

WHO IS THE LAW-MAKER?

TABLE OF CONTENTS

PRESENTATION.....	3
A DEFINITION OF LAW	4
A DEFINITION OF LAW-MAKER	6
ISLAM: THE UNIVERSAL LEGISLATION FOR MANKIND	10
STAGES OF THE EXISTENCE OF LAW.....	12
A COMPARISON BETWEEN ISLAMIC LAW AND SECULAR LAW	15
I. CRITERION OF TRUTH AND JUSTICE.....	17
2. OBJECTIVITY	20
3. CLARITY OF VISION	21
4. THE ETHICS OF THE ISLAMIC LAW:	22
5. CAPACITY AND UNIVERSALITY:	23
6. HARMONY AND NON-CONTRADICTION:	24
7. HUMANITARIANISM:	25
8. EVERLASTINGNESS:	26
Notes.....	28

PRESENTATION

In the name of Allah, the Beneficent, the Merciful

“And this is my straight path, so follow it, and follow not other wars, for thei’ will lead you a war from His war...”

Sura Al-An’am (6:153)

Historically and sociologically speaking, the greatest problem faced by humanity has been that of law, order and discipline, but unfortunately mankind itself is the cause of this grave problem.

The solution to this problem is further complicated by man’s arrogance. for he regards himself a godhead, his will a law and his desires and whims a discipline and order.

How much mankind suffers from this problem while revolving with the wheel of loss and futile quest is proved by the absurd laws, man coins, legislates, invents and implements vainly, without being able to reach the avowed goal or to obtain any good result. In fact with these errors he increases humanity’s already sk v-high pile of errors and adds his failures to the calamity of human sufferings.

Thus it is evident that this straying and c&ntfised man will never get relief from a hard and cruel life, so long as he remains away from the course of his exalted Creator. Allah. and continues to disregard the Divine Call and Message.

Allah, the Almighty has clearly mentioned in the holy Qur’an:

“And whoever turns away from Mv rememberan cc, his will be a narrow ltr, and I shall raise hi,, blind on the L)av of Resurrection. He it’ll say: My Lord why hare You raised tue bli,,d, when I was a seeing one. He will say: So (it must be,) , Our revelations anw to you but you forgot the,,,. In like manner you are forgotten this Day”

Sura Taha (20:124-126)

In this brief study we will try to throw light on certain aspects of law-making and explain some of its dimensions as follows:

A Definition of Law

A Definition of Law-maker

An Explanation of the task kuced by the Law-maker

An Evaluation of Islamic Law and Secular Law

We hope that this study would provide a clear vision to humanity and present in its true perspective the thought and position of the Muslim individual, whounfortunalely due to the distortions made bymaterialistic imperialism has started begging and borrowing alien ideas, thoughts, principles and systems, in gross violation of truth discharged by reality, so beautifully explained by the glorious Qur’an. We sincerely hope Islam will enable mankind to return to Allah’s straight path and His Divine Laws, the clue to a peaceful life full of harmony, virtue and happiness.

We earnestly invoke Allah the Merciful to help us enact His Laws and to follow His course. Allah is the Hearer of our humble invocations.

AL-BALAGH FOUNDATION

A DEFINITION OF LAW

If we contemplate the world around us, ourselves, the nature of our society as well as the texture of relations and events in our environment, we realize that everything in this existence is running according to a perfectly balanced system and exact calculation.

The Universe with its worlds of life, thought, society, etc. is by the nature of its existence, the way it moves and the correlations of its elements, subject to universal facts which organize its course, define its role and goal, and keep it active and efficient. It is motivated by the potent factor of Humanity, through language and its use, the sounds and their pronunciations, the meditation and its ideas, the thought and the course of its movement, the will and the way it acts, the self and its behaviour, and last but not the least, the instincts and their inclinations, response and expressions. All of these appear in the feelings of love and hatred that affect human conduct, relations and attitudes, resulting in peace and happiness or crime and tension in the society, as well as progress or the decline of civilization in the course of history.

They also appear in the fluctuations of usages as well as of demand and supply. Besides preserving the inherited physical and biological characteristics and the balance in their appearance and disappearance, they can be perceived in dispersion of the stars, atoms, heavenly bodies and cosmic clusters in their respective orbits.

All these human or cosmic phenomena in this universe, go on and on, in this world of matter, life and thought. They promote such changes as, biogeny, birth and extinction, join other elements, affect them or are influenced by them, as the case may be, in a limited manner or in certain specific ways of execution.

Such manners of execution, phenomena and the events, including perfectly systematic forms of beings are called 'The Law'.

Thus it is quite obvious that the necessity of the Law is a universal fact, required by every event, cause, phenomena and subject, be it natural or social.

So, under this universal and inevitable rule, Man's activities, behaviour and social relations should be formulated within a legal frame in accordance with a specific manner that would preserve his life, accomplish his humanistic objectives, show the nature of his constitution and plan the course of progress and relationship.

When these human relations in the fields of society politics, economy etc., are systematized in the form of defined rules, we call them laws, canons or regulations of Allah, all of which come within the scope of religion and constitute a part of it, since the scope of religion is much wider than just to organize man's external social relations. Actually, religion organizes man's inner self too and morally builds it. It takes

I. Every Islamic rule is a law. But if we confine this definition to the concept of law in the social arena, as the current technical terms go. The Islamic Laws or Canons are known in Arabic as Shari'a, care of belief, devotional rites, and the individual's personal activities, such as how to keep clean, to eat, to drink, to wear clothes, to think, etc.

Therefore, the Law could be defined as: “The principle which organizes human relations among individuals and groups. This covers all aspects of human life such as social, political, commercial, administrative, financial, family, inheritance work, laud transactions, . etc.

It is, thus, obvious that the objective of the existence of the Divine Law is, to subject every manifest human activity and relation to a balanced and calculated frame of organization and discipline. In Islam, existence is not a confusion, absurdity or loss, as is evident by the following verses of the Qur’an:

“Deemed you thctm that We had created you frr itaught, and that you would not be returned to us?”

Sura A!-Mo’minun (23:115)

“He has created erert’thitmg and has ordained for it a imieasure.”

Sura Al-Furqan (25:2)

“...And then’ is a measure us’ith Hi,,, for everthing.”

Sura AI-Ra’ad (13:8)

“... For each We hai’e appointed a law and a traced out war..”.

Sura AI-Ma’ida (5:48)

A DEFINITION OF LAW-MAKER

“Thea, when, yea warship besides His are bat asses which jw have aaued, twa aadyearjfrthers. Allah has revealed aatherlty for lbs. The jadgeseat rests with Allah only, Who has cessaaded yea that yea warship aeae Mve His. This is the right religion, bat most people do not knew.”

Sura Yusuf : (12:40)

“Stireli’ Your Lord is Allah Who created the heavens and the earth in six periods of time, and He is firm in power. He covers the night with the dai’, which it persues incessantly: and (He created) the sun, the moon and the stars iüade subservient bj His command. His is the creation and the command. Blessed is Allah, the Lord of the worlds.”

Sura Al-A’raf (7:54)

If we contemplate and scrutini7e the phenomena of this world, uncovering the secrets and depths of existence and examine the order governing beings. nature and society, we discover the natural connection between laws and ethics as well as the organization of relations between the individual and society on one hand, and the general and natural genesis that organizes nature and life on the other. Man thus, is seen as a universal being who needs like other natural parts of the universe. to be organized.

This unified look makes us realize that there is a common universal law to which man and other parts of the c\istence arc subject.

This conscious and reflective look helps us to discover another important fact, that man and other beings of nature have a single common initiator, direction and goal.

Allah is the Initiator Who created the whole universe, the Director Who guides and organizes the creatures, and the Great Goal to which man and the universe are heading in their both compulsory and optional progress towards perfectionea progress which is to be carried on according to every being’s degree of existence and potentiality of perfection.

Through this uni^oed thinking and analysis we realize that the whole universe, including mankind, is in need of a balanced law and order system, so as to organize man’s life on uatural and universal principles. These rules should he 1,1 harmony with his disposition. inborn characteristics and the elements of his existence and activities, as man is an important member of the greater organization of the Universal Family.

This conclusion leads us to believe that the One Who created the universe and life, and based existence on perfection, beauty, order and accuracy of the highest exactitude would not leave Man, a key member of the large universal family of existence, exempted from the progress of this general order of the universe. He would not let him deviate from the greatest goal of ex.istence, the goal of attaining perfection, pronouncing servitude to~ Allah, and proclaiming the truth of His Existence and Oneness.

Therefore, Man should get a clear vision of the Divine Law which organizes his life in accordance with human nature and disposition, through a suitable programme and a perfect course and order.

As Man was the only being that had the free will to choose, and to express his aims through conscious selection and voluntary dealings, Allah

the Exalted, sent Messengers bearing His Laws to show Man the all embracing course and order that guides him to the final goal of existence, complete submission and servitude to Allah alone. This goal can only be accomplished by sincerely following the path of the Wise Creator, that is by adhering to His message brought by the strenuous efforts of His Messengers and Prophets.

By going through the Qur'anic verses, we get the gist of this idea, the idea of man's need to be governed by a natural order. This is obvious in the call of the Qur'an and in its address to Man, as is shown in this verse:

“Surely your Lord is Allah who created the heavens and the earth in six periods of time, and He is firm in power. He covers the night with the day, which it pursues incessantly; and (He created) the sun, the moon and the stars made subservient by His command. His is the creation and the command. Blessed is Allah, the Lord of the worlds.”

Sura Al-A'raf (7:54)

In this verse the Qur'an explicitly reminds us of the Divine Commandment over the entire existence, as well as the general organisation of the universe, thus placing Man within the frame of an orderly and coordinated existence and disclosing the common bond between Creation' and Commandment,* thereby fixing the principle of His supreme Lordship alone (which is sovereignty, management and guidance). This clearly confirms that it is not possible to separate Creation' from Commandment' (Genesis from Legislation). It is virtually impossible for Man to be isolated from the order of life chosen for him by his Creator, as it will upset the balance and cause him to deviate and his life to decline and decay.

The Qur'an refers to this - Genesis - Legislation' relationship in an explicit expression:

“His is the creation and the command. Blessed is Allah, the Lord of the worlds.”

Sura Al-A'raf (7:54)

“... The judgment rests with Allah only, Who has commanded ~on that you us'orship none save Him,,,. This is the right religion, but most people do not know.”

Sura Yusuf (12:40)

So, by bringing us to this conclusion, the Qur'an emphasizes the essence of the natural connection between Genesis and Legislation. We thus discover the important fact, of Faith and Thought'. that is. the One Who creates the beings, initiates their existence, assigns their goal and plans their constitution, Himself remains the real Director. designing for His creatures, the road of progress and the order of movement.

Several verses of the glorious Qur'an give prominence to this clear truth and enable us to perceive that the principle of ruling and command, or Law-making and Organizing, is not the responsibility of any one of the creatures. It is a matter wholly related to the Creator's Will and Wisdom.

This is because Organizing and Legislating is a form of relationship between the Creator and His creatures. This relationship is practically a beautiful bond expressing servitude, or a state of complete subjugation between Man and his Lord.

So, any other party trying to organize human life and coining rules and laws to arrange the different individual and social activities, would mean sharing the power of legislation with Allah, the Almighty.

Attributing this authority (of legislation) to other than Allah would be a form of worship, submission and surrender to other than Allah*. That is why the glorious Qur'an draws our attention towards this grave conclusion and firmly rebukes man from committing this error.

"... The judgement rests with Allah only, Who has commanded you that you worship none save Him..."

Sura Yusuf (12:40)

The Qur'an accuses the Jews and the Christians who neglected Allah's Laws and just system, and submitted to the desires of the Rabbis and the Priests, who coined their own laws and rules contrary to the Divine Command. The Qur'an refers to them as follows:

"They have taken as lords besides Allah their Rabbis and their Monks and (also) the Messiah son of Mary, when (her were bidden to worship one God. There is no god save Him; far from, His glory be what they ascribe as partners (unto Him)!"

Sura Al-Tawba (9:31)

Interpreting the lordship of the Rabbis and Monks as stated in the above verse, the Imams (AS.) have said, that worship, here means the blind obedience of the Jews and Christians to the wills and desires of their leaders, who cleverly twisted the Divine Laws, to suit their own selfish interests.

Imam Ja'far Al-Sadiq (AS.), asked about the meaning of the above verse, said:

"By Allah, they did not ask to be worshipped. if they had asked the,, to do so, they would not have obeyed the,,,. But they (Rabbis and Monks) sanctioned the unlawful as lawful, and the lawful as unlawful, and thus they (the people), without perceiving, blindly (obeyed) worshipped them."

The above is the actual meaning of the verses of the holy Qur'an, which clearly denounces the authority of law-making by any other than Allah. This deviation is disbelief, abomination, injustice and ignorance. Those who legislate and make abnormal laws, distorting Divine Justice and Allah's Will, are called tyrants and idol worshippers as the Qur'anic texts say:

"... Whoever did not judge by what Allah revealed, those are they that are the transgressors."

Sura Al-Ma'ida (5:47)

"... Whoever did not judge by what Allah revealed, those are they that are the unjust."

Sura Al-Ma'ida (5:45)

"...Whoever did not judge by what Allah revealed, those are they that are the unbelievers."

Sura Al-Ma'ida(5:44)

"Is it a judgement of (the times of) ignorance that they are seeking?And who is better than Allah to judge for a people who are sure (in their belief).?"

Sura Al-Ma'ida (5:50)

“Have you not seen those who assert that they believe in what has been revealed to you and what was revealed before you? They desire to summon one another to the judgement of the Law, though they were commanded to deny it, and the Satan desires to lead them astray into a remote error.”

Sura Al-Nisa (4:60)

Through the above verses of the holy Qur'an we realize that judgement means both legislation and lawmaking. Thus the peoples' adherence to the laws and the enacting of them, should not be against Allah's will and command and should be regarded as an aspect of worship, and humanity should submit to Him alone.

ISLAM: THE UNIVERSAL LEGISLATION FOR MANKIND

From our aforementioned general and all-embracing look at the beings, including man, the following important facts of this vast universe and life can be inferred:

1. Unity of Origin- Allah, the Exalted.
2. Unity of Creation- comprising numerous parts.
3. Unity of Order- governing the Universe.
4. Unity of Goal- direction towards Allah.

Through this vision of unity and oneness, we come to realize the necessity of man's submission and connection to this principle, the principle of the unity of Origin, Creation, Order and Goal. Man has but to enter the circle embracing the whole existence, and he will be in harmony with the Divine Religion which forms the Order and the Goal in the shape of laws which take in consideration all his existence and diverse activities:

“And how have We set for you (O Muhammad) on a clear road of Our commandment; so follow it, and follow not the whims of those who know not.

Sura Al-Jathiya (45:18)

Will and Adherence

While discussing universal unity and the need for a natural canon for man to govern his activities, organize his relations and give shape to his personal contents in behaviour and action, we should make distinction between a voluntary adherence to that canon, and a compulsory and material submission to it.

Man is completely free, and has full power but in order to organize his social life he has to submit to this universal canon based on the nature of his existence. By accepting and following this Divine Order, Man would be expressing his contents and the possibilities, activities, innovations, perfection and other symptoms of animation in ways adapted to his own free will.

In other words, Man can formulate his activities, by voluntary practice of this sound legislative plan and undertake an orderly construction of the framework of his life by charting its welfare and high objectives, among other things in the world.

This legislative plan should be a canon which coincides, in its principles and goals, with man's inborn nature, feelings and needs, encompassing and organizing them all and providing him with prosperity and happiness.

The Islamic Canon is thus a legislative moulding of the laws of life and human nature. It, consequently, becomes:

“the record containing all the principles of organization and activity, because “it is the real uncovering of the code of life and the order of human existence. Allah, the Exalted, says:

“The nature made by Allah, in which He has made men; there is no altering (the laws) of Allah’s creation, that is the right religion, but most people do not know.”

Sura Al-Rum (30:30)

“He has made plaitm to you of the religion which He enjoined Noah, and that which We ha me revealed to you (Muhammad), and that which We enjoined up on Abraham,, and Moses and Jesus, that establish the religion and be not divided therein; dreadfulfor the unbelievers is that which you call themir lo, Allah chooses for Himself whom He pleases, and guides to Himself him who turns (to Him) frequently.

Sura Al-Shura (42:13)

“This is My straight path, sofrllow it. Follow not (other)ways, for they will lead you away from His way. This He has enjoined you, that you may guard (against evil).”

Sura Al-An’am (6:153)

STAGES OF THE EXISTENCE OF LAW

The proof that Islam is the answer for mankind's universal legislation, and that it is the formula uncovering the law of human nature, is based on the facts, that there are in this human existence certain rules and regulations which govern and mould it. without which there would be nothing. except chaos, confusion, futility and corruption.

If we trace the stages of the appearance of Law and its role in human life we realize that like other natural laws it appears in three existing forms in this world, which are as follows:

1. The Objective Form: Human laws have an objective form which govern the mental, psychological and material being of man. It is a self-subsistent form, as are the natural material rules which govern the order of the world of matter in their reality, independence, correlation. arrangement of their results and efforts, etc. For example thinking' has certain rules which it follows and has its own laws, rules and goals which control its movements. Likewise the whole human body composed of diverse parts. has its own laws, rules, goals and needs, which control its activities.

Similar are the social. economic and political relations which are also subject to their relevant rules and laws which affect their results.

2. The Scientific Form: This is the rational stage of the laws and facts which control human life. During this stage science discovers these laws and derives from them their subjects, as we derive grammatical. physical and astronomical rules from these very subjects and applications.

3. The Process of Formulating Laws: This is the process of the verbal construction of a form expressing the meanings of the laws and their aims in words easily understood by Man. so that he may accordingly' plan his life and organize his individual and social conducts and activities.

Thus these three stages of legislation. in their true forms. are possible only for the Creator of the existence. Since He is the Creator of Man as well as the laws and regulations. and is fully aware of every detail about their facts and truthfully expresses them. Unlike a human being whose knowledge and ability is limited in discovering and defining the natural laws of life. Furthermore. Man cannot be regarded sincere and objective in his dealing with the laws. He falsifies them to suit his own selfish interests, or in the interests of other groups as the case may be. and thus he does not define legality in its scientific and objective forms.

There are numerous examples proving this human frailty. For instance when Man discovered the harms of alcoholic drinks, adultery. usury trade monopolies and the like. he prohibited none of them in utter disregard to the proven scientific facts. On the contrary, he resorted to sophisticated means to conceal the actual truth.

Therefore, leaving the task of judgement and legislation to Allah alone is the only way of saving Man from doom. because Allah the Creator is the only One Who knows all the hidden secrets of mankind and life:

“Does He not know what He created? And He is the Knower of the Subtleties, the Aware.”

Sura Al-Mulk (67:14)

Allah alone is able to communicate what He wants to. by means of the best possible way understandable to mankind- the way of the prophets and the divine revelation to them. disclosed in explicit verbal forms that are clear in meaning and implication. This was actually what had been preached throughout the course of history by all the Divine Laws and Messages:

“And We did not send any Apostle, but with the language of his people, that he might make (the message) clear for them...”

Sura Ibrahim(14:4)

“... (This is) a book which we have revealed to you (Muhammad) that you may bring forth men, by their Lets permission fram utter darkness into light-to the way af the Mighty. the Praised One.”

Sura Ibrahim (14.1)

“Surely this Qur’an guides to that which is most upright and gives good tidings to the believers t’ho do good works that they shall have a great reward.”

Sura Al-Isra’ (17:9)

Imam Al-Sadiq (AS.) drawing our attention to these facts has rightly remarked:

*“The Qur’an is a covenant of Allah to His creatures. A muslin, will hai’e to look into His covenant, and read from it fifty verses (at least) a day.” **

From this starting point, the Qur’an draws a picture of the nature of the Divine Law revealed through the Prophets, showing that it is the existential fact coinciding with the nature of the human -being. It also discloses to us the gross unfitness of other laws, rules or regulations (man-made), which vainly try to define life and its order, contrary to the nature of man and life, or in other words these laws are not applicable unless life and nature itself is changed. Thus we can safely conclude that this religion is the Divine decision that suits the nature and innate disposition of Man as well as its multi-sided construction, as Allah, the Exalted, says:

“Such has been the course of Allah that has indeed ruti btjirt aad yea shaM aat jlad a cheap Ia AUdit tweeze.”

SuraAI-Fath (41:23)

“And recite whet hes beta reveeied te yea ef the leekq’ year Lard; There It - wha cea titer His ward.,, ead yet shall nat jlad cay wfage besides Him.”

Sura Al-Kahaf(18.27)

“And the ward efyaar Lard has beta accomplished truly and justly; there is neat that eta cheap His wards and He is the Hearer, the Knower.”

Sura.AI-An’am(6:115)

“Rather yet wish to put qaestleas ta year Messeager as Nests was qaestleaed befere? And whoever adepts unbelief instead of faith, he indeed has lost the right direction of the way.”

Sura Al-Baqara (2:108)

“And if the truth had followed their low desires, surely the heam’ens and the earth and all thosewho are therein would have been perished. Noy, We have brought to them their reminder, put from their reminder they now turn away.”

Sura Al-Mu’minun (23:71)

The above - mentioned verses of the Qur'an help mankind to perceive the truth, by clearing the mist of blindness from the eyes, and pushing aside from the intellect any doubts of illusion and ignorance, which would have misled Man to imagine that he is able to devise laws and canons according to his wishes and desires. It makes him realize that an off-hand and extempore law however minutely designed cannot solve his problems nor organize his diverse activities and individual and social relations, in harmony with his natural existence.

This is because Secular Laws are not based on rational foundations, nor have they a truthful reality behind them, except man's imaginations and illusions.

For example if we ask the Secular Legislator: Why do you impose a fine or a year's imprisonment for a certain crime? Is this penalty based on the basis of a strict balance and calculation such as that the punishment imposed, is equal to crime, according to the legislative equation? Did you study its graveness and its effect on the social reaction, or its psychological reaction? Will it act as a restraint, and is a just decision keeping the balance among the parties concerned? On what grounds did you build our decision, conclusion and penal law for this particular crime?

Should we put such questions to him, he would not be able to give us scientific answers, and we would come to realize that he talks nothing but nonsense. He makes laws without a rhyme or reason, he is completely unaware that he is doing so. He is generating an artificial being in the system of life, contrary to the logic of justice and contradicting the very principles of existence.

Such misfit laws, cause negative effects on humanity and upset the universal balance of truthfulness and justice on whose very basis every truth in this world has been erected

“Allah bears witness that there is no god but He and (so do) the angels and those possessed of knowledge (too are witnesses) maintaining His creation with justice: there is no god but He, the Almighty, the Wise.”

Sura Aal-Imran (3:18)

“And if you obey most of those on earth they would lead you astray from Allah's way. They follow but conjecture, and they only lie.”

Sura Al-An'ani (6:116)

A COMPARISON BETWEEN ISLAMIC LAW AND SECULAR LAW

It was not novelty in human life or the desire to establish justice or order that prompted Man to make laws and rules, and coin ways of living and organizing, because these were already in existence. The real cause was Man's own selfish interest and the desire to enslave his fellow-beings that made him to turn away from Allah's Law, or to have any consideration for it.

Ever since the dawn of history, the tyrants and oppressors have ceaselessly tried to rebel against the will of truth and justice in this world, regarding themselves as gods or god-heads to be worshipped, and their idols to be sanctified in the altar of despotism and tyranny.

Tracing the history of the origin of the laws which govern the life of society in its controlling positivity, we find that they all speak of the will of the ruler and express only his aims and interests in life. They are far from being in the peoples' real interests, and the principles of right and justice. This is because the Secular Laws, in their reality, express nothing but the desire to enslave mankind, to serve the will of the oppressor and subdue humanity to the whims of the deviated rulers who either intentionally or unintentionally consider themselves as powerful gods or god-heads. Actually the desires of the rulers which have been coined as laws and rules thus tightening their grip on the people and their lives.

Whereas, on the other hand, it was the contrary in respect to the role of the Islamic Legislation, which sought to establish truth and justice, and to liberate Man from oppression, be kind to him, and protect his interests in life, as is evident from the following verse of the glorious Qur'an

I. Secular Laws are the earthly laws coined to protect the interests of a tyrant or a particular class.

“Those who follow the Apostle-Prophet, the Ummi (one who neither reads nor writes) whom they find described in the Torah and the Gospel, (who, I enjoin them good and forbids them evil, and makes lapses for them all good things and unlawful for them the foul; and removes from them their burden and the shackles which were upon them; so (as for) those who believe in him, and honour him, and help him, and follow the light which has been sent down with him; these it is that are the successful.” Sura Al-A'raf (7:157)

“And We have not sent you but as a messenger for the creation.” Sura Al-Anbiya (21:107)

By studying these two verses one may easily recollect that the aims and goals of Islam, defined by the Qur'an, are: liberation of Man, delivering him from darkness into the light, and guiding him towards the horizons of truth and happiness.

If we try a fair, conscious and rational assessment of the Islamic Laws and the Secular Laws in their diverse forms and philosophies, such as Capitalism, Socialism, Communism and the like, which are offshoots of ignorant thinking, we realize the most important differences which distinguish Islamic or Divine Laws from Secular or man-made Laws, and which define their respective identities and features are as follows:

I. CRITERION OF TRUTH AND JUSTICE

I. The Islamic Canon is based on the criterion of ~Truth and Justice', the two constant values of life by which legislation and law-making are judged, and on whose basis their natures, values, effects, goals and coincidence with the great objective of existence, are estimated.

These two concepts are the foundation on which the entire Islamic Legislation is based. There is not a single law which is not backed by these two principles, as are the other facts of the universe.

By getting to know the meaning of Truth and Justice' from the Islamic point of view, we are apt to discover the secret of their being the bases on which the Islamic laws are built:-

a. When a thing is True', it deserves a legitimate place in the life of society, as falsehood has neither place nor originality in Islam and is regarded as transient, unstable, an unjustified futility, and a worthless nothingness. Actually, falsehood is the inconsistent and negative course practiced by Man against the idea of Truth. For this reason the Qur'an rejects it as passing and vanishing, unable to occupy the place of truth or remain constant in the world of reality:

“Nay; We cast the truth against the falsehood, so that it breaks its head and lo; it vanishes. And woe to you for what you describe.”

Sura Al-Anbiya(21:13)

“And say: The Truth has come and falsehood has vanished away: Surely falsehood is ever bound to vanish.”

Sura Al-Isra (17:81)

Who is best suited to judge, other than the Creator of the world and all beings whose knowledge encompasses everything, whether a thing- be it a canon or a subject- has the merit of coming into existence and occupying a space however small in this world.

Consequently, the Secular Law knowing no 'Truthful' or natural base proves to be false, transient, haphazard, accepting no noble values, irrationally formed, admitting no estimation, having no constancy, futile, and showing no justification for existence, except the will and desire of' its maker.

So, the human legislator knows nothing about the status, value and effects of the law he is asked to legislate, as far as the facts and the objectives of existence are concerned.

Therefore, the glorious Qur'an describes this procedure on the part of Man as confusion, going astray, ignorance and forgery, and condemns this act of the ignorant Man who undertakes the responsibility of law-making.

“And do not mix up the truth with falsehood, nor hide the truth while you know (it).”

Sura A I- Baqara (2:42)

“Those are they for whom there is nothing in the Hereafter but the fire, and what they wrought in it shall go for nothing, and vain is what they do.”

“Is he (to be counted equal with them) then who has with him clear proof from his Lord, and a witness from Him recites it, and before it(is) the Book of Moses a guide and a mercy? These believe in it; and whoever

of the (different) parties disbelieves in it, the fire is his appointed place. So do not be in doubt concerning it, surely it is the truth from your Lord; but most people do not believe.”

Sura Hud (11:16,17)

Then the Qur'an further stresses the objective of the Divine Law and its role in defining truth' and dismissing the schemings of the straying human soul which intrudes on the truth a false and vain course and law:

“That He might cause the truth to triumph and bring vanity to naught, however much the guilty might oppose .”

Sura Al-Anfal (8:8)

“And with truth have We revealed it , and truth did it come...”

Sura Al-Isra' (17:105)

b. The second criterion, on which the Islamic Legislation is based, is Justice'. It is the balance by which everything is weighed, and evaluated. Justice' is to put everything in its proper place, and to give to everybody his due or what he deserves

Islam says that it is just to implement whatever is true. and it is unjust and transgressive not to do so.

Justice' is Allah's sacred attribute which puts its initials on His acts and is a sign of His mercy, including the Law which He sent down to all humanity. Therefore, the concept of Justice in the Qur'an is the basic principle behind all of Allah's deeds, whether creative or legislative.

The glorious Qur'an refers to this principle of the Islamic Legislation in different terms, such as: the balance, equity. justice, straight criterion, etc.

Allah the Almighty says:

“Surely Allah enjoins the doing of justice and kindness (to others~ and giving to kinsfolk, and he forbids lewdness, and evil and rebellion. He admonishes you in order that von mar take heed.”

Sura Al-Nahl (16:90)

“Surely Allah commands von to make orer trusts to their owners, and that when you judge between mankind you judge with justice:surely Allah admonishes you t'ith what is excellent; surely Allah is Hearing, Seeing.”

Sura Al-Nisa (4:58)

“And when they commnit some lewdness they say: Wefrtuid our fathers doing this and Allah has enjoined it on us. Say: Surely Allah, does not, enjoin lewdness. Do you say against Allah what you do not know?”

“Say: My Lord has enjoined justice, and set upright your faces, (towards Him) at every time of prayer and call on Him, being sincere to Him f'onl.j) in obedience; as He brought you forth into being, so shall von also return (to Him).”

Sura Al-A'raf (7: 28,29)

“And We will set lip a just balance on the Day of Resurrection, so no soul shall be dealt with unjustly in the least; and though there be the weight of a grain of mustard seed, (yet) will We bring it. And sufficient are We to take account.”

Sura Al-Anbiya' (21:47)

The Qur'an not only lays stress on justice but it also condemns injustice and resents it in several verses. It attacks the wrong-doers and threatens them with torture and curse as is clear from the examples given below:

"... Those who waving shall haew by what a (great) irvine they will be evertaraed:

Sura Al-shu'ara (26:227)

"The Day en which their excuse shall not benefit the unjust, and fer the is cane, and fer thea. is the evil abede."

Suna AI-Mu'min (40.52)

Islam, thus, regards justice as the foundation on which everything in life should be based. Without law is right. If it is based on the idea of justice. It indicates the subject of the law its value and

regards its rightful position in respect to other things and events. Divine Legislation is therefore exact and balanced. with no loss and no injustice.

The Secular Laws sadly lack such noble values and criterions (Truth and Justice) in their objective form and natural nature. This is because they do not hint constant, distinct and real ideas about the concept of Justice..

It looks at it with a look subjected to the nature of the situations and the subjective human estimations. Thus, the concept of Truth and Justice' was merely turned into a human consideration, under the mercy of the law-giver's desires and whims. Consequently, Secular Law is deprived from the most important bases and criterions.

2. OBJECTIVITY

The objectivity of the Islamic Legislation is concentrated in its being free from the intrusion of personal interests of desires and the subconscious factors, which may quite possibly, knowingly or unknowingly affect the human lawmaker and participate in the making of his decisions, and his laws. Human knowledge and faculties are influenced by factors of environment, heredity and personal characteristics, as has been proved by psychological and Social studies. This fact has also been discovered by all those who subjected the Secular Laws and man-made cautions to analytical studies. It was obvious that they had been influenced by the environment, circumstances, psychological and social situations and the lawmakers' personal interests and emotions. Thus as a matter of fact, such laws carry the symptoms of the diseases prevalent in the society, and actually express the will of the rulers, as these laws can easily be affected by the legislator's desires and inclinations.

The Islamic Canon, on the other hand, is scientific, objective, honest and far from being under the influence of the motives and factors which determine man-made laws. The true law-giver, here, is Allah, the Exalted, Who is glorified from all those inclinations and impressions from which Man can never completely and absolutely be free. This is the secret of the construction of the Divine Law, which is based on "Truth and Justice", and its aim is only the welfare of humanity and its noble objectives in life.

3. CLARITY OF VISION

The Islamic Law or the Islamic Canon, which is Divinely revealed has a clear objective, and a defined goal, that charts out Man's course in life, and shows him his aim, and Man realizes that the goal of the Divine Law is to have him serve his Creator, and be liberated from all servitude and submission to human beings. Consequently, his lawful actions which he practices during his life entitle him to a fair reward in the Hereafter, unlike the Secular Law, under whose shadow Man would feel he is tied with the fetters of the ruling authority which has no obvious objective except that which serves the interests of the governing clan and its ambitions—a state which should urge Man to fight such laws and get rid of them.

Man, under such laws, suffers from the anguish of confusion and without any distinct goal in life. He finds no sense in adhering to a law but only to a law but only to an extent which affords him a limited and spontaneous objective. or spares him the penalty imposed by the government on those who disobey its laws. Such laws cannot cope with the needs of the human soul, nor can they express his lawful ambitions in life.

That is why the individual under the grip of this law does not respect its regulations sincerely and tries to break through its bonds whenever opportunity affords him the chance. the eye of the authority's watchman dozes off, or when he realizes the triviality of the law which does not deserve to be obeyed.

This fact is supported by the statistics issued by the quarters concerned with criminology and instances of lawbreaking. They say that the figures for crimes are ever increasing, and the number of those who break the law is growing every year, proving the fact that the Secular Law is incapable of solving Man's problems and inspiring respect and obedience from him.

On the other hand the Islamic Law encourages Man to apply it sincerely and defend the will of the law and its objectives.

This is because the individual under the shelter of the Islamic Law feels that the law protects his interests and cares for his objectives both in this world and in the Hereafter.

Faith inspires a faithful Muslim that he is responsible before his Creator for enacting the will of the law and carry out its decisions sincerely.

Thus, judging from this ideological and rational point, the Islamic Law acquires a spiritual power and a moral drive enabling it to be applicable and its aims to be attainable more than if it depended on force and compulsion.

4. THE ETHICS OF THE ISLAMIC LAW:

The Islamic Law is based on its respect for morals, safeguarding them and maintaining close ties with them. Contrary to the Secular Law, which does not adhere to morality, nor cares for it. Secular Law so neglects the ethical argument and turns away from it that the human civilization is thrown into a terrible tragedy which drags man down the precipice of degradation and lawlessness.

This irrational theory of separation between morals and law gave birth to different materialistic cultures of diverse ideological trends and courses. such as Marxism. Communism. Existentialism. Freudianism. Capitalism. Socialism and other philosophies and social opinions.

Capitalism, for example, regards morals as a personal behaviour connected to the individual's freedom, and that the law or the state has no right to meddle in personal affairs, nor enact laws protecting morals, unless a personal behaviour may endanger the freedom of the others, or falls within the scope of the criminal law based on the general philosophy of the capitalist concept. Thus Capitalism not only believes in irresponsible freedom or permissiveness but actually builds all human activity on it.

Communism regards morals (as stated in the Communist Manifesto of Marx and Engels) as bourgeois deception which must be abolished. It says: "Religion, constitution and morals are but a bourgeois deception

So, morals, according to Marxism, is a social phenomenon imposed by the bourgeois systems to protect themselves, by deceiving the people and convincing them of such ethical concepts as mercy, truth, duty, right, kindness, disdain, shame, etc. Therefore, it is necessary for the Marxist Revolution to destroy morals and exterminate them, according to the communists.

Now on comparing these ignorant Western and Eastern concepts with the Divine Islamic Religion, we find the Messenger of Islam, Muhammed (S.A.W.) saying:

"I have been sent to complete the noblest of morals", and "The one who is the best in morals is the most complete in faith". In light of these statements we discover that Islam dignifies the human-being and bases life on firm moral foundations which distinguish the Islamic Law and Society from other laws and societies.

That is why the Islamic Law flows with the spirit of morality and undertakes to implant and protect ethics in all aspects of life.

The Islamic Law in contrast to the Secular is based on moral imperatives, which regulate, human conduct.

Thus the Messenger of Islam, Muhammed (S.A.W.) did not simply transmit these Laws, but implemented them in the life of a socio - political order, showing their eternal practicability.

5. CAPACITY AND UNIVERSALITY:

One of the major differences between the Secular Law and the Islamic Law is the latter's capacity and universality. The Islamic Law leaves no part of the human activity, big or small, without having it organised, in one way or another, through well defined laws, rules and regulations. It deals with man as an objective and complete unit of different individual and social activities, organizing it, controlling its behaviour and subjecting it to an exact legal discipline, which covers every part of its actions like eating, drinking, behaviour and relations with the family, neighbours and friends, as well as caring for the body, the clothes, etc.

It prohibits all actions which are harmful such as gambling, drinking wine, adultery, wantonness, and the like. It also handles the individual within a wide scope of social organization, through organizing economy, politics, war, peace, judicature, finance, work, commerce, etc.

As to the Secular Law it miserably lacks all these characteristics, since it suffers from the narrowness and limits of its horizon and is incapable of organizing the different aspects of the human behaviour, as the Islamic Law does.

A considerable part of the human activity is neglected by the Secular Law on the pretext that it concerns the individual conduct which has nothing to do with the law, and thus, it falls short of defining the all-embracing unity of human activity, leaving wide spaces of law suffering from negligence and confusion. This, as a matter of fact, causes unbridgeable gaps in social discipline in adjusting man's behaviour, and in turn makes it a paralysed law, incapable of guaranteeing justice, peace and security.

6. HARMONY AND NON-CONTRADICTION:

The Islamic Law forms a perfect responsive and objective unit. Each part of it supports the other and helps it to be applicable. The prohibition of alcoholic drinks, for example, closes the possibility of yet another related crime, which is also punishable by Islam.

Islam's prohibition of performing the prayers on a usurped property helps to protect peoples rights and to respect private possession.

In this way Islam fixes the connection among all its laws and rules, unlike the Secular Law which stiflers from divisions and lacks cohesive unity, because most of its laws are often self- contradictory.

The Secular Constitutions, likewise, stiller from similar contradiction and discord, despite the fact that constitutions are the origins from which laws are derived. This grave deficiency forces the legislative authorities, according to the circumstanceness, to establish Constitutional Tribunals to tackle and solve such contradictions in many instances.

Examples reflecting these conflicts and contradictions are mans'. In some countries the Mercantile Law contradicts the Economic or Administrative Law, or ~ll these laws taken together may contradict the spirit ofthe political constitution itself. In the Socialist regimes, for example, where the wealth is in the hands of' the State and where there is no private possession, the laws, nevertheless, allow the eovernment to conclude contracts with individual contractors. Or with large monopoliing companies! Or, they may allow alcoholic drinks, but, at the sanie time, may punish those who commit some crime because of intoxication. Weird indeed, the law itself paves the way for them to be caught in its trap, and vet it punishes them!

Thus, the Secular Law falls in a state of contradiction and conflict because of the multiplicity of law-makers with certainly different motives and deficient knowledge which make them fall short of realizing the truth and the need.

7. HUMANITARIANISM:

One of the most important differences between the Secular Law and the Islamic Law is the fact that the Islamic Law is humanitarian. Regionalism, racialism, class- discrimination, opportunism and egoism, are not found in the text and spirit of the Islamic Law as the call of Islam is addressed to the human race as a whole. Its message is a universal one. Its laws are general and not legislated for the sake of a particular group. The glorious Qur'an says to the Messenger:

“And We have not sent you but as a mercy for the peoples”

Sura AI-Anbiya' (21:107)

The contrary is the case concerning the Secular Law. It reflects the legislator's understanding and his personal inclination. It is full of anti-human concepts causing it to revolve within narrow limits, such as regionalism, racialism, class difference, individual selfishness and the like. All these result in injustice, deprivation and suppression for those who are compelled to abide by this law which only expresses the legislator's understanding of the matter and his aggressive, anti-humanistic trend.

8. EVERLASTINGNESS:

The biggest characteristic distinguishing the Islamic Canon from other laws is the fact that it is everlasting. Islam alone enjoys this attribute which gives it the power throughout the ages and it remains with the generations as a leader, director and pioneer on the road of virtue, guidance and sound cultural construction.

Islam's everlastingness is due to the following factors:

a. Islam represents the eternal logic of truth and justice in life, since it expresses the eternal will and wisdom of Allah in existence. Allah, the Exalted, says:

“Surely, Allah enjoins the doing of justice and kindness...”

Sura Al-Nahl (16:90)

“Say: My Lord has enjoined justice...”

Sura Al-A'raf (7:29)

“And with truth We revealed it, and with truth did it come...”

Sura Al-Isra' (17 105)

b. Islam expresses the universal legislative form of the eternal human rules in man himself, whether physical, psychological, intellectual or spiritual.

Islam is not the off-spring of particular social circumstances, nor is it the product of human thinking under certain limits of time, place and thought. In fact, it is “the legislative formulation of the nature of human life, and a complete disclosure of its rules and systems

c. Islam does not impose a rigid form of application and enactment. Actually, it is open and flexible concerning the methods and ways of application, which Man may devise in every generation to suit his purpose for the enactment of his obligations, provided he keeps to the spirit of the Divine Law, and sincerely carries out its decisions.

d. The open doors of ‘Ijtihad’* i.e. legislative and rational decisions, based on the principles, concerning different matters which may arise due to changing circumstances, is acceptable to Islam.

The Secular Law avails of no such merits. It revolves within the limits of the will of its maker and his social conscience, which would inevitably be reflected through the spirit of legislation, stamping it with deficiency and incapability. This, of course, would result in laws far from being in harmony with the natural rules of life, or failing to meet the requirements for a sound development of a human being. Actually, there are ample chances for interference in these laws and turning them into loose verbal forms twistable in accordance with the desires and the drives of rulers who coin them, change them, or cancel them whenever these do not suit their purpose. Such people are described in the Quran as:

“Postponement (of a sacred month) is only an additiot, in unbelief whereby those who disbelieve are misled, they allow it one year and forbid it (another) year, that they may make up the number of the months it'hich Allah has made sacred and thus violate what Allah has made sacred. The evil of their deeds is made fair - seeming to them. Allah does not guide the unbelieving people.”*

Sura Al-Tawba (9:37)

So. they assume the powers to confirm or change laws, as if there were no reality for truth, justice and the natural law established in the world of existence, save that which cares for their own interests:

“And if the truth had followed their low desires, surely the heavens and the earth and all those who are therein would have been perished .”

Sura Al-Mu’jineen (23:71)

In short, the Secular Law represents only the will of its makers and expresses only their ideology, desires and interests, away from the logic of truth and justice in their true objectivity. Truth, in the eyes of such laws, is but what is agreeable to the law-makers, and justice, to them, is but what follows the whims of the law- makers and protects their authority and interests.

Notes

* Creation means to bring into existence what did not exist before. "Commandment means: guiding, organizing and directing.

* To submit to Allah's legislation does not mean the cancellation of man's will. It actually means to have man's life and course planned and systematized. and at the same time, to enable his human will to choose and differentiate between vices and virtues.

* Al-Bayan li Tafseer Al-Qur'an . p. 4

* Ijtihad: The process of arriving at a personal opinion by an Islamic jurist through inference, induction and, analogy.

* The idolaters would postpone a sacred month in which war was forbidden, when they wanted to make war, and make up for it by hallowing another month.