliament becomes cockpit or battleground where both of them fight to overthrow each other. The job of opposition is to oppose the government tooth and nail and to criticise it bitterly not on the basis of any principle but only for the sake of opposition. This life and death struggle for power brings the treasury and the opposition so low that no moral compunction is felt in purchasing the loyalties of the members of the Parliament.

Thus, the result is the worst type of horse-trading and political polarisation which is dangerous to the very existence of state and society. Islam does not permit such a situation of disunity, feud and discord because it preaches brotherhood and solidarity among the Muslim Ummah. Islam is a religion of peace and making mischief in the earth leading to disunity and persecution has been condemned in strong terms by the Qur'an as it is worse than murder (2: 191, 2: 217).

4. The Islamic concept of leadership is essentially a one-

man leadership. Prayer (Salat) is one of the five fundamental articles of Islamic faith and for performance of prayer in congregation there is only one Imam (Leader) to lead it. There are many sayings of the Prophet of Islam which enjoin upon the Muslims to choose one of them as leader whenever they are engaged on any work of common interest or they are on journey or they are performing an act of devotion. In the presidential form of government, the President is not only the Chief Executive in name, but also is the real executive as all the executive powers are concentrated in him. Thus the Presidential form of government is one-man-rule where the President is given full powers for a fixed term and is fully responsible for his achievements and failures. The ministers of the President are merely his assistants. But in the case of Parliamentary form of government the things are different. In this system, the head of state is merely a figure head. The real executive is Prime Minister and his cabinet. The Prime Minister, though head of the government, shares executive powers of the government with his cabinet colleagues. Especially in case of split mandate when no single party gets majority, the position of Prime Minister is not that of boss because he has to depend on his coalition partners for running the government. So the Presidential system is essentially one-man rule whereas the parliamentary or cabinet system is a joint rule of many.

5. The ruler of an Islamic state must be a Muslim as the Qur'an envisages in its verse 59 of chapter 4 which reads; "O ye who believe! Obey Allah, and obey the Messenger and those of you who are in authority" No non-Muslim can be a head of state and a head of

government in an Islamic state neither he can share the real executive power with a Muslim chief executive though he can assist him. In Presidential system of government, this condition is fully satisfied as the President is the real executive and his ministers are merely his assistants. So if any of the ministers is non-Muslim it makes no difference. However, in the case of Parliamentary system, this condition is satisfied only where population of the Islamic State is 100% Muslim and the Prime Minister and his cabinet colleagues are all Muslims. But in the case of Islamic State with a sizeable population of non-Muslims, this condition would not be satisfied. In such a state a Muslim Prime Minister has to share his executive powers with some non-Muslim members of his cabinet who become all the more important in case of coalition governments.

On the basis of the above mentioned advantages, the Presidential form of government has been adopted in the Islamic State in the present constitution. As discussed above this system is nearer to the teachings of Islam as compared with Parliamentary system of government. It also provides political stability which is badly needed in the developing Islamic States for the purpose of economic progress and for achieving the goals of welfare.

Position and Powers of the President : The bitterest criticism which is commonly levelled against the Presidential form of government is that the President, being head of the state and the head of the government, generally becomes an autocrat and dictator. But this is not true in case of the President envisaged by the Model Constitution. The President, according to this constitution, is an enlightened head of state who is directly elected by the people and who

performs his functions in consultation with the National Parliament. The National Parliament approves certain appointments made by the President while certain important acts of the President regarding declaration of emergency, war and peace, international treaties, protocols, agreements etc. also need approval of the Parliament. The Parliament can also impeach the President and remove him from office on medical grounds or on very serious charges of violation of shariah, violation of constitution or corruption. The age limits as well as limited tenure of office shall too curb the dictatorial tendencies of the President.

No doubt the President has been given free hand in the selection of his team of ministers and provincial governors for obvious reasons, yet the National Parliament has been given the right to demand for removal of a federal minister while the Provincial Assembly has got the right to ask for the withdrawal of a governor.

The educational, moral, religious and administrative qualifications prescribed for the office of President raise the status of the President of the Islamic State to a level much higher than that of the Philosopher - King of the Republic of Plato. The excellence of character, the level of intellect, the standard of wisdom, the administrative capabilities, the quality of leadership, etc. make the President as one of the leading statesmen of the world. He can rub his shoulders with any intellectual giant or any enlightened ruler.

In Islamic fashion, the President is required to take Bai'at (oath of allegiance) from the representatives of the people and holders of important public offices. The people owe allegiance and obedience to the President only when the President himself is obedient to Allah and Allah's Messenger and discharges his functions in accordance with the

Injunctions of Islam. The President, his governors and ministers, the members of legislature and other leaders are required to lead life of austerity, be economical and moderate in spending, and follow the glorious examples of the Prophet (PBUH) and right-guided caliphs.

Federal Structure : The Model Constitution builds the structure of government on the federal system and not on the unitary system. This has been done on the presumption that a modern Islamic State is pretty large in area as well as in population. However, a small state can adopt unitary form of government in which case there would be no need of provincial governments and Provincial Assemblies.

The federation envisaged under this Constitution is supposed to comprise many provinces and districts which are created for the convenience of the administration and the people, but not on linguistic, racial or parochial basis. Distribution of subjects between the centre and the provinces has not been deliberately made in the Model Constitution in detail. Thus, no lists of the subjects to be dealt with, either by the federal government or by the provincial governments, have been drawn. However, some subjects such as defence, foreign affairs, currency, trade, banking, communications, etc. have been assigned to the centre.

The Federal executive consists of the President, the Vice-President and the President's Council of Ministers. The office of the Vice-President has been created basically with a view to provide successor to the President in case of his death, resignation or removal because, the elections under the constitution are to be held by the calendar and not before that. The Provincial executive comprises the Governor and the Governor's Council of Ministers. The Governor is

appointed by the President and holds office at the pleasure of the latter. I personally wished that the Governor, like the President, should be directly elected by the people. But I have not provided for it intentionally as the popularly elected Governor may not get on well with the President and create a situation of deadlock between the provincial government and the federal government especially when he belongs to a different political party. Despite that, the element of popular legitimacy for the Governor has not been lost sight of. The Governor must be a person who is an elected member of the Provincial Assembly and he must need the confidence of the Provincial Assembly as the Provincial Assembly by a resolution can ask the President to withdraw the Governor.

The constitution introduces the element of democratic administration even at district level. Chairman of the District Council who possesses the qualifications of a member of Provincial Assembly shall be the District Administrator who would administer the district government in consultation with the District Council.

The Legislature of the Islamic State consists of National Parliament at federal level and Provincial Assemblies at provincial level. National Parliament is bicameral comprising two houses namely, the House of Peoples' Deputies called the House of Deputies and the House of Elders called the Senate. The constitution makes the Senate a house of elite where the intellectuals, the professionals, the retired parliamentarians, the retired judges, the former Presidents, the jurists of eminence, etc. have been collected together.

To keep the legislatures confined to their original job of making laws and to save them from turning into a cockpit or battleground for politicians, it has been provided that there would be no grouping in the legislatures like treasury

benches or opposition benches, etc. The members shall vote on legislative measures according to the dictates of their conscience keeping the loyalty to the state above their party politics.

For the aid of the legislatures in framing laws, the Supreme Council of Jurists has been created. This Council shall examine the compatibility of laws made by the legislatures with Islam, and advise and assist the legislatures in codification of Islamic laws. However, this Council is not intended to be a non-elected super chamber as some people generally express their apprehensions about such advisory bodies.

Why Age Limits? The upper and the lower age limits have been fixed in the constitution for the holders of elective and public offices. For the election to the office of the President and Vice-President, the candidate must have attained minimum age of forty five while his maximum age must not exceed sixty five. Similarly, for a candidate for membership of Parliament and Provincial Assemblies, minimum age is thirty and maximum age is sixty five. In order to qualify for the post of a Provincial Governor or a Federal or Provincial Minister, one must be forty but not more than sixty. Age limits have been fixed even for the politicians and office holders in political parties.

These age limits for the holders of important public offices have been fixed with a set purpose. Minimum age limits have been fixed with a view to provide mature, experienced and seasoned leadership to the nation. Upper age limits have been prescribed with two objectives in view: Firstly, the national leaders, the public representatives and the politicians should also retire, like public officials, before they grow too old and become physically weak and mentally

senile; Secondly, such persons must not stick to the chair and must not become very ambitious and thus should not block the way of dynamic and younger leadership.

Why Terms of Office Limited? Term of office for the President, Vice-President, Governors, Ministers, Members of Legislatures and Members of Local Bodies has been fixed at four years and limited number of terms have been allowed in each case. For example, no person can hold the office of President or the Vice-President for more than two terms. For the Governors or the ministers (other than a professional or technocrat minister), only one term of maximum period of four years has been fixed. So far as the members of legislatures are concerned it has been provided that no person can be elected to the same house of Parliament or to the same Provincial Assembly for more than two terms. Chairman of the District Council cannot hold this office for more than four years while Mayor of a corporation can hold that office only for one term of four years. Even maximum period of holding of office has been fixed in the case of Members of the Supreme Council of Jurists, Election Commission, Organisation of Hisbah and Board of Audit.

The objective in fixing the maximum period of office for the Public representatives and the holders of important public positions is to provide the nation the dynamic and fresh leadership in quick rotation with changed faces. It shall also help to curb the autocratic tendencies which develop unfortunately in the holders of very important national offices when they are given longer terms of office.

Why Educational Qualifications for National Leaders? The educational qualifications have been prescribed for the national leaders and public representatives in the Model Constitution. A candidate for the office of the President and

the Vice-President and federal minister must possess education at the level of Master's degree or Ph.D., while a candidate for the post of Provincial Governor or provincial minister must have at least Master's degree in any subject. Eligibility for the post of Membership of any legislature, Chairmanship of District Council and Mayorship of a Corporation requires educational qualifications at the level of a Bachelor's degree. For a member of a District Council or a local body, the candidate must be at least a Matriculate. For the office-bearers of political parties at national and provincial level, minimum education has been prescribed at Bachelor's degree.

The educational qualifications have been prescribed for the holders of elective offices with manifold objectives : Firstly, to provide enlightened leadership to the nation in every field; Secondly, to motivate the people to distinguish themselves in education; Thirdly, to reduce or eliminate the importance of wealth, social status, tribal or family relationships in the elections; and fourthly because Islam has given much importance to education and this importance needs to be reflected in the selection of the national leaders.

Another note worthy point is that the members of legislatures, ministers, etc. are required to undergo prescribed training course at National Academy for Leader's Training. They shall also be required from time to time to attend refresher courses, seminars, etc. at National Academy or abroad in order to improve their parliamentarian skills.

Concept of Senior Citizen : The Model Constitution has introduced entirely a new concept of senior citizen who has been given the right to cast two votes in an election. Senior citizenship has been conferred on the holders of

representative offices or important public posts (whether retired or serving), national heroes, distinguished professionals and highly educated personalities. Thus, one of the bitterest criticism against democracy that this is a system in which the people are counted and not weighed, has been met with.

To ensure citizens' participation in elections, it has been provided that the casting of vote shall be compulsory. If any voter fails to cast his vote without sufficient cause, he will be punished with minimum sentence of three months or with fine or with both.

Measures to Check Concentration of Power : The Model Constitution suggests very effective measures in its Article 110 to check monopolisation of political power in the hands of the feudals or the capitalists or by any family, tribe or class. It has also been provided among other things that women, minorities, farmers, workers, professionals, technocrats, and ulema shall be given due representation in legislatures and public offices. Restrictions have been imposed on holding of more than one such post by any family or any group of close relatives. These measures would, by the Grace of God, ensure rotation of important public offices among many persons so that every talented and deserving individual must have a chance to serve the nation in any such office.

Promotion of Unity and Suppression of Sectarianism : Many measures have been suggested in the Model Constitution for the promotion of unity and brotherhood among the Muslims, and also for achieving the national integration. The Qur'an has condemned sectarianism in the worst possible terms and the Prophet of Islam has ordained strict punishment for those who try to create disunity,

discord or division among the Muslims. Therefore, the Model Constitution suggests that the sectarianism should not only be discouraged, but also the sects preaching violence, terror and discord should be banned.

Accountability of the Rulers : Full one part of the constitution has been devoted to ensure accountability of the rulers (ulul amr) of the Islamic State. Islam takes very serious view of accountability of man for his actions as Allah has made him His viceroy in the earth. The standard of accountability is very high and strict in the case of a man who has been entrusted to exercise caliphal powers or political authority on behalf of the Muslim Ummah.

Political accountability of the men in authority is to be exacted through the Parliament and through the peoples' representatives as in other democratic states, while powerful and impartial institutions like The Organisation of Hisbah and The Board of Audit shall ensure administrative and financial accountability. The Press has been raised to the status of people's courts for the general (but fair and impartial) trial of the oppressors, tyrants and wrong-doers by highlighting their misdeeds. For discharging their personal accountability, the holders of elective and representative offices have been required to file their statements of assets, declarations of election expenses etc. which shall be properly scrutinised and investigated by the Judicial Commission.

Political Parties : The political parties have not only been allowed to function but also have been assigned very healthy and constructive role. They would enjoin good and forbid wrong; they would educate the citizens politically and make them aware of their rights and obligations; they will help the citizens in selection of the most deserving persons

as their representatives; they shall ensure fair representation of every class in the legislatures and public offices, and above all they must make politics a noble institution to serve the citizens. The political parties have been made very important as nobody can contest elections as independent candidate and no person can launch election campaign independently. Elections can be contested on the tickets of political parties and only political parties can campaign and canvass for their candidates. For members and office-bearers of the political parties, some qualifications have been prescribed, while political parties are to get themselves registered with the Election Commission.

However, certain restrictions on the functioning of political parties have been imposed in the public interest. Political parties are not allowed to be formed on the basis of sectarian or factional prejudices or on the basis of colour, language, tribe, region or class. Political parties which are opposed to Islam or which are working against the integrity of the Islamic State are not allowed to operate and foreign aided parties are banned. In order to check the mushroom growth of political parties, it has been provided that a party which fails to get ten percent of the total votes polled in a general election shall not be allowed to function.

Other Provisions : Separation of Judiciary from the Executive even at very low level has been provided for, while independence of Judiciary has been guaranteed through many positive measures.

In the field of education, a fair portion of the GNP is to be allocated by the Islamic State to ensure hundred percent literacy and many incentives have been offered to the people to get education. To provide medical relief and health care is also the responsibility of the Islamic State and many

proposal in this direction have been made. In the economic field the concept of welfare state based on the Islamic social justice has been introduced. Provision of basic necessities for every citizen and equitable distribution of wealth are the hallmarks of the Islamic State. Defence of the Islamic State shall be strengthened to meet any challenge to the solidarity and survival of the Islamic State by any enemy whether internal or external. Jihad against social evils, against ignorance, against disease and against poverty shall also be promoted.

At the end of the constitution, footnotes or explanatory notes have been provided. In these notes, various constitutional provisions have been explained and the authority or sanction behind them from the Qur'an and the Sunnah has been elaborated.

Ramadhan 27, 1415 A.H.

Muhammad Sharif Chaudhry

Feburary 28, 1995 A.D.

M.A., LL.B.

A
**MODEL ISLAMIC
CONSTITUTION**

THE PREAMBLE

1. In the name of Allah, the Beneficent, the Merciful.
2. Praise be to Allah, Lord of the Worlds:
3. The Beneficent, the Merciful:
4. Owner of the Day of Judgement.
5. Thee (alone) we worship; Thee (alone) we ask for help.
6. Show us the straight path.
7. The path of those whom Thou hast favoured; Not (the path) of those who earn Thine anger nor of those who go astray.

--- Al - Qur'an 1 : 1 - 7

PART 1

THE FUNDAMENTALS

CHAPTER 1: CONCEPT OF SOVEREIGNTY AND BASIS OF AUTHORITY

Article 1: Sovereignty Belongs to Allah and All Command Vests in Him Alone.

1. Absolute sovereignty over heavens and earth and over everything belongs to Allah Alone, the Almighty God of the Universe, Whose is the Command and Rule [1].
2. Sovereignty in the Islamic State, therefore, vests in Allah and His Law is supreme [2].
3. Allah's Law, as contained in the Qur'an, the revealed book of Islam, and the Sunnah of Muhammad (PBUH), the Prophet of Islam, being supreme law, is the paramount source of constitution, legislation and policy [3].
4. The law of the land shall be based on the Qur'an and the Sunnah, and no law shall be enacted nor any executive order or judicial decree issued which is repugnant to or inconsistent with the principles and injunctions of Islam.

Article 2: Man, Vicegerent of Allah and Authority A Sacred Trust.

1. According to the Qur'an, Adam was appointed Caliph (deputy, viceroy) of Allah on the earth [4]. Caliphal powers, therefore, are vested equally in all the human beings who are children of Adam. Thus, authority in the Islamic State is placed in all the citizens, collectively (as vicegerents of Allah).

2. Authority is a sacred trust which the people exercise either directly or through their representatives in accordance with the limits prescribed by Allah [5].
3. The head of state and government, the holders of public offices and all government functionaries would exercise the powers delegated to them by the people prudently as responsible trustees.
4. Only the righteous and trustworthy believers are eligible to exercise authority in the Islamic State [6].

Article 3 : Constitution Inviolable.

1. Constitution is the basic law of the state and any law made by any legislature or any administrative order issued by any authority in contravention of the constitution would be null and void.
2. No person and no authority is empowered to suspend the constitution wholly or partly.
3. Any person who abrogates the constitution by use of force or by other unconstitutional means shall be guilty of high treason, and the punishment for high treason will be death.
4. No interpretation of the Constitution which is in conflict with the provisions of the Qur'an or the Sunnah shall be valid.

Article 4 : Name, Territory, Religion, etc. of the State.

1. Name of the Islamic state would be Islamic Republic of -----.
2. Its territory would comprise -----.
3. State religion of the Islamic Republic would be Islam.
4. It would be a welfare state in real sense of the word based on the principles of Islamic social justice.

Article 5 : Form and Structure of the Government.

1. The form of government of the Islamic State would be near to what is known as Presidential form of government in the modern democratic states.
2. The structure of the government of the Islamic state would be mainly based on federal system with the provinces or federating units enjoying administrative autonomy under the supremacy of the center and having no right to secede.
3. The state territory may be divided into as many administrative units (called provinces) as required in the national interest for the convenience of the people, but no province shall be created on racial, linguistic, tribal or any other such basis.
4. Subjects like defence foreign affairs, currency, banking, trade and commerce, communications, natural resources (like oil, gas, minerals), electricity, irrigation, economic planning, education, health, taxation (Zakat, Wealth Tax, Income tax and Customs), etc. shall vest in the Federal Government, while the residuary subjects may remain with the provinces.

Article 6 : Organs of Government.

1. The powers of Government in the Islamic State are vested in the executive, legislature and judiciary.
2. The functions of the executive shall be exercised by the President, Vice-President, President's Council of Ministers, Provincial Governors, Governor's Council of Ministers, and the officials subordinate to them.
3. The legislative functions shall be exercised by the National Parliament and Provincial Assemblies, though

on very important issues, reference may be made to popular vote through a referendum.

4. The functions of the Judiciary shall be exercised by the Supreme Court, High Courts, and other Courts and Judicial tribunals established in accordance with law.

Article 7 : Nature of Government.

1. In accordance with the Injunction of the Qur'an "---- they conduct their affairs by mutual counsel" (42:38), the only permitted (hilal) system of government in Islam is governance by consultation (Islamic democracy), and therefore, the affairs of the Islamic State shall be conducted by the people or by people's elected representatives [7].
2. All forms of despotism and autocracy are ruled out, and all attempts to monopolise power by any person, any family, any group or any class are unlawful, while theocracy and dictatorship are forbidden [8].
3. Participation of all the citizens in determining their political, economic, social, and cultural destiny shall be ensured.
4. In accordance with the saying of Prophet Muhammad (PBUH): "Difference of opinion among the learned of my community (Ummah) is a sign of Allah's Mercy", the difference of opinion would not only be tolerated, but also, the new ideas and creative thinking (within Islamic Criteria) shall be encouraged in socio-political and other spheres of national life.

CHAPTER 2 : DIRECTIVE PRINCIPLES OF STATE POLICY

Article 8 : Promotion of Islamic Way of Life and Islamic Values.

1. Steps shall be taken to enable the Muslim citizens,

individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam.

2. For Muslim citizens, the Islamic state would make the teaching of the Qur'an and Islamic studies compulsory and would facilitate the learning of Arabic language.
3. The state shall ensure proper organisation of auqaf, mosque and such other Islamic institutions.
4. The state shall take all the necessary measures for the revival and advancement of the cultural pattern of Islam and for promotion of Islamic values.
5. Enjoining right and forbidding wrong (amr bil maruf wa nahi anil munkar) shall be incumbent upon the state, and the state would reward virtues and eliminate evils in social as well as individual life [9].
6. Spread of Islam (Tabligh Islam) shall be promoted within the state and abroad through peaceful persuasion, and the persons or institutions engaged in this function shall be encouraged and assisted.

Article 9 : Media, Education and Research.

1. The state shall take all steps to raise the level of public awareness in all areas through the Press, mass media libraries and other means.
2. Compulsory and free education shall be provided to all at school level while due facilities shall be provided for technical, professional and higher education.
3. In the areas of science, technology, Islamic Studies, etc., research institutions and academies shall be established to inculcate and promote the spirit of inquiry, investigation and innovation.

4. Sports, games, physical training and athletics shall be promoted to keep the citizens healthy.
5. Through proper planning and research, the State shall try to attain self sufficiency in scientific, technological, industrial, agricultural, defence, and similar other sectors.

Article 10 : Moral and Religious Training for State Employees.

1. The state shall ensure that in the selection, appointment and promotion of Muslim employees, whether civil or military, Islamic character and observance of the tenets of Islam are given due consideration alongwith other qualifications.
2. In the training of the Muslim employees of the state, civil as well as military, special arrangements shall be made for their moral and religious training and education.
3. All facilities would be provided to Muslim employees of the state for carrying out their religious duties and observing the tenets of Islam.

Article 11 : Suppression of Propaganda Against Islam.

1. The propagation and publicity of such views and ideologies as are calculated to undermine the Islamic principles and ideals on which the Islamic state rests, shall be strictly prohibited.
2. Ridiculing the Qur'an and the Ahadith of the Prophet or insulting the Prophet of Islam would be declared a punishable offence by legislative enactment.

Article 12 : Promotion of Unity and National Integration.

1. The state shall take steps to strengthen the bond of unity, fraternity, brotherhood and solidarity among its citizens.

2. The state shall discourage and suppress racial, linguistic, tribal, sectarian, factional, regional and provincial prejudices among the citizens.
3. All religious sects and political factions propagating for or indulging in violence, terror and militancy or preaching religious hatred or linguistic or regional differences shall be banned.
4. Since all Muslims are brothers [10], the Islamic State shall promote unity among the Muslims, while any attempt to create discord and disunity among them shall be severely punished [11]. The Parliament shall make law by which all the religious sects shall be abolished [12] and the unity of Muslim Ummah, which was obtaining during the golden period of early Islamic State, will be restored. Only one Islamic law which is codified and enacted by the National Parliament shall be enforced in the Islamic Republic.
5. Any Madrassa, Jama'at or organisation spreading sectarianism would be disbanded and any person preaching sectarianism shall be punished under the law.
6. Common national language shall be adopted, promoted and popularised with the people of all regions and provinces; similarly one national dress would be prescribed and made popular with the masses living anywhere in the country.
7. Intermarriages and social relations between the people living in different regions, or speaking different languages, or belonging to different castes or classes, shall be promoted.
8. Means of transport, communication, etc. between the provinces shall be properly established; visits of artists,

writers, ulema, etc. of one province to the other shall be encouraged; and the government of each province shall reserve some seats in its educational institutions and services for the people of other provinces.

Article 13 : Elimination of Exploitation.

1. Steps shall be taken by the state for elimination of all forms of exploitation of the weak by the strong.
2. An equitable standard of the rights and compensation of the labour and peasantry would be laid down to ensure that they are not deprived of their necessities of life or exploited.
3. In local government institutions, special representation shall be ensured for the peasants and the workers.

Article 14 : Protection of Minorities.

1. The non-Muslim citizens of the state shall have, within the law, complete freedom of religion and worship, mode of life, culture and religious education.
2. The non-Muslims shall be entitled to have all their matters concerning personal law administered in accordance with their own religious code, usages and customs except when they themselves opt to be governed by Islamic Shariah [13].
3. All obligations assumed by the state, within the limits of the Shariah, towards the non-Muslims citizens shall be fully honoured.
4. There is no compulsion in religion and, therefore, no non-Muslim would be forced or pressurised by any means for conversion to Islam.
5. The non-Muslims would be equally entitled, wherever applicable, like Muslim citizens to the rights enumerated and guaranteed by Chapter 3 of this Part.

6. The state shall safeguard genuine interests of the minorities including their due representation in the legislatures and government services.
7. The non-Muslims are called Zimmis (the protected people) in Islamic terminology; the Islamic State, therefore, shall protect the lives and properties of its non-Muslim citizens, in accordance with the glorious traditions of Islam [14].

Article 15 : Protection of the Rights of Women.

1. Rights granted to women by Islam in respect of marriage, dower, divorce, maintenance, custody of minors, property, inheritance, etc. shall be properly safeguarded by the state.
2. The honourable status given to the women by Islam as a mother, as a daughter, as a sister and as a wife in family and in society would be preserved and protected by the state [15].
3. The state shall take steps to ensure full participation of women in all spheres of national life.
4. The state shall protect the marriage, the family, the mother and the child.
5. The women shall be equally entitled alongwith men to all the rights enumerated and guaranteed in chapter 3 of this Part, wherever applicable.

Article 16 : Social and Legal Justice.

1. Since everything in the universe belongs to Allah and is a blessing from Him to mankind, so everyone is entitled to a just share in the Divine Bounty.
2. All natural resources are a trust from Allah and man is individually and collectively custodian of these resources,

therefore, his economic effort and its reward are to be determined within the framework of this trust.

3. The state shall take steps for fair and equitable distribution of wealth among all the citizens in accordance with the principles of social justice as enunciated by Islam.
4. The state will ensure free and expeditious justice for all citizens.

Article 17 : Uplift of Backward Classes or Areas.

1. The state shall promote and safeguard, with special care, the educational and economic interests of backward classes or areas.
2. The state may reserve seats for backward people or areas in educational institutions, state services, etc. for a certain period for their uplift.
3. Incentives may be given for investment and economic activity in backward areas in the education, health, agricultural and industrial sectors, etc.
4. The state shall decentralise the government administration and provide administrative offices and other services in such places where they will best meet the convenience and requirements of the public.

Article 18 : Eradication of Social Evils.

1. The state shall prohibit through proper legislation the evils such as prostitution, gambling, etc. in all their various forms [16].
2. Printing, publication, circulation and display of obscene literature and advertisements shall be banned.
3. The state shall also prevent the consumption of injurious drugs, intoxicants, narcotics and alcoholic liquor [17].

Article 19 : Bonds with Muslim World and International Peace.

1. The state shall endeavour to preserve and strengthen fraternal and brotherly relations with other Islamic states based on unity of the Muslim Ummah.
2. The state would make unceasing efforts to promote international peace and security, foster goodwill and friendly relations among all nations and encourage the settlement of international disputes by peaceful means.
3. The state shall take all possible and practicable measures for complete elimination of imperialism and the prevention of foreign influence.

Article 20 : Promotion of Jihad.

1. Since the revealed book of Islam has enjoined upon the Muslims to wage Jihad (which literally means struggle or striving), the spirit of Jihad shall be inculcated in every Muslim [18].
2. Those who are capable to participate in physical Jihad (Jihad bil nafs) shall be provided with military training so that they may be called by the Islamic State in the times of need to stand up against the enemy for defence of the Islamic State and Islamic faith; while the other citizens shall be educated to wage Jihad with wealth (Jihad bil mal) so that in the times of need they may contribute to the defence fund of the Islamic State.
3. Jihad against the social evils, particularly Jihad against ignorance, Jihad against poverty, Jihad against disease, Jihad against terror, etc. shall also be waged by the state as well as by every citizen of the Islamic Republic perpetually until these evils are eliminated.

CHAPTER 3 : RIGHTS AND OBLIGATIONS OF CITIZENS**Article 21 : Right of Individual to be Dealt with in Accordance with Law.**

1. Every person shall be treated in accordance with law and only in accordance with law.
2. No action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.
3. No person shall be prevented from or be hindered in doing that which is not prohibited by law.
4. No person shall be compelled to do that which the law does not require him to do.

Article 22 : Security of Person.

1. No person shall be deprived of life and liberty save in accordance with law.
2. Human life, body, honour and freedom are sacred and inviolable [19].
3. No person shall be subjected to torture for the purpose of extracting evidence.
4. No person shall be exposed to injury or death except under the authority of law.

Article 23 : Protection Against Retrospective or Double Punishment.

1. All penal laws shall apply prospectively and shall have no retrospective effect.
2. No act shall be considered a crime and no punishment shall be awarded therefor, unless it is stipulated as such in clear wording of the law.
3. No person shall be prosecuted or punished for the same offence more than once.

Article 24 : None to be Condemned Unheard.

1. Every person is to be considered innocent until finally adjudged guilty by a court of law.
2. No person shall be punished or condemned except after a fair trial and after reasonable opportunity of being heard.
3. When accused of an offence, no person shall be compelled to be a witness against himself.
4. No person who is arrested shall be detained in custody without being immediately informed of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal adviser of his choice.

Article 25 : Nobody Responsible for Other's Actions.

1. Everybody is responsible for his own actions and is answerable for the acts committed by him [20].
2. Responsibility for one's crime shall not be vicariously extended to other members of his family or group who are not, otherwise, involved in the commission of that crime. Nor he shall be held responsible for a crime committed by any member of his family or group.

Article 26 : Freedom of Movement, Assembly and Association.

1. Every person shall have the right to move freely throughout the Islamic state and to reside and settle in any part thereof.
2. Every citizen shall have the right to assemble peacefully and without arms.
3. Every citizen shall have the right to form associations or unions or form a political party or be a member of an association, union or a political party.

However, reasonable restrictions on the above rights can be imposed by law in public interest.

Article 27: Property Rights.

1. Every citizen shall have the rights to acquire, hold, own, inherit and dispose of property.
2. No property shall be compulsorily acquired or taken possession of or confiscated or nationalised save by the authority of law.

Article 28 : Freedom of Religion.

1. Every citizen in the state shall have the right to profess and practise his religion and perform worship and his religious rituals [21].
2. Every religious community in the state shall have the right to maintain and manage its places of worship and religious institutions.
3. No religious community shall be prevented from providing religious instruction for pupils of that community in any educational institution maintained wholly by that community.
4. No person attending any educational institution shall be required to receive religious instruction or take part in any religious ceremony or attend religious worship if such instruction, ceremony or worship relates to a religion other than his own.

Article 29 : Freedom of Speech and Press.

1. Every citizen shall have the right to think, to speak and to express his ideas.
2. There shall be freedom of the press and publications. However, reasonable restrictions may be imposed by the state through proper legislation in the public interest.

Article 30 : Right to Participate in Socio-Political Activities.

1. Subject to law, every citizen - male or female, would be entitled to take part in socio-political activities and the public affairs of the state.
2. Subject to the qualifications prescribed by law and constitution, every citizen - male or female - has the right to vote and right to contest for representative offices in the state.

Article 31 : Equality of Citizens.

1. All citizens are equal before law and are entitled to equal protection of law [22].
2. All persons of equal merit are entitled to equal opportunity and to equal wages for equal work. No person shall be discriminated against or denied the opportunity to work on the ground only of race, colour, language, religion, caste, sex, residence or place of birth.
3. No citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, language, caste, place of birth, colour, etc.
4. No citizen, otherwise, qualified for state service shall be discriminated against in respect of any such appointment on any bias.
5. In respect of access to places of public entertainment or resort, there shall be no discrimination.
6. Even socially all the citizens shall be equal and the nation shall not be divided into upper or lower classes, or into VIPs (Very Important Personalities) or non-VIPs [23].

7. Nothing in the above clauses would, however, prevent the state from making any special provision for women and children or for socially and educationally backward classes of citizens.

Article 32 : Freedom of Trade, Business or Profession.

1. Subject to such qualifications as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business.
2. Nothing in clause (1) shall prevent the state to regulate any trade or profession by any system or in the interest of free competition to curb monopoly or itself carry on any trade, industry or service.

Article 33 : Right to Basic Necessities.

1. Every citizen has the right to food, housing, clothing, education and medical relief.
2. The state shall create, develop and augment its resources to provide the above right to all of its citizens, especially to those who are unable to arrange these provisions for themselves on account of any disability.

Article 34 : Right to Privacy.

1. Every person is entitled to protection of his privacy [24].
2. The state shall guarantee the right to privacy of home, correspondence and communication.

Article 35 : Family Rights.

1. Every citizen is entitled to found a family through marriage and bring up children in accordance with law.
2. Every husband is obliged to maintain his wife and children according to his means.
3. Every child has the right to be brought up by his parents

and to be provided proper opportunities for education.

4. Motherhood is entitled to the special respect, care and assistance by the family, the society and the state.
5. Widows, orphans, aged women and women without support are entitled to special care and assistance from the state.

Article 36 : Right to Preservation of Language, Script and Culture.

1. Any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same and subject to law, establish institutions for that purpose.
2. Nothing in clause (1) shall prevent the state to adopt, establish and promote national or official language and require or encourage the citizens to adopt and promote a common national culture.

Article 37 : Right to Asylum.

1. The state shall grant asylum who seek it and shall extend hospitality and protection to those who have been granted asylum [25].
2. Those persons who have been given asylum will enjoy the facility of safe return to their own country if they desire to go back.

Article 38 : Protection of Citizens.

1. The Islamic state will protect its citizens in whichever country they are living for the time being.
2. It shall not handover or extradite its citizen to any other country save in accordance with a treaty which has been concluded with that country.

3. No citizen shall be banished or expelled from the country nor prevented from returning to it.

Article 39 : Slavery, Forced Labour, etc. Prohibited.

1. Slavery is forbidden and no law shall permit its introduction in the Islamic state in any form.
2. All forms of forced labour and traffic in human beings are prohibited.
3. Child labour is forbidden.
4. Nothing in this article shall effect compulsory service by the state for public purpose in accordance with law.

Article 40 : Inviolability of the Rights.

1. The rights conferred on the citizens of the Islamic state under this Chapter are inviolable and sacred.
2. The head of state or any other authority shall have no power to suspend these rights in any circumstances not even in grave national emergency.
3. Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall to the extent of such inconsistency, be void.
4. The state shall not make any law which takes away or abridges the rights so conferred.
5. For the enforcement of any of these rights, the High Courts shall have the power to issue directions or writs including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari* [26].

Article 41 : Obligations of the Citizens.

1. Every citizen owes allegiance to the state and is obliged to be loyal to the state through thick and thin.

2. Obedience to the constitution and laws of the state is one of the foremost obligations which a citizen owes to his state.
3. When the Islamic state is in danger on account of external aggression against her or internal disruption, every Muslim citizen is expected to participate in Jihad (war) physically or contribute financially to the war fund, while non-Muslim citizens are obliged to assist the state financially and can participate in war physically if they want.
4. Payment of taxes and state dues or other compulsory or voluntary contributions is an important obligation of the citizens.
5. To discharge other civic duties especially to participate in public affairs and to give vote or opinion when called upon to do so, is another important obligation of a citizen.

PART II **THE EXECUTIVE**

CHAPTER 1: THE PRESIDENT

Article 42 : General Provisions About the President.

1. There shall be a head of the Islamic State who shall also be the chief executive.
2. The head of state may be called the Caliph, Imam, Sultan or Amir in Islamic terminology, but in this constitution he shall be called the President.
3. The President shall hold office for a term of four years and shall be eligible for re-election only once.

4. The President shall not be removed from office before the expiry of his term unless he himself resigns or he is impeached by the Parliament.
5. Persons belonging to the same province shall not be consecutively elected as Presidents.

Article 43 : Qualifications for the Office of the President [27].

No person shall be eligible for election to the office of the President unless:-

- (a) he is a Muslim [28].
- (b) he has attained the age of forty five years and is not more than sixty five.
- (c) he possesses educational qualifications at the level of Master's degree or Ph.D. in any subject.
- (d) he is known for his justice, fairness, independence, wisdom, prudence, far-sightedness, statesmanship, administrative facilities, qualities of leadership, trustworthiness, resourcefulness, integrity, humility, piety, and excellence of character.
- (e) he has distinguished himself as a provincial governor, public administrator, parliamentarian, diplomat, lawyer, doctor, engineer, teacher, educationist, social worker, religious scholar, scientist, economist, writer or journalist, etc;
- (f) he is not only qualified to be elected as member of the National Parliament but has also been a member of any House of the Parliament at least for one term.

Article 44 : Election of the President.

1. The President shall be directly elected by an absolute majority of the votes polled by the citizens whose names appear on the electoral rolls.

2. If none of the candidates is able to win absolute majority of the votes, the choice of the President shall be made by electoral college, with absolute majority of the votes polled, out of two candidates who received the greatest number of votes in the general elections.
3. The electoral college shall comprise the members of both the Houses of National Parliament, members of all the Provincial Assemblies, and members of all the local bodies and District Councils.

Article 45 : Bai'at of the President.

1. Within fifteen days of the taking of oath of his office, the President shall call the meeting of the Bai'ah Council which shall comprise:
 - (a) Members of both the Houses of Parliament.
 - (b) Members of all the Provincial Assemblies.
 - (c) Judges of the Supreme Court and High Courts.
 - (d) Chairmen of District Councils and Mayors of Municipal Corporations
 - (e) Members of Election Commission.
 - (f) Members of Supreme Council of Jurists.
 - (g) Governors, federal ministers and provincial ministers.
 - (h) Chiefs of Army, Navy and Air Force.
2. Before the Bai'ah Council, the President shall make declaration of commitments which shall plainly state that the President shall-
 - (a) follow the Shariah in letter and spirit,
 - (b) uphold and obey the constitution,
 - (c) defend the territorial, ideological, political and

economic independence of the Islamic State,

- (d) preserve and uphold the rights of all the citizens, and
- (e) enjoin good and forbid wrong.

3. After hearing the above mentioned declaration, all the participants shall offer their Bai'at (allegiance) to the President [29].

Article 46 : Impeachment of the President.

- 1. The President can be impeached on the following:-
 - (a) On the grounds of physical or mental incapacity when he has been held by a Medical Board to be unfit to discharge the functions of his office;
 - (b) On the charges of gross violation of any injunction of Islam or gross violation of any provision of the constitution or corruption or misconduct.
- 2. The President shall be impeached by a resolution of both the Houses of Parliament passed by two-thirds of total membership of each House.
- 3. During the trial, charges must be framed and President must be given reasonable opportunity of being heard.
- 4. The House of Deputies' shall prefer charges and prosecute the case while the Senate shall sit as court of trial.
- 5. Upon passing of the resolution by the Parliament, the President shall cease to hold office.

Article 47 : Functions And Powers of the President.

- 1. Besides being head of state and representative of the unity of the Islamic Republic, the President shall be the Chief Executive, head of government and supreme commander of the nation's defence forces, and hence would exercise all the authority and discharge all the

functions connected with his august office most responsibly.

2. The President may perform his functions either directly or through his ministers and officers subordinate to him.
3. The President must perform his functions in consultation with his Council of Ministers and National Parliament. In particular-
 - (a) The President shall make appointments of Chairman Supreme Council of Jurists, Chairman Election Commission, Chairman Organisation of *Hisbah* (*Muhtasib Aam*), Chairman of Board of Audit and Chairmen of federal and provincial Public Service Commissions, with the approval of Parliament.
 - (b) Declarations of war, peace and national emergency shall be got ratified by the Parliament.
 - (c) International treaties, protocols, contracts and agreements executed with other governments as well as with international organisations shall be got approved by the Parliament.
 - (d) The taking or giving of loans or aid to or from the foreign governments shall be done with the approval of Parliament.
 - (e) Nationalisation or confiscation of private property and denationalisation or privatisation of public property shall be made with the approval of the Parliament.
4. In his discharge of official functions, conduct of state affairs and exercise of authority, the President shall follow the pattern and precedents of the right-guided Caliphs. He shall consider himself as the servant of the

people in accordance with the Islamic tradition that "leader of people is (in fact) their servant".

5. The President shall address the Parliament or may deliver a message to the Parliament every six months explaining his policies and stating conditions of economy and administration.

Article 48 : Rights And Privileges of the Presidents.

1. The President shall be entitled to obedience by all the citizens even if their views differ from his. However, there is no obedience if it involves disobedience of Allah and His messenger [30].
2. The President shall have no power or prerogative to grant pardon, reprieve or respite or to remit, suspend or commute any sentence passed by a Court against anyone guilty of hudud, qisas or diyah. He may, however, grant pardon, in the interest of public good, in the cases of political or administrative offences.

CHAPTER 2 : THE VICE-PRESIDENT

Article 49 : Election, Qualifications, Term of Office, Removal, etc. of the Vice-President.

1. There shall be a Vice-President of the Islamic State who shall be elected in the same manner as the President.
2. The Vice-President shall have the same qualifications which are required for the office of the President.
3. The term of office of the Vice-President shall be four years and no person shall be eligible to hold this office for more than two terms.
4. The Vice-President may be removed from office by impeachment in the same manner as the President.

5. The Vice-President shall belong to the province other than the one to which the President belongs.

Article 50 : Functions of the Vice-President.

1. The Vice-President shall be deemed to be a member of the President's Council of Ministers and shall take precedence next after the President.
2. The Vice President shall perform the functions which are assigned to him by the President from time to time.

Article 51 : Vice-President to Act or Perform the Functions of the President.

1. Whenever the President is absent from the country or is unable to perform his functions due to illness, leave or any other reason, the Vice-President shall perform the functions of the President, until the President resumes his duties.
2. In case of death, resignation or removal of President, the Vice-President would assume the office of the President during the unexpired term of the former.
3. When the Vice-President is acting as President due to the latter's disability to perform his functions, the Chairman of the Senate shall perform the functions of the Vice-President.
4. In case the office of the Vice-President falls vacant on account of death, resignation or removal of the Vice-President or on account of the assumption of the office of President by him, the Chairman shall assume the office of the Vice-President and the Senate shall be free to elect its new Chairman.

CHAPTER 3 : PRESIDENT'S COUNCIL OF MINISTERS

Article 52 : The Appointment, Term of Office, Qualifications etc. of Ministers.

1. There would be a Council of Ministers to assist, advise and aid the President in discharge of his functions.
2. The ministers shall be selected and appointed by the President and shall hold office during the pleasure of the President.
3. No person shall hold the office of a minister for more than four years except a professional or technocrat.
4. At least seventy five percent of the ministers would be appointed from the members of the Parliament who shall retain their membership of the Parliament. Remaining ministers would be appointed by the President in consultation with the Parliament from Ulema, technocrats, and professionals outside the Parliament.
5. No person shall be appointed a minister unless:-
 - (a) he is member of the Parliament or is qualified to become member;
 - (b) he has attained the age of forty and is not more than sixty;
 - (c) he holds a master's degree or Ph.D. and, in case of a technocrat or professional, has got at least ten year's experience in his profession or in teaching or in research;
 - (d) he, not being a technocrat or professional, has received the prescribed training in National Academy.
6. President shall remove a minister from office if a resolution of no trust is passed with majority of its total

membership by the parliament.

Provided that no such resolution shall be passed before a period of one year has elapsed from the date of appointment of the minister.

Provided further that move to pass such resolution shall not be made for more than once during the tenure of a minister.

7. The total strength of the President's Council of Ministers shall not exceed twenty five unless the Parliament authorises the President, by a resolution passed with sixty percent of its total membership, to appoint more ministers.
8. Reasonable representation may be given to the women and minorities in the Council.

Article 53 : Responsibilities and Functions of Ministers.

1. In the allocation of various portfolios, the President shall give due weight to the qualifications and experience of the prospective candidates. For example, an experienced educationist may be appointed Education Minister, an eminent economist or a financial wizard may be allocated the portfolio of Finance, a prominent scientist may be appointed minister of Science and Technology, a shrewd diplomat may be appointed Foreign Minister, a decorated soldier may be appointed Defence Minister, a renowned doctor may be appointed as Minister of Health.
2. The Ministers shall perform functions as assigned to them by the President.
3. In respect of their functions and portfolios, the ministers shall be responsible to the President.

4. The Ministers shall be also responsible to the Parliament. They would sit in the Parliament when required and would hear the criticism and answer the questions of the members of the Parliament about the functions and policies of the government. However, any bill or legislation proposed by the ministers and defeated in the Parliament would not tantamount to vote of no confidence against the ministers or the government.
5. Right of vote in any House of the Parliament shall be exercised only by that minister who is the member of that House.

CHAPTER 4 : THE PROVINCIAL GOVERNORS

Article 54 : Appointment, Term of Office and Removal, etc. of Governor.

1. There shall be a Governor for each Province who shall be the head of government and head of executive in that Province.
2. The President shall appoint the Governor and the Governor shall hold the office at the pleasure of the President.
3. No person shall hold the office of Governor for more than one term which may be of a maximum period of four years.
4. The President shall withdraw the Governor appointed by him if the Provincial Assembly demands him to do so by a resolution passed by the majority of its total strength.

Provided that no such resolution shall be passed by the Provincial Assembly unless one year has elapsed after the appointment of the Governor.

Provided further that move to pass such resolution shall not be made for more than once during the tenure

of a Governor.

5. When the Governor is unable to perform duties of his office, such other person as the President may direct shall act as Governor.

Article 55 : Qualifications for the Governor.

A person shall not be eligible for the office of the Governor unless:-

- (a) he is a Muslim, has attained the age of forty years and is not more than sixty.
- (b) he is member of the Assembly of the Province of which he is being appointed as Governor.
- (c) he holds educational degree of master's level in any subject or discipline.
- (d) he has distinguished himself as public administrator, parliamentarian, lawyer, doctor, engineer, teacher, scientist, economist, social worker, religious scholar, or writer, etc.

Provided the Governor would lose his seat in the Provincial Assembly the day he takes the oath of the office of Governor.

Article 56 : Functions of the Governor.

- 1. The Governor shall perform all the functions which are required of the head of the government of a Province either directly or through the ministers and officers subordinate to him.
- 2. He will conduct the governmental affairs and exercise his authority in consultation with the Provincial Assembly and his Council of Ministers.
- 3. He will have no power or prerogative to issue or grant

pardons or remit or suspend any sentence passed by a Court.

4. Besides being accountable to the President, the Governor shall also be responsible to the Provincial Assembly for his actions.
5. The Governor will address the Provincial Assembly or may deliver a message to the Provincial Assembly every three months explaining the state of law and order in the province and position of provincial finances.

CHAPTER 5 : GOVERNOR'S COUNCIL OF MINISTERS

Article 57 : The Appointment, Terms of Office, Qualifications etc. of Ministers.

1. There would be a Council of Minister to assist, advise and aid the Governor in discharge of his functions.
2. The ministers shall be selected and appointed by the Governor and shall hold office during his pleasure.

Provided that the Governor would remove a minister if a resolution against that minister has been passed by majority of the total membership of the Assembly requesting the Governor to do so.

Provided further that no such resolution would be passed by the Assembly before a period of one year has elapsed since the appointment of that minister and a move for passing such a resolution can be made only once during the tenure of that minister.

3. No person shall hold the office of minister for more than four years except a professional or a technocrat.
4. At least three fourth of the ministers shall be appointed from the members of the Provincial Assembly who shall retain their seats in the Assembly. Remaining ministers

would be appointed from Ulema, professionals and technocrats from outside the Assembly in consultation with the Assembly.

5. No person shall be appointed a minister unless:-
 - (a) he is the member of Provincial Assembly or he is qualified to become member.
 - (b) he has attained the age of forty and is not more than sixty.
 - (c) he holds a Master's degree or equivalent educational qualifications and in case of a technocrat he has got ten year's experience in his profession.
 - (d) he, not being a professional or technocrat, has received the prescribed training in National Academy.
6. Reasonable representation may be given to the women and minorities in the Council.
7. Total strength of Governor's Council of Ministers shall not exceed fifteen unless Provincial Assembly authorises the Governor by vote of seventy percent of its total strength to appoint some additional ministers (not exceeding five).

Article 58 : Responsibilities and Functions of Ministers.

1. In the allocation of various portfolios, the Governor shall give due consideration to the principle of "right man for the right job". For example, an educationist or an experienced teacher may be appointed Education Minister, an eminent doctor may be appointed Health Minister and an economist may be appointed Finance Minister.
2. In respect of their functions and portfolios, the ministers

shall be answerable to the Governor. They will also be responsible to the Provincial Assembly. They would attend the meetings of the Assembly and will have right to address and participate in its business. They would take part in debates and discussions and would hear criticism and answer questions of the members pertaining to their departments. However, any bill or legislation proposed by the minister and defeated in the Assembly would not mean no-trust against the government or the minister.

3. Right of vote in the Assembly shall be exercised only by that minister who is member of the Assembly.

CHAPTER 6 : DISTRICT GOVERNMENTS

Article 59 : Structure of District Government - Functions of District Administrator.

1. The Province shall be divided into as many Districts as required for administrative convenience and for national development.
2. The District Administrator (who in fact would be the Chairman of the District Council) shall be the head of administration at District level and shall be subordinate to the Governor of the Province.
3. Besides performing the functions as head of the executive, the District Administrator would coordinate the functioning of various government departments and agencies within his jurisdiction.
4. Administrative services, revenue authorities, district police, education, health and other nation-building departments (except judiciary and federal government departments) which are functioning at district level, shall be subordinate to him.

5. The District Administrator would perform his functions in consultation with the District Council.

Article 60 : Composition of District Council.

1. In each district there would be a District Council whose total strength of membership shall be determined by law keeping in view the size and population of the district.
2. The members of a District Council shall be elected directly by the people for a period of four years.
3. No person shall be elected as member of District Council unless:-
 - (a) he is a citizen of Pakistan.
 - (b) his name appears on the voter's list of his constituency in the District.
 - (c) he has attained the age of twenty five years and is not more than sixty.
 - (d) he possesses educational qualifications at the level of matriculation (or school certificate), and
 - (e) he is known to be a man of good moral character, and, in the case of a Muslim, he performs all the fundamental religious duties.
4. The Governor of the Province shall appoint one of the members of District Council as its Chairman who will perform functions of the District Administrator and Chairman of the Council.
5. Chairman would be appointed for a period of two years and would be eligible for re-appointment only once.
6. No person shall be appointed Chairman unless he is qualified to be elected as member of the Provincial Assembly.

CHAPTER 7 : LOCAL GOVERNMENTS

Article 61 : Structure of Local Government Institutions.

1. At every level, i.e., village, town, city, etc. the government would be run by the people through their elected representatives; while the civil servants and bureaucrats would be their servants to assist and aid them.
2. At the village level, there would be a Village Council; at town level there would be a Town Committee, and at city level there would be a Municipal Committee or a Municipal Corporation.
3. The local bodies shall perform different functions at local level and will be entrusted with various responsibilities so that many problems of the citizens are solved by their representatives at their doorstep.
4. The local bodies shall be authorized to raise funds through local rates and cesses.
5. The functioning of local bodies, their powers and responsibilities, etc. shall be regulated by law.

Article 62 : Constitution of Local Bodies.

1. Local bodies like village councils, Town Committees, Municipal Committees or Corporations shall consist of as many members as prescribed by law who shall be elected directly by the people for a period of four years.
2. Qualifications for the membership of the local bodies would be the same which have been prescribed by clause (3) of Article 60 in case of members of the District Council.
3. Each local body shall elect one of its member as Chairman and another of its member as Deputy Chairman.

Provided the Chairman or Mayor of a Municipal Corporation would possess the same qualifications which have been prescribed for member of a Provincial Assembly and shall hold office for a single term of not exceeding four years.

PPART III THE LEGISLATURE

CHAPTER 1 : THE NATIONAL PARLIAMENT.

Article 63 : Constitution of The National Parliament.

1. There shall be a Federal Legislature which shall consist of the President of the Islamic State and the National Parliament which may be called National Parliament or Parliament.
2. The Parliament shall comprise two houses -- the House of Elders and the House of Peoples' Deputies -- which may be called Senate and House of Deputies respectively.
3. The Parliament shall be elected for a term of four years and shall not be dissolved before expiry of its term.

Article 64 : The House of Deputies.

1. The House of Deputies shall consist of two hundred members or the number of members calculated at the rate of one member for a population of one quarter million, whichever is higher.
2. The members shall be elected directly by the people.
3. A reasonable number of seats shall be reserved for non-Muslim minorities keeping in view their percentage in the total population of the country, and these seats will

be filled on the basis of separate electorates.

4. The House of Deputies will elect two of its Muslim members as Speaker and Deputy Speaker respectively.
5. The House shall make rules for its working.

Article 65 : The Senate

1. The Senate shall comprise the following members who shall be called Senators :
 - (a) Ten members (including two women and three professionals) from each province to be elected directly by the electorate of the province concerned.
 - (b) A certain number of Life members comprising the former Presidents, vice-Presidents, Chairmen Senate, Speakers of House of Deputies and Chief Justices of the Supreme Court.
 - (c) A certain number of Honorary members who have been nominated by the President from among the retired Governors, Speakers of Provincial Assemblies, Chief Justices of the High Courts, Ministers, Chairmen of Supreme Council of Jurists, Chairmen of Organisation of *Hisbah*, Chairmen of Board of Audit, Chiefs of the armed forces, Heads of universities and Ambassadors.
2. The number of life members and the number of honorary members put together must not exceed the number of elected members of the Senate.
3. Life members and honorary members shall have :
 - (a) Right to participate in discussions and deliberations of the Senate.
 - (b) Right to vote except in the case of impeachment proceedings, no-trust moves and when the Senate is sitting as electoral college.

4. The elected members of the Senate shall elect two Muslims from among them respectively as chairman and Deputy Chairman.

Article 66 : Qualifications for Members of Parliament

1. A person shall not be eligible for membership of the Parliament unless :
 - (a) he is a citizen of Pakistan.
 - (b) his name appears as a voter in electrol list;
 - (c) he has attained the age of thirty and is not more than sixty five.
 - (d) he possesses educational qualifications at Bachelor's degree or equivalent level.
 - (e) he is a person of good moral character and is known for his piety, honesty and righteous conduct.
 - (f) he is sagacious, wise and man of sound judgement.
 - (g) he has not been convicted for an offence involving any moral crime, financial irregularity, embezzlement, fraud, tax evasion, or giving false evidence.
 - (h) he is not declared by a competent court or authority as a defaulter of payment of loans, taxes and bills of utilities.
 - (i) In case of a Muslim :
 - (i) he has adequate knowledge of the Qur'an and Sunnah and is conversant with Islamic law and jurisprudence.

(ii) he practises all obligatory duties prescribed by Islam.

(iii) he abstains from major sins and is not commonly known for violating Islamic injunctions.

Provided that the qualification regarding age limits shall not be applicable to the life members and honorary members of the Senate.

2. After elections, in the very first session, the Parliament shall make arrangements for sending its members to attend advanced course at National Academy if they have already not attended such a training course.
3. From time to time, the Parliament shall send batches of its members for refresher courses, short courses and seminars to National Academy or to foreign countries, if necessary.

Article 67 : Rights and Privileges of Members of the Parliament.

1. Members of the Parliament are completely free in expressing their views and in casting their votes in the Parliament and they cannot be arrested or prosecuted for the views expressed and votes cast in the course of performing their duties.
2. Every member is responsible to his people and has the right to express his views on all internal or external affairs of the country.
3. The members can ask questions from the President or from a federal minister on a subject pertaining to his duties, and the President (through his representative)

and the federal minister (himself) shall answer the question within a reasonable time.

4. The members shall be entitled to usual allowances during the sessions of the Parliament in addition to their fixed remunerations.
5. No person shall be elected to the same House of Parliament for more than two terms.

Article 68 : Working of the Parliament and Assent of the President to the Bills.

1. Working days of the Parliament would be at least one hundred and eighty in a Parliamentary year which would commence from 1st January and would close on 31st December.
2. The Parliament would pass bills and make laws by majority of the votes of the members present and voting except, otherwise, provided.
3. There would be no division or grouping in the Parliament on party lines or into treasury benches and opposition benches. The members would keep their loyalty to the state and its constitution and, therefore, would vote and act according to the dictates of their conscience.
4. Legislation would be initiated in any House (except a money bill which would be initiated and passed in the House of Deputies) at the behest of the government or any member or members of the Parliament.
5. Before a bill passed by the Parliament becomes an Act of the Federal Legislature, it shall be submitted to the President who would assent to it within fifteen days of its receipt. If he does not take any action within that period, he would be deemed to have given his assent. In

case he rejects the bill or suggests changes in it, the bill would be reconsidered by the Parliament and if passed again with change suggested by the President with simple majority or without changes suggested by the President with sixty percent of the total membership, it would become law even if the President does not give his assent.

Article 69 : Functions of the Parliament.

1. The main function of the Parliament would be to codify the Islamic Injunctions and laws available in the Qur'an and Sunnah. It would thus give contemporary form to the Islamic Shariah and draft the Shariah laws in national language keeping in view the contemporary terminology for easy comprehension.
2. Where the Qur'an and Sunnah are silent on a subject, the law would be framed through the exercise of Ijtehad, Qiyas, etc. and by Ijma or consensus of opinion. However, no law would be framed which is repugnant or inconsistent with the Islamic tenets.
3. While framing laws, it shall be binding on the Parliament to get counsel, opinion or assistance from The Supreme Council of Jurists.
4. The Parliament would approve the budgets and financial programmes of the Federal Government.
5. The Parliament would also evaluate the policies of the government and make a critical assessment of the performance of various departments through questions, discussions, etc.
6. The Parliament may constitute committees for investigation of various irregularities or scandals of the persons in authority or institutions of the government.

7. The Parliament shall ratify or approve certain acts of the President.

CHAPTER 2 : PROVINCIAL ASSEMBLIES

Article 70 : General Provisions

1. There shall be a Provincial Assembly for each Province which would consist of as many members as determined by law.
2. The members of the Provincial Assembly shall be elected directly by the people of that Province.
3. In addition to the seats determined above, some seats would be reserved for women and non-Muslim minorities in the Assembly of each Province.
4. The Provincial Assembly would be elected for a term of four years and would not be dissolved before the expiry of its term.
5. The Assembly would elect Speaker and Deputy Speaker and would make rules for its working. However, the Speaker and the Deputy Speaker shall be Muslims.
6. No person shall be elected as member of Provincial Assembly unless :
 - (a) he is a citizen of Pakistan and his name appears as a voter on electrol roll of the Province in which he is seeking for membership.
 - (b) he fulfills all the qualifications stated in sub clauses (c) to (i) of clause (1) of Article 66.
7. No person shall be elected member of the Provincial Assembly for more than two terms.
8. The provisions of Article 67 regarding the rights and privileges of the members of Parliament shall also apply to the members of Provincial Assembly.

9. The Provisions of clauses (2) and (3) of Article 66 shall also apply to the members of Provincial Assemblies as they apply for the training of members of Parliament.

Article 71 : Functions of the Provincial Assemblies.

1. The Provincial Assembly shall be competent to frame laws in respect of the provincial subjects and would authenticate provincial budget.
2. The provisions of Article 68 and Article 69 shall also apply to the working of the Provincial Assembly and assent of the Governor to the bills, and the functions of the Provincial Assembly as they apply in case of the Parliament.

CHAPTER 3 : THE SUPREME COUNCIL OF JURISTS

Article 72 : Constitution of the Council.

1. There shall be constituted The Supreme Council of Jurists which would consist of a chairman and eighteen members.
2. The chairman shall be appointed by the President in consultation with the Parliament and each of the members shall be appointed by the President in consultation with the chairman.
3. No person shall be appointed member of the council unless :
 - (a) he is Muslim citizen of the Islamic State and is not less than fifty years of age;
 - (b) he possesses educational qualifications at Master's or Ph.D. level in Law, Islamic Studies, Economics or in any other subject;
 - (c) he is known for his observance of all religious

- obligations, for *taqwa* and excellent moral character;
- (d) he is well-versed in Islamic Shariah and has profound knowledge of the Qur'an and Sunnah;
- (e) he has sound knowledge of social, economic and legal problems facing the Islamic state and has deep insight into contemporary challenges; and
- (f) he possesses all the qualifications prescribed by the classical jurists of Islam for a *mujtahid* and is capable to exercise *ijtehad*.

4. While appointing members of the council, it is to be ensured that :

- (a) so far as possible various schools of thought are represented in the council;
- (b) at least two women are included;
- (c) not less than four of the members of the council are persons who are or have been judges of the supreme court or Chief Justices of the High Courts;
- (d) at least one member is a person who is a renowned economist knowing contemporary challenges of modern economics faced by Muslim Ummah; and
- (e) at least one member is a scientist of international fame.

5. In addition to possessing the qualifications required for a member, the chairman of the council shall be an eminent jurist of Islam having international fame who has to his credit twenty or more publications on various subjects pertaining to the Qur'an, Sunnah, Islamic History, Islamic Fiqh, Islamic Law or Islamic Economics.

6. A member (or the chairman) shall hold office for a period of five years unless he sooner resigns or is

removed.

7. A member of the Council can be removed from the office before the expiry of his term in the same manner in which a judge of the Supreme court is removed under clause (7) of Article (77)
8. No member shall be eligible for appointment for second term.

Article 73 : Functions of the Council.

1. The Council shall help the Parliament in codification and drafting of Islamic laws.
2. The Council shall compile, for the guidance of the Parliament, in suitable form, such Injunctions of Islam which can be given legislative effect.
3. The Council shall explain the stand of Shariah on various matters referred to it by the President, the Governors, legislatures or the Supreme Court.
4. All legislation passed by the Parliament or Provincial Assemblies shall be sent to the Council which shall examine its compatibility with Islam and give its report within fifteen days. In case the legislation is incompatible, it will be returned for review.
5. The Council shall be a permanent body always engaged in research and application of juridical *Ijtehad* giving its opinions on various issues faced by the Muslim Ummah.
6. The Council shall have close liaison and continuous contact with its counterpart institutions as are working in other Islamic states.
7. The Council may seek assistance or advice from any Jurist or any institute engaged in Islamic research.
8. The Council shall make its rules and regulations regarding its procedure and working.

PART- IV THE JUDICIARY

CHAPTER 1 : GENERAL PROVISIONS REGARDING JUDICIARY

Article 74 : Courts and their jurisdiction.

1. Judiciary of the Islamic state would consist of Supreme Court at federal level, a High Court for each province, and such other courts as may be established by law.
2. The courts shall exercise jurisdiction which may be conferred on them by the constitution or by or under any law.
3. The judiciary shall be responsible for the administration of justice and protection of the rights of the citizens [31].
4. Everyone shall have the right to present his case before the courts and to get inexpensive and expeditious justice.
5. Implementation of the decrees, judgements, decisions and directions of the courts shall be the duty of every concerned person exercising public authority, and the failure to implement the same constitutes an offence punishable under the law.
6. All citizens including the head of state and government officials shall be subject to the same laws and the jurisdiction of the same courts.

Article 75 : Independence of Judiciary.

1. The Judiciary shall be separate, independent and free from all influence or interference of the executive or any other branch of government, and its independence

would be ensured by the following provisions :

- (a) Appointment of judges shall be strictly on merit and through fair procedure.
- (b) Judges of the Supreme Court and High Courts shall not be removed except on impeachment by the Senate.
- (c) The President, the governors or any other authority would have no powers to grant pardons or revise punishments awarded by the courts.
- (d) The President, the governors, the ministers, etc. would have no immunity from appearing before the courts.
- (e) The judges shall not hold any other office of profit in the service of the state or occupy any other position carrying the right to remuneration.
- (f) A judge shall not be appointed to an office other than a judicial or quasi-judicial office before the expiration of three years after he has retired or resigned from the office of a judge.
- (g) A person who has been a permanent judge of Supreme Court or High Court shall not plead or act before any court or authority inferior to the court of which he was a judge, after his retirement.

2. The Supreme Court and High Courts would make their own budgets and when the budget is passed by the Parliament or the respective Provincial Assembly, the executive would have no authority to cut or reduce the budget.
3. The salaries, remunerations, allowances and perquisites of the judges would be fixed by the Parliament or the concerned Provincial Assemblies at handsome level

within the means of the government and the executive will have no authority to reduce the same.

4. Though appointed by the executive, the judges shall not be subordinate to or in need of the executive for any purpose, and there shall be no authority above them except the authority of law.

Article 76 : Procedure of dispensation of Justice

1. Justice shall be dispensed free and shall be easily available to every aggrieved one without any discrimination and there would be no court - fee or charge for obtaining justice. It shall be available as near the aggrieved as possible.
2. The procedures regarding dispensation of justice shall not be cumbersome, complicated or lengthy, rather the same would be easy, convenient and speedy.
3. The courts shall have unlimited powers to summon any type of evidence which, in their opinion, is required for dispensation of justice, and no authority shall have the power to withhold any evidence required by a court.
4. All proceedings of the courts shall be in public and no authority can require or compel a court to try any case in camera except when the court itself decides to hold the proceedings in camera on the grounds of national security, public decency, etc.
5. The establishment of special courts or tribunals is not permitted except in cases of military or civil employees of the state who may be tried by tribunals specifically established to decide their service matters, enforcement of efficiency and discipline, etc.
6. Justice shall be provided expeditiously as it is said that

"Justice delayed is justice denied". The Supreme Court, therefore, shall make the rules fixing the maximum period or maximum number of hearings within which a court of trial and a court of appeal shall decide a case.

7. The judgements of the courts shall be well-reasoned out and properly documented with reference to the law in accordance with which they are delivered.
8. Political and press offences shall be tried openly and in the presence of a jury. The constitution and powers of jury will be determined by law.
9. In disputes regarding personal and family matters, settlement may be preferred through arbitration [32].

CHAPTER 2 : THE SUPREME COURT

Article 77 : Constitution of the Supreme Court

1. At the federal level there would be a federal court of justice which shall be called the Supreme Court.
2. The Supreme Court shall have its principal seat at the federal capital while it may have its benches at every provinces capital.
3. The Supreme Court shall consist of nineteen judges one of whom would be the Chief Justice.
4. The Chief Justice shall be appointed by the President and each of the other judges shall be appointed by the President after consultation with the Chief Justice.

Provided that the President shall get the approval of the Senate if he appoints a judge other than the seniormost judge as the Chief Justice of the Supreme Court.

Provided further the President shall get the approval of the Senate if he appoints a person other than a Judge

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of a High Court as Judge of the Supreme Court.

5. A non-Muslim may be appointed as Judge of the Supreme Court but the Chief Justice of the court shall always be a Muslim.
6. A Judge of the Supreme Court shall hold office until he is sixty-five unless he resigns earlier or is removed from office.
7. A Judge of the Supreme Court shall not be removed from office unless :
 - (a) he is incapable of properly performing the duties of his office by reason of physical or mental incapacity; or
 - (b) he is guilty of committing any major sin (as defined by Islamic Shariah), or he is guilty of corruption or misconduct.

Provided that the President shall not remove a Judge unless Judge has been tried and impeached by the Senate and a resolution passed by two third majority of its members has been forwarded to the President recommending his removal.

Article 78 : Qualifications for a Judge of the Supreme Court.

No persons shall be appointed Judge of the Supreme Court unless :

- (a) he is a citizen of Pakistan.
- (b) he has attained the age of forty-five years; and
- (c) he has been a judge of a High Court for more than ten years; or he has been an advocate of High Court for more than fifteen years and also possesses other qualifications laid down in clauses (e) to (j) of Article

82 for the Judge of a High Court.

Article 79 : Jurisdiction of the Supreme Court.

1. The Supreme Court shall exercise original jurisdiction in disputes between any two or more Governments -- and Governments means federal government and provincial governments.
2. It shall exercise appellate jurisdiction to hear appeals against judgements, decrees and decisions of a High Court or any other Court as required under the law.
3. The Supreme Court shall give its opinion on a question of law having public importance referred to it by the President.
4. The Supreme Court shall have the power of Judicial review i.e. it may declare any legislative enactment or any executive decree, order or rule as null and void if the Supreme Court finds that such enactment or decree, order or rule contradicts or is inconsistent with any Injunction of Islam or any provision of the constitution.

Article 80 : Powers of the Supreme Court

1. Any decision of the Supreme Court shall, to the extent that it interprets the constitution or explains any Islamic injunction or decides a question of law or enunciates a principle of law, be binding on all other courts in the Islamic state.
2. Subject to the constitution and law, the Supreme Court may make rules and regulations regarding its practice and procedure.

CHAPTER 3 : THE HIGH COURT

Article 81 : Constitution of the High Court

1. There shall be a High Court for each province which

shall have its principal seat at the provincial capital while it may have benches at district headquarters.

2. A High Court shall consist of a Chief Justice and so many other Judges as may be determined by law.
3. The Chief Justice of the High Court shall be appointed by the President in consultation with the Chief Justice of the Supreme Court.

Provided the President shall have to get the approval of the Senate if he appoints a judge of the High Court other than the senior most judge as the Chief Justice.

4. Other judges of the High Court shall be appointed by the President after consultation with :
 - (a) the chief justice of the Supreme Court;
 - (b) the governor concerned;
 - (c) and chief justice of the High Court concerned.
5. A non-Muslim may be appointed as judge of the High Court but Chief Justice of the Court shall always be a Muslim.
6. A judge of the High Court shall hold office until he attains the age of sixty two unless he resigns or is removed from office.
7. The provisions of clause (7) of Article 77 shall *mutatis mutandis* apply for the removal of a judge of High Court as they apply for the removal of a judge of the Supreme Court.

Article 82 : Qualifications of a Judge of a High Court

A person shall not be appointed a judge of a High Court unless :

- (a) he is a citizen of Pakistan;

- (b) he is a resident of the province concerned;
- (c) he has attained the age of forty;
- (d) he has been an advocate of the High Court for a period of ten years or he has served in the judicial service of the province for five years as District Qadhi;
- (e) he is known as a man of independent and sound judgement with fair and impartial approach;
- (f) he is an eminent jurist and is well versed in law and has been contributing research papers or articles on law in legal journals of national repute;
- (g) he has been an author of at least one standard book on law or Islamic Shariah;
- (h) he has not been convicted of any criminal, moral or financial offence;
- (i) he does not owe any major debt to any institution or any person which may be considered to place him under an obligation;
- (j) in the case of a lawyer :
 - I- he has been a regular or a visiting lecturer in a recognised law college or he has participated in national or international seminars on legal subjects; and
 - II- he has not been holding an office in a political party at national or provincial level.
- (k) in case of a Muslim, he practises all the fundamental religious duties and is not notorious for committing any major sin.

(i) he is known for his piety, integrity, God-consciousness and excellent character.

Article 83 : Jurisdiction of the High Court.

1. Subject to the Constitution, the High court may, on the application of an aggrieved party, issue orders, directions or writs to any government or authority, for enforcement of fundamental rights conferred by the constitution.
2. The High Court would be an appellate court in respect of appeals against the decisions of subordinate courts.
3. The High Court may exercise original jurisdictions in certain classes of cases and disputes determined by law.

Article 84 : Powers of the High Court.

1. Subject to Article 80, any decision of a High Court shall, to the extent that it decides a question of law, interprets the constitution, explains any Islamic injunction or enunciates a principle of law, be binding on all other courts subordinate to it.
2. Subject to the constitution and law, a High Court may make rules and regulations regarding practice and procedure of the Court or of any court subordinate to it.
3. The High Court shall supervise and control all courts subordinate to it in the province.

CHAPTER 4 : DISTRICT COURTS

Article 85 : Constitution of District Courts.

1. Courts would be established at district level to punish the criminals and to decided civil cases, litigations and disputes, etc.
2. Courts at district level would be of two types namely; criminal courts to try criminal cases and civil courts to

decide civil cases.

3. Judges of the courts shall be called *Qadhis* and head of Judiciary at district level shall be known as district *Qadhi*.
4. The Judiciary at district level shall be completely separate and independent of the executive and the District Courts through District *Qadhis* shall be subordinate to the Provincial High Courts.

Article 86 : Terms and conditions of service of a Qadhi.

1. A regular service would be constituted, in each province, for the *Qadhis*, known as Judicial Service.
2. Terms and conditions of service, career structure, emoluments of the persons belonging to Judicial Service shall be determined by law.
3. Recruitment to the Judicial Service would be made by the Provincial government through Provincial Public Service Commission.
4. Provincial Public Service Commission shall prescribe the qualifications for the persons eligible for the Judicial Service and shall make selection on merit by holding open competition.

PART - V

ECONOMY AND FINANCE

CHAPTER 1 : ECONOMY

Article 87 : Basic Principles.

1. The economic system of the Islamic State shall be based on Islamic principles of justice and equity, differentiation between right and wrong (halal and haram), spending in the way of Allah, moderation in spending, prohibition of extravagance and wastefulness, etc.

2. All the resources - human as well as material - shall be developed, mobilized and utilized in a planned manner so that the needs of all the members of the community are amply satisfied.
3. Fair and equitable distribution of wealth shall be ensured in accordance with the Islamic principles of social justice, while hoarding and concentration of wealth in few hands shall be forbidden.
4. Gulf between the rich and the poor shall be bridged so far as possible and the disparities in earnings of various classes shall be minimised as far as practicable.
5. All natural and energy resources belong to the State as do the enterprises set up through the finances of the State.
6. Private ownership is lawful and protected provided it is acquired through right (hilal) means and is retained and used for the purposes allowed by the Islamic Law.
7. No public-owned property or interest shall be liquidated in favour of private sector except in the interest of society in open auction and for adequate consideration.
8. No private-owned property or interest shall be nationalised by the state except in the interest of society after payment of fair and adequate compensation.

Provided that the state may confiscate the illegitimately gained property without any consideration or compensation.

Provided further the state may bring under its control and management the property of a person who is mentally deranged or is indulging in excessive drinking or drug-taking and thus wasting the property.

9. Freedom of enterprise, business, trade or profession is guaranteed within the limits prescribed by law.
10. All kinds of receipts and expenses contrary to Islamic Shariah are forbidden.
11. All wealth and property not owned by anybody and all assets left by the persons leaving no will and no heirs, shall vest in the state.
12. The state shall take all the necessary measures as are possible to terminate and prevent foreign economic domination.
13. Business, commerce, industry and agriculture shall be regulated in accordance with the principles of Islam.
14. Banking and Insurance shall be organised on Islamic principles.
15. Riba in any form and in any transaction within the state shall be strictly prohibited while in international dealings the Islamic state shall avoid it as far as practicable.
16. Science and technology shall be properly utilized for economic development and for achieving self-sufficiency in industrial and agricultural fields.
17. All transactions, business deals, contracts, etc. shall be made in writing and economy shall be properly documented.
18. Citizens shall be encouraged to use goods and articles manufactured in their own country and the national leaders shall provide lead in this respect.

Article 88 : Provision of Basic Necessities.

1. The state shall provide opportunities of work and employment to all citizens who are able to work, with reasonable rest and leisure. To achieve this end, the Parliament may by enactment direct enforcement of

double shift working in the offices, institutions, and factories.

2. The state would provide basic necessities of life such as food, clothing, housing, education and medical aid for all citizens without any discrimination on the basis of sex, religion, caste, colour, race, language, place of birth or any other bias.
3. The state shall provide maintenance allowance, financial assistance or welfare grant to those citizens who are incapable of earning their livelihood on account of any physical disability, sickness or unemployment or heavy losses in business, trade or agriculture.
4. Beggary would be banned and the state shall provide shelter and financial assistance to those who are forced to beg because of the circumstances beyond their control.
5. The state will provide for all persons employed in the government service or otherwise, social security by compulsory social insurance.
6. The state would make provision for securing just and human conditions of work especially ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.
7. Preservation of the pollution-free environment shall be regarded as one of the basic necessities for existence of the present and future generations and, therefore, the state shall forbid all those activities- economic or social - which badly pollute or cause irreparable damage to the environment.

Article 89 : Forbidden Means of Earning.

Following means of earning income or acquiring wealth which have been strictly prohibited by Islam are declared to be offences the punishment for which shall be determined by law:-

- (a) Riba (usury or interest) [33].
- (b) Bribery or Corruption [34].
- (c) Usurpation of the wealth of orphans [35].
- (d) Devouring the property of others by foul or unfair means.
- (e) Gambling and games of chance.
- (f) Trade in liquor and narcotics.
- (g) Embezzlement of public and private property or misappropriation thereof.
- (h) Hoarding [36].
- (i) Theft and robbery.
- (j) Prostitution and obscenity.
- (k) Business malpractices such as short-measuring and short-weighing [37].
- (l) Trade in haram goods or things.
- (m) Fraud and misrepresentation.
- (n) Adulteration.
- (o) Exploitation and blackmail.
- (p) Non-payment of individual or bank loans.
- (q) Illegitimate gains through undue government patronage, intercession(safarish), nepotism, etc.

Article 90 : Spending of Wealth in Accordance with Shariah and State Laws.

1. Both extravagance and miserliness have been

condemned by the Qur'an while moderation in expenditure has been recommended, the state shall, therefore, take appropriate measures to ensure that.

2. Besides modest expenditure on personal needs the Qur'an and Sunnah have prescribed the following objects on which one can spend his wealth without restrictions:-
 - (a) Payment of Zakat, Ushr and compulsory Sadaqat.
 - (b) Spending in the way of Allah such as charities, alms or donations to the poor, needy or destitute; and under this head donations may be given to educational institutions, hospitals, etc.
 - (c) Helping the orphans, poor relatives, poor neighbours, poor travellers, prisoners, and debtors who obtained loans for their legitimate needs but have no means to pay them off.
 - (d) On the needs of community and state in the form of compulsory levies like taxes and voluntary contributions.
 - (e) Gifts to relatives, neighbours, friends and fellow Muslims in order to promote Islamic brotherhood.

Article 91:- Means of Fair and Equitable Distribution.

1. Fair and equitable distribution of wealth shall be ensured through:-
 - (a) foolproof system of collection and distribution of Zakat and Sadaqat;
 - (b) strict enforcement of law of inheritance and will;
 - (c) encouraging the rich to spend on the poor and destitute; and

(d) encouraging the rich to set up public waqfs or other charitable institutions for the cause of education, medical relief, etc.

2. Monopolies and cartels in trade and industries shall be curbed while maximum ceiling on ownership of property and land shall be applied, with a view to prevent concentration of wealth in few hands.

3. The state shall ensure through proper legislation that the people, particularly the influential ones, strictly follow the Islamic Code of halal and haram and earn wealth by halal (permitted) means; since it is because of earning and accumulating wealth through haram (forbidden) means that the concentration of wealth takes place in the hands of few to the deprivation of majority of the citizens.

CHAPTER 2 : PUBLIC FINANCE

Article 92 : Revenues and Taxes.

1. The Islamic state will raise its finances from the following sources which have been, under Islamic Shariah, its traditional means of revenue generation:-

- (a) Zakat [38].
- (b) Ushr [39].
- (c) Kharaj.
- (d) Income from state-owned lands, properties and enterprises.
- (e) Income from lease of rights, licences, etc.
- (f) Income from Waqf properties.
- (g) Miscellaneous imposts and compulsory contributions.

2. The Islamic state is also authorised to levy and collect

the following taxes and duties to supplement its revenues if the need for finances is not satisfied from the sources mentioned at clause (1) above.

2. (a) **Wealth Tax.**

It is, however, provided that no Wealth Tax shall be levied on those assets of a Muslim taxpayer on which he has paid Zakat.

(b) **Income Tax.**

(c) **Customs Duties.**

(d) **Excise Duties.**

(e) **Sales Tax.**

(f) **Capital Gains Tax.**

(g) **Estate or Succession Duty.**

(h) **Gift Tax.**

(i) **Expenditure Tax.**

(j) **Any other tax or duty.**

3. Taxes proposed in clause (2) above shall only be imposed if the following conditions are satisfied:-

(a) There is genuine need for the funds.

(b) Taxes are not imposed on permanent basis and are modified or withdrawn in accordance with the needs of the state.

(c) Tax laws are in harmony with the injunctions and principles of Islam.

(d) There is justice and fairness in tax rates as well as in the charge, assessment and collection of taxes.

(e) Tax laws apply equally and equitably to all, and no undue tax exemptions to classes or persons are given.

- (f) Tax proceeds are applied honestly and prudently for common benefits of all instead of being wasted on the luxuries of the rulers.
- 4. No tax shall be imposed by any authority other than National Parliament or a Provisional Assembly.

Article 93 : Expenditure and Budgeting.

- 1. Expenditure budgeting of the state would be within its means of income avoiding dependence on internal or external loans.
- 2. Policy of moderation recommended by the Qur'an and the Sunnah would be adopted avoiding miserliness as well as extravagance [40].
- 3. No external loans or financial aid would be accepted if it involves interest or any other stipulation against Islamic principles.
- 4. No external loans or financial aid would be accepted if its conditions are against national honour or national interest.
- 5. Defence, education, health and social services would be given their due position in budgeting.
- 6. Burden of taxes would be on those who can bear it and not on the poor or lower middle class.
- 7. More emphasis would be on direct taxes and dependence on indirect taxes would be as less as possible.
- 8. Rate of inflation would be kept fairly under control.
- 9. Deficit financing and undue issue of bank notes would be avoided as far as possible.

PART - VI

DEFENCE AND FOREIGN AFAIRS

CHAPTER 1 : DEFENCE

Article 94 : Basic Principles of Defence Policy.

1. Islam being religion of peace does not permit aggression and, hence, the Islamic state shall not wage any aggressive war.
2. The Islamic state is strictly obliged to refrain from war on the grounds of religious differences or for the purpose of territorial expansion of the state or for the purpose of colonisation with a view to exploit other people's material resources or with a motive to subjugate other nations to control their economies and dominate them politically.
3. The Islamic State is permitted to wage war only:-
 - (a) to defend its faith (Islam) and its territory and to protect lives and properties of its Muslims and non-Muslims citizens; [41] and
 - (b) to protect the oppressed and persecuted Muslims living in a foreign country, provided these Muslims have requested for such help and the Islamic State has not got any treaty relationship with this foreign country [42].

Article 95 : Preparedness for Jihad.

1. To participate in jihad with one's life and/or property is one of the fundamental religious duties of every Muslim who is capable to fight or who is financially capable to contribute to the war fund.
2. A non-Muslim citizen of the Islamic state is also

permitted to participate in *Jihad* physically or financially or both though it is not his religious obligation.

3. The state shall take all necessary steps to enable the people to perform the duty of *Jihad* by providing them proper military training, arms and weapons and the other essential facilities, in case of need.
4. The state may order universal military training for all its Muslim citizens with a view to strengthen its national defence and may order general conscription in case of actual warfare.

Article 96 : Armed Forces.

1. The Islamic State shall be responsible for building viable Armed Forces properly trained in Islamic traditions, adequately equipped with latest weaponry, professionally competent to meet any challenge, and ever-ready to wage *Jihad*.
2. The state shall acquire and utilize the latest knowledge of science and technology to build most efficient defence system so that the enemies of Islam could not dare to threaten her.
3. The Federal Government shall have control and command of the Armed Forces and the President shall be the Supreme Commander.
4. The President shall have, subject to law, power:-
 - (a) to raise and maintain army, navy and air force of the Islamic State and the reserves of such forces;
 - (b) to grant commissions in such forces; and
 - (c) to appoint chiefs of army, navy and air force. However, these Chiefs shall always be Muslims.
5. The Armed Forces shall, under the directions of Federal Government, defend the Islamic State and its ideology.

against external aggression and against internal disruption or disorder.

6. No foreigner would be recruited into Army, Navy and Air Force or in other security forces of the country.
7. In the time of peace, the Federal Government may utilize the personnel and technical equipment of the armed forces for relief operations, for educational or productive goals, etc.

CHAPTER 2 : FOREIGN AFFAIRS

Article 97 : Principles of Foreign Policy.

1. It is the duty of the Islamic State to strive by all possible means to preserve and strengthen brotherly relations with other Islamic States and also to make endeavour to seek unity and solidarity of the Muslim Ummah.
2. The foreign policy of the Islamic State shall be based on the principles of freedom, justice and peace and it shall conduct its foreign relations on the maxim, 'friendship towards all and malice towards none'.
3. The Islamic State is obliged to strive:-
 - (a) to attain the welfare of humanity and to protect the freedom of men throughout the world;
 - (b) to end oppression and persecution of Muslims wherever it occurs in the world;
 - (c) to support just cause in international affairs; and
 - (d) to protect and observe the sanctity of all places of worship.

Article 98 : Conduct of Foreign Relations.

1. The State shall play active role to promote peace and security in the world and shall extend its every possible

cooperation to the countries or the international organisations like UNO who are working to achieve these ends.

2. The Islamic State shall not only itself refrain from war and resolve its disputes with other countries through peaceful means but would also encourage and help the other nations of the world to settle their differences through peaceful means such as negotiations, arbitration, etc.
3. The State shall cooperate with the brotherly Muslim countries and with all friendly states in the fields of economic development, education, and social, cultural and such other spheres, but shall never cooperate in evil, injustice and transgression [43].
4. The State shall honour and implement international treaties, pacts, agreements and obligations in letter and spirit [44].
5. The State shall oppose power groups or military alliances of nations formed to exploit and dominate weaker nations, and follow policy of non-alignment.
6. The Islamic State shall not permit the use of its territory by the foreign powers to establish military bases or military facilities detrimental to the interests of Islamic Ummah or the Islamic State.
7. The Islamic State shall protect the genuine rights and interests of its citizens working or living abroad.
8. The Islamic State shall grant asylum to any foreign national persecuted for supporting a just cause.
9. The Islamic State believes the attainment of self-determination, independence and rule of justice to be the right of all people of the world and hence would support the oppressed against the oppressor, but

scrupulously avoiding interference in the internal affairs of other countries.

10. If there is war or dispute between the two brotherly Muslim Countries, the Islamic State shall arrange peace and reconciliation. But if one of the combatants does wrong to the other, the Islamic State would help the wronged one till the wrong doer comes to terms [45].

PART - VII

EDUCATION AND HEALTH

CHAPTER 1: EDUCATION

Article 99 : Education Policy - Basic Principles.

1. Since the Prophet of Islam has cast obligation on every Muslim male and female to acquire learning and knowledge, it is therefore right of every citizen in an Islamic state to get education [46].
2. To guarantee the enjoyment of right to education, the Islamic State shall provide schools and educational institutions throughout the country.
3. Education shall be compulsory and free upto school level.
4. The state shall remove illiteracy and shall enable the illiterate adults to acquire the minimum standard of literacy as determined by the Parliament. For imparting education to illiterate adults, classes may be held in local mosques after Isha prayer.
5. The government shall allocate a reasonable portion of its budget on education which shall not be in any case less than the level prescribed by United Nations for the countries of that category to which the Islamic state

belongs.

6. To achieve hundred percent literacy, the parliament may by enactment direct holding of classes on double-shift basis in the educational institutions.
7. Mosque and maktab (traditional Islamic educational institutions) shall also be organised and utilized alongwith modern educational institutions for the purpose of advancement in education.
8. An integrated system of education comprising religious instruction as well as temporal education with special emphasis on science and technology shall be devised and uniformly enforced in religious madaris and modern institutions.
9. As far as possible, equal opportunities of education shall be provided without any discrimination on the ground of race, religion, caste or place of birth.
10. The state shall make technical and professional education generally available and higher education equally accessible to all on the basis of merit.
11. The state shall patronize persons engaged in scientific research, literary and artistic or creative work.
12. Non-government organisations working in the field of education, which are managing schools and educational institutions on non-commercial basis, shall be provided due facilities and financial aid.
13. Eminent teachers and experienced educationists shall be associated with decision-making, policy-formulation and implementation in the sector of education.
14. Facilities for extra-curricular activities, athletics, sports and games shall be provided in each educational institution and students shall be encouraged to

participate in these activities.

15. Parliament shall make law requiring compulsory enrollment of all children in schools and all illiterate adults in adult literacy institutions. Punishment may also be prescribed for those who do not send their children to schools or who being illiterate adults fail to attend adult literacy institutions.

Provided that the government shall grant financial aid to the persons who are unable to send their children to schools or to attend adult literacy institutions themselves on account of extremely poor economic condition.

Article 100 : Teachers and Educational Institutions

1. Traditional respect and social status attached to the noble profession of a teacher in an Islamic society shall be rehabilitated.
2. A lucrative package of emoluments and perquisites alongwith attractive career structure shall be provided by the state to the teachers with a view to attract and retain the most talented people in the profession of teaching.
3. Teachers would themselves manage the educational institutions and there shall be no political or administrative interference in admissions or examinations, etc.
4. All key posts upto the level of head of department shall be held by the educationists and teachers in the administrative set up of education, while the bureaucrats shall simply assist them.

Article 101 : Incentives for Acquiring Education.

1. Only those persons who possess education at level prescribed in various Articles of the constitution shall be

eligible to contest for elective offices.

2. Illiterate persons who fail to get education at the minimum standard of literacy fixed by the Parliament within prescribed time shall be disqualified to vote.
3. Only educated persons shall be eligible for government service.
4. International passports shall be issued only to those who are educated.
5. Driving licences, arms licences, etc. shall be issued to the educated persons only.
6. Only educated persons shall be eligible for industrial sanctions, import and export licences, bank loans, etc.

CHAPTER 2 : HEALTH

Article 102 : Basic Principles.

1. It is the right of every citizen to be provided with medical aid, healthcare, etc. to keep himself healthy mentally and physically.
2. The state shall provide hospitals, dispensaries and healthcare units throughout the country which would be easily accessible to every needy person without any discrimination.
3. A considerable size of national budget equal to a reasonable percentage of G.N.P. shall be allocated to health.
4. The state shall fix its initial target of providing one doctor for a population of one thousand and would achieve it within minimum possible time, while afterwards efforts would continue for further improvement.
5. Non-government organisations and charitable

institutions engaged in providing medical aid on non-commercial basis shall be provided due facilities and financial incentives.

6. Institutions for providing medical education shall be established throughout the country where inexpensive medical education and training shall be provided on merit without any discrimination.
7. Doctors would be associated with formulation and implementation of health policy.

Article 103 : Doctors and Institutions.

1. Dedicated doctors and competent medical teachers shall be given due status and recognition in the society.
2. A lucrative package of emoluments and perquisites alongwith bright career prospects shall be provided to attract and retain the most talented people in the medical profession.
3. Hospitals and medical institutions would operate on the basis of administrative autonomy and doctors themselves would manage them without any fear of bureaucratic and political interference.
4. All the posts in the hospitals and medical institutions and administrative hierarchy upto the level of the head shall be held by the doctors and no bureaucrat would be allowed to hold any key position at any level in the administrative set up of health department.
5. Doctors serving in rural areas shall be provided special facilities and allowances.
6. Doctors setting up private clinics or hospitals in rural areas shall be provided soft loans and fiscal incentives.
7. Effective steps shall be taken to prevent brain drain in medical profession so that the doctors trained and

educated in government institutions should be discouraged to settle abroad or quit medical profession and join bureaucracy.

PART - VIII

ELECTIONS, ELECTION COMMISSION AND POLITICAL PARTIES

CHAPTER 1 : ELECTIONS

Article 104 : Qualifications of a Voter.

A person shall be entitled to vote if :

- (a) he is a citizen of the Islamic State;
- (b) he is not less than twenty years of age;
- (c) his name appears on the electoral roll;
- (d) he has not been declared by a competent court to be of unsound mind or insolvent; and
- (e) he has not been convicted and sentenced by a competent court for a period of two years or more and in case of such conviction a period of five years has expired after his release.

Provided that the Parliament shall determine the minimum standard of literacy and if an individual does not attain that standard within ten years of holding of first general elections under the constitution, he would be disqualified to have the right to vote.

Provided further, that a person who is a senior citizen shall be entitled to cast two votes.

Explanation : A senior citizen means a person :

- (a) who is or has been the President, the vice-President, governor or minister,

- (b) who is or has been a member of the Parliament or of a Provincial Assembly.
- (c) Who is or has been a judge of the Supreme court or of a High court.
- (d) Who is or has been a member of Council of Jurists, Hisba, Board of Audit, Election Commission and Public Service Commission.
- (e) Who is or has been Chief of Army, Navy or Air Force or an Ambassador of the Islamic State to other countries.
- (f) Who is or has been a head of a university, degree college, or a training institute or any research institute.
- (g) Who is a member of Bar Council, Medical Council, Engineering Council, Institute of Public Accountants, Chamber of Commerce and Industries,
- (h) Who is Ph. D. in any subject.
- (i) Who is Doctor, Engineer, Lawyer or teacher (holder of a master's degree) and has served satisfactorily in his profession for more than fifteen years.
- (j) Who has received some award or decoration by the President on account of his outstanding services as a scholar, scientist, teacher, doctor, engineer, lawyer, writer, journalist, public administrator, soldier, social worker, sportsman or artist, etc.
- (k) Who possesses Bachelor's degree and has attained the age of fifty.
- (l) Who has attained the age of one hundred years.

Article 105 : Duties of a Voter.

1. Right of vote shall be considered a national trust and the voter shall be duty bound to exercise it as if it were a

religious obligation.

2. Every voter shall cast his vote on merit according to dictates of his conscience without any fear or favour or temptation and without any bias such as caste, class, tribe, creed, blood relationship, language, etc.
3. Casting of vote shall be compulsory and if a voter does not cast his vote without reasonable cause, he shall be punishable with minimum imprisonment of three months or with fine or with both.

Article 106 : Holding of Elections.

1. Every Leap Year would be an Election Year and first general elections under the Constitution shall be held in the year 2000 A.D.
2. In the Election Year, elections for the offices of President, Vice-President, Members of Parliament, Members of Provincial Assemblies, Members of Local Councils, etc. shall be held in the months of November and December; and the holders of elective offices shall assume their offices in the first week of January next following the Election Year.
3. All elections shall be by secret ballot.
4. To hold elections shall be the responsibility of the Election Commission.

CHAPTER 2 : ELECTION COMMISSION

Article 107 : Composition, of Election Commission.

1. There shall be an independent and permanent Election Commission consisting of five members, one of whom shall be the Chairman.
2. The President shall appoint the Chairman with the approval of the Parliament while he shall appoint the

members after consultation with the Chairman.

3. The Chairman shall be a person who is or has been a Judge of the Supreme Court and each of the members shall be a person who is or has been a Judge of a High Court.
4. The term of office of the members and chairman of Election Commission shall be four years and none shall be eligible for second term.
5. The Chairman and the members of the commission shall not be removed from the office except in the manner prescribed in clause 7 of Article 77 for the removal from office of a Judge of the Supreme Court.

Article 108 : Functions of the Election Commission.

1. The functions of the Election Commission shall be to organise, supervise and hold elections to the office of the President, Vice-President, Members of the Parliament, Members of the Provincial Assemblies, Members of the local councils and other elections if any, and announce results thereof,
2. The Election Commission shall have full powers for making such arrangements as are essential to ensure that the elections are conducted honestly, fairly, independently and in accordance with law, and that corrupt practices and foul means are guarded against.
3. The Election Commission shall prepare electoral rolls, revise and update them annually, and make delimitation of constituencies, etc.
4. To organise, supervise and hold referenda shall also be the duty of the Election Commission.
5. The Election Commission shall also ensure that the

voters as well as the candidates for elective offices fulfill the conditions of their eligibility.

6. To hear election petitions and to decide the disputes pertaining to elections, the Election Commission may appoint Election Tribunals.
7. It shall be the duty of all public authorities and public servants to assist the Election Commission in the discharge of their functions.

CHAPTER 3 : ELECTION CAMPAIGN AND ELECTROL LAWS

Article 109 : Electrol Laws

1. No person shall be allowed to be a candidate for more than one seat in legislatures.
2. No person shall be allowed to contest for an elective office independently, but instead he will have to be a candidate of a political party registered under the law.
3. No candidate shall be allowed to make self-canvassing or launch election campaign to propagate his self-candidature.

Article 110 : Measures to Check Monopoly of Political Power [47].

1. No family shall be allowed to have more than one seat in legislatures.
2. Both father and son, father and daughter, mother and son, mother and daughter, brother and sister, two or more brothers, two or more sisters, etc. shall not be members of the same House of Parliament or same Provincial Assembly or same Local Council at the same time.
3. No family shall be allowed to hold more than one post

among the posts of President, Vice President, governors and ministers, and similarly father and son, father and daughter, mother and son, mother and daughter, brother and sister, two or more brothers, two or more sisters, shall not be allowed to hold more than one post among the posts mentioned in this clause.

4. Family for the purpose of this Article shall mean husband and wife or wives and unmarried children.
5. Women, minorities, farmers, workers, professionals, technocrats, Ulema, etc. shall be given due representation in legislatures and public offices such as governorships and councils of ministers, etc.

Article 111 : Election Campaign.

1. Election Campaign shall be launched, organised and conducted only by the political parties which shall explain their party-emanifestoes and highlight the qualifications and merits of their candidates.
2. Political parties shall conduct their election campaigns through press and electronic media and by holding corner meetings. No processions or marches in the streets or on the roads shall be organised and no big public meetings in the public parks, play-grounds, public institutions or on the roads shall be permitted.
3. All the political parties shall be provided equal opportunities for the use of electronic media if it is in the State control.
4. All the candidates for the office of President and Vice-President shall be required to explain their programmes in a joint meeting which would be broadcast live on TV and Radio. They shall also be obliged to explain their

views in at least two joint press conferences held in major cities of the country.

CHAPTER 4 : POLITICAL PARTICIPATION AND POLITICAL PARTIES

Article 112 : Right to Take Part in Politics.

1. Every citizen of the Islamic State shall have the right to take part in socio-political life of the nation and join political activities.
2. Every citizen shall have the right to form associations or unions, or form or be a member of a political party.
3. Notwithstanding clause (1) and (2) above, any reasonable restrictions may be imposed by law in the interest of sovereignty or integrity of the Islamic State, in the interest of religion or morality or in the interest of public order on the formation of associations, unions or political parties of certain types.
4. Notwithstanding clause (1) and (2) above, the Government of the Islamic State may debar its employees or the students studying in educational institutions to take active part in politics or to join or associate them with a political party.

Article 113 : Political Parties - Their Formation, Registration and Dissolution

1. No political party having its aims and objectives opposed to or propagating views against Islam or against sovereignty and integrity of the Islamic State, shall be allowed to be formed.
2. No political parties on the basis of religious sects or on the basis of language, region, race, class, tribe, colour, etc. shall be allowed to be formed or to operate.
3. Any political party which is working against Islam or

against the integrity of the Islamic State or which is advocating violence and terror and the use of force, shall be disqualified to function.

4. Every political party shall account for the source of its funds and submit audited statements to the Election Commission in accordance with law.
5. Any political party which has been formed or is associated with a foreign government or political party of a foreign country, or it receives any financial aid from the government or political party of a foreign country, shall be banned.
6. No action against a political party shall be taken by the government until and unless a reference has been decided in favour of the government by the Supreme Court after holding a fair trial.
7. The Federal government in consultation with the Election Commission may make rules regarding the formation, organisation and functioning of political parties.
8. After its formation and before entering into political activities, every political party shall have to get it registered with the Election Commission.
9. The Islamic State may frame laws restricting the mushroom growth of political parties by making the conditions of Registration stringent and by making a provision that a political party which fails to obtain ten percent of the total votes polled in a general election shall cease to function.

Article 114 : Qualifications. of Members and Office-Bearers of Political Parties.

1. No person shall be allowed to be a member of a political

party unless he is a citizen of Islamic State, is enrolled as a voter by the Election Commission and is literate.

2. No person shall be allowed to be a head or an office-bearer of a political party at central and provincial level if he :
 - (a) does not possess educational qualifications at the level of a Bachelor's degree;
 - (b) has not attained the age of forty years or has attained the age of sixty five years; and
 - (c) has not been a member of that party for more than five years.

Provided that the condition laid down in Sub-Clause (c) above shall not be applicable in case of newly- floated party.

Article 115 : Functions and Responsibilities of Political Parties.

1. The primary responsibility of a political party would be to educate the citizens politically and make them aware of their rights and obligations.
2. Second important function or responsibility of the political parties is to help the citizens in selection of the most deserving persons as their representatives at national, provincial and local level and, therefore, each political party contesting the elections shall put up 'the right men for the right job' as their candidates.
3. Another important responsibility of the political party is to help the state and its citizens in creation of a democratic society based on Islamic principles of equality, brotherhood and social justice, and therefore, the political parties would not only themselves adopt democratic norms of conduct (for example, holding of fair and free elections for selection of their office bearers

and tolerance of difference of opinion), but also they would display exemplary pattern of democratic behaviour in their dealings with others.

4. The political parties shall ensure fair and equitable representations of all classes of people (rich and poor, men and women, Muslims and non-Muslims, industrialists and workers, landlords and peasants, etc) and all regions of the country (developed and under developed) in their memberships and in their list of candidates.
5. Obligation with regard to 'enjoining good and forbidding wrong' which Islam casts on every Muslim and on every association (*jamaat*) of Muslims is also to be discharged by a political party.
6. Political parties in an Islamic state are expected to make politics a noble institution dedicated to serve the citizens instead of making it a dirty game in the hands of unscrupulous politicians for exploitation of the masses.

PART- IX

ACCOUNTABILITY OF THE RULERS

CHAPTER 1 : POLITICAL ACCOUNTABILITY --- THE PEOPLE AND PEOPLE'S REPRESENTATIVES

Article 116 : Responsibility of the Government to the People.

1. Besides being accountable and responsible to Allah, the government of the Islamic State comprising executive, legislature and judiciary is ultimately responsible to the people with whose mandate it has been given the right

to govern.

2. The President, the Vice-President, the Governors, the ministers, the members of Parliament, the members of Provincial Assemblies, the Officers and officials of the government shall all perform their functions in accordance with the constitution and law and shall be accountable for their actions.
3. The holders of elective offices such as President, the Vice President and the members of legislatures face direct accountability by the people in general elections while other public functionaries are responsible to the people indirectly through the holders of elective offices.

Article 117 : Responsibility of the Government to the Peoples' Representatives

1. The President and his ministers shall be responsible to the members of the Parliament who would criticise the policies of their government and their actions, ask questions and move interpellations. Similarly, Provincial governors and ministers shall be responsible to the Peoples' representatives sitting in the Provincial Assemblies.
2. If any citizen has a complaint concerning the work of the executive, legislature or judiciary, he shall forward his complaint in writing to the Parliament and the Parliament shall investigate his complaint or cause it to be investigated from the concerned organ of the state if it does not relate to the Parliament. Satisfactory answer or explanation will be made available in reasonable time to the complainant and to the people if it is a matter of public interest. However, complaints in the personal nature shall be turned down as the complainant can approach the courts or *muhtasib* for justice.

3. For removal of the President, Vice-President, Judges of the Supreme Court and High Courts, members of the Supreme Council of Jurists, *Hisbah* and Audit Board and members of Election Commission, the Parliament shall prefer the charges, hold trial and pass impeachment motions.

CHAPTER 2 : ADMINISTRATIVE ACCOUNTABILITY --- ORGANISATION OF HISBAH (OMBUDSMAN).

Article 118 : Composition, Appointment.

1. There shall be established an Organisation of *Hisbah* for the administrative accountability of the government and its functionaries.
2. The Organisation of *Hisbah* shall be headed by a chairman to be known as *Muhtasib Aam* and two members to be known as *Muhtasib*.
3. The Chairman shall be appointed by the President after consultation with the Chief Justice of the Supreme Court and with the approval of the Parliament while the members shall be appointed in consultation with the chairman.
4. The *Muhtasib Aam* shall be a person who is or has been a Judge of the Supreme Court while one of the *Muhtasibs* shall be a person who is or has been a Judge of the High Court and the other shall be a person who possesses experience of more than twenty five years as a senior public administrator of excellent repute.
5. The term of office of the *Muhtasib Aam* and each of the *Muhtasibs* is three years and none shall be eligible for the second term.

6. The *Muhtasib Aam* and the *Muhtasibs* shall not be removed from the office before the expiry of the term except in the manner in which a Judge of the Supreme Court is removed.
7. The *Hisbah* shall report to the Parliament annually or whenever required in respect of matters pertaining to federal subjects and to the Provincial Assemblies concerned in respect of provincial matters.
8. The rules and regulations pertaining to the working of *Hisbah* shall be determined by the Act of Parliament.

Article 119 : Functions and Powers of Organisation of Hisbah.

1. The first concern of the *Hisbah* shall be the promotion and protection of Islamic values with a view to establishing what is right and forbidding what is wrong.
2. The *Hisbah* shall receive complaints from citizens about abuses, unreasonable acts, or delays by government agencies and shall investigate them and report its findings alongwith recommended solutions. In appropriate situation, it may reverse the administrative decision or rectify cases of maladministration, neglect or dereliction of duty.
3. A few of the areas in which the *Hisbah* can act include administrative and police excesses, protection of civil rights, urban and civic problems, consumer protection, legal aid for the poor, social security and welfare, unemployment compensation, education, hospitals, prisons, utilities, (telephone, electricity, gas, water, roads, etc.) tax matters, environmental issues, problems of pensioners, etc.
4. The *Hisbah* shall not only act on complaints or applications received from the citizens, it may act on his

own initiative on the information received by him through news media, Press or the general public about administrative wrongs or violations of human rights.

5. If the *Hisbah* considers a law or regulation or administrative procedure as oppressive, inconvenient, unreasonable, harsh or impracticable, it may recommend for its alteration, modification or abrogation.
6. The *Hisbah* shall have full powers as are vested in a court to summon a person or require production of evidence and records.
7. The *Hisbah* shall not, however, take cognizance of a case of which cognizance has already been taken by a court or tribunal of competent jurisdiction.
8. The *Hisbah* shall report cases of gross violation of law, arbitrary exercise of jurisdiction, and gross misuse of powers to the competent authority with the recommendations for suitable disciplinary action against the public functionaries.

CHAPTER 3 : FINANCIAL ACCOUNTABILITY --- THE BOARD OF AUDIT

Article 120 : Composition, Appointment, etc. of the Board of Audit.

1. There shall be a Board of Audit which shall consist of a Chairman and two members.
2. The Chairman shall be appointed by the President with the approval of the Parliament and members shall be appointed in consultation with chairman.
3. No person shall be eligible for the post of Chairman or member unless -
 - (a) he is a citizen of Pakistan and has attained the age

of fifty; and

(b) he holds degree of a chartered accountant, a public accountant or a cost and management accountant having experience of audit of government and public accounts for a period of ten years, or he has been in the service of the government for more than twenty five years as a responsible officer having served in finance or accounts or audit departments of the government.

4. Chairman and members shall be appointed for a term of three years and shall not be eligible for second term.
5. The Chairman and members shall not be removed from office except in the like manner and on the like grounds as a Judge of the Supreme Court.
6. The rules and procedures regarding functions of the Board shall be determined by an Act of the Parliament.
7. The reports of the Board relating to the accounts of Federation shall be submitted to the Parliament, and the reports of the Board relating to the accounts of provinces shall be submitted to the concerned Provincial Assemblies.

Article 121 : Functions and Powers of the Board of Audit.

1. The Board shall audit the accounts of the receipts and expenditure of federal Government, Provincial Governments, local government institutions, and government owned or controlled authorities, organisations and corporations.
2. The Board may advise the federal government and the provincial governments with regard to the format and the manner in which their accounts should be

3. If the Board considers a rule or regulation or procedure governing the receipts or expenditure as inconvenient or unreasonable, it shall recommend for its amendment or repeal.
4. If the Board finds that some embezzlement of government funds has been made or some loss of revenue has been caused by a public functionary with malafide motives, it shall report the matter to the competent authority with recommendations for suitable disciplinary action against the defaulter.
5. The Board shall have the same powers as are vested in a court to summon persons or require production of evidence and records.
6. Parliament may assign any functions relating to the investigations of assets or sources of income of a political party, any association or institution, any holder of important public office, etc. to the Board of Audit which shall probe and investigate into the matter and submit its findings to the Parliament alongwith its recommendations.

CHAPTER 4 : GENERAL ACCOUNTABILITY --- THE PRESS AND THE MASS MEDIA

Article 122 : General Provisions.

1. The Press and other mass media have full freedom of expression and presentation of information subject to any reasonable restrictions imposed by law for protection of Islamic values, integrity and security of the Islamic State, friendly relations with foreign countries, public order, morality, etc.
2. No action against any newspaper, magazine or

publication shall be taken except in accordance with law after fair trial by a court of competent jurisdiction.

3. Journalists and personnel employed in the media are protected in the performance of their professional duties and no action against any of them shall be taken except through judicial procedure.
4. For regulating the functioning of the Press, and for governing the professional conduct of the journalists, a Council of Journalists, shall be established, the members and office bearers of which shall be elected by the journalists from among themselves.
5. Electronic media like TV and Radio may be kept under state control, yet it shall have full freedom of expression and shall be organised under a high-powered independent council known as Broadcasting Council.
6. The press shall be recognised as fourth estate after the executive, legislative and Judicial organs of the Islamic State.

Article 123 : Functions of the Press.

1. The press shall impartially evaluate the policies of the government and would highlight the public opinion and reactions of various quarters in relation to conduct of government.
2. The press would expose and report any excesses committed by the police or any other department of the government, general quality of governance, conduct of the leaders and public officials, standard of efficiency of different organs of the state , and, above all, financial and moral integrity of the state functionaries and holders of important representative offices.
3. The Press shall report grievances and complaints of the

public against government departments and officials, the notice of which may be taken by the concerned authorities (like Supreme Court and *Muhtasib*) for redressal thereof.

4. The Press shall report the truth and scrupulously avoid spreading falsehood or mixing the truth with falsehood or knowingly concealing and distorting the truth because the Qur'an enjoins : "Confound not truth with falsehood, nor knowingly conceal the truth" (2:42).
5. The press would help in establishing an ideal Islamic state and society on the principles of equality, brotherhood, justice and mutual tolerance; and it shall refrain to incite terror or violence on any biases such as colour, language, sect, creed, religion, nationality or region.
6. The press would abstain from inventing and circulating slander, blasphemy, libel and rumour; and it shall also refrain from dissemination of indecency , obscenity and immorality.
7. The Press shall promote right conduct and moral values; while it shall avoid under projection of crimes, evils and irreligious acts.
8. The Press shall not become an instrument of corruption, blackmail or exploitation.

CHAPTER 5 : PERSONAL ACCOUNTABILITY OF THE RULERS - THE JUDICIAL COMMISSION

Article 124 : Statements of Election Expenses.

1. The President, the Vice-President, the members of Parliament and Provincial Assemblies, and Chairmen of

the District Councils and the Mayors of Corporations shall file statements in respect of their election expenses with the Election Commission within fifteen days of their elections.

2. The Election Commission shall scrutinise these statements, verify through its own sources whether the expenses disclosed are correct or have been suppressed, and would take any action including the disqualification of the concerned person if there is any serious irregularity.

Article 125 : Statements of Assets and Investigation by the Judicial Commission.

1. The President, the Vice-President, the Governors, the Ministers, the Members of Parliament and Provincial Assemblies, and the Chairmen and members of local councils shall file the statements of their assets and liabilities including the assets and liabilities of their spouses and children every year during the term of their office alongwith the statements of reconciliations of accretions if any in assets and liabilities.
2. The above mentioned statements would be public documents and, in the public interest, can be published in the press for the information of the citizens. Any information from any quarter pointing out any discrepancy in the statements of any person shall be welcomed.
3. The Parliament may direct the Board of Audit to audit and scrutinise these statements with the assistance of tax officials and submit their report to the Parliament.
4. In case of serious irregularities pointed out by Board of Audit in the statements of any person or in case some serious reports are being published in the Press about

involvement of any of the above mentioned persons in financial scandals and corruption, the Parliament shall form a Judicial Commission to probe and investigate the matter.

5. If the report of the Judicial Commission establishes any undue increase in the assets of a person in a fashion contrary to law or involvement of a person in corruption, charges would be framed for taking action against the said person which may include action of impeachment or removal from public office.
6. The provisions contained in clauses (1) to (5) shall also apply to the Judges of Supreme Court and High Courts, members of *Hisbah*, members of Board of Audit, members of Election Commission and members of Council of Jurists.

Article 126 : Certain Restrictions on the Holders of Elective Offices and Other Dignitaries.

1. The President, the Vice-President, governors, ministers, chairmen of district councils, and mayors of corporations shall not purchase or hire any state property, nor shall rent or sell their own property to the state, nor shall engage themselves in any business within the country or outside, nor shall hold any other office of profit in public or private service.
2. Gifts presented to the above mentioned persons or to their families in their official capacity shall be treated as public property.
3. The provisions contained in clauses (1) and (2) above shall also be applicable to the Judges of Supreme Court and High Courts, members of *Hisbah*, Board of Audit, Election Commission and the Supreme Council of Jurists.

4. The provisions contained in Clauses (1) and (2) above shall also apply to the members of legislatures and local councils except that they can engage themselves in business or profession or can hold any political office.

PART-X

MISCELLANEOUS

CHAPTER 1 : THE NATIONAL SECURITY AND DEFENCE COUNCIL

Article 127 : Constitution of the Council.

1. For preserving territorial integrity and national sovereignty against external aggression and internal disorder, for the defence of the Islamic state and its ideology, and for safeguarding the national interest particularly in international affairs, there shall be constituted a council known as National Security and Defence Council. The Council shall have the following members :
 - (a) President of the Islamic State;
 - (b) Vice-President of the Islamic State;
 - (c) Provincial Governors;
 - (d) Federal Ministers for Foreign Affairs, Defence, Interior, Information and Finance;
 - (e) Chairman Senate;
 - (f) Speaker of the House of Deputies;
 - (g) Chief Justice of the Supreme Court;
 - (h) Chiefs of Army, Navy and Air Force,;
 - (i) Chiefs of Police and Security forces.
2. The President of the Islamic State shall be the Chairman of the Council and in his absence, the Vice-President

shall be the Chairman.

Article 128 : Functions and Responsibilities of the Council

The Council shall perform the following functions :

1. It shall make policies pertaining to defence and security of the State.
2. It shall coordinate activities of various government departments and state organs directly or indirectly related to national defence and security.
3. Mobilization of human and material resources of the nation in times of internal and external dangers shall be the responsibility of the council.
4. Proclamations regarding war, emergency or conscription in actual crisis or war shall be issued by the Council.

CHAPTER 2 : THE NATIONAL ECONOMIC AND SOCIAL COUNCIL

Article 129 : Constitution of the Council

1. There shall be constituted a National Economic and Social Council comprising the following :-
 - (a) the Vice-President of the Islamic State who will be the chairman of the council.
 - (b) Ministers of Finance and Economic Affairs of the federal and provincial governments, federal and provincial ministers of education, federal and provincial ministers of health, and federal minister of science and technology shall be its members.
 - (c) The President of the Islamic State shall appoint following persons as members of the Council for a term of three years :

- i. two persons from among the heads of universities.
- ii. two persons from among the heads of colleges.
- iii. two persons from among the heads of schools.
- iv. three persons from among the professors of economics who are teaching in universities.
- v. three persons from among the professors of Islamic Studies who are teaching in the universities.
- vi. three doctors having professional experience of more than twenty years.
- vii. three engineers having professional experience of more than twenty years.
- viii. three lawyers having professional experience of more than twenty years.
- ix. four scientists having research or professional experience of more than twenty years.
- x. three persons from among the heads of technical training or research institutes.
- xi. four persons from among the office bearers of chambers of commerce or industries or trade

associations.

xii. four peasants from among the office bearers of chambers of agriculture or peasants associations.

xiii. four workers from among the office bearers of labour unions.

- (d) Two members of the Senate shall be nominated by the Chairman Senate.
- (e) Four members of the House of Deputies shall be nominated by the Speaker of the House.

2. The Council shall keep a permanent secretariat at the national capital and will maintain library, research centres, etc.
3. The Council shall hold its meetings from time to time and during the meetings its members shall be entitled to normal allowances as fixed by the National Parliament.
4. The members of the Council appointed under sub clause (c) of clause (1) above shall continue with their previous, vocation or employment.

Article 130 : Functions of the Council.

The Council shall perform the following functions:

1. The Council shall make policies and planing in the sectors like education, health, national economy, public finance, communications and also in the social sector.
2. The Council shall promote research in the fields of science, technology, economics, etc. and shall patronise the scientists, economists and research scholars.

CHAPTER 3 : AMENDMENT TO THE CONSTITUTION

Article 131 : Procedure Regarding Amendment.

1. Any amendment to the constitution may be proposed by the President or the Parliament, and the amendment shall be made by Act of Parliament.
2. A bill to amend the constitution may originate in either House but it will have to be passed by both the Houses separately with votes of not less than two-thirds of the total membership of each House. Before it becomes an Act of Parliament, it shall be assented to by the President.
3. Any amendment which effects the territorial jurisdiction of a province or effects the distribution of subjects between the provinces and the centre, will have to be passed by the Provincial Assembly or Assemblies concerned with votes of not less than two - thirds of the total membership.

Article 132 : Certain Restrictions on Amendments.

1. No amendment to the constitution can be made which changes the Islamic character of the constitution.
2. No amendment shall be made in chapters 2 and 3 of Part I of the constitution unless approved in a referendum.
3. For first twenty years after the promulgation of the constitution, no amendment shall be made pertaining to the qualifications and tenure of the President, Vice-President, governors, ministers, members of legislatures, voters, etc. and to the measures to check monopolisation of political power by any person, family or class.

CHAPTER 4 : RESOLUTION OF CONFLICT AND DEADLOCK

Article 133 : Conflict of Laws.

1. In case of conflict between Shariah and constitution, Shariah shall prevail and parliament shall amend the constitution accordingly.
2. In case of conflict between constitution and ordinary law, the constitution shall prevail and the law shall be amended by the authority which has passed it after the same has been declared by the Supreme court as null and void.
3. In case of conflict between a federal law and a provincial law, the federal law shall prevail and the Provincial Assembly shall amend its law accordingly.

Article 134 : Conflict and Deadlock Between Various State Organs.

Since the constitution is mainly based on the theory of separation of powers alongwith system of checks and balances so far as working of the executive, legislative and judicial organs of the state are concerned, there is every likelihood of conflicts or deadlocks occurring in the functioning and inter relationships of these organs. Such conflicts and deadlocks shall be resolved as under :

- (a) Conflict on any issue between the President and the Parliament shall be referred to the Arbitration Council comprising two representatives of the President, two representatives of the Parliament, and the Chief Justice of the Supreme Court who shall be the Chairman of the Council. If the Arbitration Council fails to resolve the dispute, the matter shall be referred to referendum and

the decision in referendum shall be final.

(b) If there is a dispute or conflict between the Federal Government and Provincial Government, or between two or more Provincial Governments, the matter shall be referred to the Supreme Court who would give its advisory opinion. If such opinion is not accepted by any or all the parties to dispute, the matter shall be referred to referendum and the decision in referendum shall be final.

(c) If there is dispute between the Governor and the Assembly of a Province, the matter shall be referred to the Arbitration Council comprising two representatives of the Governor, two representatives of the Assembly, and the Chief Justice of the High Court. In case the dispute is not resolved, the same shall be referred to the Parliament and the decision of the Parliament shall be binding.

CHAPTER 5 : REFERENDUM

Article 135 : Types of Referendum.

1. Referendum shall be of two types i.e., Special Referendum and General Referendum.
2. In special referendum only those voters who have educational qualifications at the level of Bachelor's degree shall give their opinion on a national issue, while in general referendum, all the electorate of the nation is required to give vote on a very important issue faced by the nation.
3. Issues pertaining to far reaching changes in the domains of fundamental rights, directive principles of state policy and national economy shall be referred to general referendum; while issues in the domains of education,

health, defence, foreign affairs, and resolution of conflict between various organs of the state, etc. shall be referred to special referendum.

Article 136 : Holding of Referendum.

1. Important issues facing the nation shall be referred by the President and the Parliament to referendum.
2. Issue in referendum shall be decided by majority of the votes polled.
3. To organise referendum and to announce the results thereof shall be the responsibility of the Election Commission.
4. The decision in referendum shall be binding and final.

CHAPTER 6 : OATHS OF OFFICE, REMUNERATIONS, TRAINING, ETC. OF PUBLIC REPRESENTATIVES

Article 137 : Oaths of Office.

1. The President, the Vice-President, the Federal Ministers the Chairman and Deputy Chairman of the Senate, the Speaker and Deputy Speaker of the House of Deputies, and the members of both the Houses of National Parliament shall take oath in the prescribed form and manner before entering upon office.
2. The Governors, Provincial Ministers, and Speakers, Deputy Speakers and members of Provincial Assemblies shall also take oath in the prescribed form and manner before assuming office.
3. The Chief Justice and Judges of the Supreme Court and the Chief Justice and Judges of the High Courts shall also take oath in the prescribed form and manner before

assuming office.

4. The Chairmen and members of Supreme Council of Jurists, Election Commission, Organisation of *Hisbah*, Board of Audit, Public Service Commission, etc. shall also take oath in the prescribed form and manner before assuming office.
5. The Chairmen and members of local bodies and district councils shall also take oath before assuming duties of office in the prescribed manner.

Article 138 : Remunerations of Holders of Representative Offices.

1. The remunerations of the President, the Vice-President, the Federal Ministers; the Chairman, the Deputy Chairman and members of the Senate, and the Speaker, the Deputy Speaker and members of House of Deputies shall be fixed by the National Parliament, keeping in view the per capita income.
2. The remunerations of the Governors, Provincial Ministers, the Speakers, the Deputy Speakers and members of Provincial Assemblies, and the Chairmen and members of District and local councils shall be fixed by the Provincial Assemblies keeping in view the average income of a resident of the province concerned.
3. The remunerations of the persons mentioned in Sub-clauses (1) and (2) above shall be fixed at modest level keeping in view the practice of the right-guided Caliphs and shall neither be increased nor decreased during their term of office [48].

Article 139 : Life of Austerity and Code of Conduct for the President and Other Dignitaries.

1. The President shall follow the pattern and precedents of the Prophet of Islam and right - guided caliphs not only

in his conduct of government affairs but also in his expenditure of state funds and style of life [49].

2. The President shall lead a life of simplicity, austerity and economy and shall watch the interests of public treasury as a God-fearing guardian does in case of the property of orphans [50].
3. No pomp and show, no splendour or luxury, no royal protocol, no extra ordinary security, etc. would mark his public appearance.
4. The appearance of the President on the roads, airports or at other public places or his participation in public or private functions shall not cause undue inconvenience to the people.
5. All the provisions contained in above mentioned clauses shall also apply to the Vice-President, governors, ministers and other state dignitaries.
6. Economy in spending shall be the guiding principle in foreign as well as domestic tours of the national leaders.
7. The national leaders and high ranking officials shall not proceed abroad for medical treatment of a disease of which treatment in the country is available.
8. The national leaders and high-ranking officials shall not perform Hajj and Umrah at state expenditure.

Article 140 : Training of Political Leaders.

1. There shall be established a National Academy for the training of political leaders which shall be called The National Academy for Leader's Training or The National Academy.
2. The National Academy shall have its principal seat at national capital while it shall have its branch at every

provincial capital.

3. The National Academy shall be properly equipped with teaching staff, libraries and research centres.
4. A retired President who is also an eminent scholar shall be its Principal while its staff will be derived from political leaders, renowned teachers, prominent judges, and known diplomats and journalists.
5. The National Academy shall design and hold advanced training courses, refresher courses, short courses, seminars, etc. for the ministers, members of legislatures and local bodies, etc.

EXPLANATORY NOTES

EXPLANATORY NOTES

(Islamic Basis of Constitutional Provisions)

✓ (1)

The following verses of the Qur'an, the revealed book of Islam, highlight the Sovereignty of Allah over everything and also establish that rule and command belong to Him:-

1. Knowest thou not that it is Allah unto Whom belongeth the sovereignty of the heavens and the earth; and ye have not, beside Allah, any friend or helper!
-- 2 : Al-Baqarah : 107
2. Say: O Allah! Owner of Sovereignty! Thou givest sovereignty unto whom Thou wilt, and Thou withdrawest sovereignty from whom Thou wilt. Thou exaltest whom Thou wilt and Thou abasest whom Thou wilt. In Thy Hand is the good. Lo! Thou art to do all things.
-- 3:Al-Imran:26
3. Unto Allah belongeth the Sovereignty of the heavens and the earth. Allah is Able to do all things.
-- 3:Al-Imran:189
4. He unto Whom belongeth the sovereignty of the heavens and the earth, He hath chosen no son nor hath He any partner in the sovereignty. He hath created everything and hath meted out for it a measure.
-- 25:Al-Furqan:2
5. And He is Allah; there is no God save Him. His is all praise in the former and the latter (state), and His is the command and unto Him ye will be brought back.
-- 28:Al-Qasas:70
6. Therefore glory be to Him in Whose hand is the dominion over all things!
-- 36: Yasin : 83
7. He is Allah, than Whom there is no other God, the Sovereign Lord, the Holy One, Peace, the Keeper of Faith, the Guardian, the Majestic, the Compeller, the Superb. Glorified be Allah from all that they ascribe as partner (unto Him)!
-- 59:Al-Hashr:23

(2)

The following verses of Al-Qur'an enjoin upon the believers to obey Allah and obey the Prophet and only then obey the rulers. It has also been pointed out in these verses that the decision of Allah and Allah's Messenger is final and binding for the believers.

1. And obey Allah and the messenger, that ye may find mercy.

-- 3:Al-Imran:132

2. O ye who believe! Obey Allah, and obey the messenger and those of you who are in authority; and if ye have a dispute concerning any matter, refer it to Allah and the messenger if ye are (in truth) believers in Allah and the Last Day. That is better and more seemly in the end. Hast thou not seen those who pretend that they believe in that which is revealed unto thee and that which was revealed before thee, how they would go for judgement (in their disputes) to false deities when they have been ordered to abjure them? Satan would mislead them far astray.

-- 4:An-Nisa:59-60

3. But nay, by the Lord, they will not believe (in truth) until they make thee judge of what is in dispute between them and find within themselves no dislike of that which thou decidest, and submit with full submission.

-- 4:An-Nisa:65

4. And obey Allah and His messenger, and dispute not one with another lest ye falter and your strength depart from you; but be steadfast Lo! Allah is with the steadfast.

-- 8:Al-Anfal:46

5. And it becometh not a believing man or a believing woman, when Allah and His messenger have decided an affair (for them), that they should (after that) claim any say in their affair; and whoso is rebellious to Allah and His messenger, he verily goeth astray in error manifest.

-- 33:Al-Ahzab:36

6. And in whatsoever ye differ, the verdict therein belongeth to Allah. Such is my Lord, in Whom I put my trust, and unto Whom I turn.

-- 42:Ash-Shura:10

7. O ye who believe! Obey Allah and obey the messenger, and

render not your actions vain.

-- 47:Muhammad:33

(3)

Importance of the Qur'an and the Sunnah as the source of Islamic law has been underlined by the following verses of the Holy Qur'an and traditions of the Prophet of Islam:

1. O ye who believe! Obey Allah, and obey the messenger and those of you who are in authority; and if ye have a dispute, refer it to Allah and the messenger if ye are (in truth) believers in Allah and the Last Day.

(Al-Qur'an 4:59)

2. And it becometh not a believing man or a believing woman, when Allah and His messenger have decided an affair (for them), that they should (after that) claim any say in their affair----

(Al-Qur'an 33:36)

3. Jabir reported that the messenger of Allah said: As for what follows next, the best discourse is the Book of Allah and best guidance is the guidance of Muhammad. The worst of affairs is their innovations and every innovation is misleading.

(Muslim)

4. Jabir reported that the messenger of Allah said in Farewell Pilgrimage: And I have left among you a thing which if you adhere to, you will never be misguided after this- The Book of Allah and what you get from me by questions (Hadith)

(Muslim)

✓ (4)

The following verses of the Qur'an establish that man is the viceroy or vicegerent (caliph) of Allah on the earth :

1. And when thy Lord said unto the angels: Lo! I am about to place a viceroy in the earth, they said: Wilt Thou place therein one who will do harm therein and will shed blood, while we, we hymn Thy praise and sanctify Thee? He said: Surely I know that which ye know not.

-- 2:Al-Baqarah:30

2. He it is Who hath placed you as viceroys of the earth and hath exalted some of you in rank above others, that He may try you by (the test of) that which He hath given you. Lo! Thy Lord is

swift in prosecution, and lo! He is Forgiving, Merciful.

— 6:Al-An'am:165

3. Then We appointed you viceroys in the earth after them, that We might see how ye behave.

— 10:Yunus:14

4. Is not He (best) Who answereth the wronged one when he crieth unto Him and removeth the evil, and hath made you viceroys of the earth? Is there any God beside Allah? Little do they reflect!

— 27:An-Naml:62

5. (And it was said unto him): O David! Lo! We have set thee as a viceroy in the earth; therefore judge aright between mankind, and follow not desire that it beguile thee from the way of Allah. Lo! those who wander from the way of Allah have an awful doom, forasmuch as they forgot the Day of Reckoning.

— 38:Sad:26

(5)

The following verses of the Qur'an establish that authority is not only a matter of great responsibility and trust but also a great trial for man:

1. "He it is Who hath placed you as viceroys of the earth and hath exalted some of you in rank above others, that He may try you by (the test of) that which He hath given you....."

(6:165)

2. "Then We appointed you viceroys in the earth after them, that We might see how ye behave—"

(10:14)

3. "Lo! We offered the trust unto the heavens and the earth and the hills, but they shrank from bearing it and were afraid of it. And man assumed it. Lo! he hath proved a tyrant and a fool!"

(33:72)

4. "..... O David! Lo! We have set thee as a viceroy in the earth; therefore judge aright between mankind, and follow not desire that it beguile thee from the way of Allah....."

(38:26)

The following Ahadith of the Prophet of Islam explain how Islam holds authority as a trust and great responsibility:

1. Abu Zarr reported: I said: O Messenger of Allah, will you appoint

me a collector? He narrated: Then he struck upon my ankles with his hand and afterwards said: O Abu Zarr, you are a weak person while it is trust; and it will be a disgrace and repentence on the Resurrection Day except for one who takes it duly and fulfil what is entrusted to him therein: O Abu Zarr: Verily I find you weak and I love for you what I love for myself. Don't rule over two men and don't be a guardian over the property of an orphan.

(Muslim)

2. Meqdam-bin-Ma'adi Kareba reported that the messenger of Allah struck on his shoulders and said: O Qadim! you will indeed attain salvation if you have died while you were neither a ruler, nor a writer nor a chief.

(Abu Daud)

3. Abu Hurairah reported that the Prophet said: Whoso is appointed a judge among men has indeed been slaughtered without a knife.

(Ahmad, Tirmizi, Abu Daud)

(6)

The following verses of the Qur'an emphasise that only the righteous and pious believers who are trustworthy and of excellent conduct have the right to rule:

1. "Lo! Allah commandeth you that ye restore trusts to their owners...."

-- 4: An-Nisa:58

2. And verily We have written in the Scripture, after the Reminder
My righteous slaves will inherit the earth.

-- 21:Al-Anbiya:105

3. Allah hath promised such of you as believe and do good works that He will surely make them to succeed (the present rulers) in the earth even as He caused those who were before them to succeed (others): and that He will surely establish for them their religion which He hath approved for them, and will give them in exchange safety after their fear. They serve Me. They ascribe no thing as partner unto Me. Those who disbelieve henceforth, they are the mis-creants.

-- 24:An-Nur:55

4. "Lo! the noblest of you, in the Sight of Allah, is the best in

Conduct...."

-- 49: Al-Hujrat:13

(7)

The following verses of Al-Qur'an and the Ahadith of the Prophet of Islam throw light on the Islamic principle of governance in consultation:

1. It was by the mercy of Allah that thou wast lenient with them (O Muhammad), for if thou hadst been stern and fierce of heart they would have dispersed from round about thee: So pardon them and ask forgiveness for them and consult with them upon the conduct of affairs. And when thou art resolved, then put thy trust in Allah. Lo! Allah loveth those who put their trust (in Him).

-- 3:Al-Imran:159

2. She said: O chieftains! Pronounce for me in my case. I decide no case till ye are present with me. They said: We are lords of might and lords of great prowess, but it is for thee to command; so consider what thou wilt command.

-- 27:An-Naml:32-33

3. And those who answer the call of their Lord and establish worship, and whose affairs are a matter of counsel, and who spend of what We have bestowed on them.

-- 42:Ash-Shura:38

4. Ali asked the Messenger of Allah: O Messenger of Allah! What should we do if, after your demise, we are confronted with a problem about which we neither find anything in the Qur'an nor have anything from you? He said, "Get together the obedient people (to Allah and His law) from amongst my followers and place the matter before them for consultation. Do not take decisions on the basis of any single person."

-- Alusi quoted in *Concept of the Islamic State by Seerah Encyclopedia*.

5. Ali reported that the messenger of Allah said: "The man who gives counsel to his brother knowing well that it is not right does most surely betray his trust".

-- Abu Daud quoted in *Concept of the Islamic State by Seerah*.

6. It is reported on the authority of Ali-bin-Abi Talib that when the Messenger of Allah was asked to explain the implications of the word 'azm' which occurs in verse 159 of al-Imran, he said: It means taking counsel with knowledgeable people and

thereupon following them therein".

-- *Ibn Kathir quoted by Muhammad Asad.*

7. Umar-bin-al-Khttab declared: There can be no khilafat except by consultaion.
8. The Prophet is reported to have said to his two illustrious companions, Abu Bakr and Umar, "If you two agree on a point, I shall not differ with you".

-- *Ahmad, Ibn Kathir*

(8)

In the following verse the Qur'an has condemned Pharaoh of Egypt for his tyranny and despotism. The verse can be taken to be a general renunciation of tyranny and despotism as a rule:

1. But none trusted Moses, save some scions of his people, (and they were) in fear of Pharaoh and their chiefs, that they would persecute them: Lo! Pharaoh was verily a tyrant in the land, and lo! he verily was of the wanton.

-- *10:Yunus:83*

(9)

Al-Qur'an, in its following verses, has enjoined upon the Muslims, bidding good and forbidding wrong:-

1. And there may spring from you a nation who invite to goodness, and enjoin right conduct and forbid indecency. Such are they who are successful.

-- *3:Al-Imran:104*

2. Ye are the best community that hath been raised up for mankind. Ye enjoin right conduct and forbid indecency; and ye believe in Allah. And if the People of the Scripture had believed it had been better for them. Some of them are believers; but most of them are evil-livers.

-- *3:Al-Imran:110*

3. And the believers, men and women, are protecting friends one of another; they enjoin the right and forbid the wrong, and they establish worship and they pay the poor-due, and they obey Allah and His messenger. As for these, Allah will have mercy on them. Lo! Allah is Mighty, Wise.

-- *9:At-Taubah:71*

4. Those who, if We give them power in the land, establish worship

and pay the poor-due and enjoin kindness and forbid iniquity.
And Allah's is the sequel of events.

-- 22:Al-Hajj:41

(10)

Brotherhood and fraternity among the Muslims has been stressed in the following verses of the Qur'an and the Ahadith of the Prophet of Islam:-

1. But if they repent and establish worship and pay the poor-due, then are they your brethren in religion. We detail Our revelations for a people who have knowledge.

-- 9:At-Taubah:11

2. The believers are naught else than brothers. Therefore, make peace between your brethren and observe your duty to Allah that haply ye may obtain mercy.

-- 49:Al-Hujurat:10

3. Ibn Omar reported that the Messenger of Allah said: A Muslim is brother to a Muslim. Neither he wrongs him, nor hands him over (to another). And whoso comes in need of his brother, Allah comes in his need; and whoso removes a calamity of a Muslim, Allah will remove a calamity from the calamities of the Resurrection Day, and whoso conceals the faults of a Muslim, Allah will conceal his sins on the Resurrection Day.

(Bukhari, Muslim)

4. Nu'man-b-Bashir reported that the Messenger of Allah said: You will see the believers in their mutual kindness, love and sympathy just like one body. When a limb complains, the whole body responds to it with wakefulness and fever.

(Bukhari and Muslim)

5. Anas reported that the Messenger of Allah said: Help your brother whether he is a wrong doer or is wronged. A man enquired: O Messenger of Allah! I may help him when he is wronged, but how can I help him when he is a wrong-doer? He said: You can prevent him from wrong-doing. That will be your help to him.

(Bukhari and Muslim)

6. Abu Hurairah reported that the Messenger of Allah said: A Muslim is brother to a Muslim. He does neither wrong to him, nor puts him to disgrace, nor he hates him. Piety is here (and he was pointing out to his breast three times). Despising his brother

Muslim is enough evil for a man. Every Muslim's blood, property and honour are sacred to a Muslim.

(*Muslim*)

(11)

Unity of Muslim Ummah has been stressed in the following verses of al-Qur'an and the Traditions of the Prophet of Islam. Those who separate from the united body or those who try to create disunity and differences among the ranks of Muslims have also been condemned strongly:

1. And hold fast, all of you together, to the cable of Allah, and do not separate. And remember Allah's favour unto you: how ye were enemies and He made friendship between your hearts so that ye became as brothers by His grace; and (how) ye were upon the brink of an abyss of fire, and He did save you from it. Thus Allah maketh clear His revelations unto you, that haply ye may be guided,

-- 3:*Al-Imran*:103

2. And obey Allah and His messenger, and dispute not one with another lest ye falter and your strength depart from you; but be steadfast! Lo! Allah is with the steadfast

-- 8:*Al-Anfal*:46

3. Osamah-b-Sharik reported that the Messenger of Allah said: whoso comes out to make division among my followers, smite his neck.

(*Nisai*)

4. Omar-b-Al-Khattab reported that the Messenger of Allah said: Eat together and be not separate, because blessing is only with the united body.

(*Ibn Majah*)

5. Ibn Omar reported that the Messenger of Allah said: Allah will not gather together my followers (or He said: the followers of Muhammad) over misguidance, and the hand of Allah is upon the united body; and whoso become separate, will be separated in Hell.

(*Tirmizi*)

6. Abu Zarr reported that the Messenger of Allah said: Whoso

departs from the united body even a hand's breadth has indeed shaken off the rope of Islam from his neck.

(Ahmad, Abu Daud)

(12)

The Qur'an has strongly condemned sectarianism in its following verses:

1. And hold fast, all of you together, to the cable of Allah, and do not separate....
-- 3:Al-Imran:103
2. And be ye not as those who separated and disputed after the clear proofs had come unto them. For such there is an awful doom,
-- 3:Al-Imran:105
3. Lo! As for those who sunder their religion and become schismatics, no concern at all hast thou with them. Their case will go to Allah, who then will tell them what they used to do.
-- 6:Al-An'am:159
4. Lo! this, your religion, is one religion, and I am your Lord, so worship Me. And they have broken their religion (into fragments) among them, (yet) all are returning unto Us.
-- 21:Al-Anbiya:92-93
5. And lo! this your religion is one religion and I am your Lord, so keep your duty unto Me. But they (mankind) have broken their religion among them into sects, each sect rejoicing in its tenets. So leave them in their error till a time.
-- 23:Al-Mu'minun:52-54

✓ (13)

Non-Muslim minorities in the Islamic State enjoy judicial autonomy in respect of disputes among themselves on the authority of the following verses of al-Qur'an.

While permitting the Jews to settle their disputes in accordance with Torah (their revealed book), the Qur'an addresses the Prophet of Islam in these words: "How come they unto thee for judgement when they have the Torah, wherein Allah hath delivered judgement (for them)?(5:43). In another verse, the revealed book of Islam grants them freedom of resolving their disputes in accordance with their own law in a more clear and direct way. It states: "Let the

People of the Gospel judge by that which Allah hath revealed therein. Whoso judged not by that which Allah hath revealed; such are evil livers"- (5:47)

However the minorities can opt for settlement of their differences under Islamic law. The Qur'an says: "If then they have recourse unto thee (Muhammad) judge between them or disclaim jurisdiction. If, thou, disclaimest jurisdiction, then they cannot harm thee at all. But if thou judgest, judge between them with equity, Lo! Allah loveth the equitable"- (5:42)

✓ (14)

About the rights and status of non-Muslim minorities in an Islamic State, inspiration can be drawn from the following documents and sayings of Prophet Muhammad(PBUH):-

1. An extract of charter of Madinah which gave rights to the Jews of Madinah is as follows:-

"Whoever among the Jews follows us shall have help and equality; they shall not be injured nor shall any enemy be aided against them. The Jews maintained their religion and the Muslims theirs. Among the Jews (belonging to different tribes), so with their adherents: those who transgress and behave unjustly and sinfully hurt but themselves and their families. Loyalty is a protection against treachery. The close friends of Jews are as themselves. Each, if attacked, shall come to the help of the other. The valley of Yathrib (Madinah) shall be sacred and inviolable for all who join this Treaty. Strangers under protection shall be treated on the same grounds as their protectors."

2. Relevant portion of Prophet's letter to the Christians of Najran which spells their rights in detail is as under:-

"To (the Christians of) Najran and the neighbouring territories, the Security of Allah and the Pledge of His Prophet are extended for their lives, their religion and their property... to those present as well as the absent ones and others besides: there shall be no interference with (the practice of) their faith or their observances, nor any change in their rights or privileges; no bishop shall be removed from his bishopric, nor any monk from his monastery, nor any priest from his priesthood, and they shall continue to enjoy everything great and small as heretofore; no image or cross shall be destroyed; they shall not be oppressed or

suppressed; they shall not practise the rights of blood-vengeance as in the Days of ignorance; no tithes shall be levied on them nor shall they be required to furnish provisions for the troops, nor shall troops be quartered on them.

3. "Beware! whosoever is cruel and hard on such people i.e., ("contractees") or curtails their rights, or burdens them with more than they can endure, or realises anything from them against their free-will, I shall myself be a complainant against him on the Day of Judgement."

(Abu Daud)

(15)

The status given by Islam to a woman as mother, daughter, wife and sister is highlighted briefly by the following verses of the Qur'an and Traditions of the Prophet of Islam:

1. About the mother, the Qur'an and the Prophet say:-

a) And We have enjoined upon man concerning his parents - His mother beareth him in weakness upon weakness, and his weaning is in two years-Give thanks unto Me and unto thy parents. Unto Me is the journeying.

(31:14)

b) Muawiyah-b-Ja'hemah reported that Ja'hemah came to the Messenger of Allah and said: I intend to join a battle and have come to you for consultation. He enquired: Have you got mother? 'Yes" replied he, He said: then keep near her, because Paradise is at her feet.

(Ahmad, Nisai, Baihaqi)

c) Bahaj-b-Hakim reported from his father who from his grandfather who had reported: I asked: O Messenger of Allah! who is to be most obeyed? He said: Your mother. I asked: Who is next? He said: Your mother. I asked: Who is next? He said: Your mother. I asked: who is next? He said: Your father; and then your nearer relations and then your near relations.

(Tirmizi, Abu Daud)

2. About the wife, the Qur'an and the Prophet enjoin:-

a) "Treat them kindly, if you hate them it may be that you dislike a thing while Allah has placed abundant good in it

-- 4:19

b) And woman shall have rights similar to the rights against them,

according to what is equitable.

-- 2:228

c) According to Abu Hurairah, the Messenger of Allah said: "The most perfect of the believers in faith is he who is the best of them in conduct, and the best of you are those who are the best to their wives"

(Tirmizi)

d) According to another tradition, the Prophet of Islam has said: "Next to fear of Allah the believer finds nothing good for him than virtuous wife. If he bids her, she obeys him; if he looks at her she gives him pleasure; if he gives her a promise, she fulfils it, and if he is absent from her, she guards herself and his property.

(Ibn Majah)

e) In his famous Farewell Address, delivered at Arafat on the occasion of last pilgrimage in 10 A.H., the Prophet Muhammad (peace be upon him) declared: "Well then, people! verily there are rights in favour of your women which are incumbent upon you, and there are rights in favour of you which are incumbent upon them. As to what is incumbent upon them in your regard, is that they should not let your beds be trampled by others than you, should not allow those to enter your houses whom you do not like without your authorization, and should not commit turpitude. If they do commit that, then God has given you permission to reprimand them, to separate yourself from them in beds, and to strike them but not hard. If they abstain and obey you, then it is incumbent upon you to provide their food and dress in accordance with good custom. And I command you to treat women well, because they are like captives in your houses, possessing nothing for themselves; and you, on your part, take them as a deposit from God, and permit yourselves the enjoyment of their persons by means of a word of God. Have therefore the fear of God with regard to women, and I order you to treat them well.. Attention! Have I communicated? O God, be witness!"

About daughters and sisters, the Prophet of Islam enjoined:

a) Ibn Abbas reported that the Messenger of Allah said: If anybody has got a female child, and he does neither bury her alive, nor treats her unjustly, nor prefers his children (meaning

male children) to her, Allah will admit him in Paradise.

(Abu Daud)

b) Ibn Abbas reported that the Holy Prophet said: If one brings up three daughters or sisters, teaches them good manners and treats them kindly and lovingly till they no longer need his help, Allah will make Paradise obligatory for him. One man said: What if he has two?; He replied: And he also. Ibn Abbas said that if the people had enquired about one, the Prophet would have said the same thing.

(Sharai Sunnah)

(16)

Gambling and games of chance are prohibited in the Islamic State on the authority of the following verses of the Qur'an:-

1. They question thee about strong drink, and games of chance, Say: In both is great sin, and (some) utility for men; but the sin of them is greater than their usefulness.

-- 2:Al-Baqarah:219

2. O ye who believe! Strong drink and games of chance and idols and divining arrows are only an infamy of Satan's handiwork. Leave it aside in order that ye may succeed. Satan seeketh only to cast among you enmity and hatred by means of strong drink and games of chance, and to turn you from remembrance of Allah and from (His) worship. Will ye then have done?

-- 5:Al-Ma'idah:90 - 91

(17)

Drinking and income from dealing in wine have been declared haram (unlawful) by the following verses of al-Qur'an and Traditions of the Prophet of Islam:-

1. They question thee about strong drink, and games of chance. Say: In both is great sin, and (some) utility for men; but the sin of them is greater than their usefulness.

-- 2:Al-Baqarah:219

2. O ye who believe! Draw not near unto prayer when ye are drunken, till ye know that which ye utter.

-- 4:An-Nisa:43

3. O ye who believe! Strong drink and games of chance and idols and divining arrows are only an infamy of Satan's handiwork.

Leave it aside in order that ye may succeed. Satan seeketh only to cast among you enmity and hatred by means of strong drink and games of chance, and to turn you from remembrance of Allah and from (His) worship. Will ye then have done?

-- 5:Al-Ma'idah:90-91

4. Jaber reported that the Messenger of Allah said: What intoxicates in greater quantity is unlawful also in its small quantity.

(*Ibn Majah, Tirmizi, Abu Daud*)

5. Dailamah al-Humairi reported: I asked: O Messenger of Allah, verily we are in cold land, and we are to do hard work therein, and we prepare wine from this wheat which gives us strength in our works and in the chill of our cities. He said: Does it intoxicate? 'Yes' said I, He said: Give it up. I said: Verily the people can not give it up. He said: If they do not give up, fight with them.

(*Abu Daud*)

6. Abdullah-b-Amr reported that the Messenger of Allah prohibited intoxicants, games of chance, card-playing and Gobairah and he said: Every intoxicant is unlawful.

(*Abu Daud*)

7. Ibn Omar reported that the Messenger of Allah said: There are three for whom Paradise has been prohibited - a habitual drunkard, one disobedient to parents, and a careless husband who establishes impurity in his family.

(*Ahmad, Nisai*)

8. Anas reported that the Prophet cursed ten about wine-one who squeezes it, one who is engaged for squeezing it, one who drinks it, one who carries it, one to whom it is carried, one who gives it to drink, one who sells it, one who devours its price, one who purchases it and one for whom it is purchased.

(*Tirmizi, Ibn Majah*)

✓ (18)

The Qur'an exhorts the believers to wage Jihad bil nafs (with life) and Jihad bil mal (with property) in the following verses:-

1. Fight in the way of Allah, and know that Allah is Hearer, Knower.

-- 2:244

2.and strive with your wealth and your lives in the way of Allah!
That is best for you if ye but knew.

-- 9:41

3. The (true) believers are those only who believe in Allah and His Messenger and afterward doubt not; but strive with their wealth and their lives for cause of Allah. Such are the sincere.

-- 49:15

4. Lo! Allah loveth those who battle for His cause in ranks, as if they were a solid structure.

-- 61:4

(19)

Human life and honour have been held sacred by the following verses of the Qur'an and traditions of the Prophet of Islam:

1. For that cause We decreed for the children of Israel that whosoever killeth a human being for other than manslaughter or corruption in the land, it shall be as if he had killed all mankind, and whoso saveth the life of one, it shall be as if he had saved the life of all mankind.....

-- 5:32

2.And that ye slay not the life which Allah has made sacred, save in the course of justice. This He hath commanded you, in order that ye may discern-

-- 6:151

3. O ye who believe! Let not a folk deride a folk who may be better than they (are), nor let women (deride) women who may be better than they are; neither defame one another, nor insult one another by nicknames. Bad is the name of lewdness after faith. And whoso turneth not in repentance, such are evil-doers.

-- 49:11-12

4. The Prophet of Islam is his famous farewell address, which was delivered by him at his last pilgrimage, said: "O people! Surely your blood, your property and your honour are as sacred and inviolable as the inviolability of this day of yours, this month of yours and this very town of yours. Surely you will soon meet your Lord and you will be held answerable for your actions."

5. Abdullah-b-Mas'ud reported that the Messenger of Allah said: The murder of a Muslim..... is not lawful except for one of three (persons): life for life, a married adulterer and a retrograde from

his religion.....

(Bukhari, Muslim)

6. Abu Hurairah reported that the Messenger of Allah said:.... Despising his brother Muslim is enough evil for a man. Every Muslim's blood, property and honour are sacred to a Muslim.

(Muslim)

7. Abu Hurairah reported from the Messenger of Allah who said: If all the inhabitants of heaven and earth take part in the murder of a believer, Allah will throw them all unto Hell.

(Tirmizi(rare))

8. Sayeed-b-Zaid reported from the Holy Prophet who said: The most compound of usury is prolonging (tongue of evil) unjustly in respect of the honour of a Muslim.

(Abu Daud)

(20)

In Islam, every body is responsible for his own deeds. None is responsible for other's deeds. This is established by the following verses of the Qur'an and tradition of the Prophet of Islam:

1. Those are a people who have passed away. Theirs is that which they earned, and yours is that which ye earn. And ye will not be asked what they used to do.

-- 2:134

2.Each soul earneth only on its own account, nor doth any laden bear another's load.....

-- 6:164

3. Who-so-ever goeth right, it is only for (the good of) his own soul that he goeth right, and who-so-ever erreth, erreth only to its hurt. No laden soul can bear another's load.

-- 17:15

4. And no burdened soul can bear another's burden, and if one heavy laden crieth for help with his load, naught of it will be lifted even though he (unto whom he crieth) be of kin.

-- 35:18

5. That no laden one shall bear another's load.

-- 53:38

6. Prophet Muhammad (PBUH) in his sermon delivered during the farewell pilgrimage addressed his followers as under:-

"Beware! no one committing a crime is responsible for it but he himself. Neither the son is responsible for the crime of his father, nor the father is responsible for the crime of his son."

✓ (21)

Freedom of religion has been given on the authority of the following verses of the Qur'an:

1. There is no compulsion in religion.....

-- 2:Al-Baqarah:256

2. Say: O disbelievers! I worship not that which ye worship; Nor worship ye that which I worship. And I shall not worship that which ye worship. Nor will ye worship that which I worship. Unto you your religion, and unto me my religion."

-- 109:Al-Kafirun:1-6

✓ (22)

All are equal before law in an Islamic State. Islamic law does not make any discrimination on the basis of race, colour, language, creed, tribe, place of birth, wealth, etc. The Qur'an says: O mankind! Be careful of your duty to your Lord Who created you from a single soul and from it created its mate and from them twain hath spread abroad a multitude of men and women...."(4:1). Thus in this verse, the revealed book of Islam has stressed the point of equality of all human beings by referring to their common descent from same father and mother. The purpose of dividing humankind into nations and tribes has been explained in another verse. The Holy Qur'an says: O mankind! Lo! We have created you male and female, and have made you nations and tribes that ye may know one another. Lo! the noblest of you, in the Sight of Allah, is one who is best in conduct...." (49:13). All human beings are equal, their division into tribes and nations is for recognition, and superiority of one over the other in the sight of Allah is on the basis of his pious character.

The Prophet of Islam, in his famous sermon delivered on the occasion of Farewell Pilgrimage, brought this point home to his followers thus: "O people, be aware: your God is one. No Arab has any superiority over a non-Arab, and no non-Arab has any superiority over an Arab, and no white one has any superiority over a black one, and no black one has any superiority over a white one,

except on the basis of piety...." Again, the Prophet said: "You are all children of Adam, and Adam was created from dust. Let the people give up boasting of their ancestors...."

(23)

In the following verse, al-Qur'an has condemned Pharaoh of Egypt for dividing the people into classes and castes (of oppressors and the oppressed). This can be taken as general condemnation of those who divide and rule:

Lo! Pharaoh exalted himself in the earth and made its people castes. A tribe among them he oppressed, killing their sons and sparing their women. Lo! he was of those who work corruption.

-- 28:Al-Qasas:4

(24)

Right to privacy has been guaranteed on the authority of the following verses of al-Qur'an:-

1. O ye who believe! Enter not houses other than your own without first announcing your presence and invoking peace upon the folk thereof. That is better for you, that ye may be heedful.

-- 24:27

2. O ye who believe! Let your slaves, and those of you who have not come to puberty, ask leave of you at three times (before they come into your presence): Before the prayer of dawn, and when ye lay aside your raiment for the heat of noon, and after the prayer of night. Three times of privacy for your....

-- 24:58

(25)

The provision regarding asylum has been made on the authority of the following verse of the Qur'an:

"And if anyone of the idolators seekth thy protection (O Muhammad) then protect him so that he may hear the word of Allah, and afterward convey him to his place of safety. That is because they are a folk who know not".

-- 9:6

(26)

Habeas Corpus is intended to protect a citizen from illegal arrest or

detention.

Mandamus is intended to enforce the performance of a public duty by an official.

Prohibition is intended to prevent an inferior court from dealing with a matter over which it has got no legal jurisdiction.

Quo Warranto is issued to determine whether a person in office has the right to hold on to that office.

Certiorari is the writ which is issued when a court acts without jurisdiction or when it exceeds its jurisdiction.

(27) 

About the qualifications of men in authority (Ulul amr), the Qur'an and Ahadith of the Prophet prescribe:

1. Their Prophet said unto them: Lo! Allah hath raised up Saul to be a king for you. They said: How can he have kingdom over us when we are more deserving of the kingdom than he is, since he hath not been given wealth enough? He said: Lo! Allah hath chosen him above you, and hath increased him abundantly in wisdom and stature.....

-- 2:247

2. "Verily Allah commands you to make over trusts (i.e. positions of responsibility) to those who are turst-worthy"....

-- 4:58

3. "O ye who believe! Obey Allah, and obey the Messenger and those of you who are in authority;"

-- 4:59

4. He said: Set me over the storehouses of the land. Lo! I am a skilled custodian.

-- 12:55

5. One of the two women said: O my father! Hire him! For the best (man) that thou canst hire is the strong, the trustworthy.

-- 28:26

6. "O mankind! Lo! We have created you male and female, and have made you nations and tribes that ye may know one another. Lo! the noblest of you, in the Sight of Allah is the best in conduct. Lo! Allah is Knower, Aware"

-- 49:13

7. It is related of Abu Bakr that he enquired of the Messenger of Allah about appointments on posts of trust. He replied: They are for those who do not aspire for them and not for those who are greedy after them; they are for those who run away from them and not for those who scramble for them; they are for those to whom they are offered (without asking) and not for those who claim them as their right."

(Mishkat)

8. Abu Dharr told that he asked God's Messenger to make him a governor, but he struck him on his shoulder with his hand and said, "You are weak, Abu Dharr, and it is a trust which will be a cause of shame and regret on the Day of Resurrection except for him who undertakes it as it ought to be undertaken and fulfils his duty in it." In a version he said to him. "I see that you are weak, Abu Dharr, and I wish for you what I wish for myself. Do not accept rule over two people and do not become guardian of an orphan's property."

(Muslim)

(28)

The Qur'an says: "O ye who believe! Obey Allah, and obey the Messenger and those of you who are in authority;..." (4:59). The words of the Qur'an. "and those of your who are in authority" point out in unambiguous and clearcut terms that person in authority in an Islamic State must be from among the Muslims. In other words, the ruler or head of an Islamic State must be a Muslim.

(29)

The Ahadith of the Prophet pertaining to Bai'at are:

1. 'Abdullah b. Amr reported God's messenger as saying, "If anyone swears allegiance to an *imam*, giving him his hand in ratification and sincere agreement in his heart, he must obey him if he can. Then if another comes and contends with him, cut off that other one's head."

(Muslim)

2. 'Abdullah b. Umar told that he heard God's messenger say, "He who throws off obedience will meet God on the Day of Resurrection without possessing any plea, and he who dies without having taken an oath of allegiance will die like a pagan."

(Muslim)

(30)

The following verses of the Qur'an and Ahadith of the Prophet of Islam emphasise obedience to the rulers (the President and other persons in authority). However at the same time it has been stressed that no obedience is due to a ruler who is corrupt, tyrant, disbeliever or guilty one, and who has forgotten Allah and orders the people to do sinful acts.

1. O ye who believe! Obey Allah, and obey the messenger and those of you who are in authority; and if ye have a dispute concerning any matter, refer it to Allah and the messenger if ye are (in truth) believers in Allah and the Last Day. That is better, and more seemly in the end.

-- 4:59

2.and obey not him whose heart We have made heedless of Our remembrance, who followeth his own lust and whose case hath been abandoned.

-- 18:28

3.And obey not the command of the prodigal, who spread corruption in the earth, and reform not.

-- 26:151-152

4. So submit patiently to thy Lord's Command and obey not of them any guilty one or disbeliever.

-- 76:24

5. Abu Hurairah reported that the Messenger of Allah said: Whoso obeys me, obeys Allah, and whoso disobeys me, disobeys Allah; and whoso obeys a ruler, obeys me; and whoso disobeys a ruler, disobeys me. An Imam is a shield who fights in his absence and protects him. If he enjoins to fear Allah and acts justly there is reward for him for that; and if he enjoins otherwise, he will on that account be held guilty.

(Bukhari and Muslim)

6. Ibn Omar reported that the Holy Prophet said: There is hearing and obeying on a Muslim in what is pleasing and displeasing to him so long as he is not ordered with a sinful act; When he is ordered with a sinful act, there's no hearing and obeying.

(Bukhari and Muslim)

7. Ali reported that the Messenger of Allah said: There's no obedience in transgression. Verily obedience is in good deeds.

(Bukhari and Muslim)

8. Nawas-b-Samwan reported that the Holy Prophet said: There is no obedience to the created in disobedience to the Creator.

(Sharhi Sunnat)

✓ (31)

The following verses of the Qur'an throw light on the Islamic concept of justice:-

1. Lo! Allah commandeth you that ye restore deposits to their owners, and, if ye judge between mankind, that ye judge justly. Lo! comely is this which Allah admonisheth you. Lo! Allah is ever, Hearer, Seer.

-- 4:An-Nisa:58

2. Lo! We reveal unto thee the Scripture with the truth, that thou mayst judge, between mankind by that which Allah sheweth thee. And be not thou a pleader for the treacherous;

-- 4:An-Nisa:105

3. O ye who believe! Be ye staunch in justice, witnesses for Allah, even though it be against yourselves or (your) parents or (your) kindred, whether (the case be of) a rich man or a poor man, for Allah is nearer unto both (than ye are). So follow not passion lest ye lapse (from truth) and if ye lapse or fall away, then lo! Allah is ever informed of what ye do.

-- 4:An-Nisa:135

4. O ye who believe! Be steadfast witnesses for Allah in equity, and let not hatred of any people seduce you that ye deal not justly. Deal justly, that is nearer to your duty. Observe your duty to Allah. Lo! Allah is Informed of what ye do.

-- 5:Al-Ma'idah:8

5. And unto thee have We revealed the Scripture with the truth, confirming whatever Scripture was before it, and a watcher over it. So judge between them by that which Allah hath revealed, and follow not their desires away from the truth which hath come unto thee....

-- 5:Al-Ma'idah:48

6. We verily sent Our Messengers with clear proofs, and revealed with them the Scripture and the Balance, that mankind may

stand forth in justice.....

-- 57:Al-Hadid:25

(32)

The revealed book of Islam, al-Qur'an in its following verse, recommends settlement of disputes through arbitration:

1. And if ye fear a breach between them twain (the man and wife), appoint an arbiter from his folk and an arbiter from her folk. If they desire amendment Allah will make them of one mind. Lo! Allah is ever Knower, Aware.

-- 4:35

(33)

Interest is prohibited in Islam and the sanction behind this prohibition is provided by the following verses of the Qur'an and Ahadith of the Prophet (PBUH):-

1. Those who swallow usury cannot rise up save as he ariseth whom the devil hath prostrated by (his) touch. That is because they say: Trade is just like usury; whereas Allah permitteth trading and forbiddeth usury. He unto whom an admonition from his Lord cometh, and (he) refraineth (in obedience thereto), he shall keep (the profits of) that which is past, and his affair (hence-forth) is with Allah. As for him who returneth (to usury) - such are rightful owners of the Fire. They will abide therein. Allah hath blighted usury and made almsgiving fruitful. Allah loveth not the impious and guilty.

-- 2:Al-Baqarah:275-276

2. O ye who believe! Observe your duty to Allah, and give up what remaineth (due to you) from usury, if ye are (in truth) believers. And if ye do not, then be warned of war (against you) from Allah and His messenger. And if ye repent, then ye have your principal (without interest). Wrong not, and ye shall not be wronged.

-- 2:Al-Baqarah:278-279

3. O ye who believe! Devour not usury, doubling and quadrupling (the sum lent). Observe your duty to Allah, that ye may be successful.

-- 3:Al-Imran:130

4. Because of the wrong-doing of the Jews, We forbade them good things which were (before) made lawful unto them and because

of their much hindering from Allah's way: And of their taking usury when they were forbidden it, and of their devouring people's wealth by false pretences. We have prepared for those of them who disbelieve a painful doom.

-- 4:An-Nisa:160-161

5. That which ye give in usury in order that it may increase on (other) people's property hath no increase with Allah; but that which ye give in charity, seeking Allah's countenance, hath increase manifold.

-- 30:Ar-Rum:39

6. Jaber reported that the Messenger of Allah cursed the devourer of usury, its payer, its scribe, and its two witnesses. And he said that they are equal (in sins).

(Muslim)

7. Abdullah-b-Hanjalah (one washed by Angels) reported that the Messenger of Allah said: A dirham of usury-a man devours with knowledge is greater than 36 fornications.

(Ahmad, Darqutni)

(34)

Bribery is forbidden on the basis of following verse of the Qur'an and traditions of the Prophet:-

1. And eat not up your property among yourselves in vanity, nor seek by it to gain the hearing of the judges that ye may knowingly devour a portion of the property of others wrongfully.

-- 2:Al-Baqarah:188

2. Abdullah-b-Amr reported that the Messenger of Allah cursed the bribe-taker and the bribe-giver.

(Abu-Daud, Ibn Majah)

3. Amr-b-Al-A's reported: He heard the Messenger of Allah say: There is no people among whom adultery becomes widespread but are overtaken with famine and there is no people among whom bribery becomes widespread but are overtaken with fear.

(Ahmad)

(35)

Usurpation of the wealth of the orphans has been forbidden on the strength of the following verses of the Qur'an:-

1. Give unto orphans their wealth. Exchange not the good for the

bad (in your management thereof) nor absorb their wealth into your own wealth. Lo! that would be a great sin.

-- 4:An-Nisa:2

2. Prove orphans till they reach the marriageable age; then, if ye find them of sound judgement, deliver over unto them their fortune; and devour it not by squandering and in haste lest they should grow up. Whoso (of the guardians) is rich, let him abstain generously (from taking of the property of orphans); and whoso is poor, let him take thereof in reason (for his guardianship). And when ye deliver up their fortune unto orphans, have (the transaction) witnessed in their presence. Allah sufficeth as a Reckoner.

-- 4:An-Nisa:6

3. Lo! Those who devour the wealth of orphans wrongfully, they do but swallow fire into their bellies, and they will be exposed to burning flame.

-- 4:An-Nisa:10

(36)

Hoarding is unlawful on the basis of the following verses of al-Qur'an:-

1. They who hoard up gold and silver and spend it not in the way of Allah, unto them give tidings (O Muhammad) of a painful doom. On the Day when it will (all) be heated in the fire of hell and their foreheads and their flanks and their backs will be branded therewith (and it will be said unto them): Here is that which ye hoarded for yourselves. Now taste of what ye used to hoard!

-- 9:At-Taubah:34-35

2. But nay! for lo ! it is the fire of hell.

Eager to roast;

It calleth him who turned and fled (from truth),

And hoarded (wealth) and withheld it.

-- 70:Al-Ma'arij:15-18

3. Woe unto every slandering traducer, Who hath gathered wealth (of this world), and arranged it. He thinketh that his wealth will render him immortal. Nay, but verily he will be flung to the Consuming One. Ah, what will convey unto thee what the

Consuming One is! (It is) the fire of Allah, kindled, Which leapeth up over the hearts (of men).

-- 104:Al-Humuzah:1-7

(37)

Short weighing and short measuring has been condemned by the following verses of al-Qur'an:

1. And unto Midian (We sent) their brother Shu'eyb. He said: O my people! Serve Allah. Ye have no other God save Him! And give not short measure and short weight. Lo! I see you well-to-do, and Lo! I fear for you the doom of a besetting Day. O my people! Give full measure and full weight in justice, and wrong not people in respect of their goods. And do not evil in the earth causing corruption.

-- 11:Hud:85-85

2. Fill the measure when ye measure and weigh with a right balance; that is meet, and better in the end.

-- 17:Bani Isra'il:35

(38)

Az-Zakat is levied on the authority of the following verses of al-Qur'an:-

1. Establish worship (Salat), and pay the poor-due(Zakat).....

-- 2:Al-Baqarah:110

2. The alms are only for the poor and the needy, and those who collect them, and those whose hearts are to be reconciled and to free the captives and debtors, and for the cause of Allah, and (for) the wayfarers; a duty imposed by Allah. Allah is Knower, Wise.

-- 9:At-Taubah:60

3. Take alms of their wealth wherewith thou mayst purify them and mayst make them grow and pray for them. Lo! thy prayer is an assuagement for them. Allah is Hearer, Knower.

-- 9:At-Taubah:103

4. Those who, if We give them power in the land, establish worship and pay the poor-due and enjoin kindness and forbid iniquity. And Allah's is the sequel of events.

-- 22:Al-Hajj:41

✓ (39)

Al-Ushr is levied on the authority of the following verses of the Qur'an:-

1. O ye who believe! Spend of the good things which ye have earned and of that which We bring forth from the earth for you, and seek not the bad (with intent) to spend thereof (in charity) when ye would not take it for yourselves save with disdain; and know that Allah is Absolute, Owner of Praise.

-- 2:Al-Baqarah:267

2. He it is Who produceth gardens trellised and untrellised and the date-palm, and crops of divers flavour, and the olive and the pomegranate, like and unlike. Eat ye of the fruit thereof when it fruiteth, and pay the due thereof upon the harvest day, and be not prodigals. Lo! Allah loveth not the prodigals.

-- 6:Al-An'am:141

✓ (40)

The Qur'an, in its following verses, condemns miserliness and extravagance and recommends moderation in spending:-

1. And let not thy hand be chained to thy neck nor open it with a complete opening, lest thou sit down rebuked, denuded.

-- 17:Bani Isra'il:29

2. And those who, when they spend, are neither prodigal nor grudging; and there is ever a firm station between the two;

-- 25:Al-Furqan:67

✓ (41)

The Jihad in Islam is allowed only in defence. The Qur'an says:

1. Fight in the way of Allah against those who fight against you, but begin not hostilities. Lo! Allah loveth not aggressors....

-- 2:190

2. Permission to fight has been granted to those against whom war has been waged because they have been treated unjustly, and God is certainly Able to help them, These are the people who have been expelled unjustly from their homes only for the reason that they said' our Lord is Allah....

-- 22:39-40

(42)

According to the following verse of the Qur'an, the Islamic State is required to help those Muslims living in the foreign land who seek for such help. But no help is permitted against a state which has got treaty relations with the Islamic State:-

"Lo! those who believe and left their homes and strove with their wealth and their lives for the cause of Allah, and those who took them in and helped them; these are protecting friends one of another. And those who believed but did not leave their homes, ye have no duty to protect them till they migrate; but if they seek help from you in the matter of religion then it is your duty to help (them) except against a folk between whom and you there is a treaty. Allah is Seer of what ye do"-

— 8:72

(43)

On the issue of cooperation, the Qur'an states very clearly:-

Help ye one another unto righteousness and pious duty. Help not one another unto sin and transgression, but keep your duty to Allah. Lo! Allah is severe in punishment."

— 5:2

(44)

The Qur'an, in its following verses, emphasises the fulfillment of treaties and alliances:-

1. Such as keep the pact of Allah, and break not the covenant.

— 13:Ar-Ra'd:20

2. Fulfil the covenant of Allah when ye have covenanted, and break not your oaths after the asseveration of them, and after ye have made Allah surety over you. Lo! Allah knoweth what ye do.

— 16:An-Nahl:91

3. And keep the covenant. Lo! of the covenant it will be asked.

— 17:Bani Isra'il:34

4. And who are shepherds of their pledge and their covenant,

— 23:Al-Mu'minun:8

5. And those who keep their pledges and their covenant,

— 70:Al-Ma'arij:32

(45)

The sanction behind this provision is provided by the following verse of al-Qur'an:-

"If two parties of believers fall to fighting, then make peace between them. And if one party of them does wrong to the other, fight that which does wrong until it returns to the Law of Allah; then if it returns, make peace between them justly and act equitably, Verily! Allah loves the just. The believers are but brothers, therefore make peace between brethren and fear Allah, that you may receive Mercy."

-- 49:9-10

✓ (46)

The following Ahadith enjoin upon the believers to get education and also highlight the status of the learned:-

1. Anas reported that the Messenger of Allah said: Search for knowledge is compulsory upon every Muslim male and Muslim female.

(Ibn Majah)

2. Anas reported that the Messenger of Allah said: Whoso goes out in search of knowledge, he is in the path of Allah till he returns.

(Tirmizi)

3. Sakhbarah al Azdi reported that the Messenger of Allah said: Whoever searches after knowledge, it will be expiation for his past sins.

(Tirmizi)

4. Abu Hurairah reported that the Messenger of Allah said: Whoso is questioned about knowledge which he learnt and then he conceals it, shall wear a girdle of the Fire on the Resurrection Day.

(Ahmad, Ibn Daud, Tirmizi)

5. Ayesha reported: Superiority in education is better than superiority in divine service. And the root of religion is abstinence.

(Baihaqi)

6. Abu Hurairah reported that the Messenger of Allah said: The likeness of learning from which no benefit is derived is as the likeness of a hoarded wealth of which nothing is spent in the way

of Allah.

(Ahmad, Darimi)

7. Anas reported that the Messenger of Allah said: Search knowledge though it be in China.

(Baihaqi)

8. Ibn Mas'ud reported that the Messenger of Allah said: There is no envy except for two: a man whom Allah has given wealth and whom He gave power for spending it for cause of truth, and a man whom Allah has given wisdom and who acts upto it and teaches it (to others).

(Bukhari and Muslim)

9. Kasir-b-Qais reported: Certainly the superiority of a learned man over the pious worshipper is like the superiority of the full moon at full moon-lit night over the rest of the stars; and verily the learned are the heritage of the prophets, and the prophets left for heritage no silver or gold coins, but they left learning. So whoso acquires it, acquires a sufficient fortune.

(Ahmad, Tirmizi, Abu Daud)

10. Abu Omamah al Baheli reported: Tow persons were mentioned to the Messenger of Allah, one of the two is a pious worshipper and the other a learned man. Then the Messenger of Allah said: The superiority of the learned man over the pious worshipper is like my superiority over the meanest of you. Then the Holy Prophet said: Verily Allah, His Angels and the dwellers of the heavens and the earth and even an ant in its hole and even a fish certainly send blessings upon a preacher of good to the people.

(Tirmizi)

11. Ibn Abbas reported that the Messenger of Allah said: To the devil, a learned theologian is stronger than a thousand pious worshippers.

(Tirmizi, Ibn Majah)

(47)

The idea that power should not remain permanently in the hands of a person or a family or a class of persons is supported by the following verses of al-Qur'an :-

1. And if Allah had not repelled some men by others, the earth,

would have been corrupted: But Allah is a Lord of Kindness to (His) creatures.

-- 2:Al-Baqarah:251

2. For had it not been for Allah's repelling some men by means of others, cloisters and churches and oratories and mosques, wherein the name of Allah is oft mentioned, would assuredly have been pulled down. Verily Allah helpeth one who helpeth Him. Lo! Allah is Strong, Almighty-

-- 22:Al-Hajj:40

(48-49-50)

The caliph or head of the Islamic State is supposed to lead a very simple life. He should emulate the example of the Prophet(PBUH) and the righteous caliphs. The Prophet of Islam lead a life of austerity who used to do everything for himself and had very meagre income. Neither his emoluments as head of state had been fixed, nor he had any regular source of income. He used to draw his livelihood from the share he received from spoils and Fai or sometimes the gifts he received. It is reported in authentic Hadith literature that he and his family had never had three times meal a day even at the time he was head of the state which he had established at Madinah.

When Abu Bakr Siddique succeeded to the Caliphate of the Islamic State after the demise of the Prophet(PBUH), his source of income was dealing in cloth and from this trade he derived a respectable living. A few days after he assumed his duties as caliph, he was seen going to the market with some pieces of cloth on his shoulder. Umar met him on the way and asked him why he was going to do business when he was the head of Islamic State and was too busy with the performing of official duties. The Caliph told him that he must earn some livelihood for himself and his family. Hearing this Umar took him to Abu Ubaida who was the incharge of Public Treasury. Abu Ubaida fixed grant for the Caliph which comprised summer and winter clothes and an allowance equivalent to that given to an ordinary mahajir (immigrant). Thus the emoluments fixed for the Caliph were just sufficient to keep him and his family alive and whenever the caliph felt that he was in ease or his family could save out of the allowance, he reduced it to keep it at just a subsistence level of an ordinary wage earner. It is reported that when Abu Bakr died, he left a will for his successors

to sell his property and refund the amounts which he had drawn from the state treasury:

When Umar succeeded Abu Bakr as second right-guided caliph, his emoluments were fixed by the people who were then present in the Mosque of the Prophet. It was decided that the Caliph should be granted a subsistence allowance or a living wage which he could neither increase nor decrease and which comprised summer and winter clothing for him and his family and two animals for riding besides sharing booty equally like a common citizen. On this caliph Umar is reported to have remarked: "My right on Bait-ul-Mal (public treasury) is like that of a guardian of an orphan. If I am in easy circumstances, I am supposed to take nothing but if in need I shall take the living wage." Third and fourth right-guided caliphs Usman and Ali followed the precedent set up by their predecessors in-office.

Model Islamic Constitution comprises ten parts and one hundred and forty articles. It is a properly drafted constitution which embraces all the important subjects pertaining to Islamic political system and structure of government. This constitution envisages Islamic consultative democracy based on federal structure and Presidential form of government, duly regulated by the principles of separation of powers and checks and balances. Educational, religious and moral qualifications for the public representatives; strict accountability of the rulers; Jihad against poverty, ignorance, disease and social evils; protection of the status of minorities; independence of judiciary; important role assigned to the press; right of plural vote for the senior citizens; measures against concentration of political power in the feudals and the capitalists; constructive role of political parties; and life of austerity for ~~leaders~~ ~~Leaders are some of the~~ salient features.

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A MODEL
ISLAMIC CONSTITUTION

MUHAMMAD SHARIF CHAUDHRY

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