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IDEALS AND REALITIES OF ISLAM

Seyyed Hossein Nasr

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The Shari'ah

Divine Law—Social and Human Norm

The *Shari'ah* is the Divine Law by virtue of accepting which a person becomes a Muslim. Only he who accepts the injunctions of the *Shari'ah* as binding upon him is a Muslim although he may not be able to realize all of its teachings or follow all of its commands in life. The *Shari'ah* is the ideal pattern for the individual's life and the Law which binds the Muslim people into a single community. It is the embodiment of the Divine Will in terms of specific teachings whose acceptance and application guarantees man a harmonious life in this world and felicity in the hereafter.

The word *Shari'ah* itself is derived etymologically from a root meaning road. It is the road which leads to God. It is of great symbolic significance that both the Divine Law and the Spiritual Way or *Tariqah*, which is the esoteric dimension of Islam, are based on the symbolism of the way or journey. All life is a sojourn, a journey through this transient world to the Divine Presence. The *Shari'ah* is the wider road which is meant for all men by virtue of which they are able to attain the total possibilities of the individual human state. The *Tariqah* is the narrower path for the few who have the capability and profound urge to attain sanctity here and now and seek a path whose end is the full realization of the reality of Universal Man transcending the individual domain.

The *Shari'ah* is Divine Law, in the sense that it is the concrete embodiment of the Divine Will according to which man should live in both his private and social life. In every religion the Divine Will manifests itself in one way or another and the moral

and spiritual injunctions of each religion are of Divine origin. But in Islam the embodiment of the Divine Will is not a set only of general teachings but of concrete ones. Not only is man told to be charitable, humble or just, but how to be so in particular instances of life. The *Shari'ah* contains the injunctions of the Divine Will as applied to every situation in life. It is the Law according to which God wants a Muslim to live. It is therefore the guide of human action and encompasses every facet of human life. By living according to the *Shari'ah* man places his whole existence in God's 'hand'. The *Shari'ah* by considering every aspect of human action thus sanctifies the whole of life and gives a religious significance to what may appear as the most mundane of activities.

The lack of understanding of the significance of the *Shari'ah* in the Western world is due to its concrete and all-embracing nature. A Jew who believes in Talmudic Law can understand what it means to have a Divine Law whereas for most Christians, and therefore for secularists with a Christian background, such an understanding comes with difficulty, precisely because in Christianity there is no clear distinction between the law and the way. In Christianity the Divine Will is expressed in terms of universal teachings such as being charitable, but not in concrete laws.

The difference between the conception of Divine Law in Islam and in Christianity can be seen in the way the word canon (*qānūn*) is used in the two traditions. This word was borrowed in both cases from the Greek. In Islam it has come to denote a man-made law in contrast to the *Shari'ah* or divinely inspired Law. In the West the opposing meaning is given to this word in the sense that canonical law refers to laws governing the ecclesiastical organization of the Catholic and Episcopal churches, and has a definitely religious colour.

The Christian view concerning law which governs man socially and politically is indicated in the well-known saying of Christ, 'Render therefore unto Caesar the things which are Caesar's'. This phrase has actually two meanings of which only one is usually considered. It is commonly interpreted as leaving all things that are worldly and have to do with political and social regulations to secular authorities of whom Caesar is the outstanding example. But more than that it also means that

because Christianity, being a spiritual way, had no Divine legislation of its own, it had to absorb Roman Law in order to become the religion of a civilization. The law of Caesar, or the Roman Law, became providentially absorbed into the Christian perspective once this religion became dominant in the West, and it is to this fact that the saying of Christ alludes. The dichotomy, however, always remained. In Christian civilization law governing human society did not enjoy the same Divine sanction as the teachings of Christ. In fact this lack of a Divine Law in Christianity had no small role to play in the secularization that took place in the West during the Renaissance. It is also the most important cause for the lack of understanding of the meaning and role of the *Shari'ah* on the part of Westerners as well as so many modernized Muslims.

With regard to the Divine Law, however, the situation of Islam and Christianity differ completely. Islam never gave unto Caesar what was Caesar's. Rather, it tried to integrate the domain of Caesar itself, namely, political, social and economic life, into an encompassing religious world view. Law is therefore in Islam an integral aspect of the revelation and not an alien element. Of course Roman Law also possessed a religious colour in the Roman religion itself, and the function of 'The Divine Caesar' was to establish order on earth, through this law. But from the point of view of Christianity it was a foreign component without the sanctifying authority of revelation. In the Christian West law was thus from the beginning something human to be made and revised according to the needs and circumstances of the times. The Western attitude towards law is totally determined by the character of Christianity as a spiritual way which did not bring a revealed law of its own.

The Semitic notion of law which is universalized in both Judaism and Islam is the opposite of the prevalent Western conception of law. It is a religious notion of law, one in which law is an integral aspect of religion. In fact religion to a Muslim is essentially the Divine Law which includes not only universal moral principles but details of how man should conduct his life and deal with his neighbour and with God; how he should eat, procreate and sleep; how he should buy and sell at the market place; how he should pray and perform other acts of worship. It includes all aspect of human life and contains in its tenets the

guide for a Muslim to conduct his life in harmony with the Divine Will. It guides man towards an understanding of the Divine Will by indicating which acts and objects are from the religious point of view obligatory (*wājib*), which are meritorious or recommended (*mandūb*), which are forbidden (*ḥarām*), which are reprehensible (*makrūh*), and which indifferent (*mubāh*). Through this balance the value of human acts in the sight of the Divine are made known to man so that he can distinguish between the 'Straight Path' and that which will lead him astray. The *Shari'ah* provides for him the knowledge of right and wrong. It is by his free will that man must choose which path to follow.

Such a Law is the blue print of the ideal human life. It is a transcendent law which is at the same time applied in human society, but never fully realized because of the imperfections of all that is human. The *Shari'ah* corresponds to a reality that transcends time and history. Rather, each generation in Muslim society should seek to conform to its teachings and apply it anew to the conditions in which it finds itself. The creative process in each generation is not to remake the Law but to reform men and human society to conform to the law. According to the Islamic view religion should not be reformed to conform to the ever changing and imperfect nature of men but men should reform so as to live according to the tenets of revelation. In accordance with the real nature of things it is the human that must conform to the Divine and not the Divine to the human.

The movement of reform throughout Islamic history has been to seek to recreate and reshape human attitudes and social institutions so as to make them harmonious with the *Shari'ah*. It has been to revivify and revitalize human society by continuously infusing its structure with the principles of the revelation which are providentially sent as its guide and which alone provide a criterion for its own worth and value. Those modern movements which seek to reform the Divine Law rather than human society are, from the Islamic point of view, in every way an anomaly. Such movements are brought about to a great extent not only through the weakening of religious faith among certain men but also because the modern mentality, which originated in the West with its Christian background, cannot conceive of an immutable Law which is the guide of human society and upon which man should seek to model his

individual and social life. There is no better proof of how deeply rooted man's religious heritage is than the modern Western attitude towards law which is the same as that of Christianity although so many who have created and who uphold the modern view do not consider themselves as Christians and some even are opposed to Christianity.

The *Shari'ah* is for Islam the means of integrating human society. It is the way by which man is able to give religious significance to his daily life and be able to integrate this life into a spiritual centre. Man lives in multiplicity; he lives and acts according to multiple tendencies within himself, some of which issue from animal desires, others from sentimental or rational or yet spiritual aspects of his being. Man faces this multiplicity within himself and at the same time lives in a society of which he is a part and with whose members he has an indefinite number of contacts and relations. All of these activities, these norms of doing and existing in the human condition, cannot be integrated and cannot find meaning save in the *Shari'ah*. The Divine Law is like a network of injunctions and attitudes which govern all of human life and in their totality and all-embracing nature are able to integrate man and society according to the dominating principle of Islam itself, namely unity or *tawḥīd*. The *Shari'ah* is the means by which unity is realized in human life.

Seen from the outside, this role of the *Shari'ah* may be difficult to understand. On the surface it seems to contain laws about how to marry, trade, divide inheritance or conduct the affairs of state. These are all acts performed in the world of time and multiplicity. How can they then be integrated so as to reflect unity? The answer is that these actions are still actions whether they are performed according to the *Shari'ah* or not. But the effect that such actions leave on the souls of men is completely different depending on whether the act is performed simply according to man-made laws or whether it follows the teachings of the *Shari'ah*. In the latter case the religious context in which the act is placed and the inner connection that the teachings of the *Shari'ah* have to the spiritual life of man transform an otherwise secular act into a religious one. Instead of the soul scattering itself over countless forms of action, the action itself leaves a positive imprint upon the soul and aids towards its integration.

There is a *Ḥadīth* according to which when a man works to feed his family he is performing as much an act of worship as if he were praying. This statement may be difficult to understand by one not acquainted with the traditional way of life. In modern society it is not possible to find religious significance in most actions and except for a few offices directly connected with the administration of religious needs, most professions through which men gain their livelihood are devoid of a direct religious significance. The breaking up of traditional Christian society, in which every act was endowed with a religious significance, long ago secularized a large domain of human life in the West. A contemporary who wishes to integrate all of his life finds great difficulty in giving religious significance to the daily work which he must of necessity perform.

The *Shari'ah* makes the act of earning one's daily bread a religious act, one which a Muslim should perform with the awareness that he is performing an act that is pleasing in the sight of God and is as obligatory as specifically religious duties. The *Shari'ah* in fact gives a religious connotation to all the acts that are necessary to human life, and of course not those which are simple luxuries. In this way the whole of man's life and activities become religiously meaningful. Were it to be otherwise man would be a house divided unto itself, in a condition of inner division and separation which Islam tries to avoid. Man by placing his life in the channels ordained by the *Shari'ah* avoids many unseen catastrophes and assures himself a life of wholeness and meaning.

Some may object that accepting the *Shari'ah* totally destroys human initiative. Such a criticism, however, fails to understand the inner workings of the Divine Law. The Law places before men many paths according to his nature and needs within a universal pattern which pertains to everyone. Human initiative comes in selecting what is in conformity with one's needs and living according to the Divine norm as indicated by the *Shari'ah*. Initiative does not come only in rebelling against the Truth which is an easy task since stones fall by nature; initiative and creativity come most of all in seeking to live in conformity with the Truth and in applying its principles to the conditions which destiny has placed before man. To integrate all of one's tendencies and activities within a divinely ordained pattern requires

all the initiative and creative energy which man is capable of giving.

To the Muslim the *Shari'ah* is an eternal and transcendent law and the question of how it became codified and systematized in detail has not been of much interest until modern times. The studies of orientalists, which are usually historical, have directed attention to the gradual process by which the *Shari'ah* became codified into the form in which the Islamic world has known it for the past millennium. It is therefore not without interest for us to consider how this process took place, although it must be made clear that the fact that the Divine Law was explicitly formulated in its final form after several stages does not in any way diminish from its Divine nature and the immutability of its injunctions.

In essence all of the *Shari'ah* is contained in the Quran. The Holy Book, however, contains the principle of all the Law. It contains the Law potentially but not actually and explicitly, at least not all the different aspects of the *Shari'ah*. There was therefore, a gradual process by which this Law became promulgated in its external form and made applicable to all domains of human life. This process was completed in about three centuries during which the great books of law in both Sunni and Shi'ite Islam were written, although the exact process is somewhat different in the two cases.

The principles of the Law contained in the Quran were explained and amplified in the prophetic *Ḥadīth* and *Sunnah*, which together constitute the second basic source of Law. These in turn were understood with the aid of the consensus of the Islamic community (*ijmā'*). Finally, these sources of Law were complemented by analogical human reasoning (*qiyās*) where necessary. According to the traditional Islamic view therefore, the sources of the *Shari'ah* are the Quran, *Ḥadīth*, *ijmā'* and *qiyās* of which the first two are the most important and are accepted by all schools of law while the other two are either considered of lesser importance or rejected by some of the schools.

The meaning of the Quran and *Ḥadīth* is clear enough, but a few words must be said about the other two sources. As far as *ijmā'* is concerned it means the consensus of the Islamic community on some point of the Law and is considered im-

portant on the authority of the *Ḥadīth*: 'My community shall never agree in error'. Some modernized Muslims, who instead of wanting to make man God-like wish to make God man-like, especially like Twentieth century man, have tried simply to equate *ijmā'* with parliamentary 'democracy'. This, however, is not exactly the case because first of all *ijmā'* can operate only where the Quran and *Ḥadīth* have not clarified a certain aspect of the Law, so that its function is in this sense limited, and secondly it is a gradual process through which the community over a period of time comes to give its consensus over a question of Law. Finally, the view of Muslims over the centuries has been that giving opinion on problems of Law should be the function of the '*ulamā'*', who alone are well-versed in the science of Law. The sciences connected with the *Shari'ah* are complex and require study before one can claim to be an authority in them. One could do no more than ask the consensus of a body of laymen on the diagnosis of a certain disease than on the legitimacy of a certain Law. The concept of *ijmā'* has always implied the consensus of those qualified in matters of Law combined with an inner interaction with the whole of the community whose results are felt only gradually.

As for *qiyās* it means essentially to use human reason to compare an existing situation with one for which legislation already exists. If the Quran has banned wine it means that by analogy it has also banned any form of alcoholic drink whose effect is like wine, namely one which causes intoxication. The use of *qiyās* again is not a licence for rationalism but an exercise of reason within the context of the revealed truths which are the basis of the *Shari'ah* and the prophetic utterances and practices which have made these truths known and have clarified them for the Muslim community.

Both *ijmā'* and *qiyās* are closely connected to the function of the '*ulamā'*' as authorities on Law, of those who having spent their lives studying this particular subject are in a position to pass judgment upon it. There is no priesthood in Islam and every Muslim can perform the functions which in other religions are placed in the hands of the priesthood. But to pass judgement upon the Law is not the right of every Muslim for no other reason than that not everyone is scientifically qualified to do so. Everyone cannot pass judgments upon the *Shari'ah* for the

same reason that everyone cannot give an opinion on astronomy or medicine unless he be qualified in these fields by having studied them. The '*ulamā'*' are the custodians of the Law only because they have undertaken the necessary studies and mastered the required disciplines to make them acquainted with its teachings.

Historically, the four above-mentioned principles brought about the formation of the Law in a complex process all of whose details are not well known. As far as the meaning of the *Shari'ah* for Muslims is concerned this history, as already pointed out, is not of major importance. Yet, since so much attention is paid today to the history of a subject rather than the subject itself, it is necessary to outline briefly the process through which the *Shari'ah* became codified.

Many of the verses of the Quran are concerned with questions of Law but not all the injunctions of the *Shari'ah* are explicitly stated in it. About eighty verses are directly connected with specific aspects of the Law. For example, regulations about marriage, divorce and inheritance are very clearly formulated while many other questions are only implicitly stated. There are many universal statements which needed further explanation before they could become specific guides for human action. This explanation and clarification was provided for the most part by the Prophet whose lifetime marks the first and most important period in the process of the codification of the *Shari'ah*.

The Prophet, as we have already pointed out, was the interpreter *par excellence* of the teachings of the Quran and participated himself in the formation of the *Shari'ah*. His manner of applying the tenets of Islam to particular instances marked the first phase in the life of the *Shari'ah* in human society and inaugurated the life of a new society which was moulded by its teachings. This is particularly true of the Medina community where the Prophet broke the pre-existing tribal bonds and established the new Islamic order setting up precedents which have served as a model for all later Muslim jurists.

This unique period in Islamic history was followed by the rule of the first four caliphs, usually called the 'Orthodox caliphs' (*al-khulafā' al-rāshidūn*), as far as Sunni Islam is concerned, and the rule of 'Alī, the fourth of these caliphs and the first Imam, according to the perspective of Shi'ism. During this period the teachings of the Quran and the precedent of the

Prophet were applied not only to conditions that had existed before but to new situations brought about by the rapid spread of Islam outside the homogeneous atmosphere of Arabia. The conquest of parts of the Byzantine empire and the overthrow of the Sassanid empire provided many new problems to whose solution the earlier established principles were applied by men all of whom had been companions of the Prophet, by men whose interest was more in serving Islam than in serving any worldly power. During this period therefore many procedures were established which also became incorporated into the body of the Law.

With the establishment of the Umayyads a new situation arose, one in which a powerful state ruling from Central Asia to Spain and faced with unprecedented administrative and financial problems was interested first and foremost in preserving its political dominion over a vast territory. From the point of view of statesmanship the Umayyads performed a remarkable task of keeping the empire together but from the religious point of view their rule marks a definite falling away from the earlier period. They were not concerned, like the early caliphs, with preserving the Divine Law and applying it. They were interested first and foremost with ruling and administering the new empire. They dealt with most questions of Law from the point of view of expediency.

During the nearly hundred years of Umayyad rule the responsibility of preserving and administering the *Shari'ah* lay upon the shoulders of individual judges (*qādis*) who were the real interpreters of the Law at this time. There are records of them, especially those of Egypt, contained in the chronicles of al-Kindī. These sources reveal how these judges dealt with questions of law on a day-to-day basis, trying to apply the precedents of earlier Muslim generations, and especially the Quran and *Ḥadīth*, to whatever new situation confronted them.

But there was a reaction on the part of the religious community—Sunni and Shi'ah alike—against the practices of the Umayyads which, of course, contributed greatly to their downfall. Towards the end of Umayyad period everyone realized that the Muslim community and especially the State were moving away from Islamic ideals. The religious conscience of the whole community—and especially the Shi'ah who had never accepted

Umayyad rule—reacted against the practices of the State and with the coming of the Abbasids there was a sudden burst of activity for the purification of political and social practices and the codification of the Divine Law as established in the Quran and *Ḥadīth*.

It was at this crucial stage that several men of great genius and religious integrity came upon the scene to codify the Law. Because of the vastness of the Islamic community a judge in Khurasan was not faced with the same daily problems as one in the Maghrib, nor one in Kufa with the same situation as that confronted in Medina. These last two cities were particularly important in the development of the Law. Medina was an Arab city where some of the old tribal and family bonds still survived, whereas Kufa had come into being during the Islamic period. There, Arabs, Persians and local Aramaic people had come together to form a new society which was held together by the common ideals of Islam. Yet, both cities had been sites of early Muslim rule and provided the required background for anyone who wanted to study the practices of the early Muslim community. From these two cities in fact arose the first two founders of Sunni law, Ibn Mālik from Medina and Abū Ḥanīfah from Kufa. These men established schools of law by making a careful study of the Quran and *Ḥadīth* and the practices of the earlier generations. Basing themselves on meticulous study, they composed compendia of Law in which the teachings of the *Shari'ah* as they pertain to all aspects of life were delineated and systematized.

There was at this point still a need to have the principles and methods of jurisprudence systematized and a final form given to the process of promulgating the Law. Such a need was fulfilled by al-Shāfi'i whose particular genius in this domain gave to Sunni Islam the most satisfying and one might say beautiful method of jurisprudence. Al-Shāfi'i made it clear that the *Ḥadīth* was not only an aid to understanding the Quran but a source of the *Shari'ah* itself. The clarification of the role of *Ḥadīth* in the *Shari'ah* is due to him more than to anyone else, as are the respective positions of *ijmā'* and *qiyās*. With al-Shāfi'i Islamic jurisprudence found its most complete and lasting systematization.

In the tradition of al-Shāfi'i, who founded the third school of

Sunni law, there grew students each of whom emphasized a certain aspect of the sources of the *Shari'ah* such as Ibn Hanbal, who relied essentially on prophetic *Ḥadīth* after the Quran and discounted *ijmā'* and *qiyās*, and Dā'ūd ibn Khalaf who believed that the external (*zāhiri*) meaning of the Quran alone should be followed and founded the Zahirite school. The school of Ibn Hanbal became the fourth accepted school of Sunni law with its characteristic disdain of rationalist methods and complete reliance upon *Ḥadīth* literature while the Zahirite school gradually disappeared.

The four important schools of Sunni law, the Malikiite, Hanafite, Shafi'ite and Hanbalite, that constitute the accepted schools of *Shari'ah* to the present day, thus came into being in the third Islamic century. Of these, the one with the least number of followers is the Hanbalite school which for long had its centre in Egypt and Syria and from whose background the Wahhabi movement began. The Shafi'ite school has always been strong in Egypt and to a certain extent in Syria. The Malikiite school is completely dominant in North Africa and its followers constitute the most homogeneous body in the realm of Sunni Law. As for the Hanafi school, it was the official school of the Ottomans and is widespread in Turkey, the eastern part of the Arab world and the Indo-Pakistani sub-continent.

As far as Law in the Shi'ah world is concerned its formation goes back to the fifth and sixth Imams, especially the sixth Imam Ja'far al-Sādiq so that Twelve-imam Shi'ite Law is often called Ja'fari Law. There is one difference with Sunni law in that in both Twelve-imam Shi'ism and Isma'ilism the Imams are the interpreters of the Law and their words and sayings form a part of the *Ḥadīth* literature in addition to the utterances of the Prophet although the distinction between the two is preserved. The Law is therefore, in principle, continuously being made in as much as the Imam is always alive. The Imam of Isma'ilism continues to live on earth from generation to generation while in Twelve-imam Shi'ism the Imam is in occultation (*ghaibah*) although he is alive and rules the world.

In Twelve-imam Shi'ism those who have attained a high stage of proficiency in the science of the Law and possess the other traditional requirements become *mujtahids*, that is, those who can practice *ijtihad* or exercise their opinion in questions

of Law. They are living interpreters of the Law who interpret it in the absence of the Imam and in his name. Every Shi'ite believer must follow a living *mujtahid* whose duty it is to apply and interpret the Law from generation to generation. The gate of *ijtihad* has been closed in the Sunni world since the formation of the four schools of Law whereas in Shi'ism the gate must of necessity be always open. But of course this does not by any means detract from the immutable and transcendent nature of the *Shari'ah*. It only means that in each generation the Law should be applied to the new circumstances that are faced. The practice of *ijtihad* in the spirit of Islam does not mean to change the Law to suit the convenience of men but to face and solve every new situation and problem in conformity with the teachings of the *Shari'ah* by applying those teachings to newly arisen problems. Shi'ism is there to prove that *ijtihad* in the true sense does not by any means imply the abandonment of the Divine Law to human whims and fancies as some would like to make it today.

As far as the specific teachings of the *Shari'ah* are concerned the Sunni and Shi'ite schools are nearly the same except in the question of inheritance where, according to Shi'ite Law, in certain cases the female line inherits more than in Sunni law. Otherwise, there is little disagreement between them. As for the different Sunni schools each emphasizes a certain aspect of the Law. For example, the Hanafis rely more on *qiyās* and the Hanbalis on *Ḥadīth* but the deviations are slight and one can go from one school to another without any difficulty. It is also of interest to cite in this context the attempt of the Persian king Nādir Shah who two centuries ago tried to make Ja'fari Law a fifth school of Law in Islam and thereby bring about a concordance between Sunnism and Shi'ism. Mainly for political reasons, however, his plan was not accepted by the Ottoman caliph and did not bear any fruit. A similar attempt is being made in certain quarters today as seen by the teaching of Ja'fari Law at al-Azhar and different movements for the rapprochement between Sunnism and Shi'ism.

More essential than the process of codification of the *Shari'ah* is its actual content and substance. The *Shari'ah* possesses the quality of totality and comprehensiveness. It encompasses the whole of man's life so that from the Islamic point of view there

is no domain that lies outside of it even if such an ideal is not easy to realize completely in human society. The lack of words in Arabic, Persian and other languages of the Islamic people for temporal or secular matters is due to this total nature of the *Shari'ah*.

Nevertheless, the Divine Law is comprised of branches depending on the particular aspect of life with which it is concerned. Some of the traditional scholars have divided it into two branches, one dealing with acts of worship (*'ibādāt*) and the other treating of transactions (*mu'āmalāt*). This classical division has led certain modernists to the conclusion that the first part of the *Shari'ah* can be preserved while the second can be secularized or at least changed as one sees fit. From the point of view of the *Shari'ah*, however, these two branches cannot be completely divorced from each other. Such acts of worship as the congregational prayer or fasting have a definite social aspect and involve the whole of the community, whereas how one deals in the market-place directly affects the quality and intensity of one's worship. There is no way to separate completely what concerns the relation between man and God from man's relation to other men. The two are inextricably intertwined and the spirit of the *Shari'ah* is precisely to preserve the unity of human life, albeit it has branches which apply to different domains, individual as well as social. To understand the content of the *Shari'ah* it is therefore best to analyse its injunctions as they pertain to each particular domain of human life.

Politically, the *Shari'ah* contains definitive teachings which form the basis of Islamic political theory. In the Islamic view God is the only legislator. Man has no power to make laws; he must obey the laws God has sent for him. Therefore, any ideal government from the point of view of the *Shari'ah* is devoid of legislative power in the Islamic sense. The function of the political ruler is not to legislate laws but to execute them. The cardinal fact is the presence of a Divine Law which should be administered in society.

As to the question of who the ruler in Islamic society should be, Sunnism and Shi'ism differ. For Twelve-imam Shi'ism there is no perfect government in the absence of the *Mahdī* or Twelfth Imam. In such a situation a monarchy or sultanate that rules

with the consent of the '*ulamā'*' is the best possible form of government in circumstances which by definition cannot be perfect. In Sunnism it is the caliphate that is considered as the legitimate form of rule. The caliph is the *khalīfah* or vice-gent not of God but of His Prophet and then only of that aspect of the function of the Prophet which was concerned with administering the Divine Law. The function of the caliph is to guard and administer the *Shari'ah*, and he stands as the symbol of the rule of the *Shari'ah* over human society. Islam is not technically speaking a theocracy but a nomocracy, that is a society ruled by a Divine Law.

Since there is only one Islamic people or 'Muḥammadan Community' (*ummah muḥammadiyah*), naturally there should be only one caliph who should rule over the whole *ummah*. But what is essential to the preservation of the unity of Islamic community is not so much the number of caliphs as the *Shari'ah* itself. When one glances over pages of Islamic history it becomes clear that after the first four caliphs, the Umayyads were mostly like secular rulers. Some like Yazid even broke the tenets of the *Shari'ah* in their personal lives and many of them were tyrants. But the difference between them and a modern tyrant is that in the Umayyad period the *Shari'ah* was nevertheless applied while in modern times in many a land the attempt is being made to destroy the *Shari'ah* itself.

After the Umayyad period the Western lands of Islam refused to pay allegiance to the Abbasids and soon there were several rulers and even caliphs in the Muslim world. Moreover, with the destruction of the Abbasid caliphate by Hulagu even the symbolic political unity of Islam was destroyed. But throughout these changes the '*ulamā'*', and also the Sufi orders in the eastern lands of Islam, succeeded in guarding the *Shari'ah* even before the Mongol onslaught. Therefore, in all these instances the unity of Islam was preserved by virtue of the preservation of the *Shari'ah*. Although there was no longer a single political power ruling over the whole Muslim world the same laws were being administered in the courts of Morocco as in Northern India. The rule of Divine Law continued to preserve the unity of the community and to guarantee its Islamic nature.

Of course during the course of Islamic history Sunni political theory itself was revised in the light of events. With the

appearance of powerful kings or sultans who soon became the real rulers of the land and possessed more power than the caliphs, a new situation arose. During the Seljuq period the Sunni political theoreticians recognized instead of the dual structure of *Shari'ah* and caliph, a tripartite political pattern in which there was the *Shari'ah*, the caliph who symbolized its rule, and the sultan who actually ran the affairs of state. Some of the Muslims in India even continued to recite the name of the Abbasid caliph in the Friday sermons, as a symbol of the rule of the *Shari'ah*, after the Abbasid caliphate itself had been destroyed. The essential element that survived throughout the centuries was the *Shari'ah* so that the essential nomocratic nature of Islamic society was maintained and political turmoils, even on as colossal a scale as the Mongol invasion, were not able to destroy the unity of the Islamic community which the *Shari'ah* both inculcated and preserved.

In the domain of economics, also, the *Shari'ah* contains both specific instructions and general principles. It legislates certain forms of taxation such as *zakaat*—and for the Shi'ah also *khums*—which have been paid over the ages by devout Muslims. But in general the Shari'ite laws of Taxation have not been the only ones to have been applied. Look at land tax for example. In Syria, from Umayyad times, taxes were collected according to Byzantine precedents and in Persia in accordance with Sassanid laws. Even after the Mongol invasion in certain villages land tax was collected according to Mongolian regulations.

In a more general sense the economic teachings of the *Shari'ah* are based on the respect for private property and, at the same time, opposition to extreme concentration of wealth in the hands of a single person or group. Usury is specifically forbidden and the paying of *zakaat* itself has the function of 'purifying' one's wealth and also distributing some of it among the rest of the members of society through the 'Muslim public treasury' (*baît māl al-muslimîn*). The emphasis on the sacrosanct nature of private property is also clearly stated in the Quran. In fact the economic legislation of the Quran could not be applied were there to be no private property. According to the *Shari'ah* man is given the right to own property by God and the possession of property is necessary for the fulfilment of his soul in this world provided he keeps within the teachings of the

Shari'ah. Those who interpret the teachings of Islam in a purely socialistic sense oppose the very text of the Quran which instructs man as to what he should do with his possessions. The Quran could not legislate about property if it did not accept the legitimacy of private property.

Altogether of all the aspects of the *Shari'ah* its economic teachings are perhaps those that have been least perfectly realized throughout Islamic history. But they have always stood as the ideal to be reached although they cannot be fully achieved considering the imperfections of human nature. The general spirit of Shari'ite teachings, however, is deeply ingrained in the economic life of Muslims. Although specific forms of taxation may not have been followed and non-Shari'ite taxes may have been levied, the general economic principles of the *Shari'ah* have been realized to a great extent throughout history among traditional merchants and in craft guilds.

As far as the social teachings of the *Shari'ah* are concerned they comprise a vast subject which one cannot treat fully here. Altogether the *Shari'ah* envisages a fluid society, not in the modern proletarian sense, but in a traditional one. Before the rise of Islam there was an Arab aristocracy as well as a Persian one. Islam, by remoulding society, did not destroy quality but made faith itself the criterion of man's worth according to the well-known Quranic verse, 'Lo! the noblest of you, in the sight of Allah, is the best in conduct.' (XLIX, 13)

(ان اكرم عند الله اتقى)

By upholding the primary value of religion Islam made it possible for man to climb the scale of society through mastery in the religious sciences. A person who was gifted could become one of the '*ulamā*' and enjoy a respect greater than that afforded to a prince. Likewise, the Sufi orders have preserved a spiritual hierarchy in which the rank of a person depends upon his spiritual qualifications and not upon his social standing. The Sufi masters and saints have been the most venerated of men, respected by king and beggar alike.

In fact up to modern times not only has the religious path of climbing the social scale been well preserved but learning itself has been a way to advance one's social position. Even if learning and education be secular today, they continue to bear the

prestige of religious education in the eyes of Muslim society at large. There are numerous men who hold positions of power in various Muslim lands whose father or grandfather may have been simple store keepers who sent their children to school and the children through their own capabilities were able to take maximum advantage of the education offered to them and have become leading figures in society. This fact is as true of Islamic society throughout its history as it is now. How many wazirs and even kings has the Islamic world seen who became the most powerful figures in the land through their own capabilities? The *Shari'ah* by stressing the quality of religious faith as the criterion of human value created a fluid society, one which, however, was not quantitative and did not suppress quality in terms of a supposed egalitarianism as we find in so many contemporary societies.

One could in fact say, quoting a contemporary sage, that Islam 'is a democracy of married monks', that is, a society in which equality exists in the religious sense in that all men are priests and stand equally before God as his vice-gerent on earth. But he who is more able to realize his real nature and function is qualitatively superior to one for whom being in the human state is only accidental. The equality of men is not in their qualities, which obviously are different from one person to the next, but in that for all men the possibility of realizing their theomorphic nature and fulfilling the purpose of human existence is ever present.

From the point of view of social structure, the teachings of the *Shari'ah* emphasize the role of the family as the unit of society, family in the extended sense not in its atomized modern form. The greatest social achievement of the Prophet in Medina was precisely in breaking the existing tribal bonds and substituting religious ones which were connected on the one hand with the totality of the Muslim community and on the other with the family. The Muslim family is the miniature of the whole of Muslim society and its firm basis. In it the man or father functions as the imam in accordance with the patriarchal nature of Islam. The religious responsibility of the family rests upon his shoulders. He is in a sense the priest in that he can perform the rites which in other religions are reserved for the priestly class. In the family the father upholds the tenets of the

religion and his authority symbolizes that of God in the world. The man is in fact respected in the family precisely because of the sacerdotal function that he fulfils. The rebellion of Muslim women in certain quarters of Islamic society came when men themselves ceased to fulfil their religious function and lost their virile and patriarchal character. By becoming themselves effeminate they caused the ensuing reaction of revolt among certain women who no longer felt the authority of religion upon themselves.

The traditional family is also the unit of stability in society, and the four wives that a Muslim can marry, like the four-sided Ka'bah, symbolize this stability. Many have not understood why such a family structure is permitted in Islam and attack Islam for it, as if polygamy belongs to Islam alone. Here again modernism carries with it the prejudice of Christianity against polygamy to the extent that some have even gone so far as to call it immoral and prefer prostitution to a social pattern which minimizes all promiscuous relations to the extent possible. The problem of the attitude of Western observers is not as important as that segment of modernized Muslim society which itself cannot understand the teachings of the *Shari'ah* on this point, simply because it uses as criteria categories borrowed from the modern West.

There is no doubt that in a small but significant segment of Muslim society today there is a revolt of women against traditional Islamic society. In every civilization a reaction comes always against an existing force or action. The Renaissance adoration of nature is a direct reaction to the dominant medieval Christian conception of nature as a domain of darkness and evil to be shunned. In Islam also the very patriarchal and masculine nature of the tradition makes the revolt of those women who have become aggressively modernized more violent and virulent than let us say in Hinduism where the maternal element has always been strong. What many modernized Muslim women are doing in rebelling against the traditional Muslim family structure is to rebel against fourteen centuries of Islam itself, although many may not be aware of the inner forces that drive them on. It is the patriarchal nature of Islam that makes the reaction of some modernized women today so vehement. Although very limited in number they are in fact, more than

Muslim men, thirsting for all things Western. They seek to become modernized in their dress and habits with an impetuosity which would be difficult to understand unless one considers the deep psychological factors involved.

From the Islamic point of view the question of the equality of men and women is meaningless. It is like discussing the equality of a rose and jasmine. Each has its own perfume, colour, shape and beauty. Man and woman are not the same; each has particular features and characteristics. Women are not equal to men. But then neither are men equal to women. Islam envisages their roles in society not as competing but as complementary. Each has certain duties and functions in accordance with his or her nature and constitution.

Man possesses certain privileges such as social authority and mobility against which he has to perform many heavy duties. First of all he bears all economic responsibility. It is his duty to support his family completely even if his wife is rich and despite the fact that she is economically completely independent. A woman in traditional Islamic society does not have to worry about earning a living. There is always the larger family structure in which she can find a place and take refuge from social and economic pressures even if she has no husband or father. In the extended family system a man often supports not only his wife, but also his mother, sister, aunts, in-laws and sometimes even cousins and more distant relatives. Therefore, in city life the necessity of having to find a job at all costs and having to bear the economic pressure of life is lifted from the shoulders of women. As for the countryside the family is itself the economic unit and the work is achieved by the larger family or tribal unit together.

Secondly, a woman does not have to find a husband for herself. She does not have to display her charms and make the thousand and one plans through which she hopes to attract a future mate. The terrible anxiety of having to find a husband and of missing the opportunity if one does not try hard enough at the right moment is spared the Muslim woman. Being able to remain more true to her own nature she can afford to sit at home and await the suitable match. This usually leads to a marriage which being based on the sense of religious duty and enduring family and social correspondence between the two sides is more

lasting and ends much more rarely in divorce than the marriages which are based on the sentiments of the moment that often do not develop into more permanent relationships.

Thirdly, the Muslim woman is spared direct military and political responsibility although in rare cases there have been women warriors. This point may appear as a deprivation to some but in the light of the real needs of feminine nature it is easy to see that for most women such duties weigh heavily upon them. Even in modern societies which through the egalitarian process have tried to equate men and women, as if there were no difference in the two natures, women are usually spared the military draft except in extreme circumstances.

In return for these privileges which the woman receives she has also certain responsibilities of which the most important is to provide a home for her family and to bring up her children properly. In the home the woman rules as queen and a Muslim man is in a sense the guest of his wife at home. The home and the larger family structure in which she lives are for the Muslim woman her world. To be cut off from it would be like being cut off from the world or like dying. She finds the meaning of her existence in this extended family structure which is constructed so as to give her the maximum possibility of realizing her basic needs and fulfilling herself.

The *Shari'ah* therefore envisages the role of men and women according to their nature which is complementary. It gives the man the privilege of social and political authority and movement for which he has to pay by bearing heavy responsibilities, by protecting his family from all the forces and pressures of society, economic and otherwise. Although a master in the world at large and the priest of his own family, man acts in his home as one who recognizes the rule of his wife in this domain and respects it. Through mutual understanding and the realization of the responsibilities that God has placed on each other's shoulders, the Muslim man and woman are able to fulfil their personal lives and create a firm family unit which is the basic structure of Muslim society.

Besides its political, economic and social teachings, the *Shari'ah* concerns itself with what is most essential to every religion, namely the relation between man and God. The most central aspect of the *Shari'ah* is concerned with the rites or acts

of worship which every Muslim must perform and which constitute the ritual and devotional practices of Muslims. Of these rites the most important are the daily prayers (*ṣalāt*) which, as we have seen, are the prop of religion. No act in the *Shari'ah* is as essential as the performance of these prayers. They are preceded by a call (*adhān*) and ablutions (*wuḍū'*), which mean not only a physical purification of the body but the purification of the soul as well. Through them the dross of separative existence is washed away and man becomes ready to stand before God. He suddenly feels as if his body is infused with light and is re-instated in its Edenic purity.

The ablutions are followed by the prayers which take place, as is well known, at sunrise, noon, afternoon, sunset and night. The continuous repetition of the prayers at particular moments of the day and night serves to break in a systematic fashion this dream of negligence in which man lives. Man lives in a dream immersed in the world and forgetful of God. The canonical prayers interrupt this dream at least a few times each day. For a few moments they pull man out of that stream of thoughts and sensual impressions that is the world and make him stand face to face before God. Thus man realizes through these prayers his theomorphic nature at least as long as he is performing the prayers. They become for him a precious shelter in the storm of life. Only the saint is able to live in prayer continuously and be awake at all times.

The canonical prayers should not be identified with individual prayers which are often added afterwards. In the canonical prayers man stands before God as the representative of all creatures. He prays for and in the name of all beings. That is why, as we have said, the verses of the chapter 'the Opening' (*al-Fātiḥah*) which constitute the heart of the canonical prayers are all in the first person plural not singular. Man recites, 'Thee (alone) we worship' not 'Thee I worship'. In these prayers man fulfils his function as the vice-gerent of God on earth and prays for all beings.

The canonical prayers are the heart of the *Shari'ah* and they are obligatory. Such is not the case of the Friday congregational prayers which are highly recommended especially in Sunni Islam but are not obligatory. The Friday prayers serve the function of creating social cohesion among believers and also of

providing an opportunity for religious teachers to deliver moral and religious lessons. They have also always been connected with political authority and the name of the ruler mentioned in the Friday sermon has traditionally carried much prestige. Despite their great importance, however, the Friday prayers are not on the same level as the daily canonical prayers that can be performed at home or in a mosque or in nature for that matter, nature which is the primordial mosque created by God and provides the perfect background for worship. The Friday prayers must be in a congregation and are usually held in a mosque; the canonical prayers can be performed anywhere and are absolutely obligatory upon every Muslim.

After the *ṣalāt* or canonical prayers, the second basic act of worship that is obligatory for every Muslim—except the sick and the traveller—is fasting during the holy month of Ramaḍān. Fasting is a recommended act in Islam but during this particular month it becomes a religious duty. The fasting from the first sign of dawn to sunset is not only abstention from food, drink and sexual pleasures but also from all evil thoughts and deeds. It is a rigorous means of self-purification. It is as if one were to wear the armour of God against the world and introduce the purity of death within his body, that purity and incorruptibility which are like a crystal, hard and immutable yet transparent before light.

The ordeal of fasting has its spiritual significance first and foremost in that man consciously obeys a Divine command. But in addition it is the means by which man pulls the reins of his animal desires and realizes that he is more than an animal. As long as man follows his passions and inclinations completely he differs little from the animals except that they are innocent and true to their nature while man is not. It is only when man exerts his spiritual will through asceticism against his animal inclinations that he realizes his higher nature. Even the sensual enjoyments become heightened through denial. The full satisfaction of the senses dulls them. Therefore, the experience of this month of fasting makes man more appreciative of the gifts that God has bestowed upon him and which he usually takes for granted. It is also a period of exercising charity in which man shares with those who have less material blessings than he. But most of all it is a month of purification, a month rich in its

graces, one during which the Quran itself was revealed, the 'Night of Power' (*laylat al-qadr*) falling on one of the last odd nights of Ramaḍān. During this month the gates of heaven are more open and the Muslim individual as well as the community are able to purify themselves with the aid of Divine grace and renew the spiritual energy of society.

The pilgrimage to Mecca (*hajj*) is another obligatory act which may, however, be undertaken only when certain conditions are fulfilled. A man, if he has the sufficient means, should once in his lifetime make the pilgrimage to Mecca which for Islam is the centre of the world. The *hajj* with all the difficulties that it entailed and still entails, despite modern conveniences, is also a means of purification. Man journeys to the Centre, to the house of God, there asking pardon for his sins and being purified through his repentance and the performance of the rites. Henceforth, he should try to live a devout life and when he returns to his homeland he brings the purity and grace (*barakah*) of the house of God with him. Something of the Centre is thus disseminated in the periphery and through this yearly act the whole of the Muslim community is purified.

The *hajj* is also a remarkable way of achieving social integration. Every year over the centuries Muslims from all parts of the world have met and exchanged both ideas and goods. They have realized the vastness of the Islamic world and have come to know the other parts of it better. The *hajj* has also played a role of great importance in the dissemination of knowledge from one part of the Islamic world to another, to the extent that a modern Western scholar has called it the first international scientific congress in history. But its importance is most of all to unify the Muslim community and spread the purity which lies at its heart to its limbs and organs.

As for the other major rites prescribed by the *Shari'ah*, *zakāt* and *jihad* or holy war are the most important. The first is a way of paying 'God's due' for whatever we receive. It is thus a form of sacrifice (*sacer-facere*—to make sacred), which purifies and makes lawful what one spends, giving to man's economic life a religious sanction. The *jihad* in the external sense is an occasional activity not like others which are always practised. Its ever present significance lies in the 'great holy war' which, as we have had occasion to point out before, is a constant war which

every Muslim must wage against the evil and disruptive tendencies within himself.

Not only the *jihad* but every injunction of the *Shari'ah* has also an inner and spiritual meaning. The *ṣalāt* means to awaken from one's dream of forgetfulness and remember God always, the fast means to die to one's passionate self and be born in purity, the pilgrimage means to journey from the surface to the centre of one's being for, as so many Sufis have said, the heart is the spiritual Ka'bah. The *zakāt* also implies spiritual generosity and nobility. This inner meaning does not negate the external teachings of the *Shari'ah* but complements and fulfils its spiritual aim. That is why the *Shari'ah* is the necessary and sufficient basis for the spiritual life. Every man must accept the *Shari'ah* in order to be a Muslim. And the highest spiritual castle in Islam, that of the greatest sages and saints, is based on the firm foundation provided by the *Shari'ah*. Man cannot aspire to the spiritual life, to walking upon the path to God (*Tariqah*), without participating in the *Shari'ah*.

Certain modernists over the past century have tried to change the *Shari'ah*, to reopen the gate of *ijihād*, with the aim of incorporating modern practices into the Law and limiting the functioning of the *Shari'ah* to personal life. All of these activities emanate from a particular attitude of spiritual weakness *vis-à-vis* the world and a surrender to the world. Those who are conquered by such a mentality want to make the *Shari'ah* 'conform to the times' which means to the whims and fancies of men and the ever changing human nature which has made 'the times'. They do not realize that it is the *Shari'ah* according to which society should be modelled not vice versa. They do not realize that those who practiced *ijihād* before were devout Muslims who put the interest of Islam before the world and never surrendered its principles to expediency.

In the Islamic perspective God has revealed the *Shari'ah* to man so that through it he can reform himself and his society. It is man who is in need of reform not divinely revealed religion. The presence of the *Shari'ah* in the world is due to the compassion of God for his creatures so that he has sent an all encompassing Law for them to follow and thereby to gain felicity in both this world and the next. The *Shari'ah* is thus the ideal for human society and the individual. It provides meaning

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for all human activities and integrates human life. It is the norm for the perfect social and human life and the necessary basis for all fights of the spirit from the periphery to the Centre. To live according to the *Shari'ah* is to live according to the Divine Will, according to a norm which God has willed for man.

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