

Ministry of Awqaf
The Supreme Council for Islamic Affairs

Eliminating Misconceptions

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In the Name of Allah, the Most
Gracious, the Most Merciful

*"I desire nothing but reform to the best of my
power. All my resources, abilities, and success
depend on God alone" (the Quran, 11:88)*

In the name of Allah, the Most Gracious, the Most
Merciful

Foreword

Praise be to Allah, the Lord of all Worlds. May Peace and Blessings be upon the Last of His Prophets and Apostles, our Master Muhammad ibn ‘Abdullah and upon his Family, Companions and those who follow his guidance to the Last Day.

To proceed,

It is a pleasure to introduce to our dear readers the explanatory notes on the recommendations of the 24th International Conference on “**Grandeur of Islam and Mistakes of some Followers: Towards Rectifications**” organized by the Supreme Council for Islamic Affairs, the Minister of Awqaf. These explanatory notes are written by our dear colleagues Prof. Dr. ‘Abdullah Mabrouk al-Najjar, a Member of the Islamic Research Academy, and Prof Dr. Muhammad Salim Abu ‘Aṣi, the dean of the High Studies Faculty, Al-Azhar University.

They present a detailed commentary and explanation of these recommendations with the aim of correcting some false and deviated ideas that may lead to **some kind of fanaticism and immoderation or inclination towards *takfīr* (labeling others disbelievers) and extremism.**

We hope that this book would initiate a new series of other publications that correct misconceptions and promote Islamic tolerance. **Such achievement is expected to reveal the various aspects of the sublime Islamic civilization and put the foundations for civilized dialogue** and peaceful coexistence among all people. It also works on promoting the ethical human values for the happiness of all humankind.

The Minister of Awqaf
(3)

Prof. Dr. Muhammad Mukhtar Jumu'ah

The Recommendations of the 24th General International Conference

Organized by the Supreme Council for Islamic Affairs
(Presentation and Analysis)

Under the patronage of His Excellency President Abdel Fattah El Sisi: the president of the Republic, and the presidency of Prof Dr. Muhammad Mukhtar Jumu'ah, the Minister of Awqaf and the president of the Supreme Council for Islamic affairs— a group of Muslim scholars and thinkers of various intellectual and religious affiliations met in the 24th General International Conference organized by the Supreme Council for Islamic affairs.

In their meetings, they explored the current world crises in politics, security and thought. Such crises resulted from the improper practices and grievous phenomena including unrestrained excommunication (*takfir*), terrorism, violence, atheism and the like matters that potentially threaten the world peace and badly destabilize many of human communities. Most of the world countries have become exposed to suffer a grave spiral of destructive chaos and fatal violence.

The participants affirmed that what makes it worse and worse in the midst of this dilemmatic reality of our Muslim Ummah in which the right conceptions and fixed facts are maliciously distorted— is the deadly strife undertaken by some arrogant groups falsely attributed to Islam to widen and deepen the gap between Muslims and badly disunite and **weaken** them. They shrewdly misinterpret the legal texts to conform to their claimed ideas and devious opinions making

them appeal to people as the right religion and the open truth.

Out of the awareness of their legal, national and human responsibility and in expression of their firm belief in the necessary importance of confronting the deviated ideas and misconceptions **as regards *jihad*, labeling others disbelievers, *hakimiyyah* (sovereignty and rule of Islamic law)** and citizenship among others, the participating scholars and thinkers working on exposing those Islam-affiliated followers who employ religion for some utilitarian or authoritative purposes and malicious goals declare the following recommendations of their conference as follows:

1. The Conference declares that Islam is a religion that guarantees the freedom of belief, for “there is no compulsion in religion.” Islam, without any discrimination, equates between people with respect to citizenship, rights and duties, irrespective of their beliefs. It is founded on justice, mercy, preservation and protection of values and acceptance of diversity as the secret of the universe.

For Islam, blood, honor and properties are all inviolable and thus Islam prohibits any encroachment thereof, unless in retaliation to an apparent aggression against the State, which can only be determined by its president and the relevant competent authorities. Declaration of a state of war in defense of a nation is a right granted to every State, in accordance with its constitution and its president, and is not conferred upon any individual. Islam respects the human mind as a tool establishing the path to sound thought, gratifies the heart, feeds the feelings, and seeks to bring together the temporal world with the Hereafter. Any action that goes against these principles is actually contradictory to the true essence of Islam.

2. Islam is not accountable for the *takfiri* acts (**labeling others disbelievers**) perpetrated by some of those affiliated to it; criminal acts of slaughter, incineration,

mutilation, destruction and devastation, for such is a violation of the right of Allah Who Alone knows what the hearts of His servants hold. Such acts are also a violation of the right of the ruler.

3. Faults committed by some of those affiliated to Islam, their religious misunderstanding or deviation away from the Islamic teachings should not be grounds for remonstrations against Islam.

4. It is incumbent upon followers of all religions to view other religions from the same objective criterion without wronging them with the errors of some of their affiliates.

5. Employing the religion for some opportunistic or authoritative purposes, as some may do, is an outright crime and offense against Islam.

6. The participating scholars, thinkers, researchers and writers unanimously denounce the expulsion of people from their native lands, demolition of their places of worship, captivation of their women and making lawful the appropriation of their assets under the pretext that they embrace a different religion and under the slogan of the Islamic State, or of any other. Islam is innocent of all such acts.

7. The participants have unanimously agreed to prohibit the contempt of religions, as it is a violation of the feelings of their followers, disruption of universal social and humanitarian peace and could consequently spread strife, violence and conflict of civilizations.

8. The participants have unanimously agreed to rectify the following concepts:

A. **Terrorism:** An organized crime involving a group of dissenters against the order of the state and the society, which leads to the shed of innocent blood,

destruction of establishments or aggression against public or private property.

B. Caliphate: A state of changeable political ruling that can be replaced by any system or administration that guarantees the welfare for the State and the people in accordance with legal frameworks and international agreements, the provisions of which necessitate having a system made up of a head and of institutions so that people will not live in chaos. Any system that attains the wellbeing of the nation and people and establishes justice is rightly a system of good governance. Accordingly, no individual or group shall be entitled to appoint a Caliph or claim the establishment of a Caliphate State outside the framework of modern-day democracies.

C. Jizyah: A financial obligation that no longer prevails and whose justification has ceased to exist due to the absence of its lawful cause at the time. Civilians now have equal rights and obligations; furthermore, other financial regulations and systems have replaced the *jizyah* and thus it has no legal ground. The mention of *jizyah* in the Glorious Quran comes in contexts that speak of the deadly enemies – combatants and aggressors who refuse the concept of citizenship – but not of peaceful citizens taking part in the establishment and defense of the nation.

D. *Darul-Harb* (lit. the Territory of War): A changing jurisprudential term whose old concept has now become void, under international treaties and UN instruments. Certainly, the change of this term does not infringe the right of states to redeem their violated territory, particularly, the rights of Palestinian people. The Islamic law imposes the duty of fulfilling agreements; hence, there is no migration from a homeland under the claim of moving to a territory of Islam (*Darul-Islam*).

E. Citizenship: All citizens are equal in rights and duties, within the borders of their states.

F. Jihad: To respond to aggression with equal force, without excessiveness or transgression. There is no place for violation, nor do individuals have the right to declare such violation. It is the right endowed to the Head of State and the competent authorities, by virtue of the law and constitution.

G. Religious academic institutions should establish the standardized norms and principles of *takfiri* practices and place them under the jurisdiction of the courts of law, so that they shape a cultural and societal awareness that discerns what may lead human beings to, or away from, disbelief. Judgment of people, organizations or groups is not a right granted to individuals, organizations or groups. It is only exercised by virtue of a judicial judgment on the grounds of legal evidence and within the controls established by competent religious institutions so as to prevent the chaos of *takfiri* claims and counterclaims. It should be stressed that permitting, as Islamically lawful, the killing, slaughtering, burning or torturing of human beings by individuals, groups or organizations, is considered a renouncement of Islam

H. Authority: To abide by the law of Allah; however, human beings may refer to their manmade law within the framework of the common legislative principles and overall rules, and according to the change in time and place. Reference to such manmade legislations may not be in contravention with the law of Allah, and as long as it is in the common interests of the states, peoples, individuals, and communities as per the universal objectives of legislation.

9. It is necessary to develop a balanced Islamic discourse that integrates reasoning and transmission; combines the interest of the individual, the society and the state; and achieves equality between men and

women in terms of rights and duties. Such discourse should also be able to combat all shades of extremism, immoderation, idleness and atheism.

10. The participants recommend the establishment of a permanent multilingual observatory with the mandate of monitoring the errors of some of those affiliated to Islam and responding with reasoning and evidence, so that it liaises between all Islamic organizations and institutions in the world.

11. Religious and cultural academic curricula taught in educational institutions, in the Arab and Muslim world, should be reviewed and refined from matters related to specific historic, temporal, and regional contexts. Hence, it is necessary to review such curricula according to our circumstances, time, place, and conditions, with the aim of disseminating the culture of tolerance, and shape a mind capable of good reasoning and of applying sharia-related judgments to any new development or incident without dismissing or contradicting real life.

12. The participants request the activation of the call of the President of the Republic and Patron of the present conference, his Excellency Abdel-Fattah El-Sisi, for the need to establish a joint Arab deterrent force by the Arab states to fight terrorism.

13. The participants request to take steps, at the Arab and Islamic level, for the establishment of political, economic, intellectual and cultural blocs under the Arab League and the Organization of Islamic Cooperation, so that they form, in synergy, a mighty power that is difficult to be violated or encroached by international fora, global economic blocs or intellectual and cultural invasion that overwhelms the youth of our Arab and Muslim community.

14. It is necessary **to coordinate** among the ministries concerned with culture and education, so that the ministries of endowment, education, higher education, culture and youth act as a work force, and the media shall assume the role of value reinforcement.

15. Utmost attention should be paid to training, education and use of modern and contemporary communication means, especially in the religious, intellectual and cultural institutions.

16. The participants agree to establish a follow-up committee to monitor the implementation of the present recommendations, hold a meeting every four months, and publish a statement to be forwarded to all participants and various media, so as to take stock of the implementation progress .

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Preamble

Before explaining and analyzing the eighth recommendation that emphasizes the correction of misconceptions, we first focus on the first recommendation, because of its paramount importance for correcting the deformed image of Islam. According to the first recommendation **of** the conference:

“Islam is a religion that guarantees the freedom of belief. Islam, without any discrimination, equates between people with respect to citizenship, rights and duties, irrespective of their beliefs. It is founded on justice, mercy, preservation and protection of values and acceptance of diversity as the secret of the universe. For Islam, blood, honor and properties are all inviolable and thus Islam prohibits any encroachment thereof, unless in retaliation to an apparent aggression against the State, which can only be determined by its president and the relevant competent authorities. Declaration of a state of war in defense of a nation is a right granted to every state, in accordance with its constitution and its president, and is not conferred upon any individual.”

Explanatory Note:

Islam came to be a universal mercy for all creatures and to relieve humankind all the false chains, hardships and difficulties. The Islamic wise legislations and noble laws reflect great aspects of this mercy and tolerance towards non-Muslims.

The texts of the Glorious Quran assert that the divine norm in creatures willed them to be of different races, tongues, colors as well as religions. Such difference is as lasting as humankind exists on this earth. God **the Almighty** says, “**If your Lord had so willed, He would have made all mankind one single community, but they continue to have their differences**

– except those on whom your Lord has mercy – for He created them to be this way, and the word of your Lord is final: ‘I shall definitely fill Hell with both Jinn and men all together!’ (The Quran, 11: 118-119).

In the light of this open-mindedness and permitted diversity, it is unimaginable that the Muslim community could ever suffer isolation from other communities. Islam systematically organizes the relationship of a Muslim with other human beings of Muslims and non-Muslims on equal footing. In this regard, the Islamic rulings on the treatment with non-Muslims of different races and religions including the People of the Scriptures and others stand as a clear indication and incontrovertible evidence for the Islamic respect of the other and the different. Islamic rulings in this area are so many, of which we only refer to the following examples:

- Islam guarantees **freedom** of religion for every individual and there shall be no compulsion in accepting Islam. Only the pure and perfect conviction may lead a person to the guidance and everyone shall have full freedom to have his/her own religion and shall not be forced to convert to another religion. The Quranic verses are crystal-clear in declaring this meaning; God the Almighty says, **“There shall be no compulsion in religion”** (the Quran, 2:256). The Prophet (may God's Peace and Blessings be upon him) was symbolically and directly forbidden to force people to accept the religion; God the Almighty says in the Meccan Surah of Yunus (Jonah): “had your Lord so willed, all those who are on earth, would have surely believed. Would you force people to become believers?” (The Quran, 10:99).

- Under the Islamic legislations, the Muslims shall justly deal with others and the mere difference in religion is not a proper ground for wrongdoing and

transgression. Indeed, fair and just treatment with the others of different religion is an indication of the *taqwa*, which is expected to bring about the greatest of rewards. God the Almighty says: **“O you who believe, be steadfast in your devotion to God and bear witness impartially: do not let the hatred of others lead you away from justice. Be just, for it is closer to righteousness, and be aware of God. God is well aware of all that you do”** (the Quran, 5:8). The general commandment to establish justice is for all people regardless of their persons, races, religions or families and social states. In support of this universal rule, God **the Almighty** commands his Prophet to pass judgment according to the criteria of justice when the People of the Scripture come to him: **“... if you judge among them, you shall judge with justice. God loves those who are just”** (the Quran, 5:42).

- Furthermore, the Prophet (may God's Peace and Blessings be upon him) is very strict in declaring the painful punishment awaiting him who may wrong the non-Muslims residing in a Muslim land; the Prophet told that he himself shall plead for him on the Last Day, he says: **“Beware, if anyone wrongs a *mu‘ahid* (a non-Muslim living in Muslim lands under a contract of residence and protection), or diminishes his right, or forces him to work beyond his capacity, or takes from him anything without his consent, I shall plead for him on the Day of Judgment”** (Narrated by Abu Dawūd).

The Quranic directing verses on al-Birr (benignity and integrity), *Iḥsān* (benevolence/good/kindness), justice, fairness and fulfillment of promises are so many. They are absolute and generally applied to everyone: God **the Almighty** says, **“And do good, for God loves those who do good”** (the Quran, 2: 195). He also says, **“You shall speak unto all people in a kindly way”** (the Quran, 2:83).

In the light of this general concept of *Iḥsān*, Islam commands Muslims to act upon *Iḥsān* with non-Muslims

who are not known for their persecution of or fighting against the Muslims, God the Almighty says, “God does not prohibit you from those who have not fought you because of your system, nor drove you out of your homes, that you deal kindly and equitably with them. For God loves the equitable” (the Quran, 60:8). For Islam, it is lawful to conclude all financial transactions with non-Muslims, such as sales, purchases, giving and taking. Likewise, the food of the People of the Scripture is also permissible. Islam also commands Muslims to deal kindly with the non-Muslims. All the non-Muslims in the Muslim community have full rights to the security of their lives, properties and families and no one, be he a Muslim or not, shall maltreat or harass them.

- Strict threats and painful punishments are declared for those who view it lawful to violate their blood or wrong them. The Prophet (may God's Peace and Blessings be upon him) says: “Whoever killed a *Mu‘ahid* shall not smell the fragrance of Paradise though its fragrance can be smelt at a distance of forty years (of traveling)” (Narrated by al-Bukhari). Thus, the history knew no other nation that treated people of different religion in the same manner she treated her own children and followers as the Muslim Ummah did in the area of justice and equal opportunities to life pleasures under the well-known maxims: (*lahum ma lana wa alayhim ma lana wa alayhim ma alayna*) (literally: ‘to them [is] what is to Muslims and upon them what is upon Muslims’ which means non-Muslims have the same rights and duties of Muslims. Like other Muslims, they have full right to keep their religion and customs. It is evidently indicative of the Islamic greatness as manifested in this tolerance that undermines all groundless claims falsely attributed to Islam by

enemies of Islam, who regard Islam a religion of terror, violence and extremism in open opposition to the facts of Islamic tolerance and mercy.

Determination and Legal Documentation of Concepts

1. Takfir (Labeling others Disbelievers)

According to the recommendation of the conference, “Religious academic institutions should establish the standardized norms and principles of *takfiri* practices and place them under the jurisdiction of the courts of law, so that they shape a cultural and societal awareness that discerns what may lead human beings to, or away from, disbelief. Judgment of people, organizations or groups is not a right granted to individuals, organizations or groups. It is only exercised by virtue of a judicial judgment on the grounds of legal evidence and within the controls established by competent religious institutions so as to prevent the chaos of *takfiri* claims and counter claims. It should be stressed that permitting the killing, slaughtering, burning or torturing of human beings by individuals, groups or organizations, is considered a renouncement of Islam.”

Explanatory Note:

***Takfir* (labeling others disbelievers)** is to reach a judgment that a Muslim person is a disbeliever. Excluding a Muslim by a judgment from Islam and declaring him/her a disbeliever is a very dangerous matter with consequent results in this life and the Afterlife. As to the worldly consequences, a person who is declared a disbeliever shall be separated from his/her marital partner, his/her children shall not be under his/her custody, and s/he also loses the right to Islamic friendship and support due to Muslims on the Muslim community. S/he shall be judged in the Islamic courts and the Islamic personal rulings shall not be applied to him; when s/he dies, s/he shall not be washed and no funeral prayers to be made for him/her. S/he shall not be buried in Muslim cemeteries and s/he shall not inherit from Muslim or be inherited by Muslims.

As to the consequences in the Afterlife, a person who dies as a disbeliever is deservedly damned and denied the Divine Mercy to suffer the eternal punishment in the Hellfire. God the Almighty says, "Surely, those who have disbelieved and then died as disbelievers; they will be cursed by God, and the angels, and all the people. They will abide therein, where the retribution will not be lightened for them, nor will they be reprieved" (the Quran, 2:161-162). God the Almighty also says, "God does not forgive the joining of partners with Him; anything less than that He forgives to whoever He will, but anyone who joins partners with God has fabricated a tremendous sin." (the Quran, 4:48). It is thus necessary for the one who is entitled to decide on the issue of *takfīr* to consider the issue thoroughly and meticulously several times before issuing a judgment.

It is because of the serious consequences of *takfīr* on the community that Islam forbids any hasty decision or assertion of *takfīr* unless all measures to ensure certainty and prove its decisive reasons are taken to the exclusion of all probabilities. In truth, to mistakenly free someone guilty is much better than to punish someone innocent mistakenly. Finally, the judgment of all things rests with God.

The Glorious Quran blamed the Honorable Companion Usamah Ibn Zayd (may God be Pleased with him) because he killed a man after greeting him. God command us all to investigate the matter carefully until we reach the decisive truth, He the Almighty says, "O you who believe, if you strike in the cause of God, you shall investigate carefully. And do not say to he who greets you with peace: "You are not a believer!" You are seeking the vanity of this world; but God has plenty of gains for you. That is how you were before, but God was gracious to you, so be careful; God is fully aware of what you do" (the Quran, 4: 94). The Prophet

also warns against the dangerous act of *takfīr* saying, “When a man calls his Muslim brother a disbeliever, one of them shall certainly and deservedly be as such” (Narrated by al-Bukhari and Muslim).

Being well aware of the **danger** of *takfīr*, the scholars always scruple to declare it unless the decisive arguments and the undeniable evidences exist. Actually, false testimony about the issue of declaring a Muslim as a disbeliever is one of the most hideous perjuries, wrongdoing and calumnies. The Prophets' Companions (may God be pleased with them) used to refrain from calling anyone of the people of Qiblah (i.e. Muslims) as disbeliever or heretic. Abu Sufyān said, “I said to Jabir, would to call anyone of the people of Qiblah as *kafir* (disbeliever)? In reply, he (Jabir) said: 'No'. Would you call him a *mushrik* (polytheist)? In reply, he terribly said: God forbids!”(Ibn ‘Abd al-Barr, *al-Tamhīd*, 17/21).

When ‘Ali Ibn Abi Talib (may God be pleased with him) was asked about the Kharijites: are they mushriks (polytheists), he said: they fled polytheism. Are they hypocrites, it was said? He said, No, because the hypocrites do not remember God but very little. What are they then, it was said? “Our brothers who offensively rebel against us,” he said. They are rebellions and fight against them shall be controlled by the rules of fighting against the rebels until we bring them back from their rebellion. (al-Qurtubi, al-Jami‘ Li Ahkam al-Qur’ān, 16:324).

No one shall hastily **declare anyone disbeliever**. Given the fact that some sects recklessly declare their opponents as disbelievers, we shall not declare them disbelievers unless they regard the blood, properties and families of people as lawful for them to violate unjustly. Al-Shawkani (may God rest his soul in peace)

said, “Know that the judgment of a Muslim as a deserter of the religion of Islam and a holder of disbelief shall not be precipitated by a Muslim who believes in God and the Last Day unless he has a plain incontrovertible evidence clearer than the midday sun. The authentic prophetic traditions reported on the authority of a number of the Companions declare that: “When a man calls his Muslim brother a disbeliever, one of them shall certainly and deservedly be as such.” Such narrations and others similar to them shall strictly deter and restrain the hasty decisions of excommunication” (al-Shawkani, *al-Sayl al-Jarrar*: 4/578).

Imam Malik (may God rest his soul in peace) is quoted to have said, “Anyone who utters a statement open for ninety-nine interpretations that indicate takfīr and only one interpretation implies imān, shall be understood to mean imān.”

For Hujjat al-Islam al-Ghazali (may God rest his soul in peace), “To conclude, takfīr shall be avoided as possible as could be, because the legal violation of the bloods and properties of the people of Salah, who face the Qiblah and declare (there is no God but Allah and that Muhammad is the Messenger of Allah), is an error. In truth, to commit an error and leave one thousand disbelievers is easier than shedding a cup of Muslim blood by mistake” (al-Ghazali, *al-Iqtiṣād fi al-I’tiqād*, p. 135).

Al-Ghazali (may God rest his soul in peace) also says, “As for the advice, it is that you restrain your tongue, to the best of your ability, from indicting the people who face Mecca on charges of disbelief as long as they say: “There is no God but Allah and Muhammad is the Messenger of Allah” without categorically

contradicting this (testimony of faith)” (al-Ghazali, *Fayṣal al-Tafriqah Bayn al-Islam wa al-Zandaqah*, p. 128).

Likewise, in his comments on the Kharijites Imam al-Bajūri said, “They were not declared disbelievers because of their declaring the sinners as disbelievers even if the one who declares the believer a disbeliever is a disbeliever, since they built this statement on some interpretations and legal reasoning” (al-Bayjūri, *Ḥashiyah ‘alaSharḥ al-Jawharah*).

According to the universal principles **unanimously** agreed upon by the People of Sunnah and the Mainstream Muslim Community, it is impermissible to attribute a Muslim to disbelief regardless of the many indications in support of this judgment so long as there is even one probability that s/he is a Muslim. However, the *takfīri*-oriented thought reverses this principle and argues that it is impermissible to attribute a Muslim to Islam regardless of the many indications in support of this judgment so long as there is even one probability that s/he is a disbeliever. Takfīr is a Sharia ruling that can only be grounded in decisive legal evidence. Finally, the judgment of this matter shall be resorted to the Sharia-based rulings and the in-depth understanding of sacred texts. Exploring this area without certain knowledge and indications from God is impermissible. To conclude, it is impressible for any preacher, scholar or group whatsoever to attribute people to disbelief. In this regard, only the verdict of a **judge** or mufti is credible because of their knowledge of the Sharia rulings and their adoption of the judicial procedures.

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2. Governance and Manipulation of Caliphate

Islam has not provided a set of quite rigid rules for governance that may not be overruled. In truth, Islam only provides criteria and principles for good governance, which if well considered, the rightly-guided governance comes true but when violated, the governance suffers disorder and turmoil in line with the degree of violation. It is most likely that the most outstanding feature of any good system of governance is the achievement of public welfare and national interests. It is to be judged, at least, by ardent pursuit and work to achieve them. Any system of governance that seeks to achieve the public interests and the national welfare with full consideration of the values of justice, equality and responsible freedom is a good and respectful system of governance, **away from chaos, favoritism and preferring loyal people to skilled professional.**

Under this main title, many details may be set out with aim to achieve justice for the whole humankind in all political, social and judicial areas without the least discrimination based on color, race, sex or religion as there must not be any compulsion in religion as God taught Prophet Muhammad (may God's Peace and Blessings be upon him) to address the unbelievers saying, "To you be your religion and to me my religion", (the Quran, 109: 6).

To **sum** up, any system of government that works on achieving these objectives and provides the basic needs of community, including supplies of food,

drink, clothing, housing and infrastructure such as health, education and transportation and similar necessary facilities and installations needed for the functioning of society, is a good and rightful system of governance. This fair system is quite approved by God and people save those who are overcome with rancorous, envious, arrogant, obstinate, treacherous or disloyal emotions.

For **knowledgeable people and scholars**, God the Almighty would support the just state, be it a Muslim or non-Muslim state, but would not support the unjust state even if it is a Muslim state. Some people may manipulate with the issue of caliphate as a means to merchandise religion and **arouse the emotions of laymen** by misinterpreting some texts and applying them wrongly to realities without having the knowledge of context or verifying the underlying reasons behind the texts. They would then falsely make the establishment of caliphate the foremost and ultimate foundation of belief and unbelief.

In reply, we assert what His Eminence the Grand Imam Prof. Dr. Ahmad al-Tayyeb, Al-Azhar Grand Sheikh, stated in his speech in the Conference on "Al-Azhar in Face of Terrorism and Fanaticism": "There is no dispute among the considerable people of knowledge that caliphate is most likely and appropriately a secondary issue of Sharia. For the Ash'ari scholars, it is a secondary, not a fundamental principle of Islam." In respect of Imamate, the Grand Imam also cited the commentator of ***al-Mawaqif***, which is one of the most important books of the Ash'ari School of Theology, saying: "As far as the People of Sunnah and Mainstream Muslim Community are concerned,

imamate is not a pillar of religion and beliefs but it is one of the issues of jurisprudence". In his comment on this statement, the Grand Imam said, "How has this question, which is not a basic principle of the People of Sunnah and Mainstream Muslim Community, become a decisive criterion between belief and unbelief until it created a chaos thereby the blood is shed, the construction is destructed and our pure religion is defamed"?

When the Prophet (may God's Peace and Blessings be upon him) delivered his inclusive Hadith on Imān (Faith), Islam and Iḥsān, he did not make caliphate a pillar of Imān or Islam. It is reported on the authority of ‘Umar ibn al-Khaṭṭāb (may God be Pleased with him) who said,

“Once we were sitting in the company of Messenger of Allah (may God's Peace and Blessings be upon him) when there appeared a man dressed in very white clothes and having extraordinary black hair. No signs of fatigue of journey appeared on him and he was known to none of us.

He sat down facing the Prophet (may God's Peace and Blessings be upon him) leaning his knees against the knees of the Prophet and placing both of his palms over his two thighs and said, "O Muhammad! Tell me about Islam".

He (may God's Peace and Blessings be upon him) replied, "Islam is to testify that none has the right to be worshipped but Allah, and that Muhammad is the Messenger of Allah; that you observe Salah (prayers), pay zakah, observe Ṣawm (fasting) of Ramadan and perform Hajj (major pilgrimage) to the [Sacred] House

[in Mecca], provided you have resources of making journey to it." He replied: "You have spoken the truth." We were surprised to see that he had asked him and confirmed the correctness of the answers.

He then enquired: "Tell me about Imān[faith]." He (may God's Peace and Blessings be upon him) said: "It is to believe in Allah, His angels, His Books, His Messengers and the Last Day and that you believe in predestination, be it bad and good." He said, "You have spoken the truth."

He then enquired: "Tell me about Iḥsān?" He (may God's Peace and Blessings be upon him) said, "It is to worship Allah as if you are watching Him; but if you do not watch Him, He surely watches you." He enquired: "Inform me about the Hour (i.e., the Last Day)." He (may God's Peace and Blessings be upon him) replied, "I have no more knowledge thereof than you". He said, "Inform me about some of its signs." He (may God's Peace and Blessings be upon him) said, "Its signs include that a bondswoman gives birth to her own master and to find the barefooted, naked, poor shepherds competing one another in the construction of higher buildings." Then, he departed. The Messenger of Allah kept silent for a while then he said to me, "O 'Umar! Do you know who the questioner was?" I replied, "Allah and His Messenger know better." The Prophet (may God's Peace and Blessings be upon him) said, "He was Jibril (Gabriel); he came to you to teach you your religion" (Narrated by Imam Muslim).

As to the various prophetic narrations on caliphate and giving the pledge of allegiance, they may be mostly interpreted in the light of the new context of the present time to mean the urgency of founding a just and good system of government led by a President and institutions that work on achieving justice among people and bringing about the public welfare and national interests in reliance on consultation and availing of the professional people endowed with proficiency and expertise.

It is in this manner that people can get rid of chaos and have good leaders. No problem whatever would be there with the names and formalities so long as the ultimate objectives and ends that Islam seeks to achieve for the welfare of all people in this life and in the Afterlife come true.¹

¹ This section is an excerpt from the Book of "In Pursuing of Renewing the Religious Thought: Article on Faith and Life" by Prof Dr. Muhammad MukhtarJumu'ah, the Minister of Awqaf, pp. 115-118.

3. Al-Hakimiyyah (the Ultimate Sovereignty)

Al-Hakimîyyah (the ultimate sovereignty) is to abide by the law of Allah; however, human beings may refer to their manmade law within the framework of the common legislative principles and universal rules, and according to the change in time and place. Reference to such manmade legislations may not be in contravention with the law of Allah, and as long as it is in the common interests of the states, peoples, individuals, and communities.

Explanatory Note:

The notion of al-Hakimîyyah is badly misunderstood by these takfîri terroristic groups who introduce to it things, which are not revealed in the pure Islamic Sharia. Al-Hakimîyyah in the legislative sense indicates that God is the only lawgiver for his servants; He is the One Who commands and prohibits, **and** declares the lawful and the unlawful by means of **the Sharia obligations**. Such al-Hakimîyyah does not mean that God **the Almighty** appoints caliphs and emirs to rule in His Name. It only specifies the legislative authority that rests with God alone. As for the source of political authority, it is referred to and decided by the people. The people shall choose their rulers and call them into account or punish them. Al-Hakimîyyah is not a call to a theocratic state.

The legislative Hakimîyyah shall rest with God alone, not with any of his created beings. This is the supreme sovereignty. It does not deny that human beings may, to some degree, have a role in legislation as per the permission made by God to them within the area for which there **is no text**. This area includes so many cases on which the texts are silent as mentioned in the prophetic tradition: “As to what He (God) said

nothing about, it is the area of permission.” Other similar areas are the cases generally indicated in some universal rules and principles without addressing their detailed and particular rulings. People can thus make legislations for themselves as per the permission of their religion in many social, economic and political areas in which they shall only abide by the general objectives and universal rules of Sharia. All of these objectives and rules aim to secure benefits, fend off evils and care for the needs of people, individuals or groups.

It is noticeable that the contemporary detailed laws are not, by and large, in contradiction with the Sharia's universal objectives, because their basic grounds aim to secure the benefit, ward off harm and carefully consider the custom.

Declaring the rulers as disbelievers on the basis of God's statement: **“Those who do not judge according to what God has sent down are the disbelievers”** (the Quran, 5:44) is an invalid argument. Following this *non sequitur* argument, anyone who does not rule in accordance with God's revelations in his house where he is a guardian over his family, in his community where he is a ruler, in his institution where he is a director, will be declared a disbeliever who shall deservedly be sentenced to death as per this deviated thought.

It is vanity to argue that the persons in these cases only ruled with laws other than those of God out of liberal indulgence, laziness or inclination to a dominating desire or compelling earthly interest or under duress by the surrounding international conditions when they are certain that they are sinful because of their deviation from ruling according to the revelation sent down by God. Evidently, the immoderation is clear in neglecting the difference

between the behavioral sin that can only incurs *fisq* (disobedience) and the creedal sin that may turn a disobedient into a disbeliever. According to the fundamental basics of the People of Sunnah, the sins are only indicators of *fisq*, not disbelief.

Another aspect of immoderation is the general judgment that all those who do this sin are all disbelievers without any details, differentiations or evaluation of the special cases and individual conditions. Actually, the schools of laws are built on differentiating between general judgment and individual judgment in the issue of *takfīr*.

Similarly, they recklessly act against the guidance of our Master Prophet Muhammad (may God's Peace and Blessings be upon him) as he warns against the deviation into the abyss of this immoderation as narrated on the authority of Abu Sa'īd al-Khudri that the Prophet (may God's Peace and Blessings be upon him):

“There would be emirs with whom hearts are ensured with rest and skins are softened up, then other emirs will appear with whom hearts will be filled with disgust and skins are shivered. A man said, should we not fight them, O Messenger of God? No, so long as they establish praye`rs, he replied.”

Evidently, this tradition indicates that the mere deviation of a ruler from some guidance of the Quran and Sunnah is not a form of disbelief. As mentioned in the outset of this section, abiding by the Sharia does not exclude reference to the manmade law within the framework of the common legislative principles and universal rules, and according to the change in time and place. Reference to such manmade legislations may not be in contravention with the law of Allah, and as long as it is in the common interests of the states, peoples, individuals, and communities.

4. Jihad

The participants have unanimously agreed that *jihad* is to respond to aggression with equal force, without excessiveness or transgression. There is no place for violation, nor do individuals have the right to declare such violation. It is the right endowed to the Head of State and competent authorities, by virtue of the law and constitution.

Explanatory Note:

Jihad is the exertion of efforts, no matter how different and various they are in nature, for the support of God's word and the promotion of the right religion among people. The Islamic *jihad* is **like** a tree whose truck is the dialogue, wise invitation and good advice to **communicate** the true facts of Islam to **human** intellects. As to the ***jihad of combat***, it is only a branch of the basic peaceful ***Jihad of al-Da'wah, (calling to Islam)*** in the same manner any tree has several branches.

In support of this fact, God the Almighty says in the Meccan Surah of al-Furqān: “So, [Muhammad] do not give in to the disbelievers and make *jihad* against them by means of this Qur'an, with utmost *jihad*” (the Quran, 25: 52). It is a direct command to the Prophet (may God's Peace and Blessings be upon him) to use the peaceful ***Jihad of al-Da'wah (calling to Islam)***, with the disbelievers during his stay in Mecca before the legislation of **combating**.

Likewise, another Quranic verse of the Meccan Surah of al-Nahl states: “Then indeed your Lord, to those who migrated after they were persecuted, then they waged jihad and were patient—indeed, after that, your Lord is all-forgiving, all-merciful” (the Quran, 16:110).

The Meccan Quran clearly uses the word *jihad* to indicate the self-control, patience and endurance of persecution for the sake of *Da'wah*. After the Prophet's migration to Medina, the Islamic state was founded and had its basic elements: (constitution, land and people). Jihad was thus permitted in Medina to defend the aggression and safeguard the borders of the state and the homeland. Apparently, this matter is acknowledged by all international laws and norms.

Many people may mistakenly think that the effective reason for not permitting *jihad* in Mecca was the Muslim weakness, which is not true. Actually, the reason for not permitting *jihad* in Mecca and for permitting it in Medina is that the Muslims in Mecca had nothing to fight for it; it is here where we know that there is no place for the physical violent *jihad* intended to force people to accept Islam. God the Almighty says, "*laikraha fi al-dīn i.e. there is no compulsion in religion.*" For the linguistics, the "la" article indicates the negation, so the verse means that there shall be no sort of coercion in accepting the religion, because the religious beliefs find their place only in hearts.

It may be said, why was the *jihad of combat* permitted in Islam? In reply, it was permitted to defend and protect Muslims, not to eliminate the disbelief. We only *combat against* anyone who attacks or violates the Muslim lives or lands to resist the aggression. The legitimacy of *jihad* does mean that the standardized *jihad* i.e. inviting with wisdom and good advice, has been terminated and ended. Indeed, inviting people to God was and is still the permanent key to all other types of *jihad*.

The Peaceful *Jihad of al- Da'wah (calling to Islam)* and the Jihad of combat

As to the peaceful *jihad*, it belongs to the area of conveyance, since the missionary activities (*Da'wah*) is affected by the open-mindedness or the narrow-mindedness of the culture of a *Da'iyah* (a caller/preacher) as per the rule: "God does not burden any human being with more than he is well able to bear" (the Quran, 2: 286).

As to the **jihad of combat**, it belongs to the Sharia-based theories of government. As far as ***Jihad of al-Da'wah (calling to Islam)*** is concerned, the basic rule is that *jihad* shall rely on dialogue and conviction in isolation from coercion and compulsion whereas the **jihad of combat** shall be only confined to the defense of attacks and aggression, not for initiating aggressions and wars.

In this regard, no confusion shall be there because of the following texts:

- **God the Almighty says, "When the [four] forbidden months are over, wherever you encounter the idolaters, kill them, seize them, besiege them, wait for them at every lookout post"** (the Quran, 9:5).
- The Prophet (may God's Peace and Blessings be upon him) said, "I have been ordered to *uqatil* (fight against) the people until they testify that there is none worthy of worship except Allah and that Muhammad is the Messenger of Allah, and until they establish the *salah* and pay the *zakah*. If they do that, then they will have gained protection from me for their lives and property, unless [they commit acts that are punishable] in Islam, and their reckoning will be with Allah" (Narrated by al-Bukhari and Muslim).

As to God's saying: "**When the [four] forbidden months are over, wherever you encounter the idolaters, kill them,**" it is only confined to the **idolaters** who are fighting against the Muslims, because the following

verse declares: “**And if any of the idolaters should seek your protection, grant it to him so that he may hear the word of God, then take him to a place safe for him, for they are people who do not know**” (the Quran, 9:6). If *kufr* (disbelief) is the only reason for fight, the command to kill the idolaters will be contrary in ruling to the command of protecting the **idolaters**.

As to the prophetic tradition, the Arabs differentiate between “*aqtul*” (kill) and “*uqatil*” (fight against); the former is to chase people and kill them in their homes until they accept the religion under duress whereas the latter is to become involved in war against another fighting party. In other words, it is to confront the aggression of people with equal force. Imam al-Bayhaqi quoted Imam al-Shafi’i (may God be pleased with him) saying, “Killing is entirely different from fight; fighting against a person may be lawful but it is impermissible to kill him” (Fatḥh al-Bari, 1/76).

Some may argue that the prophets' battles waged attacks against people in advance. In reply, there is no battle in which the Prophet (may God's Peace and Blessings be upon him) initiated fight against people. If some argue that the Prophet (may God's Peace and Blessings be upon him) **launched** sudden attacks on the population of Khaybar. In reply, it never happened. He only became assured of the news that came to him that the Jews of Khaybar plot in alliance with Ghaṭafān Tribe to attack the Muslims. He immediately occupied the roads between Ghatafān Tribe and the Jews. Then he suddenly marched to Khaybar at the outset of darkness in anticipation of their attacks.

As to the battle of Mu’tah, it only occurred after the Romans killed al-Harith Ibn ‘Umayr al-Azdi, the messenger sent to them by the Prophet (may God's Peace and Blessings be upon him), and they began to plot and prepare for war against Muslims.

In the battle of Tabūk, the Roman merchants told some Muslim merchants that the Romans prepare their plans to attack the Muslims. Likewise, the liberation of Greater Syria and Egypt only intended to eliminate the Roman oppression that shed the blood of the people of Egypt and Greater Syria. The people of Egypt and Greater Syria then welcomed Muslims, who peacefully entered their lands without fight.

The crucial question, had the Islamic liberation forced any one of Egypt or Greater Syria to accept Islam? The decisive response is “It never happened,” otherwise, we would have no non-Muslim living in these lands today.

Indeed, the Muslims never forced the citizens in the lands which they liberated to accept Islam, because the original rule of Islamic Sharia is the peaceful coexistence with the other in full understanding, cooperation and kindness. God the Almighty says:

“God does not forbid you to deal kindly and justly with anyone who has not fought you because of your faith or driven you out of your homes: God loves the just. But God forbids you to take as allies those who have fought against you for your faith, driven you out of your homes, and helped others to drive you out: any of you who take them as allies will truly be wrongdoers” (the Quran, 60: 8-9).

* * *

5. Citizenship

Citizenship means that all citizens are equal in rights and duties, within the borders of their states. Citizenship is a relationship between a citizen and the **homeland** where he lives and to which he is affiliated. It necessitates that the affiliation and loyalty of a citizenship shall be entirely to his homeland; he shall respect and believe in his identity in firm and sincere affiliation to it and readiness to defend it. The relationship with one's homeland is a translation of the statement that the human love of his nation and home is an instinct nature born with any human of sound nature and shared by all nations and peoples regardless of their races, languages and customs. This meaning was also stated in some ancient adages that encourage the love of homelands and the upholding and defending of them. For example, they said "Love of homeland is an essential part of one's faith" and said, "If you would like to know one's loyalty, watch for his **longing for his homeland.**"

It indicates that the human relationship with homeland and nation does not conflict with the human relations with faith and religion, because the teachings of religion direct human beings to preserve these relationships that constitute the national identity. In support of this harmony between the religious identity and the national identity, the Islamic Sharia imposes the defensive *jihad* as a mass obligation to protect the homeland and people and views anyone killed in this cause a martyr.

The citizenship is equally granted to all citizens who share the same homeland without the least discrimination; it necessarily ordains equality amongst them in rights and duties arising from this national affiliation. This meaning is evident in the **Constitution** of Medina concluded by the Prophet (may God's Peace

and Blessings be upon him) with the other diverse inhabitants of Medina at the beginning of the new era when the state was established and the regulations were introduced to organize its affairs.

Medina was the homeland of al-Aws and al-Khazraj tribes, the Jews, *al-Muhajirūn* (the Migrants) and others. The religious identity varied in Medina but the national identity gathered them all. The **Constitution** declared them all, including the Jews and others of those who did not accept the Islamic message, are equal in humanity and national rights and duties.

The **Constitution** of Medina included a social contract that founded the basic rules for brotherhood between *al-Muhajirīn* (the Migrants) and al-Anṣār (the Helpers) and safeguarded the peaceful coexistence between the Muslims and other citizens who shared the same homeland with them and did not accept the message of Islam. The **Constitution** awarded them equality with Muslims in the public interests and guaranteed all of their rights to the freedom of worship, the personal freedoms, customs and traditions on the basis of the rule of coexistence with home partners as indicated in God's statement: “**God does not forbid you to deal kindly and justly with anyone who has not fought you because of your faith or driven you out of your homes: God loves the just.**” (the Quran, 60:8). The **Constitution** also provided that the Jews of Medina together with the Muslims are only one nation, to the Jews their religion and to the Muslim their religion within the peaceful human coexistence that shall be commonly shared.

Currently, the terms of citizenship and citizen stand for the word “*Ahl al-Dhimmah.*” Citizenship means that both Muslims and non-Muslims live in the same land and share the same nation and place; the non-Muslims have all the rights of citizenship. The

responsibility of keeping the order is equally shouldered by Muslims and non-Muslims on an equal footing. The homeland is for all; for those who defend it on the basis of faith and for those who defend it on the basis of protecting the land and dignity.

*** * ***

6. Terrorism

It is a sort of an organized crime involving a group of dissenters against the order of the state and the society, which leads to the shed of innocent blood, destruction of establishments or aggression against public or private property.

Explanatory Note

The phenomenon of terrorism is one of the most dangerous phenomena that a society can suffer. Its grave consequences affect all fields of public life in politics, economics and social life among others. For Islam, terrorism and aggression are absolutely forbidden. Islam is the religion of peace for all humankind. Evidently, peace is contrary to violence and aggression, so they never coexist because they are contradictory to one another. Muslims are commanded to initiate the greeting of peace with anyone who meets them. Such greeting is an expression of safety, mercy and tranquility. It promotes security among all people. Apparently, peace and violence are contraries and never come together. Furthermore, Muslims are commanded to do their best in establishment of peace that they should incline to peace whenever their enemies incline to it even at the times of declared wars, let alone other times, God the Almighty says, "If they incline to peace, you shall incline to it and place your trust in God. He alone is all-hearing, all-knowing; and if they wish to deceive you, then God is sufficient for you. He is the One who supported you with His victory and with the believers" (the Quran, 8: 61-62).

Since compulsion is a form of terrorism, Islam acts against its all forms and examples. Indeed, the compulsion may beget what is contrary to the desired thing. It also promotes the hypocrisy, which is the source of betrayal, disloyalty and ambushade. Even in the issue of embracing Islam, God never permits

coercion; people shall not be forced to accept Islam; God the Almighty says, “There is no compulsion in religion; the proper way has been clarified from the wrong way. Whoever rejects false gods and believes in God, indeed he has taken grasp of the strongest hold that will never break. God is all-hearing, all-knowing” (the Quran, 2: 256).

Islam also forbids murder and bloodshed of the legally protected lives, which are declared among the major sins. God the Almighty says, “And do not take a life, for God has made this forbidden, except in the course of justice. And whoever is killed innocently, then We have given his heir authority, so let him not transgress in the taking of a life, for He will be given victory”(the Quran, 17:33).

God the Almighty also says, “It is because of this that We have decreed for the Children of Israel: "Anyone who kills a person for other than murder, or corruption in the land; then it is as if he has killed all the people! And whoever spares a life, then it is as if he has given life to all the people." Our messengers had come to them with clarities, but many of them are, after this, still corrupting on the earth” (the Quran, 5:32).

God also says “And whoever kills a believer intentionally, then his recompense shall be Hell, abiding therein, and God will be angry with him, and curse him, and for him is prepared a great retribution” (the Quran, 4:93).

Likewise, Abu Hurayrah (may God be pleased with him) said, the Messenger of God (may God's Peace and Blessings be upon him) said, “Avoid the seven noxious things. It was said (by the hearers): What are they, Messenger of Allah? He (the Prophet) replied: Associating anything with Allah, magic, killing of one whom God has declared inviolate without a just cause, consuming the property of an orphan, and consuming

of usury, turning back when the army advances, and slandering chaste women who are believers, but unwary” (Narrated by al-Bukhari).

‘Abdullah ibn ‘Umar (may God be pleased with him and his father) said, the Messenger of God (may God's Peace and Blessings be upon him) said, “A faithful believer remains at liberty regarding his religion unless he kills somebody unlawfully” (Narrated by al-Bukhari).

Ibn ‘Umar (may God be pleased with him) said, “One of the most malicious evils with bad consequence from which there is no escape for the one who is involved in— is to kill someone unlawfully.”

For Islam, it is impermissible to terrify the secure people and the Sharia rulings strictly prevent from terrorizing or terrifying the peaceful people to the extent that the mere pointing of a weapon towards another person is forbidden according to the prophetic statement of Abu Hurayrah (may God be pleased with him) that the Messenger of God (may God's Peace and Blessings be upon him) said, “He who points a weapon towards his brother, the angels invoke curse upon him even if he is his real brother so long as he does not abandon it (the pointing of weapon towards one's brother Muslim).”

The Islamic Sharia proved so lofty in treatment with non-Muslims that no other manmade law or system can even approach such lofty stand. Islam preserved all of their financial, ethical and social rights and protected their properties, lives and dignities granting them full freedom of religion without the least trace of coercion. The Quran also commands Muslims to keep kind relationship and treatment with them in the best manner of kindness and justice.

God the Almighty says, “**God does not forbid you to deal kindly and justly with anyone who has not fought you because of your faith or driven you out of your homes: God loves the just.**” (the Quran, 60:8).

The Prophet (may God's Peace and Blessings be upon him) declared a strict warning and menaced a painful punishment for him who sees it lawful to violate their bloods or persecute them. The Messenger of God (may God's Peace and Blessings be upon him) said, “Whoever kills a *mu‘ahid* (**a person who is granted the pledge of protection by the Muslims**) shall not smell the fragrance of Paradise though its fragrance can be smelt at a distance of forty years (of traveling)” (Narrated by al-Bukhari).

The Islamic Sharia forbid excessiveness in religion and warned Muslims against it lest they should fall in deviation. Indeed, religious excessiveness is the way to intellectual and creedal extremism. The religious misunderstanding may lead a human being to impose his beliefs on others by force as witnessed in living realities.

God has made this nation **a** well-balanced and moderate nation, because their religion is the **religion** of balance and moderation: God the Almighty says, “And as such, We have made you a *wasat* (**middlemost**) nation so that you may be witness over the people, and that the messenger may be witness over you” (the Quran, 2:143).

Ghuluw is the opposite of *al-wasatīyyah*. If *wasatīyyah* signifies moderation and balance in all matters, then *ghuluw* signifies narrow-mindedness and placing hardship on one's self by adopting only one way apart from the middle course of balance. The Islamic *wasatīyyah* refers to the even balance set among rulings without excessiveness or intransigence

and without violation or looseness. For Islam, there shall be no excessiveness or negligence.

The Islamic *wasatiyyah* fortifies the community against the challenges that may follow the narrow-mindedness of the fanatics who rely on one-way vision of the universe and the life, out of which they proceed to misjudge any opposing opinion in the name of religion. They condemn all thought that may disagree with theirs in the name of Islam. Eventually, they will accuse people of disbelief and dishonor the scholars stigmatizing them with improper descriptions. Religious excessiveness is a gate to extremism, which may lead to violence and imposing opinions on people by force.

Islam has enacted punishments and prescribed penalties for anyone who may, affected by his personal desires, deviate away from the teachings and principles of Islam and practice terrorism by means of spreading mischief on earth or practicing terrorism and destruction. Such punishments and prescribed penalties eliminate the roots of terrorism from communities and deter everyone who may undermine the public security and safety.

The prescribed penalty for *hirabah* (unlawful warfare) is one of the most strict punishments as declared in the Quranic verse where God the Almighty says, “the recompense of those who fight God and His messenger, and seek to make corruption in the land, is that they will be killed or crucified or that their hands and feet be cut off from alternate sides or that they be banished from the land; that is a disgrace for them in this world and in the Hereafter they will have a great retribution” (the Quran, 5:33).

Hirabah is characterized by two main descriptions: waging war against Allah and His Messenger and promoting corruption and mischief on earth. These two descriptions require identifying the

criminal act with the violation of the provisions of the Shari'ah. Actually, the explicit meaning of waging war against Allah and His Messenger (may God's Peace and Blessings be upon him) mentioned in the previous verse is not the direct meaning of the verse. The direct meaning is the perpetuation of criminal acts that violate the rulings of Allah and go against the way of His Messenger (may God's Peace and Blessings be upon him) by open aggression against people and against their souls, bloods and properties..

Hirabah thus agrees with what is in modern times called terrorism. This is because terrorism means carrying arms, frightening people and going against the law. This similarity in description requires similarity in punishment whenever the necessary conditions for taking legal action against the perpetrators are met. Applying such a punishment would entirely eradicate this disease. However, the judgment must be left to the judiciary and the application of the judgment must be done by the competent authorities, not by individuals or common people.

* * *

7. Jizyah

Jizyah: A financial obligation that no longer prevails and whose justification has ceased to exist due to the absence of its lawful cause at the present time. Civilians now have equal rights and obligations; furthermore, other financial regulations and systems have replaced the *jizyah* and thus it has no legal ground. The mention of *jizyah* in the **Glorious** Quran comes in contexts that speak of the deadly enemies – combatants and aggressors who refuse the concept of citizenship – but not of peaceful citizens taking part in the establishment and defense of the nation.

Explanatory Note:

The *jizyah* imposed by the Islamic state upon the subjects living in its territories, who did not embrace Islam, was not an Islamic invention, but it was a tax that was known in the pre-Islamic laws. This tax was levied in return for the military service, protecting the state and defending its subjects. It was imposed **instead of rendering** the military service.

The *jizyah* is not imposed in place of belief in Islam as proved by the fact that it was imposed only upon those who were able to do the military service and possessed the value of this tax. This is why it was not imposed upon the elderly, children, women, the disabled or the sick from among the people of the Book. Moreover, it was not imposed upon the monks and clergymen.

All the Muslim jurists with the exception of the Maliki jurists said that *jizyah* is levied in place of support and *jihad*. It was imposed upon those who are physically and financially capable from the Christians of Najran in return for exempting them from the military service. The Messenger of Allah (peace be upon him) wrote that to them: “No one of the people of *dhimma* (non-Muslim citizens in the Muslim state) is to

be asked to take part in fighting against the enemy with Muslims; rather, Muslims should defend and protect them”.

In territories where the non-Muslims preferred to **render** military service with the Muslims, they were **relieved from** the payment of *jizyah*. They were equal to the Muslims in **their engagement in fighting** and also in shares of spoils as happened in *Gorgan*. The convention concluded by the Muslim leader Suwayd Ibn Muqrin with the people of *Gorgan* provided that “Anyone we ask for his help shall take fair compensations for the services he did.” The same also occurred with the Christians of Homs when they participated in fight to the side of Abu ‘Ubaydahibn al-Jarrāḥ in the battle of al-Yarmūk against the Byzantine Romans.

‘Umar Ibn al-Khaṭṭāb exempted the Christians of Banu Taghlib from the payment of *jizyah* due to what he saw of their reluctance and defiance to pay it. Fearing lest they should rebel and join the Romans against the Muslims, he ensured that no harm would reach Muslims by exempting them from *jizyah*. He then retained the meaning but did not call it *jizyah*. He waived the *jizyah* and levied the *ṣadaqah* doubled from them (Ibn Sallām, *al-Amwal*; Abu Yūsuf, *al-Kharāj*).

The *ṣaghār* (**submission**) mentioned in the verse is only necessary when the payer is one of the warring disbelievers, not merely a disbeliever or a person of the people of the Scripture; once the war against the Muslims is over, *ṣaghār* is no longer necessary. The jurists of Islamic sharia strictly condemn and denounce any harassment against the people of the scripture in any kind of treatment; they asserted the necessity of treating with them in the best manner of kindness and benevolence.

8. Darul-Harb (Territory of War)

Darul-Harb (lit. the Territory of War): A changing jurisprudential term whose old concept has now become void under international treaties and UN instruments. Certainly, the change of this term does not infringe the right of states to redeem their violated territory, particularly, the rights of Palestinian people. The Islamic law imposes the duty of fulfilling agreements; hence, there is no migration from a homeland under the claim of moving to a territory of Islam (Darul-Islam).

Explanatory Note:

Darul-Harb refers to the land that wages aggression and war on a Muslim land and the president of the land under aggression declares the defense of it. The aggressor state is then darul-Harb, but if there is no fight or aggression against any Muslim state, it is dar amān (a land of peace). It is well known that all the countries that have diplomatic representation with Muslims take the name of the land of peace i.e. nations who are in peaceful relations with Muslims.

Likewise, all ambassadors, tourists and traders enter into the Muslim lands are *ahl amān* (given a pledge of protection) and shall not be harmed or their rights shall not be violated. Rather, they should be given generous and kind treatment so long as they abide by the laws regulating their entry and residence in our lands. But if they break the laws, it is necessary for the governments, not individuals, within their jurisdictions to reckon them in accordance with the international norms and diplomatic relationships.

The extremists insist that the non-Muslim lands shall be always land for fight and there shall be no room for peacemaking or security conventions with them so long as they are disbelievers. Any Muslim who

can pillage their properties or rob them of possessions shall do it! In this like manner the world will be a land for wars in the sight of those immoderate extremists, even the Muslim lands have become a land of war in their view, because their Muslim inhabitants do not apply the Islamic Sharia and their non-Muslim inhabitants are fighting disbelievers.

To sum up, the whole world is just a battlefield in the view of those terrorists, which could turn the world into a theatre of conflicts instead of promoting the dialogue of civilization, the acceptance of the other and the peaceful existence as deeply entrenched by Islam. In truth, the **Constitution** of Medina is considered the greatest human **Constitution** on the jurisprudence of human coexistence among all people regardless of their religions, beliefs and races.

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