

**A STUDY OF INDIVIDUAL FREEDOM AND RELIGIOUS LIBERALISM IN
ISLAMIC JURISPRUDENCE**

Associate Professor Nehaluddin Ahmad
LL.B., MA, LL.M. (Luck. India) LL.M. (Strathclyde ,UK), LL.D. (India)

Associate Professor in Law
Sultan Sharif Ali Islamic University
Bandar Seri Begawan
BRUNEI DARUSSALAM
E-mail: ahmadnehal@yahoo.com
Mobile No: +60166054353

Abstract

In the matter of religious liberalism and Islam, the world is misinformed and misguided. Most of the people who engage in these discussions do not have a clear idea of the Islamic way of life. Islam and its laws are pluralistic and also the coexistence of other religions with their religious freedom even when they are not associated with the external manifestation of the state agencies. Islamic scholars usually take great steps to prove that Islamic Doctrine contains all types of contemporary social and political thoughts such as the nature of social justice, individual freedom, religious liberalism and equality of human being. We must analyze to what extent there is truth of incompatibility between Islam and pluralism. Are Islam and pluralism really incompatible? These are important questions and we must search for answers. To resolve the existing confusion on this issue, elaborate study on the subject must be addressed.

This article will, therefore, critically analysis the concept of individual freedom, religious liberalism and equality. It will also try to make a comparative study of other legal systems in order to draw the conclusions as how the word religious liberalism is holding true in the modern Islamic world, whether directly or indirectly.

Introduction

‘Individual freedom’, as a legal concept has always been the most complex subject for the jurists and philosophers. The reason being that there have been given as many meanings to the whole concept of ‘individual freedom’ as have been the writers. However, one thing is almost clear, i.e. firstly it is used in the

context of the state which has the inherent power to regulate the behaviour of individuals in a given society and, in the process of doing so, some restrictive measures in the form of constraints on individual freedom might be imposed, and secondly it is interpreted with reference to the liberty and discretion that an individual may enjoy within the specified legal framework. Right from the beginning of the emergence of state as an organised institution with sovereign powers, almost all the legal theories have been revolving around the question as to what must be the extent of individual freedom in various fields of social life. The restrictions on individual freedom may vary from society to society and may be categorized as reasonable or arbitrary but they are always there. Harold Laski writes:

‘Man is not, in fact born free, and it is the price he pays for his past that he should be everywhere in chains. The illusion of an assured release from captivity will deceive few who have the patience to examine his situation. He comes into a society the institutions of which are in large part beyond his individual control.’¹

Harold J. Laski, while writing about the fundamental aspects of constraints on human freedom, writes:

‘To exhaust the associations to which a man belongs is not to exhaust the man himself.’²

‘Invite (all) to the Way of thy Lord with wisdom and beautiful preaching and argue with them in ways that are best and most gracious. For thy Lord knoweth best who have strayed from His path, and who receive guidance.’³

‘And if ye punish, let your punishment be proportionate to the wrong that has been done to you. But if ye show patience, that is indeed the best (course) for those who are patient.’⁴

Josef Raz observes: ‘Humanism leads to the ideal of individual autonomy and this to pluralism. These in turn provide much guidance to the general purpose and features of the law and among other consequences they provide a firm foundation for the claim that the law should not coerce a person to do that

¹ Harold J. Laski- George Allen A Grammar Of Politics, Unwin Ltd. Seventh Impression, 1982- First published in 1925- p-I8

² *Ibid.* p.67

³ Quran, translation Surah, 16, Al-Nahl, Ayat, 125

⁴ *Ibid.*, 126

which he holds to be (however misguidedly) morally wrong. But here again the argument outlined agrees in principle with the utilitarian approach the right not to have one's conscience coerced which is thus established is merely a prima facie right.⁵

Norman Anderson comments on the notions of freedom and their primary requirements: 'Release from slavery or bondage, in the primary sense of those terms, is the most fundamental form of freedom followed closely by release from imprisonment or physical detention. Yet the word 'freedom' has a far wider meaning and application. It includes freedom from a despotic system of government that is, 'civil liberty', freedom from foreign domination that is 'independence' and freedom of thought, religion, speech, association, movement and residence - that is what is termed 'human rights'. It includes the more subtle concept of freedom from fate, circumstances, undue influence or fear of some malign supernatural control any one of which may undermine freedom of choice or action. And it includes freedom from debt, destitution, sickness, psychological defects or any other form of constraint.'⁶

Individual freedom and religious liberalism

'But verily thy Lord, to those who do wrong in ignorance, but who thereafter repent and make amends. Thy Lord after all this is Forgiving, Most-Merciful.'⁷

Some kind of methodological individualism is required for political science because no empirical sense can be attached to concepts relating to social 'wholes' such as 'state', 'community', 'nation', 'polity' unless these concepts can be used in sets of statements which refer only to the empirically detectable behaviour of individuals.⁸

'Religious liberalism', when used in the broad sense, treating religion as an integrated concept, signifies the limits of religious influence in a person's life. This brings us to the question whether the limits of the religion may be restricted to what is known as the 'personal affairs' or they can conveniently be stretched to the spheres which are included in the category of public or political fields. This aspect assumes great significance, especially in the wake of the contemporary debate regarding the role of religion in the matters which are not strictly called 'personal'. If the religion is exclusively the personal affair, the very idea of 'religious liberalism' loses all its force, but if it is equally applicable to

⁵ Joseph Raz, *The Authority Of Law — Essays On Law And Morality*, Clarendon Press-Oxford, 1979, p.281

⁶ Norman Anderson, *Freedom Under Law*, Kingsway Publications, Eastbourne, 1988, p7

⁷ Quran, translation Surah 16. Al- Nahl, Ayat, 119

⁸ Raymond Plant, *Modern Political Thought*, Basil Blackwell, 1991, p.14

public fields and the state policy in the countries which are Islamic theocracies, its concomitant aspect that has to be discussed is as to what extent the state demonstrates tolerance towards and accommodates other religious beliefs that happen to exist within the jurisdiction of those states. At the core of such tolerance is the respect for the individuality of a person which is integrally associated with human dignity. Harold Laski observes on this aspect:

‘There is never likely to be an enlightened state until there is respect for individuality; but, also, there will not be respect for individuality until there is enlightened state. It is only the emphasis upon equality which will break this vicious circle. When the source of power is found outside of property, authority is balanced upon a principle which bases prestige on service. At that stage, the effort of statesmanship is the elevation of common man. A society which seeks to protect acquisition is replaced by a society which seeks to protect the spiritual heritage of the race. We cannot assure ourselves of an entrance to that heritage, but at least we can discover the pathway to the goal.’⁹

Writing about the right to property, Harold J. Laski observes, ‘I have the right to property if what I own is, broadly speaking, important for the service I perform. I have the right to own if what I own can be shown to be related to the common welfare as a condition of its maintenance. I can never justly own directly as a result of the effort of others. I can never justly own if the result of my ownership is a power over the life of others. For if the personality of other men is directly subject to the changes of my will, if their rights as citizens, in other words, became the creatures of this single right of mine, obviously they will soon cease to have any personality at all. No man, in such a background, has the right to own property beyond that extent which enables the decent satisfaction of impulse. After that point, it is not his personality that he contributes to the community but the personality of his property. He will be guided not by his interests but by its interests. He will act not to be his best self, but to win through his possession the influence which maximizes their safety. Exceptions, of course, there are; and the value of that munificence which Aristotle commended deserves more scrutiny than it has received.’¹⁰

Closely linked with the idea of respect for the individuality is the notion of ‘free will’ which in other words may be termed as the circle of individual discretion, i.e. the extent to which one is the judge of one’s destiny and the master of one’s

⁹ Harold J. Laski & George Allen, *A Grammar Of Politics*, Unwin Ltd. Seventh Impression. 1982-(First published in 1925)- p.172

¹⁰ *Ibid*,p.130

actions. The real implication of free will has been clarified by Ian Stewart and Jack Cohen as follows:

‘A true human being has free will - in the only sense that matters the relation of an individual to their culture and is in control of its own destiny. A man who knows he gets aggressive when drunk, and kills while drunk, can try to excuse the murder but he has no excuse for the drunkenness that he himself claims caused him to kill, because when he chose to get drunk he was sober. People who cannot control their tempers when drunk should consider themselves as being under a greater social obligation not to drink than those who can far from being a defense, drunkenness should compound the crime.’¹¹

Harold J. Laski has stressed the importance of the ‘social value of each citizen’, because according to him in the ultimate analysis it is the individual which constitutes the whole society. ‘It seems clear, therefore, that unless we can assume an *a priori* knowledge of the social value of each citizen, the state must be democratic. We shall, of course, differ as to what is implied in the notion of democracy.’¹² He further said: ‘I am a part of the state, but I am not one with it. An adequate theory of social organisation must always begin by recognising that the individual is finite, if he is a member of the herd, he is also outside it and passing judgment upon its actions.’¹³ The claim of authority upon myself is, firstly legitimate proportionately to the moral urgency of its appeal ; and it is secondly, important to make its decisions as closely woven from and into my own experience in order that its claim may be at a maximum.¹⁴

As regards the position in Islam, it expressly recognizes the ‘individuality’ and the ‘individual social value’. The responsibilities that an individual is to bear in a society or towards the state are depending upon the limitations, social, economic, political or physical, by which he is surrounded. The burden of such responsibilities and obligations must be proportionate to the extent to which he can exercise his powers and discretion. Thus the following verse of Quran proclaims;

‘No blame is there on the blind, nor is there blame on the lame, not on one ill (if he joins not the war): But he that obeys Allah and His Messenger,- (Allah)

¹¹ Ian Stewart and Jack Cohen, *Figment of Reality — the Evolution of the Curious Mind*, Cambridge University Press. 1997.p229

¹² Harold J. Laski & George Allen, *A Grammar of Politics*, Unwin Ltd. Seventh Impression, 1982- (First published in 1925)- p.27

¹³ *Ibid.* p.29

¹⁴ *Ibid.* pp249-50

will admit him to Gardens beneath which rivers flow; and he who turns 'back, (Allah) will punish him with a grievous Chastisement.'¹⁵

Liberalism is basically a concept that has always been changing its definition according to the political and social circumstances. It is the reason that different writers have tried to define the term in different manners. Some have confined its definition to the absence of arbitrary restrictions on individual freedom while some have broadened its sphere to include the questions like religious tolerance and mature social behaviour. While tracing its history F.A. Hayek observes:

'In the intellectual sphere during the second half of the Nineteenth century the basic principles of liberalism were intensively discussed. In the philosopher Herbert Spencer an extreme advocacy of an individualist minimum state, similar to the position of Humboldt, found an effective expounder. But John Stuart Mill, in his Book 'On Liberty' [1859] directed his criticism chiefly against the tyranny of opinion, rather than actions of government, and by his advocacy of distributive justice and a general sympathetic attitude towards socialist aspirations in some of his other works, prepared the gradual transition of a large part of liberal intellectuals to a moderate socialism. The tendency was noticeably strengthened by the influence of the philosopher T.H. Green who stressed the positive functions of the state against the predominantly negative conception of liberty of the older liberals.'¹⁶

A society is nothing but the collection of individuals, and as such its welfare, composition and other problems cannot be treated in the light of moral abstractions. If the individual is facing difficulties or is devoid of moral values, the society as a whole can never have a prosperous existence. Laski opine 'we build rights upon individual personality because; ultimately the welfare of the community is built upon the happiness of the individual.'¹⁷

Robin Archer, writes on the individuality of the individuals:

'While individuals presumably have varying capacities.... this is not a reason for depriving those with a lesser capacity.... once a certain minimum is met, a person is entitled to equal liberty on a par with everyone else.' (Rawls,

¹⁵ Quran, translation Surah 48, Al-Fatah, Ayat, 17

¹⁶ F.A. Hayek — New Studies in Philosophy, Politics, Economics and the History of Ideas, Routledge -1990 (first published in 1978).pp. 129-30

¹⁷ Harold J. Laski- George Allen, A Grammar of Politics, Unwin Ltd. Seventh Impression, 1982- (First published in 1925)- p.95

1972,506)¹⁸ He continues, ‘The idea of the individual as chooser is at the heart of the concept of autonomy. Individuals are autonomous if their actions are regulated by self-determined decisions and choice.’¹⁹

When we talk of social values, it signifies the collectivity of the individuals, who through their combined behaviour, represents a culture which, while taken as a whole, projects the social behaviour in such a manner that it is treated as a single whole. In the word of Tom Kitwood, ‘Each person occupies a distinctive position and acts individually. Yet the actions all articulate together to produce the completed acts that form the continuing pattern of the culture.’²⁰ He further says, ‘An individual can only survive, psychologically, within the collective by accepting its shared representation.’²¹

The problem of mutual social liberalism and tolerance is a very complex one, because if it is pursued through prejudices, likes and dislikes, it can never lead to a just and equitable composition of society. To achieve the higher social values that are founded on the deep sense of justice, each and every individual must be above the considerations of race, caste or religion. Harold J. Laski referring to the famous observation of Edmund Burke, while participating in the indictment of Warren Hastings, observes; (About Edmund Burke) ‘There is a politics of power which denies the idea of right in the relation between states ; and it is elementary , as Burke insisted in his indictment of Warren Hastings , that the denial of right abroad means, sooner or later, the denial of right at home. Men cannot discipline themselves in injustice to strangers without ultimately denying the duty of justice to their brothers.’²²

At this stage the most important question that arises for perusal and that has always confronted the organized society, no matter on which philosophy its sovereign structure is based, is when the state is constrained and is within the legitimate limits of its sovereign authority to abandon liberal attitudes and demonstrate harsh measures towards its subjects?’ By the unanimous opinion of the writers, it is the stage when the state as a sovereign body is facing a threat to its survival or integrity because of the treacherous and subversive activities of some of its groups. This situation, in general parlance is known as rebellion,

¹⁸ Robin Archer ,Economic Democracy- The Politics of Feasible Socialism,Clarendon Press-Oxford, 1995,p.23

¹⁹ *Ibid.* p.18

²⁰ Tom Kitwood, Concern For Others - A New Psychology Of Conscience and Morality, Routledge, London and New York. First published in 1990,p.55

²¹ *Ibid.* p.163

²² Harold J. Laski- George Allen ,A Grammar of Politics, Unwin Ltd. Seventh Impression,1982- (First published in 1925)- p.226

sedition or civil disorder. Every state is not only within its authority but is also under moral and legal obligation to forsake liberal values for preserving its sovereignty and restoring civil order.

Stipulating such a situation, Harold J. Laski says, 'No one can doubt that there is a point in the suppression of disorder where it becomes a matter of duty on the part of the executive to take all necessary means for its suppression, and those means will involve the use of military force and the punitive measures, such a force will adapt to secure the end for which it is used.'²³

Whether it is the punishment for an individual offence within the legal system or for the organized crimes posing a threat to the state, some writers have contested the legal basis of the criminal law. Many legal abstractions have been put forward on this point, but it is an established fact that no state can survive without penal provisions, no matter what may be the authority to back them. The most comprehensible argument that may be put forth is that to suppress those human instincts which may imperil the security of other citizens, the guilty must be punished.

Norman Lewis elaborates on this point; 'The operation of criminal law, however is more complex.....It suffices to suggest that although the legitimate source of the criminal law has always been contested, the classical explanation of the sources of legitimate authority has been the notion of social contract. The social contract doctrine derives the authority of the law from an implied contract between all citizens and the government. The authority of the law rests on the notional, consent of the parties. Criminal law is set on the same footing as civil law by this device As moral agents offenders are responsible for their decision to break the law, just as they would be responsible if they were to break the terms of a contract. The possibility of punishment, as opposed to mere repression, derives from the recognition of the autonomy of the offender.'²⁴

He further says: 'The derivation of the law from the will of the offenders as expressed in the social contract is problematic precisely because the contract remains wholly notional. However, in the transition from criminal law to constitutional law, it can be seen how the notional social contract is given

²³*Ibid.* 554

²⁴ Norman Lewis ,Human Rights , Law and Democracy in an Unfree World, in ' HUMAN RIGHTS FIFTY YEARS ON — A Reappraisal — Edited by Tony Evans, Manchester University press, 1998, p.82

consent, and , indeed , how this becomes the basis for the state to be regarded as a legitimate legal subject in its own right.²⁵

As Rousseau wrote; ‘Forced to combat nature or the social institutions, we must choose between making a man or a citizen, for we cannot make both at the same time.’(cited in Malik 1996,69) In entering into contracts and other relations with a subject, that subject is recognized as a person in his or her own right. The element of social recognition is as important as the individual capacity. That social recognition is what is formalized in law.²⁶

Coming to Islamic notion, the following verses command to quell the rebellion of those who do not recognize the authority of the state. These verses have created much confusion in the minds of those who understand them in the context of the belief and not the state structure.

‘Will ye not fight people who violated their oaths, plotted to expel the Messenger and attacked you first? Do ye fear them? Nay, it is Allah who ye should more justly fear, if ye believe.’²⁷

‘Fight in the Cause of Allah those who fight you, but do not transgress limits for Allah loveth not transgressors.’²⁸

As every right is based on a corresponding duty, so in the relations between the state and its subjects, the right of the former in extracting obedience from the latter cannot be treated as absolute. The citizens, no doubt, must obey the authority of the state and in the normal circumstances, are not within their right to evaluate the legitimacy of the state and the propriety of its every action. If it were so, no state could ever acquire stability because the subjects will neither have the power to oust the state authority and nor will they have specific and combined criterion to assess the performance of the state.

However, contrary to that, there are some circumstances in which it is generally believed that the actions of the state are based on atrocities, oppression and injustice and to throw out such a regime by force is the sacred moral obligation of every citizen, at whatever the cost and sacrifice it might be.

²⁵ *Ibid.* p.83

²⁶ *Ibid.* pp.82-84

²⁷ Quran, translation Surah 9At- Tauba.ayat 13

²⁸ Quran, translation Surah 2, Al-Baqarah, Ayat, 190

Joseph Raz specifies such circumstances; ²⁹‘It is convenient to follow the traditional classification of morally and politically motivated disobedience into three categories.

1. Revolutionary disobedience - is a politically motivated breach of law designed to change or to contribute directly to a change of government or of the constitutional arrangements (the system of government)
2. Civil Disobedience — is a politically motivated breach of law designed either to contribute directly to a change of a law or of a public policy or to express one’s protest against, and dissociation from, a law or a public policy.
3. Conscientious objection — is a breach of law for the reason that the agent is morally prohibited to obey it, either because of its general character (e.g. as with pacifists and conscription) or because it extends to certain cases which should not be covered by it (e.g. conscription and selective objectors and murder and euthanasia)’

Stressing the significance of the right of the citizens to assess the rational basis of the state, M.R. Griffiths and J.R.Lucas say; ‘In deteriorating what our responsibilities to the state are , we need to have a clearer idea of what the rationale of the state is, and why its edicts should be obeyed.’³⁰

The Qur’an is quite specific on all the three points, firstly, it emphasizes mutual tolerance and respect towards all the religions, secondly, it enjoins on the citizens to obey only such directives of the sovereign that are in conformity with the commandments of Allah and His Messenger and thirdly, one must neither show injustice and nor should tolerate it at any cost, if it is within one’s power to repulse unjust actions of others. The following verses declare; ‘Allah forbids you not with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them; For Allah loveth those who are just.’³¹

‘Allah only forbids you, with regard to those who fight you for (your) Faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection). It is such as turn to them (in these circumstances) that do wrong.’³²

²⁹ Joseph Raz, *The Authority Of Law Essays On Law And Morality*, Clarendon Press- Oxford, 1979- p.263

³⁰ M.R. Griffiths and J.R.Lucas ,*Ethical Economics*, Macmillan Press Ltd,1996,p.139

³¹ Quran, translation Surah 60, Al- Muntahana, Ayat, 8

³² *Ibid.*, 9

Say: We believe in Allah, and in what has been revealed to us and what was revealed to Abraham, Ismail; Isaac, Jacob, and the Tribes, and in (the Book) given to Moses, Jesus and the Prophets, from their Lord. We make no distinction between one and another among them, and to Allah do we bow our will (in Islam).³³

This tolerant and liberal spirit of Islam is not only found in the text of Qur'an, but its practical dimensions are discernible in the practices of the Muslim society by and large and has been acknowledged by the writers from all folds.

According to Peter Boxhall, the majority of Arabs are Muslim and Islam represents their religion and their way of life, as well as their guidance for moral and social behaviour. "In the same sense that Muslims are exhorted (in the Quran) to be compassionate towards the non-believer (and to widows, orphans and the sick), so too should we respect the 'faithful'. Sometimes one may meet religious fanatics, openly hostile, but it is rare to do so and I can only recall, in my many years in Arab countries, one such occasion."³⁴

One of the integral parts of religious and social liberalism is the right to speak according to the conscience and once that right is denied it means that people have lost touch with reality. As April Carter has put it, 'Havel argues that the failure to speak concretely means that people lose touch with reality, and so lose the ability to influence reality.'³⁵

Islam and Religious Liberalism

Many people feel that Islam is quite incompatible with pluralism or secularism. This is further reinforced by the propaganda by some Muslim countries that pluralism or secularism is haram³⁶ and that all secular and pluralistic nations are enemies of Islam. We must analyze to what extent there is truth of incompatibility between Islam and pluralism. Are Islam and pluralism really incompatible? These are important questions and we must search for answers. We must bear in mind that in every religion there are different intellectual trends, both liberal as well as conservative. Both factions quote scriptures in

³³ Quran, translation Surah 3, Ale-Imran, Ayat,84

³⁴ Peter Boxhall, 'How To Be In Islam' in 'The Traveller's Handbook, Edited by Caroline Brandenburger, published by Wexas Ltd.45-49, Brompton Road, London p.469

³⁵ Vaclav Havel, Civil society , Citizenship And Democracy, by April Carter in 'Liberal Democracy And Its Critics - Perspectives in Contemporary Political Thought', Edited by April Carter and Geoffrey Stokes, Polity Press, 1998, p64

³⁶ Haram is an Arabic term meaning "forbidden". In Islam it is used to refer to anything that is prohibited by the faith ,Wikipedia <http://en.wikipedia.org/wiki/Haram> visited on 9/04/09.

support of their respective positions.³⁷ Since a scripture or religious tradition for that matter has to deal with complex social situation, one finds differing or even contradictory statements responding to the differing or contradictory situations.³⁸

The problem really arose when the subsequent generations treated the understanding of the Qur'anic verses by the companions of the Prophet or the early commentators who drew their own understanding heavily from the pronouncements of these companions and their followers. The companions were thought to be, and rightly so, as great authorities because the Qur'an was revealed during their life time and in their presence. Most of the subsequent commentators simply referred to these companions and their followers' pronouncements became the only source of understanding the Qur'anic verses.³⁹ Until today the commentators of the Qur'an are repeating those very ideas and these ideas have become sacred and any deviation is considered heresy by most of the orthodox commentators of the Qur'an.⁴⁰

After Islam appeared on the social horizon of Mecca, the scenario began to change. In Medina the Prophet (PBUH) laid the framework of governance through what is known as Mithaq-e-Medina (Covenant of Medina). This Covenant also basically respects tribal customs to which adherents of Judaism, Islam and pre-Islamic idol worshippers belonged.⁴¹ Each tribe, along with the religious tradition it belonged to, was treated as an autonomous unit in the Covenant, which has been described in full details by Ibn Ishaque, the first biographer of the Holy Prophet. Thus the Covenant of Medina respected both the tribal as well as religious autonomy of the inhabitants of the town.⁴² It can also be said to be the first constitution of the state in making. The Covenant laid down certain principles which are valid even today in a secular state. When the covenant was drawn up by the Prophet of Islam, Shariah as a body of law had not evolved. In this important Medinan document what is most important

³⁷ Ghassan F. Abdullah , (1999), *New Secularism in the Arab World*. Birzeit University press.p.66..

³⁸ Ronald A. LUKENS-BULL: "Between Text and Practice: Considerations in the Anthropological Study of Islam" (1999) *Marburg Journal of Religion* 42.

³⁹ Joseph Schacht, (1950) *Origins of Muhammadan Jurisprudence* (reprinted 2008), ACLS Humanities E-Book. p 237.

⁴⁰ *Ibid.* p.238.

⁴¹ Asghar Ali Engineer, (Sept.2002) *Islam and Modern Age: Intellectual approach to Islam* ,Centre for Study of Society and Secularism, Mumbai p20.

⁴² Ameer Ali : (1980) *The Spirit Of Islam* – Low Price Publications -A Division of DK Publishers Distributors(P) Ltd., Delhi, p.241.

is that the Prophet did not compel the different tribes of Jews and idol worshippers to follow the Islamic law.

Writing about the Covenant, Michael Cook observes, “.....One of Muhammad’s first tasks in Medina was to create a political order –one which would give him and his followers the protection they needed, and rid Medina of its domestic strife. The arrangements which Muhammad made are embodied in a document which has come to be known as the ‘Constitution of Medina’. This document declares the existence of a community or people (umma) made up of Muhammad’s followers, both those of Quraysh and those of Yathrib. To this community also belong the Jews, subject to the qualification that they follow their own religion. Just as important, the document establishes an authority within the community: any serious dispute between the parties to the document must be referred to God and Muhammad. From the mass of stipulations making up the rest of the document, two themes are worth picking out. One is a concern to clarify the relationship between the new community and the existing tribal structure; this is particularly apparent in the regulations regarding the payment of blood wit and the ransoming of captives. The other is the fact that a major interest of the parties of the document is the waging of war. There are stipulations regarding the initiation and termination of hostilities, contribution to their cost, and so forth. Jews contribute, and fight alongside the believers.”⁴³

A state structure began to evolve only after the death of the Holy Prophet when vast areas of other territories were conquered and new problems began to arise. During the Prophet's time the governance was limited to almost a city, Medina.⁴⁴ He did not live long after the conquest of Mecca.⁴⁵ But after his death the jurisdiction of the state expanded much beyond the frontiers of Arabia⁴⁶. During the Prophet's time people were more concerned with day to-day problems of marriage, divorce, inheritance etc. on one hand, and those of problems like theft, robbery, murder and some similar problems for which the Qur'an and the Prophet were inerrant source of guidance. The people asked the Prophet for guidance and followed his pronouncements or the Qur'anic injunctions voluntarily.⁴⁷ There was no state machinery to enforce it. There was neither any police force nor any regular military. There was no separate judiciary. As far as the Prophet was concerned he was legislator an enforcer of

⁴³ Michael Cook : *Muhammad* (1983)Oxford University Press, p.311.

⁴⁴ City refers here Medina – is township in W Saudi Arabia .

⁴⁵ Abdullahi Ahmed AN-NA'IM (1990): *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*. Syracuse: Syracuse University Press.p34.

⁴⁶ *Ibid.* 34 also see Lynn H. Nelson, (1988) *Global Perspective Source Readings from World Civilization* Volume I (Perspectives, 3000 B.C. to 1600 A.D.) p 320-22.

⁴⁷ Shahina Siddiqui,(2004)“*A Question of Religious Freedom*,”*Winnipeg Free Press*,7 January, p. A11.
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laws (executive)⁴⁸, and also a judge (representing judiciary). He combined all three functions.⁴⁹

The Islamic state which came into existence after the death of the Prophet, as pointed out above, also became a model for the subsequent generation though this model was hardly followed even in early period of Islamic history.⁵⁰ The Umayyad and the Abbasid empires which came into existence after what is called khilafat-e-rashidah (i.e. the rightly guided period of khilafat or Islamic state)⁵¹ never followed this religious model. Both the empires were based on personal and authoritarian rule and were Islamic only in name.⁵² The Umayyad and the Abbasid Caliphs followed their own personal desires rather than the Qur'anic injunctions or the Shariah rules. They just symbolically made their obeisance to religion and followed what was in their personal interest. Thus theirs were what we can call 'semi-secular' states.⁵³

Though the khilafat-e-rashidun (i.e. the rightly guided period of khilafat i.e. Islamic state, the period of Abu-Bakr, Umar, Uthman and Ali) model was never repeated in the history of Islam, in theory, it remained the objective of all the Islamic theologians to establish the state on the model of early Khilafat and it was a 'golden period of Islamic democracy. Khilafat was ultimately replaced by monarchy and dynastic rule. This was totally against the spirit of the Qur'an. Once the institution of Khilafat was replaced by dynastic rule, it could never be restored throughout Islamic history.

Islamic Secular Values

We have already said above that religion and pluralism can coexist or not within the same state depending on the interpretation of both religion as well as pluralism. If religion is interpreted in keeping with very conservative traditions, it may be difficult for it to go along with secularism which demands more liberal disposition and not only tolerance but also promotion of pluralism.⁵⁴ On

⁴⁸ Philip K. Hitti (1970) *History of The Arabs* – Tenth Edition - Macmillan Education Ltd, London. P.120.

⁴⁹ G.A. Parwez, (1986) *Islam: A Challenge to Religion*, Lahore: Idara-e-Tulu'-e-Islam, p. 346.

⁵⁰ Asghar Ali, *Islam and Secularism* edited Abu-Rabi', Ibrahim M., The Blackwell Companion to Contemporary Islamic Thought, Blackwell Publishing, 2006p.144-45.

⁵¹ *Ibid.* 146.

⁵² *Ibid.* p147.

⁵³ *Ibid.* 147 .

⁵⁴ Abdullah, Najih Ibrahim Bin, (1988) *The Ordinances of the People of the Covenant and the Minorities in an Islamic State*, Balagh Magazine, Cairo, Egypt, Volume 944, May 29; p.126.

the other hand, if secularism is interpreted too rigidly i.e. if it is equated with atheism, as many rationalists do, then also the two (i.e. religion and pluralism) will find it difficult to exist within the same state.⁵⁵

Islam too, as pointed out above, can be interpreted rigidly, or liberally. If both Islam and pluralism are interpreted liberally there should not be any problem with Islam in a secular set up.⁵⁶ In fact if one studies the Qur'an holistically one can find strong support for 'liberal or non-atheistic secularism'. No religion will support atheistic secularism for that matter. If we talk of liberal secularism what do we mean by it?⁵⁷ We must clearly define it. Liberal secularism does not insist on belief in atheism. Secondly, it promotes pluralism and respect for all faiths and thirdly it guarantees full freedom of religion for all citizens. Also, secularism guarantees equal rights for all citizens irrespective of one's caste, creed, race, language or faith.⁵⁸

Islam can hardly clash with this liberal secularism. The Qur'an, in fact, directly encourages pluralism vide its verse 5:48.⁵⁹ Its verse clearly states that every people have their own law and a way, i.e. every nation is unique in its way of life, its rules etc. It also says that if Allah had pleased He would have created all human beings a single people but He did not do so in order to test them (whether they can live in harmony with each other despite their differences in laws and way of life). Thus it is clear assertion of pluralism. One must respect the other's faith and live in harmony with him/her.

The Qur'an also asserts that every people have their own way of worshipping God (see 2:148).⁶⁰ One should not quarrel about this. Instead one should try to excel each other in good deeds. In the verses 60:7-8 we find that Allah will bring about friendship between Muslims and those whom you hold as enemies. And Allah does not forbid you from respecting those who fight you not for religion, nor drive you forth from your homes and deal with them justly. Allah loves doers of justice.⁶¹

Islam and Pluralism

⁵⁵ *Ibid.* p.126-27.

⁵⁶ Syed Ameer Ali; (1997) "*The Spirit of Islam-A history of the Evolution and Ideals of Islam With a Life of the Prophet*," Delhi (First published in 1923).p107.

⁵⁷ *Supra* 54, Abdullah, Najih Ibrahim Bin p.126-27

⁵⁸ *Supra* 54, Abdullah, Najih Ibrahim Bin p.127-28

⁵⁹ Abdullah Yusuf Ali, *The holy Quran*, trs Surah Al-Maidah 5.48.

⁶⁰ *Ibid.* 2:148.

⁶¹ *Ibid.* 60:7 and 8.

The Islamic tenets, it will be seen, do not disapprove of pluralistic way of life. Even the Covenant of Medina (called Mithaq-i-Medina) clearly approves of pluralistic set up. When the Prophet migrated from Mecca to Medina owing to persecution in Mecca at the hands of Meccan tribal leaders, he found Medina society a pluralistic society. There were Jews, pagans and Muslims and also Jews and pagans were divided into several tribes, each tribe having its own customs and traditions.⁶² The Prophet drew up a covenant with these tribes guaranteeing them full freedom of their faith and also creating a common community in the city of Medina with an obligation to defend it, if attacked from outside.⁶³

This was in a way a precursor of modern secular nation, every citizen free to follow his/her own faith and tribal customs and their own personal laws but having an obligation towards the city to maintain peace within and defend it from without. The Prophet clearly set an example that people of different faith and traditions can live together in peace and harmony creating a common bond and respecting a common obligation towards the city/country.⁶⁴

Certain Observations about religious Liberalism and concept of equality in Islam

“O Ye who believe! Stand out firmly for Allah , as witness to fair dealing , and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear Allah, for Allah is well-acquainted with all that ye do.”⁶⁵ (Sura 5 – Al-Maida, Ayat, 8)

One basic element in the value system of Islam is the principle of equality. This value of equality is not to be mistaken for or confused with identicalness or stereotype. Islam teaches that, in the Sight of God, all men are equally but they are not identical. There are differences of abilities, potentials, ambitions, wealth, and so on. Yet none of these differences can by itself establish a status of superiority of one man or race to the other. The stock of man, the color of his skin, the amount of wealth he has , and the degree of prestige he enjoys have no bearing on the character and personality of the individual as far

⁶² Michael Cook , (1983) *Muhammad* – Oxford University Press , p. 311.

⁶³ Abu al-A'la al-Mawdudi, (1976) "Political Theory of Islam," in Khurshid Ahmad, ed., *Islam: Its Meaning and Message* ,London: Islamic Council of Europe, , p159-61.

⁶⁴ Ameer Ali : (1997)*The Spirit Of Islam* – Low Price Publications , A Division of DK Publishers Distributors(P) Ltd., Delhi, p.107-108.

⁶⁵ Abdullah Yusuf Ali, *The meaning of Glorious Quran*, trs Sûrah Sura Al-Maida 5.8 (2009) J. JURIS 56

as God is concerned.⁶⁶ The only distinction which God applies is the criterion of goodness and spiritual excellence. In the Qur'an, God says: "O mankind, verily we have created you from a single (pair) of a male and a female, and have made you into nations and tribes, that you may know each other. Verily the most honored of you in the Sight of God is the most righteous."⁶⁷ (Qur'an 49: 13)

The differences of race, color, or social status are only accidental. They do not affect the true stature of man in the Sight of God. Again the value of equality is not simply a matter of constitutional rights or gentlemen's agreement or condescending charity. It is an article of Faith which the Muslim takes seriously and to which he must adhere sincerely.⁶⁸ The foundations of this Islamic value of equality are deeply rooted in the structure of Islam. It stems from the basic principles such as the following: (1) all men are created by one and the Same Eternal God, the Supreme Lord of all. (2) All mankind belong to the human race and share equally in the common parentage of Adam and Eve. (3) God is just and kind to all His creatures. (4) All people are born equal in the sense that none brings any possession with him, and they die equal in the sense that they take back nothing of their worldly belongings. (5) God judges every person on the basis of his own merits and according to his own deeds. (6) God has conferred on every person a title of honor and dignity.⁶⁹

Such are some of the principles behind the value of equality in Islam. When this concept is fully utilized, it will leave no place for prejudice and persecutions. And when this Divine ordinance is fully implemented, there will be no room for oppression or suppression. Concepts of chosen and gentile peoples, words such as privileged and condemned races, expressions such as social castes and second class citizens will all become meaningless and obsolete.⁷⁰

Islam gives its citizens the right to absolute and complete equality in the eyes of the law. *The believers are brothers (to each other)* (49:10)⁷¹

This religious brotherhood and the uniformity of their rights and obligations is the foundation of equality in Islamic society, in which the rights and obligations of any person are neither greater nor lesser in any way than the rights and

⁶⁶ A.A.A. Fyzee, *A Modern Approach to Islam*, Lahore: Universal Books, 1978 p. 17

⁶⁷ Abdullah Yusuf Ali, *The meaning of Glorious Quran*, trs Sûrah Al- Hujurat 49.13

⁶⁸ Supra 37 ,Ghassan F. Abdullah p 21

⁶⁹ A.A. Maududi, *Human Rights in Islam* Lahore: Islamic Publications: 1977 p 230

⁷⁰ Ernest Gellner: 'Muslim Society' – Cambridge University Press, 1981,p. 6

⁷¹ Reference here is to Surah: Al-Hujurat: 49:10.

obligations of other people. Holy Quran and hadith that in their rights and obligations they are all equal.⁷²

As far as the non-Muslim citizens of the Islamic State are concerned, the rule of Islamic Shari'ah (law) about them has been very well expressed by the Caliph 'Ali in these words: "They have accepted our protection only because their lives may be like our lives and their properties like our properties" (Abu Dawud). In other words, their (of the Zimmis) lives and properties are as sacred as the lives and properties of the Muslims. Discrimination of people into different classes was one of the greatest crimes that, according to the Quran, Pharaoh used to indulge in: "He had divided his people into different classes," ... "And he suppressed one group of them (at the cost of others)" (28:4).⁷³

Islam not only recognizes absolute equality between men irrespective of any distinction of colour, race or nationality, but makes it an important and significant principle, a reality. The Almighty God has laid down in the Holy Quran: (49:13). This means that the division of human beings into nations, races, groups and tribes is for the sake of distinction, so that people of one race or tribe may meet and be acquainted with the people belonging to another race or tribe and cooperate with one another. This division of the human race is neither meant for one nation to take pride in its superiority over others nor is it meant for one nation to treat another with contempt or disgrace, or regard them as a mean and degraded race and usurp their rights. "Indeed, the noblest among you before God are the most heedful of you" (49:13)⁷⁴. This has been exemplified by the Prophet in one of his sayings thus: "No Arab has any superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab. Nor does a white man have any superiority over a black man, or the black man any superiority over the white man. You are all the children of Adam, and Adam was created from clay" (al-Bayhaqi and al-Bazzaz). In this manner Islam established equality for the entire human race and struck at the very root of all distinctions based on colour, race, language or nationality⁷⁵. According to Islam, God has given man this right of equality as a birthright. Therefore no

⁷² "Qur'an – The Guide For Humanity" Radiance Views weekly, New Delhi, – Vol. xxx no. 16-15-11 March, 1995.

⁷³ Abdullah Yusuf Ali (translation) The Holy Qur'an, p. 1148 (Brentwood, Maryland: Amanat Corporation, 1989). Surah *AL-QASAS* 28:4

⁷⁴ Abdullah Yusuf Ali (translation) The Holy Qur'an, Surah *AL-HUJRAAT* 49:13

⁷⁵ *Ibid.* p1150

man should be discriminated against on the ground of the colour of his skin, his place of birth, the race or the nation in which he was born.⁷⁶

It is very remarkable that there is nothing in the Quran corresponding to any Muslim state or only the duties or rights of Muslim evidently because the prophet was giving God's message to whole humanity consisting of individuals in all lands living under various political systems⁷⁷. Even the Sura Nissa, which contains the specific directions which from the basic law of Muslims relating to marriage and inheritance, being from the basic law of Muslims relating to marriage and inheritance, begins with : "Oh Mankind" (Ya Ayyuhannass). Its fist fourteen paragraphs are translated as summarized as follows by Abdullah Yusuf Ali:

*All mankind are one, and mutual rights
Must be respected : the sexes
Must honour, each the other;
Sacred are family relationship
The rise through marriage
And women bearing children;
Orphans needed especial loving care;
In trust in held all property;
With the duties well-defined;
And after death, due distribution
Should be made in equitable shares
To all whose affection, duty,
And trust shed light and joy
On this our life below.⁷⁸*

Although Muslim jurisprudence, as a formal science, developed by only after the death of Prophet and the first four caliphs, yet, the Quranic exhortations and the example and savings of the Prophet bred such a devotion to justice and such solicitude for impartiality and equality before the law-the "king of kings"—that an incident relating to the second Caliph Umar, may be cited from Abdur Rahim's Muhammadan Jurisprudence to illustrate it:

... Umar appointed the Qadi, and he enforced the principle that the majesty of law was supreme, and that the administration of justice must be above the suspicion of subservience to executive authority. He had once a law suit against a Jew, and both of them went to the Qadi who, on seeing the Caliph, rose in his seat out of deference.

⁷⁶ *Ibid.* : Abdullah Yusuf Ali(translation) The Holy Qur'an, p. 1151 (Brentwood, Maryland: Amana Corporation, 1989).

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

*Umar considered this to be such an unpardonable weakness on his part that he dismissed him from office.*⁷⁹

Yet another question which remains to be answered is about equal rights to all citizens in a country with Muslim majority. It is often argued that Muslims are reluctant to accord equal citizenship rights to religious minorities. No doubt there is some truth in this assertion, but not the whole truth. Some Muslim majority countries certainly do not allow non-Muslims equal rights but many other countries do; for example, countries like Indonesia, Malaysia and Turkey. These countries, though have Muslim majorities, do allow all their citizens, including the non-Muslims, equal political rights and religious rights.

The rights of non-Muslims, in other words, will have to be rethought and reformulated. The Qur'an nowhere states that religion can be the basis of political rights of the people. This was the opinion of Muslim jurists of the medieval period when religion of the ruler determined the status of the ruled. Such a formulation cannot be considered a necessary part of the political theory of Islam. The only model for this purpose can be the Mithaq-i-Madina and this Covenant, as pointed out above, did not make any distinction between people of one religion and the other in matters of political rights.⁸⁰ This Covenant, at least in spirit, if not in form, provides a valuable guidance for according political rights to citizens of modern state irrespective of one's religion. It is unfortunate that the later political theorists of Islam almost wholly neglected this significant political document drawn up by the Prophet of Islam. In fact he was far ahead of his time in according non-Muslims equal religious and political rights.⁸¹ The theory of political rights in the modern Islamic state should be based on this document. The lack of democracy and human rights is not because of Islam or Islamic teachings but due to authoritarian and corrupt regimes which totally lack transparency in governance. Again, if we go by the sunnah of the Prophet and record of governance of the rightly guided caliphs, we see that the principle of accountability and transparency in governance was quite fundamental.⁸²

Islam, in fact, is the first religion which legally recognized other religions and gave them dignified status and also accepted the concept of dignity of all children of Adam (17:70)⁸³ irrespective of their faith, race, tribe, nationality or

⁷⁹ A Rahim, *Mubammadan Jurisprudence* (1958)p.21

⁸⁰ *Ibid.* p.110.

⁸¹ Abu al-A'la al-Mawdudi,(1976) *Political Theory of Islam* ,Lahore: Islamic Publications, ,p13, 15-17.

⁸² *Ibid.* p. 38.

⁸³ Abdullah Yusuf Ali, *The holy Quran*, trs Surah Al Isra'17:70.

language (49:13).⁸⁴ The verse 2:213⁸⁵ is also quite significant on the unity of all human beings which is what is the intention of Allah. All differences are human and not divine and these differences should be resolved in democratic and goodly manner (29:46).⁸⁶ Islam upholds pluralism, freedom of conscience and human and democratic rights and thus does not clash with the concept of secularism.⁸⁷

The justice to which Islam invites her followers is not limited only to the citizens of their own country, or the people of their own tribe, nation or race, or the Muslim community as a whole, but it is meant for all the human beings of the world.⁸⁸

In this manner Islam established equality for the entire human race and struck at the very root of all distinctions based on color, race, language or nationality. According to Islam, God has given man this right of equality as a birthright. Therefore no man should be discriminated against on the ground of the color of his skin, his place of birth, the race or the nation in which he was born. Islam upholds pluralism. Let's examine the rights of non Muslims in this context.

Rights of Non Muslims (Zimmis)

In Islam, the rights of citizenship are not confined to people born in a particular state. A Muslim *ipso facto* becomes the citizen of an Islamic state as soon as he sets foot on its territory with the intention of living there and thus enjoys equal rights along with those who acquire its citizenship by birth.⁸⁹

The Qur'an says:

“Truly Pharaoh elated himself in the land and broke up its people into sections, depressing a small group among them: their sons he slew, but he kept alive their females: for he was indeed a maker of mischief.” (28: 4)⁹⁰

⁸⁴ *Ibid.* 49:13.

⁸⁵ *Ibid.* 2:213.

⁸⁶ *Ibid.* 2:213 and Surah Al 'Ankabut 29:46.

⁸⁷ Abdulaziz Abdulhussein Sachedina, (2001) *The Islamic Roots of Democratic Pluralism*, Published by Oxford University Press US, p.30-31.

⁸⁸ Abdul Qadir & Audah Shahee'; (1970) *Islamic System of Justice*'; Translated by S.M. Hasnain, M.A. Kitab Bhawan, New Delhi p.272.

⁸⁹ S.Abul Ala Maududi (1997) *Islamic Law and Constitution* Islamic Publication (Pvt) Lahore, p.283-84.

⁹⁰ Abdullah Yusuf Ali, *The holy Quran*, trs Surah Al-Qasas 28.4.

Thus in the eyes of his (*Pharaoh*) government all citizens were not equal in law. All did not enjoy similar rights. Instead he adopted the policy of dividing people into groups and castes and of oppressing one group and exalting another, making one the subject and the other the overlord.

To this effect, the Prophet was reported to have said, "He who unfairly treats a non-Muslim who keeps a peace treaty with Muslims, or undermines his rights, or burdens him beyond his capacity, or takes something from him without his consent; then I am his opponent on the Day of Judgment"⁹¹ (Abu Dawud and Al-Bayhaqi)

Islam has also laid down certain rights for non-Muslims who may be living within the boundaries of an Islamic state and these rights necessarily form part of the Islamic constitution. In Islamic terminology, such non-Muslims are called *Zimmis* (the covenanted), implying that the Islamic state has entered into a covenant with them and guaranteed their protection. The life, property and honor of a *Zimmis* is to be respected and protected in exactly the same way as that of a Muslim citizen. Nor is there difference between a Muslim and a non-Muslim citizen in respect of civil or criminal law⁹². The rule of Islamic Shari'ah (law) about them has been very well expressed by the Khalipha 'Ali in these words: "They have accepted our protection only because their lives may be like our lives and their properties like our properties" (Abu Dawud). In other words, their (of the *Zimmis*) lives and properties are as sacred as the lives and properties of the Muslims. Discrimination of people into different classes was one of the greatest crimes that, according to the Quran, Pharaoh used to indulge in: "He had divided his people into different classes," ... "And he suppressed one group of them (at the cost of others)" (28:4).⁹³

The Islamic state should not interfere with the personal rights of non-Muslims, who have full freedom of conscience and belief and are at liberty to perform their religious rites and ceremonies in their own way.⁹⁴ They may propagate their religion. These rights are irrevocable. Non-Muslims cannot be deprived of them.⁹⁵

⁹¹ Hadith ,Sunan Abu Dawud and Al-Bayhaqi .

⁹² Mawdudi, S. Abul `Ala', *The Rights of Non-Muslims in Islamic State*, Islamic Publications, LTD. Lahore, Pakistan. 1982 p284

⁹³ Yusuf Ali, *The holy Quran*, trs Surah Al Qasas 28:4 .

⁹⁴ Mawdudi, S. Abul `Ala', *The Rights of Non-Muslims in Islamic State*, Islamic Publications, LTD. Lahore, Pakistan. 1982 p285-86

⁹⁵*Ibid.* , Abul Ala Maududi p.286.

In this way the guarantees and rights given to citizens in a Muslim theocracy based on a proper interpretation of the Quran must be the same as all other citizens. This in turn guarantees the same protection of all citizens independent of any consideration of their religious beliefs. Such is the rationale for the strictest form of secularism. But as we see here and in the following section, the same protections are provided in a properly executed Islamic theocracy as would be in a secular state.

Not only was the Quranic injunctions and the Sunnah of the Prophet on the issue, but the Rightly Guided Khalifa also practiced this, with several authentic incidents to this effect practiced by Umar ibn Al-Khattab and Ali. In short, they are allowed all the rights which are sanctioned by the norms of justice and fairness for people in a civilized society, and in this regard all dealings should be done in a befitting manner because Allah likes people who adopt this attitude.

ADDITIONAL RIGHTS AND PRIVILEGES OF NON-MUSLIM CITIZENS

So far we have referred to those inalienable rights which must necessarily be bestowed upon the Zimmis by an Islamic State, as they have been conferred upon them by the Islamic Shariah. Muslims are not entitled to curtail them in any way whatsoever. They are, however, permitted to grant them other rights and privileges to an extent that is not repugnant to the spirit or the commandments of the Shariah.

Here we attempt to lay down some additional rights that may be granted to the non-Muslim subjects of an Islamic State.

(1) Freedom of Expression

In an Islamic State all non-Muslims will have the same freedom of conscience, of opinion, of expression (through words spoken and written) and of association as the one enjoyed by the Muslims themselves, subject to the same limitations as are imposed by law on the Muslims. Within those limitations, they will be entitled to criticize the Government and its officials, including the Head of the State⁹⁶. They will also enjoy the same rights of criticizing Islam.⁹⁷

The Qur'an says:

⁹⁶ S. Abul Ala Mawdudi, (1982), *The Rights of Non-Muslims in Islamic State*, Islamic Publications, Ltd. Lahore, Pakistan, p.282.

⁹⁷ A.A. Maududi, *Islamic law and constitution*, Lahore: Islamic Publications, 12th edition 1997 p.297.

"There should be no coercion in the matter of faith." (2:256)⁹⁸

They will likewise be fully entitled to propagate the good points of their religion and if a non-Muslim is won over to another non-Islamic creed there can be no objection to it. As regards Muslims, none of them will be allowed to change creed.⁹⁹

The Zimmis will never be compelled to adopt a belief contrary to their conscience and it will be perfectly within their constitutional rights if they refuse to act against their conscience or creed, so long as they do not violate the law of the land.¹⁰⁰

(2) Education

They shall naturally have to accept the same system of education as the Government may enforce for the whole country. As regards religious education, however, they will not be compelled to study Islam, but will have the right to make arrangements for imparting knowledge of their own religion to their children in their own schools and colleges or even in the National Universities and Colleges.¹⁰¹

(3) Government Service

With the exception of a few key posts all other services will be open to them without any prejudice. The criteria of competence for Muslims and non-Muslims will be the same and the most competent persons will always be selected without any discrimination. A list of key posts can be easily drawn up by a body of experts. We can only suggest as a general principle that all posts connected with the formulation of State policies and the control of important departments should be treated as key posts.¹⁰² In every ideological state, such posts are invariably given only to such persons who have the fullest faith in its ideology and who are capable of running it according to the letter and the spirit of the ideology. With the exception of these key posts, however, all other posts will be open to the Zimmis.¹⁰³ For instance, nothing can debar them from being appointed as Cabinet Ministers, Ministers, Judges, Accountant-General, Chief Engineer or Postmaster-General of an Islamic State.

⁹⁸ Abdullah Yusuf Ali, *The holy Quran*, trs Surah Al-Baqarah 2.256 "Let there be no compulsion in religion: Truth stands out clear from Error: whoever rejects evil and believes in Allah hath grasped the most trustworthy hand-hold, that never breaks. And Allah heareth and knoweth all things."

⁹⁹ Supra 92, Abul Ala Maududi, p296-97.

¹⁰⁰ Supra 92, Abul Ala Maududi p.296-97.

¹⁰¹ Supra 92, Abul Ala Maududi p.297.

¹⁰² S.Abul Ala Maududi, (1997) *Islamic law and constitution*, Lahore: Islamic Publications, p 297-298.

¹⁰³ *Ibid* p298.

(4) Trade and Profession

In an Islamic State¹⁰⁴ the doors of industry, agriculture, trade and all other professions are open to all, and Muslims have no special privileges over non-Muslims in this regard, nor are the non-Muslims debarred from doing that Muslims are permitted to do. Every citizen, be he a Muslim or a non-Muslim, enjoys equal rights in the field of economic enterprise.¹⁰⁵

Conclusion

As stated above, Islam upholds pluralism, freedom of conscience and human and democratic rights and thus does not clash with the concept of secularism. The Qur'an also states in 22:40 that no religious place should be demolished as in all religious places be it synagogue, or church or monastery, name of Allah is remembered and hence all these places should be protected.¹⁰⁶ This is another tenet of religious liberalism which is upheld by the Qur'an.

The fact that Islam admits freedom of conscience and democratic rights cannot be disputed. Islam also officially accepts religious pluralism in as much as it is Qur'anic doctrine to hold other prophets in equal esteem. The Holy Prophet provided equal social and religious space to all religions present in Medina, as pointed out above, through the Covenant of Medina (Mithaq-i-Medina)¹⁰⁷. As stated above, Islam upholds pluralism, freedom of conscience and human and democratic rights and thus does not clash with the concept of secularism.

Though, Islam as moral tradition recognizes liberalism and individual freedom based on two matters: first, pluralism calls upon the use of human reason. Quran respects the rational choice and individual motivation. Being Muslim is a rational choice and individual response. Quran explained that there is no compulsion in religion, since religion is the result of individual choice and freedom. Second, social acceptance upon Islamic value as an individual understanding that differs from society to society. This basis of pluralism is maintained by difference of opinion allowed by the social norms. This social dialectic will develop and strengthen the acceptable definition of ethical values.¹⁰⁸

¹⁰⁴ Supra, 92, p 290

¹⁰⁵ Supra, 92, Abul Ala Maududi ,p 291.

¹⁰⁶ Abdullah Yusuf Ali, *The holy Quran*, trs Surah Al-Hajj 22.40.

¹⁰⁷ Supra 92 p 237.

¹⁰⁸ Sohail H. Hashmi, *Islamic political ethics: civil society, pluralism, and conflict*, Princeton University Press, 2002, p. 39

“The Islam that was given by God is not the elaboration of practices and doctrines and forms that outsiders call Islam, but rather the vivid and personal summons to individuals to live their lives always in His presence and to treat their fellow men always under His judgment.”¹⁰⁹

The verse 2:213 is also quite significant on the unity of all human beings which is what is the intention of Allah.¹¹⁰ All differences are human and not divine and these differences should be resolved in democratic and goodly manner (29:46).¹¹¹ These are the norms laid down by the Qur'an but the rulers of Muslim countries deviate from these norms to protect their hold on power and blame it on Islam.

¹⁰⁹ Ameer Ali (1980) *The Spirit Of Islam* – Low Price Publications -A Division of DK Publishers Distributors(P) Ltd., Delhi, p.245.

¹¹⁰ Abdullah Yusuf Ali, *The holy Quran*, trs Sûrah al-Baqarah 2:213.

¹¹¹ *Ibid.* 29..46.