

# ISLAMIC LAW IS INTERNATIONAL LAW

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## Contents

|      |   |   |
|------|---|---|
| I.   | Islamic law is Meant for All Mankind . . . . .                        | 1 |
| II.  | Can Two Competing Systems Exist at the International Level? . . . . . | 2 |
| III. | A Few Basic Features of the Islamic Model . . . . .                   | 2 |

### I. Islamic law is Meant for All Mankind

Islamic law is international law. It has been so from the day it was revealed. Its reach is global and unlimited applying equally to the the whole world and locally. Islamic law recognizes no state or the idea of a state; it is for this reason that no state was established during the period of the Prophet (pbuh). The Qur'ān addresses all mankind, again and again, laying bare the causes of the decline and destruction of nations. The rules for the survival of mankind and the success of nations are also elaborated in detail. The concepts of *dār ul-Islam* and *dār ul-ḥarb* represent the different world views within the Muslim Ummah. The principle stated by al-Dabbūsī recognises this reality: “The world according to us (Ḥanafīs) is divided into two *dārs*, while according to al-Shāfi‘ī it is a single indivisible *dār*.”<sup>1</sup> In other words, Imām al-Shāfi‘ī applies Islamic law to the whole world without distinction, but the Ḥanafīs make a distinction waiting for acceptance by the whole world.

The concept of *khilāfah* has always represented a one-world government. The Islamic empire, as it is called, contained within it a large number of nations (we do not use the word state) whose sovereignty was subordinated, as Kelsen would say, to a single *grundnorm* represented by the *khilāfah*, which in turn represents the idea of the Ummah, ensuring that the citizens of the Ummah lead their lives according to Islamic law. This system prevailed in the then “civilized world.” It prevails today as well.

The norms of Islamic law are “universal,” that is, they are applicable to all human beings everywhere. These laws are unalterable and indivisible; the law is to be accepted as a whole and not in divisible parts. Islamic law has its own system of human rights that are granted by Allah. These rights cannot be altered or suspended by human beings under any circumstances. The Cairo Declaration on Human Rights is a more or less accurate

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<sup>1</sup>Al-Dabbūsī, *Ta’sīs al-Nazar*, 58.

description of such rights. The document is not “supplementary” to any other document or instrument; it describes the original posture of Islamic law as a world system.

## II. Can Two Competing Systems Exist at the International Level?

International law, as it exists today and is implemented through the United Nations, is based upon the Anglo-European system of laws; a large number of states subscribe to it. Islamic law is based upon the norms of Islamic law; a large number of states subscribe to it—at least morally at present.

Present day international law is enforced by the power of Western (Anglo-European) states. These states applied it originally through their military power and colonial domination. Muslim states are weak and had to accept it after their release from the suffocating clutches of colonization. The same applies to many other states that are neither in one group or the other. Today, if Muslim states were strong, international law would be based upon the norms of Islamic law. It may recognize the existing international law as “customary law” waiting to be Islamized.

Two solutions appear to be prominent, although there may be other solutions. The first is that one international system will exclude the other completely, by military and monetary force if necessary. This is what the current dominant international system appears to be doing today with the help of INGOs.

The second solution is that present day international law must accommodate both sides. As the path of exclusion and elimination is full of hazard and hardship for mankind, it is better if the path of accommodation and cooperation is pursued with “co-existence” as the foremost norm. In doing so, both sides can continue to view their own norms as universal, while accepting the norms of the other side as valid for them and worthy of respect by each side. The assumption underlying this position is that both sides want the best for mankind, and each side presents a different model for the world to follow.

## III. A Few Basic Features of the Islamic Model

A picture of the complete model does not exist on either side. The current international system continues to develop at a rapid pace. It may be helpful if some of the features of the Islamic model are mentioned with a focus on differences. These essential features of the Islamic system are as follows:

- **The Planet:** The planet Earth, like the rest of the universe or universes,<sup>2</sup> belongs to God Almighty, and all mankind is a trustee or manager of this planet. The resources have to be managed with loving care for the benevolent planet bestowed by the Almighty.
- **No Financial Credit System:** The Islamic system does not believe in the present day financial “CREDIT” structures. All forms of “CREDIT” are unlawful, both at the international level and at the municipal level. The only forms of credit recognized are: (i) “loans” given without any form of interest or strings attached

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<sup>2</sup>The Qur’ān uses the words “Lord of the ‘*Ālamīn* (translated as worlds).”

with an open repayment period depending upon the financial ease of the borrower, because mankind are all one brotherhood—this applies globally as well as locally; (ii) the other form of credit can be created through *bay‘ al-nasī‘ah* (credit sale or deferred sale), but other forms like *murābahah* or *‘inah* (back-to-back) sales are forbidden. Thus, institutions like the World Bank and the International Monetary Fund need to adopt different postures.

- **All Forms of Interest to be Banned:** Interest is to be banned from the whole world. No transaction in interest is to be allowed or enforced through courts, whether municipal or international. Again the World Bank and the IMF have to adopt new forms of existence. In addition to this, mortgages are not allowed for the purpose of raising of loans. The only collateral allowed is for credit sales and interest free loans with open periods of repayment. *Bay al-wafā‘* is to be declared unlawful once again.
- **Zakāt to be Paid and Moved to the Location of Need:** The whole world must pay *zakāt*. The *zakāt* system is to be implemented at the international level, and *zakāt* funds are to be moved to all locations of poverty and indebtedness. Those who do not believe in *zakāt* will contribute an equivalent amount to be charged and used in the same manner as *zakāt*.
- **Free Movement of People:** Mankind must move freely all over the globe in search of employment, or otherwise, without any restriction. The Earth belongs to God Almighty and not to people. A visa system, if needed for administrative purposes, will be that of *amān* granted by individuals.
- **Free Movement of Goods:** Goods must move freely all over the globe without any tariffs or duties or any kind. All monopolies and cartels are to be banned and ruthlessly crushed. Price fixation in any form, at the municipal or international level, is not to be permitted.
- **Free Movement of Capital:** Like people and goods, all capital will move freely all over the globe without any restriction. The international currency will be the gold *dinār* and the silver *dirham*.
- **Human rights to be preserved and protected everywhere:** Human rights as granted and recognized by the *sharī‘ah* will be preserved and protected in the light of the objectives of the *sharī‘ah*.

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