Toolkit on Islamic Sources of Negotiation, Good Governance and Gender Justice
for
Afghan Women Negotiators

By

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"Do you know what is better than charity, fasting and prayer? It is keeping peace and good relations between people, as quarrels and bad feelings destroy mankind."

Hadith (Muslim and Bukhari)

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Introduction

This Toolkit is designed as a practical tool to assist Muslim negotiators in general and Afghan women negotiations in particular, to more effectively organize, strategize and negotiate in contexts where Islam informs the negotiation process, participants' worldviews and key issues. It aims to provide guidance on how prophetic examples, Islamic texts, principles, values, symbols, and rituals can be useful where religious values, beliefs and practices play an important role in the negotiation process. This Toolkit also helps to aim non-Muslim negotiators who are involved in negotiations with Muslims or mediators who aim to facilitate negotiations where Islam informs the negotiation and mediation process to gain a better understanding of the central Islamic values, principles and practices that may play a role in the process.

For the purposes of this Toolkit, negotiation is defined as a communication process between two or more parties in an interdependent relationship, designed to reach a mutually acceptable agreement for resolving perceived incompatibilities, differences and interferences. As an integral aspect of human relations, negotiation is one of the most common tools to resolve conflict and build peace. Negotiation is also part of our daily lives, as we often find ourselves in situations where we have to negotiate in our personal and professional lives.

This Toolkit recognizes that, while negotiation is a practice that is used by different communities throughout history, and has universal aspects, each negotiation context is unique and is informed and shaped by the historical, political and religio-cultural contexts of the negotiations. Therefore, each negotiation process must consider this context and adjust to the constantly changing and evolving circumstances. Religion, as a powerful constituent of cultural norms and values, is deeply implicated in individual and social conceptions of peace, and conflict resolution processes such as negotiation and mediation. Especially in contexts where religious teachings play a significant role in the social, political and cultural life of the communities and customs, religion values and beliefs may significantly impact negotiation processes, key issues and outcomes.

Understanding religion's role in the conflict and its resolution is vital for negotiators and mediators participating in several negotiation processes currently going on. Peace negotiations between the representatives of the Islamic Republic of Afghanistan and the Taliban, who refer to themselves as the Islamic Emirate of Afghanistan, are a case in point. During these negotiations, the Taliban has been using religiously grounded argumentation, an ambiguous Islamic vision that aspires to establish an "Islamic system of Governance" and to exclude women not only from the peace process but also from social, political, and economic life in Afghanistan for years. To support their position and achieve their political objectives, Taliban draws on

historical Sunni—and especially Hanafi—teachings, Deobandi traditions, and elements of Pashtun political culture.[2] In the context of Afghanistan, use of religious language and relying on Islamic arguments provide a certain level of legitimacy and thus power to those who use it, and therefore is part of the political negotiation strategy. For that reason, in order to address and respond to their claims and demands effectively, it is imperative to learn this language and understand what Taliban means when they invoke 'Islamic' and 'Hanafi' legal traditions, and how they use these traditions to make their arguments.

Peace talks in Afghanistan are not the only example where religion plays a key role in the negotiation process. Religion plays an important role in a number of different peace processes involving both Muslim and non-Muslim negotiators.[3] However, most literature on negotiation focuses on secular negotiation models derived from the experiences of experts and scholars in North American and European contexts. While these models offer valuable guidance and insight, their 'one size fits all' approach may not reflect the realities, values and meanings systems of the parties. Recognizing significant differences between different contexts and understanding central values, principles and practices that inform parties' priorities, decisions-making, and negotiation styles can offer critical opportunities to move the negotiations towards peaceful resolution of the conflict and establishing sustainable and just peace.

This Toolkit presents an Islamic perspective of negotiation and peacemaking in order to support negotiators involved in peace processes where Islam plays a critical role. Muslim communities have valued wise leadership, negotiations and peaceful resolution of conflicts since they first established themselves in political communities.[4] Negotiation and peacemaking mechanisms to resolve inter-personal and interstate conflicts nonviolently have been an integral aspect of Islamic tradition since the time of the Prophet Muhammad ((Pbuh). Understanding and sensitivity to Islamic faith can be invaluable in negotiation processes.

It is important to note that Islamic culture is neither static, nor uniformly distributed among Muslims. It is constantly evolving and changing with the experiences and the context of society, and therefore cannot be reduced to a single dimension. Islam is the religion of more than 1.8 billion people around the world and includes many different linguistic, cultural and ethnic groups with their own historical, cultural, and political experiences. There is more than one Islamic culture depending on geography and demography as well as various subcultures, within each community. Furthermore, over the course of history, Islam has developed into different theological and legal schools of thought and sects with the primary division being between Sunni and Shia sects. Despite their unique cultural, political, and social differences, Islamic teachings play an important role in the socio-political life of many Muslim communities and religion is

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[2] Emon, Anver, Ahmed R and Chaudhry, Ayesha S. (2020) Governing Afghanistan with The Taliban: A Guide for Negotiators Rockledge Research

[3] See Thania Puffenholz, Brumble, A, and Kadayifci-Orellana (Forthcoming) "The Role of Religious Actors in Peace and Political Transition Processes " USIP and Kadayifci-Orellana, Ayse and Maassarani, T (2021) "Religion and Mediation Action Guide" USIP

[4] Kadayifci, S & Nimer, A Mohammed & Saleem, A. (2013).*Understanding an Islamic Framework for Peacebuilding.* Islamic Relief Worldwide, Birmingham, [Online] Available: http://policy.islamic-relief.com/publication/

one of the key components of people's identity both as a cultural framework and as a religious creed. Islamic values and beliefs also have a profound impact on decision-making and negotiation behavior both during business and international peace negotiations.

Building on the United States Institute of Peace'(USIP) series of four Action Guides for religious peacebuilders, this Toolkit offers practical tools that combine negotiation skills with Islamic sources of peacebuilding, negotiation and mediation. It is anchored in Islamic (particularly Hanafi) legal and theological arguments that support the establishment of just and sustainable peace, the founding of democratic institutions, human rights and women's rights. This Toolkit will not only be helpful for Muslim male and female negotiators involved in intra-state peace processes in a number of different contexts such as Syria, Iraq, Somalia, Nigeria, Pakistan, and Indonesia, but also for non-Muslims involved in negotiations with Muslims.

Understanding Role of Religion in Peacemaking and Negotiation

Religious and cultural values and traditions play significant roles in peacemaking and negotiation where religion is an important aspect of the context in which negotiation is taking place. Religious traditions are vast and complex bodies of wisdom built over generations and their foundational sources, such as holy texts, interpretation of oral traditions, and express the experiences of the sacred that lead to the formation of the religious community. Religion, as a system of beliefs and practices, relating to the sacred and uniting its adherents in a community, has a powerful hold on people's way of thinking, acting and perception of interests. Religion answers some of the most profound questions regarding right and wrong; life and death; good and evil, among others.

Religious traditions are often intertwined with cultural, political, social and economic character of a time, place and a people. Virtually all religious traditions contain a variety of different interpretations and understandings of how the religious creeds and practices are understood and implemented. This toolkit adopts the definition of religion used in the USIP's *Religion in Conflict and Peacebuilding Analysis Guide*: "A human response to a perceived nonphysical reality concerning the origin, meaning, and purpose of life. It is typically organized by communities into a shared system of symbols."[5]

Five interrelated dimensions of religion have been articulated in a systematic and comprehensive way by Owen Frazer and Mark Oven in the Analysis Guide.[6]

Table. 1

Different Dimensions of Religion	
Religion as a set of Ideas	A shared set of teachings, doctrines, norms, values, stories, and narratives that provides a framework for understanding and acting in the world
Religion as a community	A defined group of followers and believers that provides individuals with a sense of belonging to something bigger than themselves
Religion as an Institution	The formal structures, leaders, and organizations associated with religious communities
Religion as Symbols & practices	The many visible, lived manifestations of a religion, from buildings to dress to ceremonies and rituals
Religion as Spirituality	A personal experience that provides a sense of purpose and connectedness to something greater than oneself, as well as a powerful source of motivation

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[5] Owen Fraser and Mark Owen, Religion in Conflict and Peacebuilding Analysis Guide (Washington DC: United States Institute of Peace, 2018) at https://www.usip.org/sites/default/files/Religion-in-Conflict-and-Peacebuilding.pdf
[6] Owen Fraser and Mark Owen, (2018)

How Religion Relates to Negotiation

While negotiation is a timeless practice used by different communities throughout history to resolve conflicts and end hostilities, it is influenced and shaped by the unique historical, political, and cultural context in which it is taking place. Within this context religious values and practices of the parties play an important role during the negotiation process as well as its outcome. During the negotiation process religion can serve either as a divider or as a connector.

Conflict contexts can be characterized by two key driving forces of social dynamics. The first driving force is the "conflict dividers" which refers to the issues, factors and elements in societies that serve as sources of tension and tend to divide people and communities. Second driving force is the "conflict connectors" which denote those elements, factors and issues that connect people and communities and serve as local capacities for peace.

Figure 1. Dividers and Connectors

Dividers:
Issues, factors and elements in societies that serve as sources of tension, tend to divide people and communities, undermine capacities for peace

Connectors:
Elements, factors and issues that connect people and communities and serve as local capacities for peace
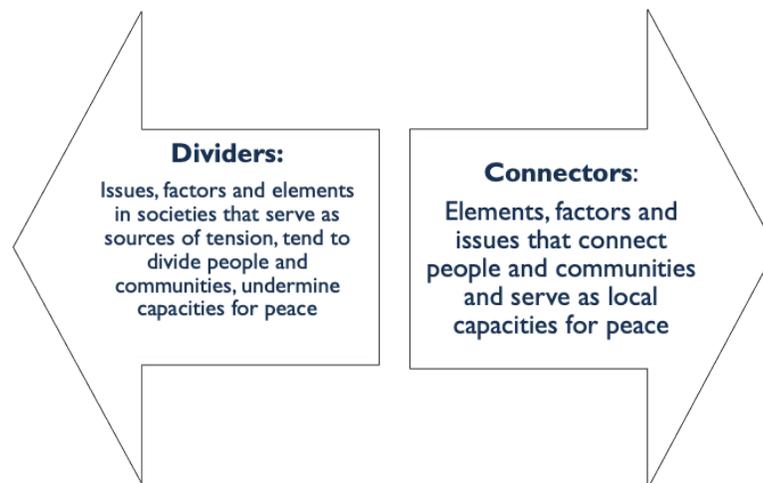
- ***Religion as a Divider:*** As a divider, religious identities can be a divider especially when parties during the negotiation process identify themselves along different religious lines or different interpretations of religion. Religion can be a divider also when religious texts, narratives and images are used to foster suspicion and mistrust and justify marginalization of various groups as well as use of violence against others. In these instances, religious identities, narratives, and images divide the communities and/or make negotiation more difficult.
- ***Religion as a Connector:*** Religion can be a connector when religious identity brings parties together or when religious values, principles and narratives are used to find just and sustainable solutions to the conflict, inspire reconciliation and justice. Peacemaking values embedded within the religious tradition such as compassion, kindness, forgiveness, and humility can help rebuild trust and inspire reconciliation.

Five dimensions of religion identified in Figure 1 help us understand how religion can be a 'divider' (a source of conflict) and a 'connector' (a source of peace) during negotiations. For instance, religion *as a community* and as a *source of identity*, religion may be a source of shared identity that brings parties together across different lines. Religion as *a set of ideas* refers to a shared set of teachings, doctrines, norms, values, stories, and narratives that provides a framework for understanding and acting in the world. These frameworks inform how parties think and act during the negotiations. Religious teachings, norms, values and narratives may be used to support peace and tolerance, may encourage those in conflict to participate in negotiations, and may inspire coming to an agreement that is just and fair to all parties. Religion *as symbols and practices* may be included in the negotiation process to encourage parties to listen and hear each other with an open heart and dedication to a peaceful solution to the conflict. Religion as a spiritual experience can be a powerful motivator to find a just and lasting solution to the conflict. Finally, *as an institution*, religious structures, resources and leaders may offer negotiators and organizers broad networks, channels of communication, and logistical and financial resources to support the preparation phase, actual negotiations, and post-negotiation follow-up and implementation of the agreement phases.[7] Therefore understanding the important roles of different dimensions of religion identified in peacemaking and negotiation processes is important for successful negotiations.

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[7] S. Ayse Kadayifci-Orellana and Tarek Maassarani *Religion and Mediation Action Guide* (Washington DC: United States Institute of Peace, 2021)

The Islamic Faith

Islam as the religion of more than 1.8 billion people around the world includes many different linguistic, cultural and ethnic groups. Islam is followed by about 24%[8] of the world's population and is one of the fastest growing religions in the world. The world "Islam' means 'submission to God's will" and is derived from the root *slm*, which is also closely related to Arabic words *salam* and *silm* (peace/ reconciliation).

Islam plays an important role in the socio-political life of many Muslim communities and is one of the key components of people's identity both as a cultural framework and as a religious creed. Islamic tradition derives its legitimacy by virtue of the sanctity of its roughly 1400-year-old rules and customs derived from its holy texts, such as the Qur'an and the *Sunna* (Prophetic teachings) which contain sacred truths that form the basis for Islamic ethics, politics, and law, and inform the actions of the Muslims.[9] Islamic Holy texts, tenets and values provide Muslims with a common vocabulary, a set of values and principles, create a unified Muslim community (*ummah*) and inform how Muslims conduct themself individually and collectively. Muslims are always reminded to be God-conscious (*Taqwa*) which motivates Muslims to do righteous deeds, be fair and just in everything that they do. These Islamic values and beliefs also have a profound impact on decision-making and negotiation behavior both during business and international peace negotiations.

Division and Diversity Within Islam

As a global religion with followers on every continent, it is not possible to talk about a single, static Islam. Reflecting this diversity, and as a result of unique cultural, political and social evolution of each community, Islam is often expressed and practiced in varying ways by different communities from one place to another and throughout history. As a result, there is more than one Islamic culture depending on geography and demography as well as various subcultures, within each community. Also, over the course of history, Islam has developed into different theological and legal schools of thought and sects with the primary division being between Sunni and Shia sects.

Sunni-Shia split dates back to 632AD. After the death of the Prophet Mohammed (Pbuh), his followers disagreed over who should succeed him. Shias believe that Ali, Prophet's son-in-law and nephew, should be the successor while Sunni's believe Abu Bakr, and Omar should be the successor. Despite these divisions, Muslims share fundamental beliefs and practices such as belief in God, the holy status of the *Qur'an*, that Mohammed was a Prophet of God, and the practice of five pillars of Islam. Where they differ is on questions of political and religious leadership, and interpretations of Islamic law.

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[8] Lipka Michael (2017) "Muslims and Islam: Key findings in the US and around the world" Pew Research Center at https://www.pewresearch.org/fact-tank/2017/08/09/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world/#:~:text=There%20were%201.8%20billion%20Muslims,the%20fastest%2Dgrowing%20major%20religion.

[9] Kadayifci-Orellana S. A., Abu-Nimer M. & Mohamed-Saleem A. (2013). *Understanding an Islamic Framework for Peacebuilding,* Islamic Relief Worldwide, Working Paper Series No. 2013-02: Birmingham, UK

Understanding *Shariah* and *Fiqh*

Shariah, often mistakenly referred to as Islamic Law is one of the critical features of state and political system in Islam both of which are derived from Islamic sources including the Holy Quran, *Hadith* and *Sunnah* of the Prophet (Pbuh) as well as through *ijtihad* (process of legal reasoning). However, it is important to stress that, while Islamic Law is part of *shariah*, *shariah* is broader than Islamic law, and is neither monolithic, unified, nor uncontested; in other words, there is no specific book that encompasses it. Although there are some disagreements about the origin of the Arabic word, Islamic scholars often agree that *shariah* means 'path' or 'way' to be followed.

Fiqh (Islamic jurisprudence), which means 'deep understanding' or "comprehension" in Arabic, on the other hand, refers to the interpretation and expansion of *shariah* by Islamic legal scholars (*fuqaha*, Singular *faqih*). *Fiqh* articulates rules and regulations of behavior and defines what is permissible and not permissible in Islam. *Fiqh* deals with the observance of rituals, morals and social legislation. *Fiqh* rules are what people mean when they refer to Islamic rules on divorce, inheritance, property etc.[10] Aware of their imperfect and potentially flawed understanding, Islamic scholars have often disagreed with each other and agreed to disagree (*ikhtilaf*), as long as the rulings did not transgress limits set by the Quran and *Hadith/Sunna*. For that reason, the authority of *fiqh* is grounded in the sincerity of the jurisprudential reasoning that generates it and as long as it is the result of sincere legal reasoning ("*ijtihad*"), the legal conclusion and opinions (*fatwa*) is considered legitimate.[11]

Maqasid (Objectives of Law) and Maslaha (Public Good and Welfare)
Maqasid is the Islamic legal doctrine that focuses on the goals and purpose of law within the Islamic moral-ethical framework, linking it very closely with the idea of *maslaha*, especially when it is qualified as *Masalih Mursalah* (consideration of public good) under Maliki jurisprudence.[12] The origin of *Maqasid* is commonly attributed to the Umar bin Khattab, the second rightly guided caliph. In consultation (*shura*) with his advisors, Umar created numerous public institutions, guidelines, and policies including an office of the ombudsman where residents of all lands under his authority could bring forward complaints against public officials and he instituted strong anti-corruption and consumer protection policies by appointing officers to monitor, investigate, and penalize illegal commercial activities.[13] Umar's administration and policies were founded on a deep understanding and appreciation of *maqasid* and its link to *maslaha*.

Based on the verses of the Quran, the Sunnah and Umar's example, Muslim scholars argued that *maslaha*, pursuing of public good is the purpose of law and governance in Islam. *Maqasit*, rooted in *maslaha*, reminds policy makers that governance and laws in Islamic community must ensure public welfare and benefit, and prevent harm. Muslim jurists point out that the Qur'an "promotes

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[10] Quraishi-Landes, Asifa, The Sharia Problem with Sharia Legislation (August 28, 2015). Ohio North University Law Review, Vol. 41, p. 545, 2015, Available at SSRN: https://ssrn.com/abstract=2652896 p. 549
[11] Quraishi-Landes (2015) p. 545,
[12] See Baderin p. 84 and W.B. Hallaq, A History of Islamic Legal Theories pp.112-113; and Muhammed Adil Khan Afridi (2016) 'Maqasid Al-Sharia and Preservation of Basic Rights: Under the theme "Islam and its Perspectives on Global and Local Contemporary Challenges" In Journal of Education and Social Sciences Vol. 4 (June) at: https://www.jesoc.com/wp-content/uploads/2016/06/KC4_143-1.pdf
[13] Basma I. Abdelgafar (2018) Public Policy: Beyond Traditional Jurisprudence, A Maqasid Approach (Washington DC: IIIT) p. 3

social responsibility and positive bonds between people because of their common ethical responsibility towards one another."[14] In the Quran, Muslims are urged to improve their communal life, to support one another, and combat poverty. For example, the Holy Quran (16:90) states,

> "Allah commands justice, the doing of good, and liberality to kith and kin, and He forbids all shameful deeds, and injustice and rebellion: He instructs you, that ye may receive admonition."

Muslim scholars agree that this verse indicates the overall purpose of *Shariah*[15] to do good works and pursue justice and that every legal ruling must comply with the goals and aims of Islamic moral-ethical principle. Interests or the welfare of the people is divided into three categories: the necessities (*daruriyyat*), the needs (*hajiyyat*), and the luxuries or complementary interests (*kamaliyyat or tahsiniyyat*). Necessities are those interests on which people's life depends on and their neglect will lead to injustice and disorder. Muslim jurists unanimously agree (*ijma*) that this overall objective of the law (*maqasid*) is to preserve and protect the five necessities (*darūriyāt*) of life, also called the five sacred cardinal rights: sanctity of life, property/wealth, religion, mind/intellect, honor, and family/progeny. Sometimes, honor is added to this list as the sixth right. These rights are covered by the right to inviolability in Islamic law. Ibn Taymiyya (d.1328) also includes other central Islamic values to the maqasid, such as justice, virtue, constitutional rights, and scientific excellence among others. Much of the purposes of detailed legal instructions in Islamic law can be traced back to the preservation of one of these areas.

Needs complement the necessities and refer to their neglect will lead to hardships and difficulties. Luxuries, on the other hand, lead to improvement and fulfillment of the lives of individuals. The law and political policies of the government must fulfill these interests in descending order of importance: first the necessities, then the needs, and then the luxuries.

Sources of Islamic Law

For Muslims the Quran is the foremost source of social, political, legal, and ethical frameworks in Islam. Other sources include recorded sayings (*hadith*) and practices (*sunna*) of the Prophet, as well as the conduct of His companions and family members. These sources contain sacred truths that form the basis for Islamic ethics and inform actions of believers. Whenever these sources are silent on an issue, Islamic religious scholars (*ulama*) apply hermeneutical approaches such as rational analysis (*ijtihad*), consensus (*ijma*) or analogy (*qiyas*) to establish Islamic rule and preferences.

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[14] Sachedina, A. *The Islamic Roots of Democratic Pluralism*, New York: Oxford University Press, 2001 p. 76
[15] M.A. Baderin (2001) Establishing Areas of Common Ground between Islamic Law and International Human Rights, The International Journal of Human Rights, 5:2, 72-113 p. 82-83

Table. 2

Sources of Islamic Law	
Holy Quran	For Muslims, the Holy Quran, is the source of all Divine guidance, commandments, moral and ethical behavior, and is the primary source of Islamic Law.
Hadith and Sunnah	*Hadith* and *Sunnah,* is often collectively referred to as *Sunnah* and is considered the second primary source of Islamic law.
Ijtihad	The process of making a legal decision by independent interpretation of the Quran, *Sunnah* and *Hadith*

The Holy Quran: The First Source of Islamic Law:
For Muslims, the Holy Quran, is the source of all Divine guidance, commandments, moral and ethical behavior, and is the primary source of Islamic Law. The Quran is the unchangeable and direct word of Allah and it is the unchallenged source of Islamic beliefs, practices, and codes of conduct. The word "Quran" is derived from the Arabic root "*qara'a"*, which means 'he read'. Literally *al-quran* means "the reading", "the recitation" or "collection."

The Quran contains 114 *surahs* or chapters, which are divided into *ayats* or verses. *Surahs* differ in terms of their length: the longest *surah* contains 286 *ayats* and the shortest has only three. Chapters are also divided according to two different periods of the Prophet Mohammed's (Pbuh) life, namely the Meccan period (610-622 C.E.) and the Madinan period (622-632 E.C.)

The Quran was revealed to the Prophet Mohammed (Pbuh) over a period of 22 years (610-632 C.E) during which many developments took place and thus revelations include practical and political responses to the actual events of the day. This aspect of the Quranic revelation is the basis of the principle of *tadrij*. Ninety-three chapters were revealed during the Meccan period while twenty-one chapters were revealed during the Madinan period. This division into two separate periods becomes important for the understanding and interpretation of the Quran in the field of *asbab-ul nuzul*, the field that studies the occasions and circumstances of the revelation of Quranic verse which is a field of *fiqh*. Legal rules and norms that are derived from the Quran directly are considered immutable and other norms and rules cannot contradict them.

Sunnah and Hadith: The Second Source of Islamic Law
Hadith and *Sunnah,* is often collectively referred to as *Sunnah* and is considered the second primary source of Islamic law. Within the context of *fiqh,* it refers to all that is issued by the Messenger of God, Mohammed (Pbuh), This includes his sayings, deeds, implicit approval of deeds or sayings of his Companions. In Islamic Law, *Sunnah* provides agreements, details, or explanations of the rules set in the Quran. For example, *Sunnah* provides the details of how to perform prayers, or pay the zakat. Also, if there is no rule or regulation regarding an issue within the Quran, *fuqaha* look at the *Sunnah* to see if there are any guidelines there. As such it is the second primary source of Islamic law.

Prophet Mohammed's (Pbuh) sayings and practices were recorded by his companions after his death. The proliferation of the *Hadith* and the *Sunnah* called for criteria to distinguish authentic and fabricated *Hadith* and *Sunna*. With that aim, especially in the 9ᵗʰ and 10ᵗʰ centuries, scholars collected traditions of *Hadith* and *Sunnah* and assessed their authenticity by verifying the chain of narrators (*isnad*) and examining the subject matter. The trustworthiness of the narrator was judged (*ilm ar-Rijal*) based on his moral character, intelligence, piety, and good memory.

In many instances, the Quran provides general guidelines and explanations of rules and jurisprudence not detailed ones. When a Muslim is faced with a problem that is not stated clearly in the Quran, *Hadith*, the Prophet's sayings, and the Prophet's conduct, *Sunnah* become important sources of guidance.

Ijtihad: Legal Reasoning as a Source of Islamic Law
Over the last 1400 years Islam expanded to different parts of the world with different cultural and linguistic traditions and societies changed over the course of history, and new needs and problems emerged as a result of these changes. While informed by the Quran and the *Sunnah*, Islamic law also evolved from Arab customary law and that after the expansion of the Islamic state, absorbed local custom and practices of the conquered territories as long as they do not contradict the Quran.[16]

Because for Muslims the Quranic message is eternal, scholars of the Quran contended that a response to any societal change must have been incorporated within the Quran as well. Therefore, answers to emerging new problems --it is believed-- must be *hidden* in between the Quranic verses. It is the duty of Muslim scholars to unveil God's rules and regulations for Muslims, especially since Islam is a religion that penetrates into all aspects of the life of Muslims, from personal to social, political and economic. When faced with a new challenge or a problem, new rules can be legitimized by claiming that they have already been in the sacred Scripture, but were not yet brought to light. They become apparent only after the application of *ijtihad* (systematic intellectual reasoning) to principal sources of Islam in order to respond to the current problems.

Box. 1

The Hadith following constitutes the justification for ijtihad in Islamic tradition
The Prophet (*sallallaahu `alayhi wa sallam*) sent Mu`aadh (*radiyallaahu `anhu*) to Yemen and asked him: "How will you judge the cases (that come to you)?"    He replied: "I will judge according to the Book of Allaah".    "But if you do not get anything there, what will you do?", the Prophet (*sallallaahu `alayhi wa sallam*) asked.   He said: "I will refer to the *sunnah* of the Prophet (*sallallaahu `alayhi wa sallam*)".    "But if you do not get it even there, what will you do?", the Prophet (*sallallaahu `alayhi wa sallam*) asked

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[16] Khadduri, Majid. *War and Peace in the Law of Islam.* The John Hopkins Press. Baltimore, MD. 1955 p, 20.

> again.
>
> He replied: "I will exercise my judgment."
>
> Hearing this the Prophet (*sallallaahu `alayhi wa sallam*) patted Mu`aadh (*radiyallaahu `anhu*) on the shoulder and said:
>
> "Praise be to Allaah who has guided the Messenger of His Messenger to what pleases His Messenger."

> This *hadeeth* has been reported in the Musnad and Sunan collections of *hadeeth* with a good isnaad.Ahmad, Musnad V:230, 236, 242; al-Daarimee, Sunan, Muqaddimah, 30; al-Tirmidhee, Sunan, Ahkaam, 3; Abu Dawood, Sunan, Adhiyah, 11.

Therefore, interpreting the Holy Text through *tafsir* (exegesis), and understanding God's will through *ijtihad* (the process of making a legal decision by independent interpretation of the Quran, *Sunnah* and *Hadith*) became an important area of study within the Islamic tradition. This area of study was called *usul al fiqh* (meaning proofs or sources of law). *Usul al fiqh* is considered one of the most important forms of knowledge in Islamic world. It encompasses opinions and discussions of the *fuqaha* on the nature and sources of law, and acceptable methodologies through which Islamic rules and laws can be reached. Concrete legal problems are resolved through an in-depth analysis of these main sources by trained scholars, and a body of legal texts called *fiqh* comes into life after this process.

Ijtihad has taken a number of forms and includes a variety of different techniques such as *Qiyas* (analogical reasoning), *ijma* (consensus of opinion), and *naskh* (abrogation), *ra'y* (subjective option), taking into consideration *urf* and *adat* (customs and tradition), *taqlid* (unquestionable acceptance of legal decisions without knowing how those decisions were reached). Additionally, it also includes discussions of various principles that guide the process of *ijtihad* such as *istihsan* (juristic preference), *maslaha* and *istislah* (consideration of public interest and benefit), *istishab* (presumption of continuity) and *adalah* (justice).

Table. 3

Forms of Ijtihad	
Ijma	Consensus of the community, particularly the community of the *ulema* (religious scholars and jurists) and applies only to legislative matters
Qiyas	The practice of drawing an analogy from a similar case in primary sources by discovering the effective cause and reason behind a given rule when a solution to a problem is not given in the Quran and *Hadith*
Naskh	Removal of something by something else, annulment. Refers to Quranic revelation superceding or canceling the earlier ones on a similar theme/topic.
R'ay	Personal Judgement, or individual opinion, speculative legal reasoning in the absence of precedent
Istislah	Consideration of benefit when resolving problems. Meaning 'to deem proper', is related to *maslaha* (public interest). A judge reaches a decision by determining first what is most beneficial to the community as a whole, then what benefits the local community, and then what benefits the individual

Urf wa Adat	Custom and traditions, collective habits of people. Considered a source of *ijtihad* by all main schools of *fiqh* if it meets certain requirements including: must not contradict the Quran and Sunnah; must be prevalent and widespread; must be in practice before the time of the incident/ case.

Legal Schools of Thought in Islam

The practice of *ijtihad* led to different interpretations of the Quran and Hadith and *ikhtilaf* (disagreement) among *fuqaha* in regards to *fiqh* and *usul al fiqh*, and religious scholars started to group themselves around a leading scholar. This resulted in the development of different Islamic legal schools in both Sunni and Shia Islamic traditions. All these schools agreed that the Quran and the *Sunnah* were the main sources of the law but differed in their choice and emphasis on the particular techniques they preferred to derive laws. Also, each Muslim could choose the school of thought they wanted to follow and change it later if they chose to do so.

In Sunni Islam, among these different legal schools, four of them emerged as the most prominent. These were: the *Maliki* school based on the works of jurist Malik Ibn Anas of Madina (718-795 C.E.); *Hanefi* school based on the works of Abu Hanifa from Kufa (699-767 C.E.); *Shafi* school based on the works of al Shafi'i (C.E. 767-820); and *Hanbali* school based on the works of Ahmad Ibn Hanbal (780-855 C.E.). The existence of different schools of law was not considered harmful to the Islamic tradition. On the contrary it was celebrated based on the *Hadith* "Differences of opinion among my community is a sign of Allah's mercy."

In the Sunni Islam, four schools of law were accepted as the only legitimate legal schools by the tenth century, and Muslim scholars concluded that the work of legal interpretation was exhausted, and *fiqh* was considered to be completed. Therefore, Islamic scholars after the tenth century dedicated themselves to the study of the works of these four jurists and writing commentaries about them. The decision to stop reaching new laws was considered as the *closing of the gate of ijtihad* by some of the scholars.

In Shia Islam, main schools of jurisprudence include *Zaydi*, *Jafari*, and *Ismaili* schools of law. Founded in the 8th century, Zaydi School of thought is one of the earliest schools of Shia *fiqh* and currently the second largest group in Shia Islam. Today, the Zaydi school of thought is most prominent in Yemen. The Jafari school, named after the sixth Imam Jafar al-Sadiq (d.748) is a school of jurisprudence in the Twelver Shia Islam and has been recognized and accredited by al-Azhar University in Cairo, Egypt as the "fifth" school, in 1959. Ismaili school of jurisprudence was founded during the Fatimid Dynasty in North Africa, is the third main school of thought in Shia Islam and Qadi Abu Hanifah al-Numan (d.974) is considered to be its founder. Today, Ismailis are mainly in Pakistan and India but they can be found in different parts of the Muslim world, including Bangladesh, Malaysia, Yemen, Jordan, Iraq, East Africa, South Africa, among others. In. Shia Islam using *ijtihad* was never considered stopped.

Table. 4

Madhabs in Sunni Islam			
	Founder	**Key principles and tools**	**Where**
Hanafi	Imam Abu Hanifa Numan Bin Thabit (699-767)	Most flexible school Employs both *qiyas* and *ijma*, but it also relies heavily on *ra'y* (personal or subjective opinion), *istihsan, urf*	Jordan, Lebanon, Pakistan, Syria, Turkey, Afghanistan, Central Asian Republics and the United Arab Emirates. Hanafi school also is the predominant school in regards to family and personal law issues in Bangladesh, Egypt, India, Iraq, Pakistan, Syria, and, for significant minority populations, in Iran and Malaysia
Shafi	Imam Muhammed Bin Adris Al-Shafi (767-820)	Relies on Quran, Hadith, Ijma, Qiyas, occasionally uses *urf*	Eastern Egypt, Malaysia, Indonesia, Thailand, India, Somalia, and Sri Lanka, Parts of Yemen
Maliki	Imam Malik Bin Anas (713-795)	Relies on Quran, Hadith, *ijma, qiyas, istishan, r'ay and urf,* also heavily relies on the practice (*sunna*)of the people of Madina as a source of law	North and West Africa with the exceptions of some parts of Egypt, Bahrein, United Arab Emirates, and Kuwait
Hanbali	Imam Ahmad bin Hanbal (789-855)	Traditionalist and scripturalist; Emphasizes the Quran and *Sunnah;* Accepts *istislah* (consideration of public interest), but limits the use of *istishab* (presumption of continuity) and have an ambiguous and at times contradictory position on *istihsan* (judicial preference) as a source of law.	Saudi Arabia and Qatar and there are various madrasas (Islamic schools) around the Muslim world with Hanbali influence

Building Peace After Conflict

What is peacebuilding?

Peace building is a dynamic process of resolving conflict and rebuilding societies after conflict. It includes a whole host of mechanisms and practices that aims to prevent and terminate conflicts and establish just and peaceful societies. Engaging different segments of the society, such as political and religious leaders, civil society organizations and grassroots, it includes activities such as negotiation, mediation, or reconciliation processes that aim to establish just and peaceful societies.

Peacebuilding and negotiation field is often associated with a secular-Western context, however, in reality, many different communities have developed tools and approaches to resolve their conflicts peacefully and have engaged in conflict resolution tools such as mediation and negotiation. Like many other communities around the world, Muslim communities have valued wise leadership, consultative decision-making and peaceful resolution of conflicts since they first established themselves into political communities. Inspired by Islamic values and the practices of Prophet Mohammed they have developed various tools and mechanisms to resolve their conflicts.

Islamic Approach to Conflict:

Islamic tradition recognizes that life involves conflict and peace building refers to mechanisms and structures that can prevent a conflict, terminate it, transform it or resolve it. While some of these tools and mechanisms are similar to secular-Western approaches, there are also various differences between them. Some of the key aspects of Islamic approach to conflict include the following:

Nature of Conflicts: Islamic tradition views conflict as a normal social phenomenon, but a deviation from the essential nature (fitrah) of individuals. The *Qur'an* states that differences between people are part of God's plan for humanity (Q49:13), but as the verses below indicate, believers are urged to resolve their conflicts peacefully and reconcile with their opponents. If these disputes lead to hostility and aggression it is considered in a negative light.

Community Orientation: Islamic teachings emphasize the importance of the common good, social and divine harmony, justice, social responsibility, and accountability. They call for solidarity and collaboration within the community. Conflicts that divide communities and undermine solidarity among the *Ummah* are seen as harmful and must be avoided. Conflicts especially rooted in tribalism, racism, and nationalism (*asabiyya*), among others is strongly discouraged in Islam as the *hadith* below shows. Therefore, conflict resolution systems in Islam call for involvement of all community members to resolve conflicts and create structures for their involvement.

Individuals and Communities as Agents of Change: Islam recognizes change is necessary and unavoidable and is part of Divine plan. Positive change according to Islam brings people closer to God and God's creation through doing good works that bring about justice and harmony. Individually, change takes place first at an inner level through a struggle with one's own soul against its own ego and at a second level, through struggling with injustices at the community level. Islam also recognizes that lasting change must come from within and individuals must be proactive to bring about the changes they would like to see in their communities as Q13:11 states.

Centrality of Emotions: Conflicts often give rise to emotions such as anger, revenge or embarrassment. Understanding the emotional needs of the parties and transforming or containing negative emotions is central to resolving conflicts. Islam recognizes that human beings have powerful emotions that needs to be taken account when addressing conflicts. Managing the emotions of the parties as well as the communication between them is the responsibility of the third parties, but expressive emotional reactions are perceived as normal aspects of the process. Spontaneous and emotional acts thus are considered part of conflict resolution and parties are allowed to express their feelings and vent. Although negative emotions such as anger, hate, and fear are considered part of the human experience they are harmful to group unity and harmony and hence from a conflict resolution perspective, they must be transformed. For instance, the Qur'anic verse (3:134) associates' repression of anger with doing good. Individuals are encouraged to discuss and express their feelings and in many Muslim communities, individuals often engage in 'heart to-heart' conversations where interruptions with expressions of empathy and support are quite common.

Face-Saving and Restoring Dignity: Emotions are also closely related to dignity and honor. Islam recognizes honor and dignity as an important right and calls for protection of the dignity and honor of every individual. Since shame, honor, dignity and reputation are the driving forces towards ultimate resolution, conflict resolution processes pay special attention to saving face of all those involved, especially the offender. They avoid humiliating the parties further and look for ways to restore the dignity, honor and respect of the parties. Therefore, Muslims are required to avoid humiliation and find ways to restore the dignity of all parties through finding ways to save face, restore the dignity, honor and respect of the parties. Q17:70 proves that in Islam everyone must be dignified without exception as God has created all humans with dignity.

Emphasis on Restorative Justice: One of the key aspects of conflict resolution efforts in the Islam is the emphasis on restorative justice rather than retributive justice. Restorative justice is clearly supported by the Qur'an and Prophet's (Pbuh) tradition. The holy Qur'an urges Muslims to restore justice, accept responsibility and be repentant stating that God *"forgives all sins"* (Q39:53). The Qur'an asks Muslims to be forgiving, and merciful while seeking justice. Although retributive justice may be permitted, the various verses clearly indicate that God prefers reconciliation and restorative justice.

The aim of restorative justice in Islam is to repair the relationships that were broken by the conflict and to heal the wounds caused by it. It aims to bring parties to the conflict as well as the community in general together to talk about the events, seek to repair the harm done and prevent it from happening again. Customary conflict resolution approaches that have emerged in Muslim societies, such as *sulha* in the Middle East, *xeer* in Somalia, and *jirga* in Afghanistan, among

others, view wrong-doing as an offence both against the individual and the community. It involves offenders, victims, and the whole community through a participatory dialogue process to address the needs of the parties. It aims to restore a sense of justice and re-establish order and harmony within the community. These processes stress the importance of restoring broken relationships and compensating victims give the offenders the chance to offer apology and make amends. The process aims to empower the victims and affected communities, while reaffirming collective values, minimizing retributions, and maximizing the restoration of community harmony through a collective decision-making process. Acceptance of responsibility, repentance (*tawba*), offering an apology and compensation rather than *qisas* (retribution) are encouraged by invoking unity, harmony, and Islamic principles such as forgiveness and reconciliation.

Binding Nature of Agreements: Another important aspect of peacebuilding and resolving conflicts in Islam is the binding nature of peace agreements or arrangements. As *sulh* (reconciliation) is a form of contract ('*aqd*), it is legally binding on both at individual and community levels. Based on the Quranic verse (Q16:91) below, Islam considers observance of treaties and oaths a religious duty thus, critically important. For example, the Treaty of Hudaybiyyah is seen as a binding agreement that had conditions that were symbolic yet had the effect of bringing about an enforced period of peace. Similarly, although mediation is a nonbinding process, it becomes morally binding when the parties to the dispute agree to the recommendation of the mediators. In Islamic tradition, agreements are often declared and agreed in a public forum with a handshake and become binding to all those present and not present. In many Muslim cultures especially, and in interpersonal and community disputes "a shake of hands, or a community and social gathering, are more binding than a million papers."[17]

Centrality of Social Norms and Islamic Values and Rituals: Majority of secular-Western approaches to peacebuilding and negotiation focus on individual interests, positions, desires and needs and emphasize the centrality through rational decision-making processes based on cost-benefit analysis. Islam on the other hand asks Muslims to take into account the interests of the community, and invoke Islamic values, principles and rituals as they search for a just and fair resolution of the conflict that would be in accordance with God's will as stated in the Quran. Muslims aspire to model their behavior after the values and examples mentioned in the Quran as well as the Hadith and Sunna. Therefore, the conflict resolution process in Islam is based on Qur'anic stories, Prophetic wisdom, and examples drawn from Islamic history that emphasize the importance of resolving conflicts peacefully, justly and restoring harmony among God's creatures. "As Muslims aspire to model their behaviors after Qur'an and *Sunnah* (sic), it becomes a task of Muslim conflict interveners to replicate the process of restoring Islamic principles by clarifying to conflicted parties the misperceptions and negative practices that for long have influenced their lives."[18]

Islamic tradition has a rich and well-established set of norms, values and rituals in regards to peace and conflict resolution. Some of these values include unity, patience, common good, forgiveness, and reconciliation. These values and norms are based on the Quran, the Hadith and Sunnah and

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[17] Abu Nimer 1998. "Conflict Resolution Training in the Middle East- Lessons to be Learned" in *International Negotiation,* 3, No. 1: p. 111

[18] Abu-Nimer M. 1996 "Conflict Resolution in an Islamic Context: Some Conceptual Questions" in *Peace and Change,* v21, N21 p. 171

the practices of the Rightly Guided Caliphs and inform Islamic peacemaking traditions such as negotiation, among others. Rituals also play an important role in peacebuilding in Islam. Conflict resolution practices in a number of different contexts often end with a ritual of gathering the whole community together in a public space and declaring the agreement to all those present; when concluding a dispute settlement in the Middle Eastern context, drinking traditional coffee and sharing a meal is an essential component of the process.

Jihad: It's Meaning and Significance in Islam

Jihad, which is often mistranslated as "holy war' against external forces, is one of the most misunderstood concepts in Islam by Muslims and non-Muslims alike. Contrary to the general belief jihad does not mean war, but comes from the Arabic word "*jahada*" which literally means "to strive," "to struggle," "to exert effort," or "to toil." Within the context of the Quran and Hadith, it is often used to mean, struggling for the cause of God by means of speech, property, wealth or life as the Qur'anic verses "strive in the cause of God" (Q22:78) indicates. Not once in the Qur'an is the word jihad used with the sole meaning of fighting. The most commonly used words for fighting, in the literal sense, in both the Qur'an and hadith literature are "*qitāl*" and "*harb*.

Thus, jihad is a continuous process throughout the life of a believer and has three aspects:
- Firstly, *jihad al-nafs* or the struggle against the baser self or the ego. In this, its most common sense, *Jihad* most commonly refers to the unceasing effort that an individual must make towards self-improvement and self-purification. This understanding of jihad is also supported by the Hadith.Based on the Hadith show below, the greater jihad (*jihad al-akbar*) refers to the inner struggle to purify the self and behave in a manner which furthers rather than disrupts the divine harmony
- Secondly, jihad in the sense of striving, using peaceful means, to communicate God's word to others through scholarship and dialogue, inspired by compassion and concern for others, even if this is not reciprocated. This can include among others, talking truth to power as it is recorded in the hadith.
- Thirdly, the third form of jihad relates to confronting one's foes and to remain firmly committed to the faith under all conditions. In this sense, jihad, properly understood, is a peaceful struggle, not military or physical confrontation and should be preferably performed by nonviolent means. Depending on the circumstances and those involved, the best type of jihad may take several different forms. Ibn Taymiyya, for example, argued that jihad is achieved sometimes by the heart, sometimes by the tongue, and sometimes by the hand, and suggested two cardinal rules for jihad by the tongue and by the hand: understanding and patience.

Other forms of jihad may include talking truth to power by advising a tyrannical ruler or engaging in da'wah; exercising discipline and self-restraint; performing pilgrimage to the Ka'aba; taking care of one's parents; studying for the sake of God and teaching others beneficial knowledge and defending one's community by taking up arms only as a last resort. Only in the last resort, to defend themselves Muslims are allowed to use violence.

Thus, jihad can be differentiated according to its direction (inner and outer) and method (violent and nonviolent). The inner jihad in the narrowest sense is fought within the individual to improve

oneself, to act morally and justly towards all creation. It demands a perpetual self-re-examination in terms of one's potential to fight tyranny and oppression — a continual reassessment of the means for achieving peace and inculcating moral responsibility. Outer jihad refers to the efforts to eliminate all forms of evil, corruption, injustice, tyranny, and oppression whether this is committed against Muslims or Non-Muslims, and whether by Muslims or Non-Muslims, both at the individual and collective level.

Ethics of Just War (*Qital* or *Harb*) in Islam

This verse Islam clearly asks Muslims to strive actively towards establishing just social, political, and economic systems, and to eliminate sources of violence and conflict. Therefore, the central aim of jihad is to put an end to all forms of violence including systemic structural violence. However, working for justice did not always mean waging war. In fact, during the first 13 years of Islam, Muslims were not given permission to fight but be patient even when they faced ridicule, humiliation, injustice and persecution. When persecution became unbearable, the Prophet and his followers migrated (Hijrah) to Yathrib (later known as Medina), which gave Muslims refuge. Even after that Meccans continued to threaten Muslims and sent a letter to the leaders of Yathrib who had given protection to Muslims threatening them with extermination. Only within this context the Quranic verses (Q 22:39-40) gave Muslims permission to fight to defend themselves. Even then the means used was not independent of moral scrutiny.

The verses of the Qur'an and hadith relating to warfare (*qital* and *harb*) can be generally classified into three main groups:
- Verses which deal with the conditions for military engagement, or commencement of warfare,
- Verses concerning the conduct of war after it has commenced, and
- Verses related to the conditions of military disengagement and termination of warfare.

The Quran and Hadith make it clear that peace and nonviolent resolution of conflicts is the preferred method in Islam and fighting (*harb/ qital*) is only allowed under very extreme conditions as in the case of when there is no other way to repel oppression or injustice (Q2:191 and Q 4:75). They put clear restrictions and rules regarding when and how wars can be fought.

The Quran (Q2:190) is very clear that Muslims are prohibited from undertaking offensive violence and are not allowed to be aggressive or initiate wars. Division and fighting among Muslims are particularly prohibited and Muslims are told that they are brothers and sisters of one another. They are urged to work together and not device amongst themselves (Q 103- 105).

According to Islam, waging war requires a justifiable reason (*illah*) by a legitimate authority, and opponents must be warned beforehand. Justifiable reasons include when Muslims are persecuted because of their religious beliefs and when they are attacked. Therefore, military jihad can only be used as a last resort and only defensive wars are allowed. Even then, the Quran also orders Muslims to make peace, if the opponents ask for peace (Q8:61-62).

According to Islamic ethics of jihad, intention (*niyyah*) is very important. Both the Qur'an and hadith make it clear that jihad cannot be waged for personal gain in any form. In fact, Muslims are

prohibited from fighting for money, territory, power, politics, revenge or hatred. Various hadiths warn Muslims that fighting for the sake of material gains, conquest, or even honor in the eyes of fellow men, will earn no reward and is not allowed. Jihad *al-nafs*, the struggle to purify one's intention, which strengthens one's willpower, and ensures all deeds are in accordance with Allah's guidance, is therefore the prerequisite of all other forms of jihad including military jihad.

Table. 5

Ethics of War in Islam	
Rules of When War is Permitted	**Rules of Engagement During War**
- Only as last defense, when Muslims are attached or persecuted - Opponents must be given warning - Must be waged by a legitimate authority - Intention must be for the sake of God not for any personal gain	- Must be proportional to the attack - Must separate combatants and non-combatants* - Non-combatants must not be killed, tortured or hurt in anyway - Prisoners must be treated well, must not be tortured, or hurt - Fallen enemies must be treated with honor and respect; they cannot be beheaded or mutilated - Religious sites must be protected and not attacked - Land, produce and animals, including those of the opponent cannot be damaged, or killed.
*Non-combatants include: women, children, the blind, the old, monks and hermits, the insane or delirious, those who are physically incapable of actual fighting, and servants.	

Islam also lays down strict rules of engagement regarding the acts that are permissible during the war (see table.3 These regulations include strictly distinguishing between combatants and non-combatants and forbidding the killing of non-combatants, which include women, children, the blind, the old, monks and hermits, the insane or delirious, those who are physically incapable of actual fighting, and servants. Inhumane acts such as torture, rape, mutilation of bodies and burning of prisoners is absolutely prohibited. Killing hostages as well as massacring innocent people are not allowed even if the enemy has resorted to such actions. The Prophet (Pbuh) stated in several narrations that among the worst sinners are those who initiate hostilities or kill people without a just cause. The Prophet (Pbuh) even forbade Muslims from desiring to fight anyone and asked them to be patient. Therefore, a Muslim is not even allowed to even desire in his or her heart violent retaliation upon the enemy. Based on these examples, Muslim scholars such as Ibn Taymiyya said "Indeed the matter of benevolence and forgiveness takes precedence over the matter of vengeance and revenge."[19] Furthermore, Muslims are required to treat the prisoners well and execution of prisoners of war even if the enemy resorts to these actions is not allowed. Islam also prohibits unnecessary devastation of the enemy lands and destruction of harvest and cutting trees, especially fruit trees, or harming enemy's animals.

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[19] Taqī al-Dīn ibn Taymīyah, *Minhāj al-Sunnah al-Nabawīyah* (Riyadh: Jāmi'at al-Imām Muḥammad ibn Sa'ūd al-Islāmīyah, 1986), 4:327.

Box. 2

Case Study: **Instructions given by the first Rightly Guided Caliph Abu Bakr before he sent his army on an expedition to the Syrian borders**
"Stop, O people, that I may give you ten rules for your guidance in the battlefield. Do not commit treachery or deviate from the right path. You must not mutilate dead bodies. Neither kill a child, nor a woman, nor an aged man. Bring no harm to the trees, nor burn them with fire, especially those which are fruitful. Slay not any of the enemy's flock, save for your food. You are likely to pass by people who have devoted their lives to monastic services, leave them alone."

Table. 6

Quranic Verses on Conflict and Jihad	
Taqwa	"O, you who believe! When you hold secret counsel, do it not for sin and wrong-doing, and disobedience towards the Messenger (Muhammad SAW) but do it for Al-Birr (righteousness) and Taqwa (virtues and piety), and fear Allah unto Whom you shall be gathered." (Q58:9)
Nature of Conflicts	"Obey Allah and His Apostle; and fall into no disputes, lest ye lose heart and your power depart; and be patient and persevering: For Allah is with those who patiently persevere."(Q8:46) "If two parties among the believers fall into a fight, make ye peace [sulh] between them […] make peace between them with justice, and be fair; for Allah loves those who are fair (and just)." (Q49:9)
Individuals and Communities as Agents of Change	God does not change the condition of a people unless they change it is in themselves. (Q13: 11)
Centrality of Emotions	Those who spend (freely) whether in prosperity or in adversity; who restrain anger and pardon (all) men; for God loves those who do good. (Q3:134)
Face Saving and Dignity	We have honored the sons Of Adam; provided them With transport on land and sea; Given them for sustenance things Good and pure; and conferred On them special favors, Above a great part Of Our Creation. (Q17:70)
Restorative Justice	"O ye who believe! Fair retribution is prescribed for you in cases of murder … but if the culprit is pardoned by his aggrieved brother, this shall be adhered to fairly, and the culprit shall pay what is due in a good way. This is an alleviation from your Lord and an act of mercy. If anyone then exceeds these limits, grievous suffering awaits him. Fair retribution saves life for you, people of understanding, so that you may guard yourselves against what is wrong" (Q2:178-9) "Let harm be requited by an equal harm, though anyone who forgives and puts things right will have his reward from God Himself– He does not like those who do wrong. There is no

	cause to act against anyone who defends himself after being wronged, but there is cause to act against those who oppress people and transgress in the land against all justice– they will have an agonizing torment– though if a person is patient and forgives, this is one of the greatest things." (Q42:40-3)
Binding Nature of Agreements	"Fulfill the Covenant of Allah when ye have entered into it, and break not your oaths after ye have confirmed them; indeed ye have made Allah your surety; for Allah knoweth all that ye do." (Q16:91).=[098
Jihad	"And those who engage in jihad (striving) in Our (cause), We will certainly guide them to Our paths." (Q29:69) "And whoever engages in jihad (striving), he does so for his own soul" (Q29:6) "Fight (*qātilū*, in Arabic) in the cause of God those who fight (*yuqātilūna*) you, but do not commit aggression, for God loves not the aggressor. (Q2:190). "For tumult and oppression are worse than slaughter" (Q2:191) "And why should ye not fight in the cause of God and of those who, being weak are ill-treated (and oppressed)? Men, women and children, Whose cry is "Our Lord! Rescue us from this town, whose people are oppressors; and raise for us from Thee One who will protect; And raise for us from Thee, One who will help!" (Q4:75) "And strive for Allah with the endeavor which is His right." (Q22:78) "Go forth, light armed or heavy armed, and strive with your wealth and your lives in the Way of Allah. (Q9:41) Lo! those who believed and left their homes and strove with their wealth and their lives for the cause of Allah, and those who took them in and helped them: these are protecting friends one of another." (Q8:72) "Permission is given to those who are being fought because they have been wronged. Verily, Allah has power to give them victory. Those who have been driven from their homes without right, only because they said, 'Our Lord is Allah.' If Allah did not check some people by means of others, many monasteries, churches, synagogues, and mosques, in which the name of Allah is often mentioned, would have been torn down" (Q: 22:39–40.) "To those against whom war is made, permission is given (to fight), because they are wronged; - and verily, Allah is most powerful for their aid (Q22:39)
Peace making	"But if the enemy inclines towards peace, do thou (also) incline towards peace, and trust in Allah: for He is the one that hears and knows (all things). Should they intend to deceive thee — verily Allah suffices thee" (Q8:61-62) "Whenever they kindle the fire of war, God extinguishes. They strive to create disorder on earth and God loves not those who creates disorder" (Q5:64); And dispute ye not With the People of the Book, Except with means better (Than mere disputation), unless It be with those of them Who inflict wrong (and injury) : But say, " We believe In the Revelation which has Come down to us and in that Which came down to you ; Our God and your God Is one ; and it is to Him We bow (in Islam)." (Q29:46)

Table. 7

Hadith on Conflict and Jihad	
Community Orientation	"He is not one of us who proclaims the cause of tribal partisanship, and he is not of us one who fights in the cause of tribal partisanship, and he is not of us one who dies in the cause of tribal partisanship." *Sahih Collection of Abu Dawud*
Overcoming Anger	The strong is not the one who overcomes the people by his strength, but the strong is the one who controls himself while in anger." *Sahih Collection of Bukhari (6114)*
Character of Muslims	"Faith is a restraint against all violence, let no Mu'min [a believer] commit violence" *Sahih Collection of Abu Dawud.* "A perfect Muslim is one from whose tongue and hands mankind is safe, and a true emigrant [muhajir] is one who flees from what God has forbidden" *Sahih Collection of Bukhari*
Jihad	The Prophet (Pbuh) is recorded to have said: "The best jihad is for one to perform jihad against his own self and against his desires." *Collected by al-Tabarani, authenticated by al-Albani, no 1129* "We have returned from the minor *jihad* (war) to the major *jihad* (against the self)" *Collected by Al-Bayhaqi, al-Iraqi, Ajluni* "Jihad against one's own self in the Cause of Allah is the best Jihad" Collected and authenticated by Imam Ahmed, no 24004 "...The true mujahid is he who performs Jihad bi an-Nafs(struggle in-within one-self) in the obedience of Allah..." *Ahmad, al-Hakim, at-Tabarani* The Prophet (Pbuh) was asked, "What kind of jihad is best?" and he replied "A word of truth before an oppressive ruler" *An-Nasa'i, no.4209*
Rules of Engagement	Verily, the most tyrannical of people to Allah Almighty is one who kills in the sacred mosque, one who kills those who did not fight him, and one who kills with the vindictiveness of ignorance. *Aḥmad ibn Ḥanbal, al-Musnad (Cairo: Dār al-Ḥadīth, 1995), 6:296, no. 6757; declared authentic (ṣaḥīḥ) by Aḥmad Shākir in the comments.* Prophet (Pbuh) forbade Muslims from desiring to fight anyone, "Do not wish to meet the enemy in battle, but if you meet them, be patient." *Ṣaḥīḥ al-Bukhārī, 4:63, no. 3026.* The fourth righteous Caliph ʿAlī ibn Abī Ṭālib رضي الله عنه (d. 661) reports that engraved upon the Prophet's (Pbuh) sword were the sayings, "Maintain relations with those who cut you off, speak the truth even if it is against yourself, and be good to one who is evil to you." *Ibn al-Aʾrābī al-Baṣrī, Muʿjam Ibn al-Aʾrābī (Riyadh: Dār Ibn al-Jawzī, 1997), 2:744, no. 1507;*

	ʿĀʾishah similarly reports that it was written on the handle of his sword, "Verily, the worst of people in insolence are those who strike at whoever did not strike at them and a man who kills those who did not fight him." *al-Bayhaqī, al-Sunan al-kubrá, 8:49, no. 15896*

Islamic Approach to Peacebuilding

Peace in Islam

Islamic conception of peace begins with its attribution as a Divine name since the Arabic word for peace — Salam — is one of the ninety-nine names of God (Q59:23[4]). There are many references to peace (salam, silm, sulh, etc.) in the Qur'an that suggest that peace, together with justice (*adl*) is a central message of Islam (Q3:83; 4:58; 5:8; 10:25; 16:90; 41:11; 42:15; 57:25). These references make it clear that peace in Islam is not limited to a negative understanding of peace that is often defined in a passive sense as the absence of war, oppression or tyranny but it actually refers to a process in which human beings strive to establish foundations for interacting with God's creation — human and non-human alike — in harmony and to institute just social, economic and political structures where they can fulfil their potential. This approach seeks to attain peace through nonviolent means rather than violence. Nonviolence, defined as "a set of attitudes, actions, or behaviors intended to persuade the other side to change its opinions, perceptions and actions,"[20] is now recognized as crucial for sustainable peacebuilding efforts. According to proponents of nonviolence in Islam, nonviolence is the preferred method in Islam to address all forms of violence, as the Qur'an commands.

Prophet Mohammed as the Model Peace-Builder

The Qur'anic conception of peace has been best put into practice by Prophet Muhammad's (Pbuh) attitude towards peace and his diplomacy who preferred peaceful regulation of conflicts and peaceful resolution of enmity. Tyranny, which is a system that perpetuates injustice, is viewed as one of the greatest evils that must be removed. Based on the Qur'anic verse "*We did raise among every people a Messenger (with a teaching): worship God and shun the evil one*" (Q16:36), scholars such as Jawdat Sa'id of Syria argue that "the Prophets come with the message to avoid wicked tyranny and they disclosed that the tyrant could not continue to exist without our obedience to him."[21]

Islamic Principles and Values of Peacebuilding

Various principles and values inform Islamic approaches to peacebuilding.[22] All of these values and principles are rooted in the Qur'an and put into practice by the Prophet (PBUH). Based on these values and principles the Islamic understanding of peace can be defined as

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[20] Abu-Nimer 2003 M. *Nonviolence and PeaceBuilding in Islamic Theory and Practice*, Gainesville, FL: University Press of Florida p.14

[21] Said A. 1997 "Peace –or-non violence in history and with the Prophets" unpublished paper, *Forum on Islam and Peace in the 21st Century*, Washington DC American University. p. 5

[22] Kadayifci-Orellana, Abu Nimer, (2013)

a process through which human beings can establish foundations for interacting with each other and with nature in harmony, instituting just social-economic structures where human beings can flourish and fulfil their potential. Consequently tyranny, discrimination, and oppression, which perpetuate injustice, towards any group in the Muslim society are viewed as being among the greatest threats to peace and harmony.

Pluralism, diversity, and human solidarity through the principle of tawhid (the oneness of God)

Tawhid and Wihdat al Wujud, (Oneness of God and principle of unity of God and all being) are the basis of Islamic universalism, tolerance and inclusivity as everything emanates from God, and everything is part of His creation irrespective of species, race, nationality, creed or gender. Islamic approach to peacebuilding recognize that discrimination based on religious, ethnic, racial or gender differences is often one of the main factors that contribute to conflicts and encourages pluralism, respect for difference and diversity. The Quran explicitly states that the existence of diversity (e.g. different religions and nations) is God's design that has to be celebrated (Q5:48 and 49:13). The state of unity, oneness and uniqueness belongs to God only and all God's creation lives in the domain of diversity and is interdependent and interconnected. This aspect of *Tawhid* reminds Muslims of the connectedness of all beings, particularly all human communities, and calls on Muslims to work towards establishing peace and harmony among them and encourages them to integrate both the individual and the society without destroying cultural and ethnic differences. Therefore all human beings are brothers and sisters in humanity. Social solidarity in Islam is reflected in the idea of brotherhood, particularly in the concept of the *Ummah* (nation / community) as the *hadith* highlights: Islam stresses that the source of creation is one, and thus the whole of humanity is a single family descending from a single mother and father (i.e. Adam and Eve). As conflict and war between mankind results in the corruption and the ruin of the earth and all that inhabits it, Islam calls upon Muslims to collaborate and to actively pursue unity and harmony and to address sources of conflict and establish peaceful communities.

Universality, dignity and sacredness of humanity through the principle of fitrah (the original nature of human beings)

Islamic traditions affirm the sacredness of human life and recognizes the worth and dignity of each human being (Q5:32). Sacredness and dignity of human life is rooted in the Qur'anic Principles of *Fitrah* (the original constitution of human beings). *Fitrah* rejects notions of innate sinfulness, and recognizes all humans are related and derive from the same pure origin (Q4:1, Q6:98) confirm that every human being is created innocent, pure, true and free, inclined to right and virtue and endued with true understanding about… his [or her] true nature…" (Q17:70). This principle recognizes the goodness that is inherent in each and every human being at birth, regardless of different religious, ethnic, racial, or gender backgrounds (Q17:70, 95:4, 2:30-34, 33:72) and recognizes that each individual, irrespective of his or her gender, is furnished with reason and has the potential to be good and to choose to work for the establishment of harmony. Thus, reason must be honored since reason is the mechanism by which moral choices of right and wrong are made. According to the Qur'anic tradition, this faculty enables human beings to accept the 'trust' of freedom of will, which no other creature is willing to accept (Q33:72). The quality of

Fitrah furnishes each individual with the prospect of being perfect (*insan kamil*) as they can all find what is right and what is wrong through their rational mind. It also reminds Muslims that, only God knows the heart of a human being, and therefore God is the only judge (*Hakeem*), and that at any point in his or her lifetime, each individual, no matter what they have done in their lifetime, has the potential to repent and turn to God.

Social empowerment by doing good (khayr and ihsan) through the principle of khilafah (stewardship)

Peacebuilding requires the involvement and social empowerment of community members to take action to transform the conflict. "Social empowerment and involvement through *ihsan* and khayr are also important paths to justice and peace in the Islamic tradition"[23] The Qur'an recognises the capacity of human beings to do good in the face of adversity and evil and to change their conditions as it stated in the Qur'an *"surely Allah does not change the condition of a people until they change their own condition."* (Q13:11) This therefore empowers them to change their condition by doing good and shunning evil. This is also supported by the Qur'anic verse (Q9:71) that clearly urges Muslims to forbid evil and do good. Social empowerment and involvement to do good is closely tied to the Qur'anic principle of *Khilafah* (stewardship or vicegerency). According to Islam, when human beings were created God made them His vicegerents or representatives on earth (Q24:55). Thus, each individual as a representative of God on earth (*khilafat Allah fi l-Ard* (Q2:30, see also 33:72) is responsible for the order thereof. Islamic teachings regard peace work as a collective responsibility. Muslims are expected to further maintain good and honorable interpersonal relationships. The Qur'an "promotes social responsibility and positive bonds between people because of their common ethical responsibility towards one another." Muslims are urged to improve their communal life, to support one another, and combat poverty. Therefore, irrespective of their gender, ethnicity, and race, they are responsible for the order on earth as they are God's representatives (Q2:30 and 33:72) and, as vicegerents of God, Muslims must struggle to make life on earth safe and peaceful, resisting violence in all its manifestations.

Pursuit of justice, equality and fairness through the principle of adl (justice)

Peacebuilding perspectives recognize that justice (*adl*) is central to establishing sustainable peace. As a form of structural violence, unjust social, political and economic systems often deprive communities of their basic needs and rights and lead to grievances and resentment. As such, they are often a major cause of conflict. Therefore, just social, political and economic systems and institutions are a prerequisite for resolving conflicts. Justice is an integral aspect of the Islamic discourse of peace, since the Qur'an clearly states that the aim of religion is to bring justice (Q57:25). The Qur'an constantly reminds Muslims about the value of justice, which is a Divine command, and not an option. Qur'an recognizes that peace cannot be attained unless a just order is first established therefore justice is the overriding principle and it must transcend any consideration of religion, animosity, race, or creed. Justice is the essential component of peace according to the Qur'anic message; therefore, it is the responsibility of all Muslims to work towards the establishment of justice for all, including social and economic justice (Q4:135; 57:25; 5:8; 2:178; 2:30; 16:90). Muslims are asked to resist and correct the conditions of injustice, which are seen as a

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[23] Abu-Nimer 2003: 55

source for conflict and disorder on earth (Q27:52). The Qur'anic notion of justice is universal and valid for all beings extends to men and women, Muslim and non-Muslim (Q4:135, Q5:8, Q2:178). The Qur'an calls Muslims to mobilize and act against injustice, even if a Muslim originates the injustice (Q4:135).

Transformation of relationships and re-humanization through the principles of rahman and rahim (compassion and mercy)

During conflicts, opponents often dehumanize each other and strip each other of his or human qualities. Rehumanizing the opponent and learning to live with each other is an important aspect of peacebuilding processes. The Qur'anic principles of *Rahman* (Compassion) and *Rahim* (Mercy) are two main principles that can facilitate this process. The centrality of compassion and mercy is evident in the Qur'an as almost all chapters start with this recitation and God states *"My mercy extends to all things"* (Q7:156). Also, Muslims are asked to involve *Rahman* and *Rahim* before they take any action with the words "*Bism Allah al-rahman al-rahim*" ("We begin in the name of Allah Who is Compassionate and Merciful") because all actions must be dedicated to God, who is Himself merciful and compassionate. Mercifulness and compassion are key qualities of the Prophets as well. The Qur'an refers to the Prophet Muhammad (Pbuh) as "*Mercy to the world*" (Q21:107). Besides pointing out that God is most forgiving, compassionate and merciful, the Qur'an asks Muslims to be merciful and compassionate to all creatures: animals, plants and humans (Q17:18). The *hadith* "God is not merciful to him who is not so to mankind" indicates, reminds Muslims that especially those seeking God's mercy should be merciful towards others themselves. Thus, a true Muslim must be merciful and compassionate to all human beings, irrespective of their ethnic, religious origins, or gender. Therefore, a Muslim must be compassionate and merciful and should not be insensitive to the suffering of other beings (physical, economic, psychological, or emotional), nor should be cruel to any creature, and torture as inflicting suffering or willfully hurting another human being or another creature is unacceptable according to Islam.

Reconciliation and healing through the principles of afu and musamaha (pardoning and forgiveness)

Building true peace cannot be achieved without reconciliation and the healing of wounds and painful memories of war and conflict. Reconciliation and healing are key elements in Islamic traditions of peace. *Afu*, (pardoning or forgiveness) is an act of *ihsan* (goodness) and the Qur'an urges Muslims to adopt *afu* as a way to reconcile. The Qur'an stresses that forgiveness is of a higher value than maintaining hatred or vengeance as the believers are urged to forgive when they are angry (Q42:37). The Qur'an relates that human life on earth started with an act of forgiveness by God (Q2:36-38) and advocates sincere forgiveness as the preferred path to establish God's harmony on earth. The Qur'anic narration of the story of Joseph (Pbuh) and his brothers emphasizes how he forgave them and treated them with respect and honor. Muslims are asked to acknowledge their own wrong-doing, repent and ask for forgiveness because the Qur'an informs Muslims that serving the Divine is the way to implement repentance (*tawba*). Even the Prophet (Pbuh) himself was told by God to forgive (Q 7:99) Muslims have recognized that "The most gracious act of forgiving an enemy is his who has the power to take revenge" as it was exemplified by the Prophet (Pbuh) himself when he forgave all those who previously had persecuted and fought him,

when he entered Mecca and stated "There is no censure from me today on you (for what has happened is done with), may God, who is the greatest amongst forgivers, forgive you."[12] This act of forgiveness was the basis of his reconciliation efforts to establish peace between the Muslims and the Meccans, who had persecuted them and fought them previously, which allowed him to win over friends among his former enemies and made it possible for Muslims to build their community in peace.

Nonviolent and creative solutions to problems through the principle of sabr (patience)
Another value which is critical to the Islamic conception of peace is patience (*sabr*) which is the focus of about 200 verses of the Qur'an and is referred to indirectly in many others. The Qur'an constantly urges Muslims to suspend judgment, be patient (Q31:17), endure difficulties (Q7:137 and Q14:12-13). Buth being patient does not mean remaining passive in the face of oppression and injustice. Muslims must work towards establishing just and peaceful societies without transgressing limits with violence. Taming their tendency to transgress, these *mujahidin* (people who undertake *jihad*) exert energy to overcome the selfish promptings of their egos. For this reason, the Qur'an equates them with "the patient ones" (*sabirin*) (Q47:31).

Box. 3

Case Study on Patience: Ghaffar Khan of Pathans
Patience, as a powerful Quranic value emphasized by Ghaffar Khan who established the world's first and only known nonviolent army in the North Western Province of today's Pakistan during the struggle against the British in the early 20th century. Khan stated: "I am going to give you such a weapon that the police and the army will not be able to stand against it. It is the weapon of the Prophet, but you are not aware of it. That weapon is patience and righteousness. No power on earth can stand against it… when you go back to your villages, tell your brethren that there is an army of God, and its weapon is patience. Ask your brethren to join the army of God. Endure all hardships. If you exercise patience, victory will be yours.
Source: Johansen 1997: 57

Quest for peace through *hubb* and *mawadda* (principle of loving-kindness)

Loving-kindness is an important aspect of peacebuilding in Islam that is rooted in the conceptions of *Hubb* (love) and *Mawadda* (loving-kindness). Transforming former enemies into friends and establishing collaborative and supportive relations between people and communities is important for building just and peaceful societies in Islam and Loving-kindness is an important tool to do that. Since *al-Wadud* (the Loving-kind) is one of the 99 names of God, the source for humans to love one another and all creation is rooted in the loving nature of God Himself. Islam views love as the source and cause of all creation and functions of human beings and is often associated with peace, mercy and forgiveness (Q60:7, Q30:21). The relationship between peace and God's love are also clear in other verses that call for restraining anger, forgiveness, and justice, all key components of peace according to Islamic tradition (Q3:134; 5:96; 60:8). The Islamic concept of love has often encouraged Muslims in their work for peace and justice. For example, Sheikha Cemalnur

Sargut stresses the need for love, compassion and mercy to build a peaceful world. In one of her inspirational speeches, she summarizes the Islamic perspective of peace rooted in Divine Love: "We should be in a state to forgive and love others, then Allah will not be leaving us alone and He will shower His choicest blessings on us… Let us unite and let us be the one committed to spread the message of Allah; of His love, compassion, peace and tranquility to humanity at large which is now reeling under hatred, violence, wickedness."[24]

Box. 4

Exercise: **Prophet's Resolution of the Ka'ba Dispute**
Before he was invested with the role of prophethood, Prophet Mohammed, when he was in his early twenties, is recorded to have solved a conflict successfully.   In the years before Muhammad's holy mission, it happened that the tribes around Mecca decided to rebuild their temple, the Kaaba. In those days, the Kaaba was simply a yard enclosed by a wall. Their plan was to build a higher, thicker wall and add a roof.   A dispute arose in Mecca during the reconstruction of the Ka'ba. All tribes of Mecca had joined hands in raising the new building. They had compiled the best material available for the construction. Each tribe had chosen a section of the wall and started pulling down the stones. The sacred Black Stone, built into the east corner, had been removed carefully and set aside.   They all worked harmoniously and laboriously until it was almost done. But a dispute arose when it was time to restore the Black Stone. At last, they had gotten down to the foundation laid by Abraham. They had begun to rebuild, and the wall had grown steadily higher. But when the time had come to raise the Black Stone back to its place, they could not agree on which tribe would have the honor. All the tribes, who had worked so hard, want to have this honor. Dispute escalates. Alliances fall apart and tribes are ready to fight. They pledge themselves to death and take part in a ceremony that symbolizes their determination to offer the ultimate sacrifice. Tension is really high and continues for four days. On the fifth day, they agree to the suggestion of the oldest living Qurayshite, to accept an arbitrator, the first man who enters the temple the next morning. Chiefs wait anxiously until the morning.   With the dawn of the next day young Mohammed enters the temple. When they see him, they agree to his arbitration because he is known as the 'trustworthy one.' Mohammed is now tasked with resolving the dispute that has troubled the chiefs for days. This is a challenging task because any mistake could lead Mecca into a bloody war. It is recorded that Mohammed is not nervous or anxious. He proceeds to pronounce his decision as an arbitrator, a decision which at once satisfied the claims of all the contesting parties and averts bloodshed.   He asks for a sheet of cloth. They brought one, and Muhammad spread it on the ground. Then he took the Black Stone and placed it in the center.   "Each tribe will choose a man to hold the cloak by its edge. Then all will raise the stone together."   This was done, and Muhammad himself set the stone in place. Then all the tribes were satisfied, and work went on with no further dispute.
Questions for Discussion:

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[24] Sheikha Cemalnur Sargut is a Turkish Sufi mystic. She is widely popular among the young in Turkey. Her teachings focus on the application of Sufi principles and ethics in daily life. Cited in Kadayifci-Orellana et. al. (2013) ft. 15

1. What Islamic principles or guidance related to peace and conflict resolution do you see reflected in the actions of the in the Case-Study?
2. What can this case-study teach us in terms of Islamic approach to peace and resolving conflicts?

Table. 8

Islamic Principles of Peace and Quranic Verses	
Principles	**Quranic Ayat**
Tawhid (unity and oneness)	O mankind! We created You from a single (pair) Of a male and a female, And made you into Nations and tribes, that Ye may know each other (Not that ye may despise Each other). Verily The most honoured of you In the sight of God Is (he who is) the most Righteous of you. And God has full knowledge And is well acquainted (With all things). (Q49:13) To thee We sent the Scripture in truth, confirming the scripture that came before it, and guarding it in safety: so, judge between them by what God hath revealed, and follow not their vain desires, diverging from the Truth that hath come to thee. To each among you have we prescribed a law and an open way. If God had so willed, He would have made you a single people, but (His plan is) to test you in what He hath given you: so strive as in a race in all virtues. The goal of you all is to God; it is He that will show you the truth of the matters in which ye dispute (Q5:48)
Adl	O ye who believe! stand out firmly for God as witnesses 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 God for God is well-acquainted with all that ye do. (Q5: 8) We sent aforetime Our messengers with clear signs and sent down with them the book and the balance (of right and wrong), that men may stand forth in justice." (Q57:25). "O ye who believe! Stand out firmly for justice as witnesses to Allah even as against yourselves, your parents or your kin, and whether it be (against) the rich and poor..." (Q4:135); …To fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just for it is next to Piety..." (Q5:8); God commands justice and good-doing… and He forbids indecency, dishonor, and insolence" (Q16:90); O ye who believe! The law of equality is prescribed to you" (Q2:178).

Fitrah (sacredness and dignity of human life)	And He giveth you Of all that ye ask for. But if ye count the favours Of God, never will ye Be able to number them. Verily, man is given up To injustice and ingratitude. (14: 34)
	He it is Who has brought you into being from a single soul, then there is (for you) a resting place and a depository; indeed We have made plain the communications for a people who understand" (Q6:98)
	And if any one saved a life, it would be as if he saved the life of the whole people (Q5:32)
	O mankind! Revere your Guardian-Lord, Who created you from a single person, created, of like nature, his mate, and from them twain scattered (like seeds) countless men and women – fear Allah, through Whom you demand your mutual (rights), and (reverence) the wombs (that bore you): for Allah ever watches over you." (Q4:1)
	The prayer that man Should make for good, He maketh for evil; For man is given to Hasty (deeds). (17: 11)
	It is He Who gave you life, Will cause you to die, And will again give you Life: truly man is A most ungrateful creature! (22:66)
	We did indeed offer The Trust to the Heavens And the Earth And the Mountains; But they refused To undertake it, Being afraid thereof: But man undertook it;— He was indeed unjust And foolish. (33:72)
Khilafah (Stewardship)	God has promised to those among you who believe and do good that He will establish them as (His) vicegerents" (Q24:55)
	O David! We did indeed Make thee a vicegerent On earth: so judge thou Between men in truth (and justice): Nor follow thou the lusts (Of thy heart), for they will Mislead thee from the Path Of God: for those who Wander astray from the Path Of God, is a Penalty Grievous, For that they forget The Day of Account. (Q38:26)
	For each (such person) There are (angels) in succession, Before and behind him: They guard him by command Of God. Verily never Will God change the condition Of a people until they Change it themselves (With their own souls). But when (once) God willeth A people's punishment, There can be no Turning it back, nor Will they find, besides Him, Any to protect. (Q13:11)
	The believers men and women are protectors one of another: they enjoin what is just and forbid what is evil: they observe regular prayers practice regular charity and obey God and His apostle. On them will God pour His mercy: for God is Exalted in power Wise. (Q9:71)
	Behold thy Lord said to the angels: "I will create a vicegerent on earth." They said "Wilt thou place therein one who will make mischief therein and shed blood? Whilst we do celebrate Thy praises and glorify Thy holy (name)?" He said: "I know what ye know not." (Q2:30)
Rahman (compassion) and Rahim (Mercy)	Then will he be Of those who believe, And enjoin patience, (constancy, And self-restraint), and enjoin Deeds of kindness and compassion. (Q90:17)
Afu (forgiveness)	The recompense of an injury the like thereof: but whosoever forgives and thereby brings

	about a reestablishment of harmony, his reward is with God; and God loves not the wrongdoers" (Q42:40)
	Keep to forgiveness (O Muhammad) and enjoin kindness, and turn away from the ignorant" (Q7:99)
	Those who avoid the greater Crimes and shameful deeds, And, when they are angry Even then forgive. (Q42: 37)
	Hold to forgiveness; command what is right; but turn away from the ignorant. (Q7:199)
Sabr (Patience)	And endure patiently whatever may befall thee" (Q31:17)
	And We made a people, considered weak (and of no account), inheritors of lands in both the east and the west, - lands whereon We sent down Our blessings. The fair promise of thy Lord was fulfilled for the Children of Israel, because they had patience and constancy, and We levelled to the ground the great works and fine buildings which Pharaoh and his people erected (with such pride)" (Q7:137).
	And we shall surely bear with patience all the harm you do us" (Q14:12-13). We shall put you on trail so that We know those among you who strive in the cause of God (mujahidin) and are the patient (*sabirin*)" (Q47:31).
	If aught that is good befalls you it grieves them; but if some misfortune overtakes you they rejoice at it. But if ye are constant and do right not the least harm will their cunning do to you for God compasseth round about all that they do. (Q3: 120)
	O ye who believe! persevere in patience and constancy: vie in such perseverance; strengthen each other; and fear God; that ye may prosper. (Q3:200)
	Who say when afflicted with calamity: To God we belong and to Him is our return. They are those on whom (descend) blessings from God and Mercy and they are the ones that receive guidance. (Q2: 156 & 157)
Hubb and Mawadda (loving-kindness)	And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love [*mawadda*] and mercy between your [hearts]: Verily in that are Signs for those who reflect." 30:22
	"It may be that Allah will grant love (and friendship) [*mawadda*] between you and those whom ye (now) hold as enemies. For Allah has power (over all things); and Allah is Oft Forgiving, Most Merciful." (Q 60:7)
	But seek, with the (wealth) Which God has bestowed on thee, The Home of the Hereafter, Nor forget thy portion in this World: but do thou good, As God has been good To thee, and seek not (Occasions for) mischief in the land: For God loves not those Who do mischief." (28: 77)

Box. 5

Hadith on Peace and Peace Building

Imam Bukhari has recorded the following Hadith in his Al Adabul Mufrad:

Sayyiduna Abud Darda (radiyallahu 'anhu) reports that Nabi (sallallahu 'alayhi wa sallam) said:

"Should I not tell you something that is better than [voluntary/optional] fasting, Salah and charity?' They [The Sahabah] said: 'Yes.' He said: 'Reconciling and making peace between people, for spoiling relations is the shaver [destroys Din and good].

Al Adabul Mufrad, Hadith: 391, Sunan Tirmidhi, Hadith: 2509, Sunan Abi Dawud, Hadith: 4883, Sahih Ibn Hibban; Al Ihsan, Hadith: 5092 Imam Tirmidhi and Imam Ibn Hibban (rahimahumallah) have declared the Hadith authentic.

Allah's Messenger (Pbuh) said "Assist your brother or sister Muslim, whether he be an oppressor or an oppressed. 'But how shall we do it when someone is an oppressor?' Muhammad said, 'Assisting an oppressor is by forbidding and withholding that person from oppression.'

    Sahih al-Bukhari 2444 Book 46, Hadith 5

Allah's Messenger (Pbuh) said, "Allah will not be merciful to those who are not merciful to mankind.

    Sahih al-Bukhari 7376 Book 97, Hadith 6

Allah's Messenger (Pbuh) said "A Muslim is the one who avoids harming Muslims with his tongue and hands. And a Muhajir (emigrant) is the one who gives up (abandons) all what Allah has forbidden."

    Sahih al-Bukhari 10 Book 2, Hadith 3

"O people, spread peace, feed the hungry, and pray at night when people are sleeping and you will enter Paradise in peace."

    Sunan Ibn Majah

Messenger of Allah, (SAW), said, "You will not enter Paradise until you believe and you will not believe until you love each other. Shall I show you something that, if you did, you would love each other? Spread peace among yourselves."

    Sahih Muslim 54

Faith is a restraint against all violence, let no Mu'min commit violence.

    Sunan Abu Dawood

Getting Ready to Negotiate

What is Negotiation?

Negotiation is a communication process between two or more parties in an interdependent relationship, designed to resolve perceived incompatibilities and differences to reach a mutually acceptable agreement. A negotiator is a person who takes the role of advocating the interests and needs of his or her constituency and engages in a dialogue with their opponents to find a mutually agreed outcome.

As an integral aspect of social life, negotiation has been used in many different communities in both personal and professional settings as well as international diplomacy throughout history. As a common tool to resolve local and international conflicts, negotiation aims to find a mutual ground and come to an agreement through bargaining and persuasion. As such, its goal is to reconcile differences in perspectives, positions and/or interests to reach outcomes that no individual party could achieve independently. A negotiation's success is based on outcomes that parties feel is fair, reasonable and agree to abide by or implement.

Phases of Negotiation

Negotiation is often not a one-time event but includes a series of steps that start before the actual talks between the parties and continue in the aftermath of the coming to an agreement. These phases include:

Phase I: Pre-Negotiation Phase
The process of negotiation starts long before the actual talks and bargaining process, with getting ready for negotiation. A good preparation before the actual talks is key to successful negotiations. This 'pre-negotiation' phase includes the steps taken by the negotiators to prepare for the negotiation. Some of the key elements of this phase include formation of the negotiation team; mapping the context; setting the goals and objectives of the negotiation and deciding on a particular strategy, among others. During this process, negotiators assess their and their opponent's advantages and disadvantages, clarify their goals and priorities

Phase II: Seeing Agreement Through Talks and Bargaining
This second phase of negotiation involves actual talks between the parties and the process of bargaining. This stage involves working with the opponent to find a compromise that meets the needs of both parties' and is acceptable. However, this phase involves a number of different steps as well and can take quite a long time and a number of different meetings. Some of these steps include identifying the issues; developing options; exchanging proposals and counter proposals, exchange of information and seeking an agreement on the options and building consensus as well as agreeing on an implementation plan.

Phase III: Post-Negotiation Implementation
The negotiation process is never over when an agreement is reached. Following the signing of the agreement, hard work continues to ensure its implementation. Some of the key aspects of this phase include defining the implementation criteria, ensuring buy-in and ownership of the parties

and their constituents, including potential spoilers; clear statement of roles and responsibilities during the implementation phase; agreeing on a monitoring and assessment mechanism that is inclusive of all the parties; and agreeing on an accountability plan. During this phase, it is important to identify and address potential barriers to implementation. Ensuring successful implementation requires agreeing to a mechanism to resolve disputes associated with the implementation process such as establishing a monitoring commission, appointing a mediator or setting up an arbitration mechanism.

Table. 9

Phases of Negotiation	
Phase	**Key Tasks**
Pre-Negotiation Preparation	Formation of the negotiation team ****** Mapping the context ****** Setting the goals and objectives of the negotiation ****** Analyzing advantages and disadvantages ***** Deciding on negotiation strategy
Seeking Agreement Through Talks and Bargaining	Identify issues ****** Develop options ****** Exchange proposals and counter proposals ****** Exchange information ****** Seeking an agreement on options ****** Building consensus ****** Agreeing on an implementation plan
Post-Negotiation Implementation	Defining implementation criteria ****** Ensuring buy-in and ownership ****** Clear statement of roles and responsibilities ****** Agreeing on a M&E mechanism ****** Agreeing on a mechanism to resolve disputes

Negotiation in the Muslim World

Conflict resolution mechanisms such as negotiation and mediation have been an integral aspect of social and international relations in the Muslim world since its earliest days and Muslims have frequently resorted to these mechanisms resolve conflicts and establish peaceful relations with their opponents. Negotiation is also considered part of daily interactions in social, business and political life.

In Islamic tradition, guidance (*hidayah*) to the right course of action in every human activity comes from God and should be in line with Islamic values and practices and negotiations are no exception.[25] Therefore, Islam plays an important role at all stages of negotiation in the Muslim world in a number of different ways. For instance, Islamic values impact negotiation behaviors, goals and objectives and strategies chosen by the negotiators, religious teachings and values often inspire to initiate the negotiation process to solve their conflicts and inform negotiation goals and strategies that are in line with Islamic principles of peacemaking. Islam also may influence who is involved in the negotiation process. Religious networks, resources and leaders can contribute to the process by supporting and ensuring buy-in. During the talks, Islamic identity can bring parties together and religious stories, examples can encourage trust, openness, understanding, and religious rituals and practices can help overcome impasses and deadlocks. In the post-negotiation phase religion as a set of ideas, community, institution and spirituality can help transition from war to peace, support reconciliation and reintegration and encourage commitment to implementing the agreement, among others as well.

Table. 10

Role Islam Plays in Negotiation[26]		
Phase	**Most Relevant Dimensions of Islam**	**Examples**
Pre-Negotiation	Set of ideas	Islamic values and teachings can inspire actors to initiate and participate in negotiation Islamic values and teachings can inform negotiation goals and strategies
	Community	Religious identities who is involved in the negotiation process, who participates
	Institution	Religious leaders networks and resources can support the process
Negotiation Talks	Set of ideas	religious stories, examples can encourage trust, openness, understanding

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[25]Naqvi SNH (1994) Islam, economics and society. Kegan Paul International, London
[26] This model is based on Religion and Conflict Analysis Action Guide and Religion and Mediation Action Guide

	Community	Islamic identity can bring parties together and religious stories, examples can encourage trust, openness, understanding and commitment to implementing the agreement
	Symbols and Practices	Islamic symbols, rituals and practices can help overcome deadlocks, impasses and encourage agreement
	Spirituality	Can encourage greater trust, empathy and hope
Post-Negotiation Implementation	Set of ideas	Islamic values, norms and narratives can contribute to broader support for the negotiation outcome and post-conflict reconciliation, and commitment to implementation of the agreement
	Community	Religious identities can inspire support and reconciliation for the implementation process
	Institution	Religious institution, resources and networks can expand the buy-in, manage spoilers, facilitate implementation of the agreement
	Symbols and Practices	Religious rituals and practices can be used to memorialize, and support the implementation phase
	Spirituality	Can help rebuild social capital, trust building, reintegration and transition from war to peacetime

Prophetic Example of Negotiation

Muslim attitudes towards negotiation have been informed by Islamic principles of peace identified in the previous section, verses in the Quran regarding resolution of conflicts and negotiation as well as the Prophet Mohammed's approach to negotiation. Negotiation and mediation have been an important aspect of Prophet Mohammed's (Pbuh) diplomacy and the Prophet himself was an excellent mediator, arbitrator and negotiator, who preferred peaceful resolution of conflicts and exemplified Islamic conception of peace. Prophet Mohammed (Pbuh) entered into many negotiations with different communities. For instance, he has negotiated with the Jews of Bani al-Nuzair over blood money for two men accidentally killed by a Muslim. He negotiated with the leader of the Quraish tribe Abu Sufyan to end the fighting during the conquest of Mecca. He also negotiated with Suhail Ibn Umar, the Quraishi envoy, during the Hudaybiyah negotiations. In line with the Quranic call for resolving conflicts and ending wars through peaceful means, his attitude towards diplomacy was based on "reconciliation of hearts," which aimed at coming to terms with adversaries and enemies and contractual guaranteeing of agreements.[27]

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[27] Troger, K-W.. "Peace and Islam: In Theory and Practice." In *Islam and Christian Muslim Relations* 1, No. 1, Taylor and Francis (1990) p. 17

In numerous verses, the Quran urges Muslims that 'if the enemy inclines for peace, they should do so as well' (Q8:61) and 'if they arrange an amicable settlement between themselves that is best' (Q4:128). These verses show that whether the conflict is between two communities or a husband and wife, Muslims should try to resolve their conflicts peacefully. Another verse makes it clear that Muslims should not argue with people of the Book except through dialogue and understanding (Q29:46). Based on these verses and others, Prophet Mohammed has chosen to resolve conflicts and come to mutual agreement on issues of contention through the process of *sulha* which is based on negotiation and dialogue with the opponents. *Sulha* or *Musalaha* in Islam often refers to a ritualized process of restorative justice and peacemaking and as the actual outcome or condition sealed by that process.[28]

"According to Jordanian judge Abu-Hassan, there are two types of *sulh* processes: *public sulh* and *private sulh*."[29] Private *sulh* takes place when there is a conflict between the members of a community who know each other. The aim of private *sulha* is to avoid revenge and to restore harmony within a community. The outcome of private *sulha* can be a total peace where two parties of the conflict forgive each other, forget what happened, and do not hold any resentment towards each other. The outcome of private *sulha* can also be partial or conditional where the conflict between two parties ends according to the agreed conditions set in the peace process.

Public *sulh,* on the other hand, can be compared to the signing of a peace treaty between two countries to end conflict for a period of time. It takes place to resolve conflicts between tribes, or communities, or different religious groups. Negotiation and dialogue with the opponent, either directly or with the help of a third party is an important aspect of both private and public sulh processes.

Since the early days of Islam, the Prophet (Pbuh) have used negotiation and diplomacy to pursue its goal of inviting people to Islam, to exchange prisoners, establish cultural and economic relations, and find common ground between adversaries, among others. "Among the Islamic diplomatic approach negotiation was the most important one because it was considered the best way to become aware of the opponent's ideas and respect them."[30] Muslims under the leadership of Prophet Mohammed have negotiated with small tribes as well as great states, such as Roman and Persion empires. Starting point of negotiations was considered to be sending messages by ambassadors to the leaders of the opponents. Negotiators and ambassadors were considered to be politically immune.

Prophet Mohammed initiated negotiations without any pre-conditions and with the best intentions, which was often prevention of war and establishing peaceful relations. Despite numerous challenges and even during critical times, Prophet (Pbuh) did not give up on the possibility of coming to a peaceful agreement and made agreement with his adversaries and fulfilled his commitments to peace. When the economic and social conditions of Mecca deteriorated after Muslims moved to Medina and when his opponents in Mecca were suffering from drought, famine

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[28] Ayse Kadayifci-Orellana et. al (2013)
[29] Irani, G. & Funk, N.C. (1998) "Rituals of Reconciliation: Arab-Islamic Perspectives" in *ASQ* Vol. 20. No. 4 p. 64
[30] Mahmoud Yousefvand (2012) "Diplomatic Negotiations from Islamic Point of View" in Journal of Basic and Applied Scientific Research 2(1) ppp. 309-317 p. 316 at: https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1043.4773&rep=rep1&type=pdf#:~:text=In%20some%20of%20Quran%20verses,Sura%20Anfal%2C%20verse%2061).

and hunger, rather than taking advantage of this situation he sent them food and other necessary aid. When they rejected his help, he sent the aid to Abu Sufyan who distributed it to the needy. He repeatedly forgave those who have persecuted him and worked to rebuild bonds between former enemies. One significant instance that exemplifies his approach is his return to Mecca. When he returned to Mecca victorious after 13 years, he did not take revenge on anyone but he forgave them said to his former enemies:

> "O people of Quraish! What do you think I will do to you?"
> Hoping for a good response, they said: "You will do good. You are a noble brother, son of a noble brother."
> The Prophet then said:
> "Then I say to you what Joseph said to his brothers: 'There is no blame upon you.' Go! For you all free!"[31]

The Prophet (Pbuh) displayed mastery of his negotiation skills when he successfully negotiated the Hudaybiyah treaty with the envoy of Quraish, Suhail ibn Umr which provided the peace and security for Muslims to flourish (see Box. 6). The Prophet (Pbuh) also negotiated with Abu Sufian, the leader of Quraish, to end the fighting during the conquest of Mecca. Later on, negotiation continued to be central aspect of Muslim diplomacy in their efforts to establish constructive relations with non-Muslims and invite other communities to Islam. The Prophet continued to sign treaties with other religious communities to live in peace with them, displaying great respect to the religious beliefs and practices of other communities, and encouraging constructive relations with them in every aspect of daily life.

The Prophet's approach to peace and negotiation offers many insights into successfully negotiating an end to conflicts and establishing lasting peace and turning enemies into friends for both Muslim and non-Muslim negotiators alike. Next section will highlight some of the key aspects of his approach to negotiations.

Hudaybiyah Negotiations

One of the most significant negotiations undertaken by the Prophet is the Hudaybiyah negotiations that took place 6 years after Hijra on February 628, in a small town called Hudaybiyah North of Mecca and led to the Hudaybiyah Treaty signed between the Muslims and the Quraish. The Prophet's (Pbuh) conduct and negotiation approach is an example of his negotiation skills and foresight.

The Prophet and his companions traveled towards Mecca to perform Umrah (pilgrimage to Kaaba), an important and time-honored tradition in the region where during the month of Dhi-Qa'da, tribes were prohibited from fighting and were allowed to perform pilgrimage. However Meccan tribes did not allow Muslims to perform Umrah. Disagreement soon escalated and Muslims and Meccans were getting ready to fight. In order to find a peaceful solution to the conflict, Prophet Mohammed sent his companion Uthman bin Affan (to the Quraysh to negotiate. Purpose of this visit was to

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[31] See: *as-Seera* (2/411) by Ibn Hishâm, *Zâd al-Mi'âd* (3/356) by Ibn al-Qayyim, *ar-Rawd al-Unf* (4/170) by as-Suhayli, and *as-Seera* (3/570), and *Fath al-Bâri* (8/18) by Ibn Hajar

assure Meccans that the intention of Muslims was not war. He also took this opportunity to invite them to negotiate peace.

Initially chiefs of Quraysh were not in favor of negotiating with Muslims but based on the recommendation of Urwa, one of the elders of the Quraish, they agreed to negotiate. When Uthman was delayed in returning to the Muslim camp, rumors started to spread that the Muslim envoy had been murdered to demoralize Muslims. It was at this time that the Muslims took a pledge under a tree where the fourteen hundred Muslims swore to fight alongside the Prophet (Pbuh) to the very last man and not to flee. Uthman returned to the Muslims thus averting the immediate need to act in such adverse circumstances. Seeing the commitment and bond between the Muslims Quraish recognised the gravity of the situation.

Initially, Quraysh sent Urwah bin Mas'ood as their representative. However, during the first round of negotiations the Prophet faced various challenges and many attempts to humiliate him. For example, on one occasion, Urwah, menacingly advances to pull the Prophet's beard as a form of insult. Rumors of Uthman's death were circulated to demoralize and incite Muslims. Quraysh also plotted attacks against Muslims. Muslims were able to capture the soldiers on time and prevented an attack. This was an act of aggression committed during the negotiations. Despite all these challenges, at all times the Prophet (Pbuh) did not retaliate but he showed extreme restraint, foresight and insisted on peace. To show his intention was peace, he released prisoners.

For the second round of negotiations, Quraish sent Suhail ibn Amr as their emissary to negotiate with the Prophet. When Suhail bin Amr came, the Prophet (Pbuh) said, "Now the matter has become easy." Suhail said to the Prophet, "Please conclude a peace treaty with us." Conditions of the agreement were quite harsh for the Muslims and disappointed many of his followers who raised their disagreement. The Prophet (Pbuh), after signing the treaty, came out and said, "Get up and slaughter your sacrificial animals and have your heads shaved!" This would have allowed them to leave the state of Ihram even without going to the House in the Sacred Mosque. There was no response. He (Pbuh) was forced to repeat himself twice. There was still no response. He (Pbuh) returned to his tent and spoke in confidence to his wife, Umm Salamah. She advised him to go out and slaughter his animal and shave his head and they would follow suit. It was only when the blessed companions saw the Prophet (Pbuh) completing these rites, did they follow quickly.

Some of the concessions Prophet made include:
1. The Messenger of Allah will have to return to Madinah instead of having entranced Mecca that year. The Muslim shall perform their pilgrimage on upcoming year and they would stay in peace at Mecca for three days with no arms except sheathed swords.
2. Whoever comes to Muhammad from Mecca fleeing away without having permission from his/her guardians, will be sent back to the Quraysh, but whoever come to the Quraysh from the Muslims will not be sent back to the Muslims.

In addition to these concessions regarding the content of the agreement, the Prophet (Pbuh) made concessions regarding the process and signing of the agreement. For instance, Quraishi envoy opposed the opening sentence of the draft treaty, which did not contain substance of the agreement but began with "*Bismillahirahmanerahim*" (By the Name of Allah, the Most Beneficent, the Most Merciful. But Suhayl, the Representative of Quraysh, demanded that it be erased and

"*Bismiklallahume*" be written instead because he did not recognize Rahman as one of the names of God. As it is recorded in Sunnah, the Prophet (Pbuh) agreed to make the changes despite the objections from his companions. During the negotiations Abu Jandal bin Suhail bin 'Amr, Suhayl's youngest son, came from the valley of Makkah, asking for protection of the Muslims as it was one of the conditions of the agreement to return them. This was a major test of the agreement. The Prophet kept his promise and asked Abu Jandal to be patient and turned him to his father. Once the negotiations were completed two copies of the treaty were prepared. One was kept by the Prophet and the other one was given to the envoy of Quraish.

Box. 6

Hadith on Concessions Prophet made during Hudaybiyah
Sunna records that the Prophet told the writer of the treaty, Ali Ibn Abu Taleb, writer of the agreement: "Write: Suhail said, "As for 'Beneficent', by Allah I do not know what it means. So, write: 'By Your Name O Allah', as you used to write previously." The Muslims said, "By Allah, we will not write other than: 'By the Name of Allah, the Most Beneficent, the Most Merciful'." The Prophet (Pbuh) said, "Write: 'By Your Name O Allah'." Then he (Pbuh) dictated, "This is the peace treaty which Muhammad, Allah's Messenger, has concluded." Suhail said, "By Allah, if we knew that you are Allah's Messenger we would not prevent you from visiting the Kaaba nor fight with you. The Prophet (Pbuh) said, "By Allah! I am the Messenger of Allah even if you people do not believe me. The Prophet (Pbuh) said to Suhail, "On the condition that you allow us to visit the House (i.e. the Kaabah) so that we may perform Tawaf around it." Suhail said, "By Allah, we will not (allow you this year) so as not to give a chance to the Arabs to say that we have yielded to you but we will allow you next year." So the Prophet (Pbuh) had that written. Then Prophet told Ali to erase the words Resulullah and told him "Write: 'Muhammad bin Abdullah'." When Ali refused to erase the word Resullulah, Prophet asked Ali to show where it was written in the document, then he erased it himself and told Ali, So write: 'Muhammad bin Abdullah'."
Source: Sahih al-Bukhari 2731, 2732 Book 54, Hadith 19

Figure 2.
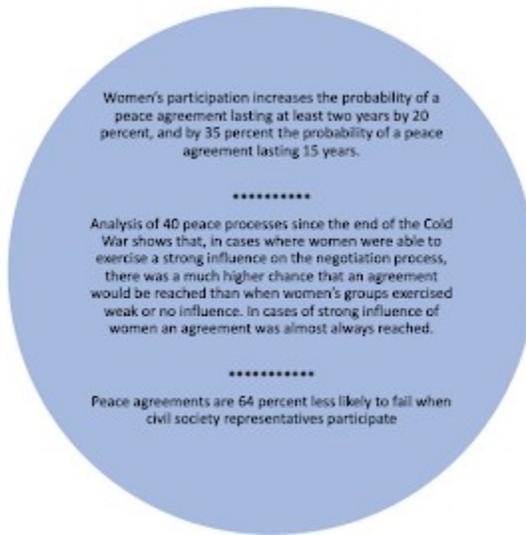
Forming The Negotiation Team

A well-formed negotiation team is an important part of negotiation preparation. Especially in complex negotiations, such as peace negotiations, which require a variety of different skill-sets and knowledge on multiple areas, working in a team is necessary and has many benefits. Some of these benefits include: each member of the team complements each other's knowledge and skills and resources; reinforces each other's strengths; better understanding of critical needs of different stakeholders; broader buy-in from different constituents they represent; better planning and creative problem solving and proposal development; more effective negotiation strategies.

Research shows broadening the participation and including a wide variety of actors such as civil society groups representing different stakeholders in the society in negotiation processes is crucial to transitioning from war to peace.[32] When different segments of the society have the opportunity to influence the process the chances of reaching a settlement and greater durability of peace agreements increases significantly.[33] These studies show that especially women's participation in peace negotiations increases the probability of a peace agreement lasting at least two years by 20 percent, and by 35 percent the probability of a peace agreement lasting 15 years.[34]

When building a negotiation team, pay attention to:

Ensure Inclusion and Diversity: When team members come from different perspectives, have different skill sets and knowledge they have a better understanding of the different needs and interests of different stakeholders, can contribute to better decision making and have a better chance of ensuring buy-in in the wider society. In order to benefit from different perspectives, knowledge and skills sets make sure your team is inclusive of different stakeholders and perspectives. The Prophet himself was fully aware of the importance of having a diverse and inclusive team during negotiations with his opponents. He modeled the centrality of inclusion and diversity during critical negotiations. The Prophet sought to create an inclusive group of negotiators. He believed the negotiators should truly represent the population. Therefore,

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[32] Colette Rausch and Tina Luu (2017) "Inclusive peace Processes Are Key to Ending Violent Conflict" PeaceBrief no. 222 United States Institute of Peace at: https://www.usip.org/sites/default/files/2017-05/pb222-inclusive-peace-processes-are-key-to-ending-violent-conflict.pdf

[33] Thania Paffenholtz and Nicholas Ross (2015) "Inclusive Peace Processes- An Introduction" Development Dialogue 2015 http://www.daghammarskjold.se/wp-content/uploads/2016/01/DHF_DD63_p28-37.pdf

[34] UN Women at: https://wps.unwomen.org/participation/#:~:text=Women's%20participation%20increases%20the%20probability,peace%20agreement%20lasting%2015%20years.&text=In%20cases%20of%20strong%20influence,agreement%20was%20almost%20always%20reached.

negotiators were not simply people in positions of power and status, but rather those ranging from different socio-economic classes. The Prophet ensured the marginalized had a voice. The Prophet sought to create an inclusive group of negotiators. He believed the negotiators should truly represent the population. Therefore, negotiators were not simply people in positions of power and status, but rather those ranging from different socio-economic classes. He ensured his community members from all backgrounds, both men and women, Meccan and Medinian, wealthy and non-wealthy, Muslim and non-Muslim were all represented. The Prophet made the effort to ensure the marginalized had a voice in particular. Even though some of his companions from prominent families and tribes were critical of including those who did not come from powerful tribes and families, the Prophet made sure that everyone, irrespective of their social status, gender, race or ethnicity were included. For example, during his successful negotiations with Yathrib representatives, which contributed to the rapid expansion of Islam and laid the groundwork for successful migration of Muslims from Mecca to Yathrib (later Medina), he first met and negotiated with a committee of twelve people and then he negotiated with a committee of 75 people, including two women.[35]

Take Time for Team-bonding: Team cohesion, collaboration and trust among team members is important to work effectively as a negotiation team. Trust and respect among negotiators are particularly important when discussing different opinions and difficult decisions. Make sure to cultivate trust, respect and build cohesion among team members. The Prophet made sure that Muslims from different backgrounds in general as well as those who participated in his negotiations with him had strong bonds of brotherhood and trust. In fact, he had established a *Moakha* system, which comes from the Arabic word *akh* and means making people brothers, where he would bring together Muslims from different cities and different tribes, races and ethnic grounds. Women, men, Arab, non-Arab were all included in this revolutionary and innovative system. When Muslims migrated to Yathrib he paired one *Muhajir* (those who are coming from Mecca) and one *Ansar* (those who are from Yathrib) to build strong bonds and trust between them. Through this system, he was not only able to ensure Muhajirs received food, shelter, clothing, but built strong bonds of brotherhood and fellowship, which is the basis of Islamic understanding of Ummah. This trust building and bond was important during the negotiations with their opponents, as it helped them have stronger and more effective negotiations.

Welcome Disagreement: Difference of opinion and different skill sets can only benefit a negotiation team if disagreement and difference of opinion is encouraged. It is important not to dismiss different opinions and disagreement within the team. At times, group opinions tend to come together around consensus, or opinions of influential team members. This often leads to exclusion of information and perspectives that would challenge the group perspective or group think. Falling into the trap of groupthink can have detrimental consequences for effective negotiation. Therefore, creating a team atmosphere where team members feel comfortable expressing difference of opinion is central to harness different points of view. At times, it might be even necessary to ask team members to raise questions and challenge groupthink to overcome this issue. Prophet Mohammed often welcomed differences of opinion and asked his companions

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[35] Mahmoud Yousefvand (2012) "Diplomatic Negotiations from Islamic Point of View" in Journal of Basic and Applied Scientific Research 2(1) ppp. 309-317 at: https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1043.4773&rep=rep1&type=pdf#:~:text=In%20some%2 0of%20Quran%20verses,Sura%20Anfal%2C%20verse%2061).

to express their views freely. He would often make his decisions after consulting with different companions and hearing as many different perspectives as possible.

Identify Different Strengths and Skill Set: One of the important benefits of having a diverse team is that each member can bring a different set of knowledge, expertise and skill set. Each member may have different resources, networks and relationships that can benefit the team significantly. Therefore, identifying these skill sets, expertise and building on each member's strength can increase the sources of power, resources and options for the negotiation team. Encouraging team members to share their knowledge and brainstorm on an important aspect of successful negotiation teams. Prophet Mohammed was fully aware of this and encouraged his companions to build on their skills and knowledge. He also used a number of different approaches to encourage his companions to learn from each other's approaches and brainstorm.[36]

Keep Connected to Stakeholders: Negotiation team members often reflect and represent the interests, needs and perspectives of their constituents who are the key stakeholders in the conflict. Being connected to the stakeholders during the negotiations, understanding their changing needs and interests, keeping them informed about the developments and explaining to them the pros and cons of different options in a clear, transparent and timely manner is important to ensure the buy-in for the agreement as well as its implementation. Especially enlisting the support of potential spoilers and deal breakers is very important for the negotiation team. This requires keeping the communication channels open with one's constituents. Prophet Mohammed understood this well and kept communicating with the stakeholders he was representing throughout the negotiations. He would welcome questions from members of his community. Most importantly the prophet practiced shura through always communicating and consulting with his community as ordered by Allah in Q3:159.

Table. 11

Key Take-Aways and Recommendations for Forming Stronger Negotiation Teams	
Ensure Diversity and Inclusion	Consider all relevant gender, ethnic, tribal, sectarian or religious group and gender diversity: How representative is your team? What stakeholders and groups are represented? Who is not represented? Why not? What can be done to be more inclusive?
Take Time for Team Bonding	What are some of the group dynamics of the negotiation team? Are there any power differences between different members of the team? How does that impact group dynamics? Are there any tensions or communication problems between the team members?

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[36] Mohammed Rafie Mohd Arshad, Hasima Mohamed, Esraa Khalid Ahmed Alobaydi (2014) "Teaching and Learning Ways Used by Prophet Mohammed (PBUH) and their Possible Implementation on Modern Learning Technologies" 2nd International Conference on Islamic Applications in Computer Science and Technology (October 11-13) Amman Jordan

	Is there sufficient trust between different team members, if not, how can you build more trust? What are some of the ways to build more team spirit?
Welcome Disagreement	What different perspectives are represented in your team? What are some of the areas of disagreement in your team? Are there any signs of groupthink in your team? How often do team members express dissent or difference of opinion? How is dissent viewed? Are there any challenges to disagreement in your team?
Identify Different Skill Sets	What different skill sets or expertise different team members have? What specific experiences and resources different team members have? Are there any skills or expertise your team is missing? What are the strengths of each team member? How often are the team members encouraged to incorporate their expertise and skills? sets in the negotiation? What else can be done to benefit from the skills and expertise of all the team members?
Keep Connected to the Stakeholders	How often do your team members connect and communicate with their constituents? How transparent and timely are these communications? Do team members share updates from their constituents with other team members? What are some of the challenges of keeping connected with different stakeholders and How can these challenges be addressed?

Setting Negotiation Goals and Objectives

For negotiation to succeed it is important to have a clear sense of what are the goals and objectives of the negotiation, what is the outcome your team is looking for. Having a clear idea of what your goals and objectives are particularly important for complex peace negotiations. This step is one of the most crucial steps in developing negotiation strategy.

Goal setting can be accomplished through internal deliberations among the negotiation team members. In order to set realistic and achievable goals, parties must analyze their goals and objectives through careful consideration. Some of the elements of this analysis include the following:

Define Success. It is critical from the very beginning what the delegation is trying to achieve and what it must avoid. Based on these determine how success would look like. This might also include what the delegation must avoid.

Understand Your Own and Your Opponents Positions, Interests, and Needs
Setting negotiation goals and objectives requires a good understanding of the positions, interests and needs of all sides. Understanding the difference between positions, needs, and interests help the negotiation team identify what are the motivations behind their demands as well as the demands of the other party, different alternatives to address a variety of needs and interests, and decide on their priorities.

> ***Positions***: A position is what parties say they want. It is the stance taken by parties to the conflict and refers to their demands in conflict. A position is a solution that represents what a party thinks is the best outcome for them. Positions are usually based on assumptions about what each party wants and needs and what they think the other party wants and needs.

> ***Needs***: Needs are goals pursued by parties to survive. They include basic human needs that are common to all human beings. They include tangible needs such as food, clean water, shelter, as well as intangible needs such as respect and recognition of identity, sense of belonging, fulfill one's purpose in life, social-economic well-being, a sense of belonging, and control over one's life among others. Needs are non-negotiable and not flexible. While basic needs are universal, how they are addressed may be informed by religious and cultural perspectives and traditions.

> ***Interests***: Interests are what parties need to achieve in order to meet their basic needs. Interests are the underlying reasons, values and motivations of why parties want what they want. They explain why parties take a particular position. Interests are negotiable and can be addressed through joint problem solving.

Take into Consideration the Needs and Goals of Your Constituencies
When deciding on the goals and objects, the delegation members must take into account what are the goals and needs of their constituencies. These must inform the goals and objectives of the delegation team

Prioritize Goals Classify your goals according to their importance and relationship between them

is an important consideration during the goal setting. Understanding what issues are more or less important for each party. Importance of issues will depend on the importance of the interests and needs they reflect. Consider if your goals and objectives are interdependent or independent from each other. If they are interdependent, in what way they are linked? Prioritization of goals and objectives can assist you in deciding what you can compromise on, what you cannot compromise without collapsing the negotiations. This will also allow negotiators to package interests and needs together that can create greater value. One you have identified your priorities you can decide how to defend them without being caught up in destructive negotiation dynamics.

Identify Long-Term vs. Short-Term Goals
Another important classification of goals and objectives is to see if they are immediate or long-term. In each negotiation there are often more than one goal and objective. Some of these goals and objectives may be short-term, others may be long term. Once the negotiation team identifies its long- and short-term goals, they have to decide how to balance them. At times, even though it may not be possible to address long-term goals during the negotiations, there might still be value in first achieving the short-term goals.

Identify your BATNA.
Each party must know and be prepared for a Best Alternative to a Negotiated Agreement (BATNA), if a settlement is not reached. A BATNA is a party's alternative if negotiations are not successful. BATNA is often used in negotiation tactics and must be considered prior to the negotiations. Consideration of BATNA provides the team with a clear understanding of what their alternatives are. It also helps parties determine their bottom-line and identify what they are willing to give up and not give up. As such it provides negotiating power to the delegation

Prophet's Approach to Setting Goals during Hudaybiyah Negotiations
Prophet's approach to negotiation during Hudaybiyah negotiations provides us with important insights regarding how he set his goals and objectives of the negotiations, how he prioritized them, and how he defined what success would look like.

At a first glance, Hudaybiyah treaty might not seem like a successful outcome as Muslims were not able to perform the Umrah, which might seem like the main goal of the negotiations in the first place. But at a closer examination, one will realize that the negotiations were extremely successful and was an outstanding event that became a turning point in Islamic history. Although the conditions the Prophet (Pbuh) agreed to at Hudaybiyah were quite harsh and disappointed his followers it is clear that he had an incredible understanding of the long-term vision of the needs and best interest of his community. Some of the specific benefits of Hudaybiyah Treaty include:
- A Truce was agreed upon for not fighting between two parties for the next 10 years.
- With the signing of the treaty the State of Muslims in Medina was now recognized as a legitimate state.
- After the signing of the treaty, the Prophet was no longer considered to be a rebel or a fugitive from Mecca which provided him with safety and security
- The treaty also allowed the Muslims who were still in Mecca to practice Islam publicly without prosecution.
- Peace between the Muslims and the Meccan, allowed people to learn more about Islam and Muslims, which led to many more people accepting Islam. In fact, the number of people

who joined Islam during the one year after the treaty was signed was more than the number of people joined Islam in the previous 19 years.[37]

- A year later, Muslims returned to perform Umrah in greater numbers.

It is clear that the Prophet's (Pbuh) response went beyond the position of Muslims and took into account long-term needs and interests of Muslims. While the ***short-term objective*** and position of Muslims was to perform Umrah, their basic ***needs*** were safety, security, recognition of respect for their identity and faith, and their ***long-term goals*** were to practice their faith without persecution, grow in numbers and to establish peaceful relations between Muslims and Meccans. He was able to prioritize what was important and incorporate that into his negotiation strategy Prophet's bottom-line during the negotiations was not to give up their faith and was prepared to fight if necessary, to defend his faith, but having realized the long-term goals and interests of his community, he was willing to compromise on other issues. The Prophet had realized that insisting on Umrah this year would have led to more blood-shed and make it harder for Muslims and Meccans to reconcile afterwards and set his goals accordingly.

Table.12

Key Take-Aways and Recommendations for Identifying Goals and Objectives	
Definition of Success:	What would success look like? What are my criteria of success?
Prioritize Goals	What is my overall goal? What are my objectives? Which ones are more important? What are the priorities of my constituents?
Identify Long-Term vs. Short-Term Goals	What are my long term goals? What needs to happen for my long term goals to happen? What are my short-term goals? What is the relationship between my long-term and short-term goals?
Identify your BATNA	What is my best alternative to a negotiated settlement? What happens if we cannot come to an agreement? What options are available to me?

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[37] Yousefevand (2012) p. 315

Choosing a Negotiation Strategy

In 1981, American authors Roger Fisher and William Ury identified two distinct models of negotiation and proposed a model of negotiation called Principled Negotiation or Interest-Based negotiation. a negotiation model 1981. They have argued that the Principled Negotiation approach often leads to more successful outcomes in negotiation processes. A closer examination of this approach reveals much similarities with the negotiation approach of Prophet Mohammed. This section will explore two different models of negotiation and will expand on the Principled Negotiation approach of Prophet Mohammed (Pbuh).

Positional vs. Interest-Based Negotiation
Fisher and Ury, in their work Getting to Yes identify two main approaches to negotiation: Positional Negotiation and Interest-Based Negotiation. These two different models are based on two distinct bargaining strategies: Distributive Bargaining and Collaborative Bargaining.

Distributive Bargaining (Win-Lose) Strategy: Distributive bargaining refers to a bargaining approach that is competitive. This approach is also called a zero-sum approach because it views conflicts as fixed and rigid and resources as limited. In this perspective, fixed resources need to be divided and distributed. In distributive bargaining, one party gains only when the other loses something. Main concern of the parties in this approach is to maximize one's benefit at all cost and get the maximum share from the asset or resource which needs to be distributed without paying any attention to issues related to fairness or needs and interests of the other party. This is also called 'claiming value'[38] because parties try to increase their own values while decreasing the value of their opponents. In this approach both parties try to know each other's walk-away value to make a decision. Some of the strategies associated with this approach include manipulation, use or threat of force, withholding information. A common area where a distributive bargaining approach is used in daily lives is in the bazaar where products do not necessarily have a fixed value or price but can be negotiated. In this situation both seller and the buyer try to get the best deal out of the transaction and maximize their benefit. Gain of one party is the loss of the other.

Collaborative (Integrative) Bargaining (Win-Win) Strategy: A second approach to bargaining is called collaborate or integrative bargaining. In this approach, the goal is not to maximize one's own benefit but to maximize joint or mutual outcomes for all those involved. This approach is called 'creating value' because the aim of this form of bargaining is to leave both sides feeling they have a greater value than before. Also called a win-win approach, aims to integrate the interests and needs of both sides to create a joint value. During negotiations value can be created through a cooperative process to find mutually beneficial outcomes that satisfy both parties. In this approach parties work together to find a solution where both feel like they have won, or gained. Dominant strategies include cooperation, sharing information, mutual problem solving, compromise.

Based on these two bargaining strategies, negotiations can be Position-based or Interest-based.

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[38] Leigh L. Thompson (2020) *The Mind and Heart of the Negotiator* 7th Edition (Pearson: New Jersey)

Positional Negotiation[39]**:** Based on a distributive bargaining approach, positional negotiations parties focus mainly on the 'position' or 'what each party says they want, rather than why they want what they want. Therefore in positional negotiations parties focus on 'substance' or 'what' of negotiations rather than 'why'. This leads to a 'zero-sum' understanding of negotiations and parties see each other as 'enemies to overcome.' Positional negotiation approach is often the very first approach parties adopt as they enter into negotiations; however, this often leads to becoming more committed to their positions and their positions increasingly become more rigid. In positional negotiation parties move backwards and forwards between two chosen positions. This approach usually makes it harder to back down and explore alternative solutions. Positional negotiations can also affect relationships between the parties even further undermining the possibility of rehumanization and reconciliation following the negotiations. The capacity of positional bargaining to resolve a conflict is extremely limited therefore it is ineffective. On the contrary it often produces unwise agreements that fail to address the needs and interests of different stakeholders or fail to reach an agreement at all.

Table. 13

Approaches to Negotiation	
Positional Negotiation	**Interest-Based Negotiation**
Distributive Bargaining Competitive Attitudes Adversarial Attitudes Win-Lose Outcome Zero-Sum Orientation Focus on positions: 'what I want' Claiming Value	Integrative Bargaining Cooperative Attitudes Problem-Solving Attitude Win-Win Outcome Positive Sum Orientation Focus on Interests "why I want', "what do I need" Creating Value

Interest-Based (Principled) Negotiation: Interest-based or Principled negotiation often is more successful in reaching agreements that satisfy both parties. It recognizes that there are often many different needs and interests behind each position and goes beyond the positions of the parties and explores the underlying needs and interests of those positions. It asks the question, why parties want what they want, why they feel what they feel and explores options to address those interests and needs through a collaborative problem-solving approach. Interests and needs are what motivates parties. Focusing on interests and needs rather than positions also give flexibility and helps generate options. This approach recognizes that each party has multiple and at times competing interests and most powerful interests are basic human needs such as security, recognition of identity, social-economic well-being, a sense of belonging, and control over one's life. It is not possible to establish durable peace without taking into account these basic human needs and without addressing them satisfactorily. This approach allows for a positive sum outcome and helps parties see each other as partners rather than enemies.

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[39] Fisher, R., Ury, W., & Patton, B. (2011). *Getting to yes: negotiating agreement without giving in.* 3rd ed., rev. ed. New York: Penguin.

Key Features of Principled Negotiation

According to Fisher and Ury key to successful negotiation is collaboration and shifting the situation from a win-lose to a win-win situation and integrating the needs and interests of the opponents to find a mutually agreeable solution to the conflict. To facilitate this process, they identify a number of key features. These include:

Separate the person from the problem: This feature recommends that relationships between the parties should be kept separate from the issues of the conflict. Separating the people from the problem allows us to be hard on the problem but soft on the people without further harming or damaging the relationship. This also reduces the possibility of miscommunication and destructive emotions to take over and impact the negotiation process. Separating people from the problem also helps us see the humanity of our opponents, facilitates rehumanization and reconciliation. It also allows parties to establish good working relationships which is key to rebuilding communities and healing wounds following the conflict.

Focus on interests, not positions: Focusing on the interests and needs allows parties to be more flexible and come up with options that might be acceptable to the parties of the conflict. Negotiators in conflict must move beyond positions and understand the needs and interests behind those positions. This requires conducting a thorough analysis of their own needs and interests as well as their opponents. Understanding needs and interests (both our own as well as our opponents), recognizing which of these are short-term, which of these are long term and what are the available resources to address them allows negotiation teams to prioritize them, identify short and long-term goals and objectives of the negotiation, and find options to address them.

Generate options for mutual gain: Finding mutually agreeable solutions often requires creativity, thinking outside the box and commitment to find a solution despite all challenges. Both parties need to broaden their options, generate alternatives and expand their resources to solve the issues. Generating options may require parties to brainstorm, invite experts, develop partnerships and alliances to increase their options and broaden their resources.

Use objective or mutually acceptable criteria to decide: It is usually possible to agree on a number of different standards or criteria by which parties can assess the fairness or acceptability of an agreement. It is important for both parties to agree on this criterion and develop them together to ensure commitment to it during the implementation phase of the negotiation.

Recognize alternatives to negotiated agreement (BATNA): Finally, parties need to recognize what alternative they have to a negotiated settlement. Best Alternative To a Negotiated Agreement also referred to as BATNA is about the possible alternatives each party has if they cannot come to an agreement. BATNA is the bottom line of the negotiators and helps negotiators determine negotiation is the best option. This step also requires parties to carefully conduct a cost-benefit analysis of a negotiated settlement and its alternative. If negotiators think they can accomplish their bottom-line through other means (such as strikes, violence, legal options, etc.) they may choose those rather than an agreement.

Principled Negotiation of Prophet Mohammed at Hudaybiyah
Prophet's approach to negotiation displays many of the features recommended by Fisher and Ury in their Principled Negotiation model and goes above and beyond that.

Separate people from the problem: First and foremost, the Prophet himself often practiced separating people from the problem and while he was often hard on the problem, he was quite soft on the people and focused on maintaining cordial, and respectful relations with his opponents. This approach allowed him to maintain good relations with his enemies and develop mutual empathy.

Focus on interests not positions: As mentioned before, he focused on the needs and interests of the parties rather than their positions. This allowed him to assess the reasons behind the positions and to identify what were the most important goals and objectives of the negotiation. As such he was able to determine the areas where he could compromise in order to achieve broader goals and objectives of the Muslims

Generate options for mutual gain: Prophet Mohammed (Pbuh) worked together with his opponents to develop mutually acceptable options. He focused on both parties feeling a sense of getting what they need out of the negotiations.

Recognized his BATNA: He had a clear sense of what are redlines or limits of compromise and what his best alternative to a negotiated settlement was and was prepared to accept that.

In addition to above mentioned principles of negotiation, Prophet's approach went beyond and include the following characteristics:

Maintain clear communication and flexibility: Prophet Mohammed (Pbuh) constantly displayed flexibility during the negotiations and always kept communication channels open with his opponents as well as his constituency. Furthermore, he was always calm and in control of his feelings and emotions. Following the Quranic injunction "Not equal are the good deed and the bad deed. Repel evil by that which is better, and then the one ho is hostile to you will become a devoted friend. But none is granted it except those who are patient, and not is granted it except one having a great fortune" (Q41:34-35), he treated his enemies with compassion and gentleness, and responded to decades of aggression, persecution and insults graciously. He forgave his opponents and focused on building a peaceful community where former enemies lived and worked together as fellow brothers, as he did after his return to Mecca.

Maintained trust of his opponents. He treated everyone fairly and maintained the trust of his enemies even when they were persecuting him. For instance, when he migrated from Mecca to Medina, he had many of the belongings of those Meccans who were persecuting him. Before he left, he instructed his nephew Ali to stay behind to return all those belongings that were trusted to him. Due to such honesty and integrity, his opponents continued to trust him even during the most challenging times. This trust allowed him to transform the hostile relations into friendships and reconcile afterwards.

Commitment to Agreements. Prophet Mohammed always kept his promises and commitments, including the commitments he made during negotiations. Based on the Quranic verse (Q16: 91, peace agreements or arrangements is considered binding in Islam because observance of treaties and considered crucial and a religious duty in Islam. The Treaty of Hudaybiyah was a binding agreement that had conditions that were symbolic yet had the effect of bringing about an enforced period of peace. The Prophet (Pbuh) showed his commitment to it as such. As a result, sulh (reconciliation) in Islam is a considered form of contract ('*aqd*), and is legally binding on both at individual and community levels. Likewise, although negotiation is a nonbinding process, it becomes morally binding when the parties come to an agreement and sign a treaty.

Table. 14

Analysis of Needs and Interests: What are your and your opponents':		
Our Team:		**Their Team:**
	Positions: What they say they want	
	Interests: Why they want what they want (their motivations)	
	Basic Needs: Things they cannot live without	
	Resources: What they have to address these	

Box. 7

Quranic Verses
But if the enemy inclines towards peace do thou (also) incline towards peace and trust in God: for He is the one that heareth and knoweth (all things). (Q8:61) And dispute ye not With the People of the Book, Except with means better (Than mere disputation), unless It be with those of them Who inflict wrong (and injury): But say, " We believe In the Revelation which has Come down to us and in that Which came down to you ; Our God and your God Is one ; and it is to Him We bow (in Islam)." (Q29:46)

Negotiating A Political System in Islam

Is There an Islamic Political System?

"What is the ideal political system in Islam?" This question had been debated extensively by Muslim scholars, jurists, theologians, and philosophers since the early days of Islam. The Holy Quran, the primary source of ethical and legal source of Islam, does not specify a particular form of government or a political system, and does not refer to any notion of an Islamic state. In fact, the Quran does not include a term for 'state.' The term *dawlah* (the word used to mean state today) literally means something which changes hands in the sense of a commodity of exchange, and in the Quran, it is used to mean wealth.

However, the Quran provides two different models of governance; one ruled by the Pharaoh, which is an example of an unjust and tyrannical form of government, and the other ruled by Balqis, the wise Queen of Sheba, which the Holy Quran praises as an example of a "great throne," governed through consultation (*shura*) (Q27:23 and 32).

Islamic sources also identify a set of social and political values that are considered central to any Islamic political system. Three values are particularly important. These include pursuing justice through social cooperation and mutual assistance (Q49:13, Q11:119), establishing a non-autocratic, consultative method of governance, and institutionalizing mercy and compassion in social interactions (Q6:12, Q6:54, Q21:107, Q27:77, Q29:51, Q45:20).

Historically, a comprehensive legal and ethical framework of the Islamic state was first constructed in the Madina era, under the leadership and guidance of the Prophet. A sense of community, with its institutions, aspirations, and a sense of common history, was established by the time the revelation of the Quran was completed. This core community and the practice of the Four Rightly Guided Caliphs (*Rashidun*), the four heads of the Muslim community following the death of Prophet Mohammed (Pbuh), has become the ideal example of a political system for the Muslims. These examples, values, and models have provided the basis of political systems in the Muslim world throughout centuries.

Pillars of Islamic Political System

Three important features of a state or the formal structure of the society are important to understand the political system in Islam. These include the community (*ummah*), Islamic Law (*Fiqh*), and the Sovereign (*Caliph*).

Ummah as the Basis of Political System in Islam (community of believers)

Ummah, the community of believers, is the foundation of any political system in Islam as it is the basis of an awareness of a common identity, purpose, and allegiance. *Ummah* embodies social solidarity and brotherhood among all Muslims irrespective of gender, ethnic origin, race, language, or tribal affiliation.

The foundation of *the ummah* as the community of believers is highlighted in the Quranic (Q49:10, Q21:92) and Hadith. The notion of *ummah* recognizes the existence of various religions, nations, and tribes and calls for solidarity and collaborative action among all human beings, not just

Muslims. The Quran stresses that the source of creation is one, and thus the whole of humanity is a single-family descending from a single mother and father (i.e. Adam and Eve). Therefore, all human beings are brothers and sisters in humanity (Q49:13 and Q5:48).

The mission of the *ummah* is to create a moral, social, and political order. The political expression of *the ummah* is the State. Within this state, the personal and social life of the *ummah* is regulated by Islamic rules and regulations and is subject to an autonomous jurisdiction. The Quran also gives guidelines on how the *ummah* should conduct their relations with each other and with non-Muslims. These guidelines were interpreted and included in the development of the theories of society by the *ulema* (religious scholars). The community life in Islam is based on the idea that everyone is responsible for others. Furthermore, the Quran asks Muslims to be a model community and to do good (Q5:48) '*istabiqu al khayrat'* as a distinguished community of the middle path '*al Ummah al Wasat'*. These qualities indicate that Muslims as a model community should invite others to work for the betterment and peace in this world. *Ta'awun* –working together for the good of God's creation and *al hikmah wa al-maw'izat al-hasanah* (wisdom and goodly exhortation) urges Muslims to work together with other communities for the betterment of the world. Government regulations, Islamic laws, and activities of the religious police who monitor public behavior have all been justified as expressions of this total mission to command the good and prohibit evil.

A characteristic feature of *Ummah* is its right to taking a critical stand towards those who are in office. According to the Quran, God made human beings His vicegerents or representatives on earth (Q24:55). Therefore, each individual is a representative of God on earth (*khilafat Allah fi l-Ard* (Q2:30, Q33:72) is responsible for the order thereof. The agents of the state are chosen among the members of the *ummah* as instruments of collectivity and are responsible for bringing about and implementing the just order that is prescribed by the Quran and the *Shariah*. The *ummah* bears an important responsibility for the establishment of this social justice by not obeying those who do not implement a just order. Thus, *the ummah* becomes an instrument for the critical evaluation of state policies and has a right to demand its leaders to serve with justice and fairness.

Legal System: Sharia and Fiqh

Second pillar of Islamic state is the legal system, which must be based on justice and equity. This legal system must be based on *Shariah*. *Shariah,* which means 'path' or 'way' to be followed is often misinterpreted as Islamic law, but it is broader than law and refers to the divine and unchanging rules that guide all aspects of public and private life, such as religious rituals, family life, business, crimes, and warfare Islamic scholars often agree that *shariah*. *Fiqh* (Islamic jurisprudence), which means 'deep understanding' or "comprehension" in Arabic, on the other hand, refers to the interpretation and expansion of *shariah* by Islamic legal scholars (*fuqaha,* Singular *faqih*). Another form of law in Muslim contexts is called *siyasa* or *qanun*, which refers to the laws that were made by Muslim rulers for public good according to their own philosophies of government and ideas about how best to maintain public order rather than through interpretation of scriptures by Islamic legal scholars. Historically, *fuqaha* did not develop *fiqh* as a law of the state and did not assign any legislative role to the state but made a juristic distinction between *fiqh* and *siyasa* with *fuqaha* having the authority to interpret the *Shariah*.

Shariah is a fundamental source of legislation rather than a temporal political authority. As the revealed divine guidance, *shariah* cannot be altered. It is both the basis of law and the ethical system and informs legal systems in Muslim contexts. Whereas fiqh or Islamic legal system is temporal and can be changed according to demands of time and context as long as they do not contradict *Shariah*. In fact, Islamic scholars have often disagreed with each other and agreed to disagree (*ikhtilaf*), as long as the rulings did not transgress limits set by the Quran and *Hadith/Sunna*. (See Introduction on more information about *Fiqh, Shariah and Madhab*s).

In order to articulate laws and rules within an Islamic state, Muslim scholars of Principles of Jurisprudence (*Usul al Fiqh*) have explored a system of higher aims and objectives of the legal system rooted in the Quran and the Sunnah. This system is called *maqasid,* and aims to extract and categorize the higher objectives of Islamic legal system derived from Shariah (*maqasid ash-Shariah*). Based on these extensive explorations and studies, Muslim jurists (*fuquha*) agree that the objective of law in Islam is protection of public interest (*maslaha*) and to seek the best public interest (*Istislah*). Muslim scholars agree that this verse indicates the overall purpose of *Shariah* to do good works and pursue justice and that every legal ruling must comply with the goals and aims of Islamic moral-ethical principle.

This principle is at the root of good governance and human rights (*Huquq al-Insan*) in an Islamic state. Islamic principles of judiciary as the protector and preserver or rights were founded on a letter set to Mussa Al-Ashary, one of the judges appointed by him by Caliph Omar Ibn Al-Khattab. (See Table b). Governance in Islam represents a serious responsibility given its impact on individuals, other living creatures, communities and the collective wellbeing of humanity.[40] As an essential component of governance, laws in Islamic community must be based on justice, equity and ensure public welfare and benefit, and prevent harm. The Quran clearly states that the aim of religion, in fact the purpose of life, is to bring justice (Q57:25).

Box. 8

Letter by Caliph Omar Ibn Al Khattab: 14 Directives to the Judges
"The judiciary is a masterly duty and well-observed tradition. Bear in mind, whenever a case is referred to you, that it is useless to talk about rights unless they can be imple- mented. Treat all people equally in your council and show your equity both in your countenance and judgement so that no notables may be induced to expect favours from your unfairness and no vulnerable person may be led to despair of your justice. Always demand proof from the claimant and an oath from a person that denies the charge. Reconciliation is permissible among Muslims, unless such reconciliation entails making lawful something that is unlawful or banning something that is lawful. Any that claims a right that is absent or wanting in evidence, set a date for them to produce the proof. If they can substantiate the claim, then grant them their rights, but if they fail to do so, then issue your ruling. There is nothing that should prevent you from reviewing a judgement you have rendered and if you are guided to the truth, there is no harm in revising your judgement because truth is eternally pre-existent and nothing can invalidate it. In fact, reviewing truth is better than persisting in error or falsehood. Muslims may act as witnesses over one another, except the following: a person who has previously been guilty of perjury; a person who has been whipped for committing a sin; an accused person; or any person linked by some alliance or kinship to the litigants. Almighty Allah is cognizant of His servants' innermost secrets and shields them against prescribed punishments. Then apply your understanding to the

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[40] Basma I. Abdelgafar (2018) Public Policy: Beyond Traditional Jurisprudence, A Maqasid Approach (Washington DC: IIIT) p. 3

cases referred to you, especially cases that are not provided for in the Qur ʾān or the Sunnah. Use analogies, make use of precedents and similar cases, and seek judgements, which you consider to be closest to the truth and the most likely to earn the good-pleasure of Allah. Beware of anger, excitement, boredom, and any other act likely to offend, wrong, or disavow people. Judging between people in truth and justice earns a judge Allah's reward and enhances his good repute ..."

Source: Alerfi (2009) p. 726 and For the full text and its explanation see, e.g., Imām Al-Byhagi, as-Sunan al-Kubra, Kitāb as-Shahdāt, No. (20324).

The Caliph: Just Ruler

The third pillar of the political system and state in Islam is the *caliph* (the successor, the sovereign); Caliph comes from the Arabic word *khilafah* (root is *khalafa*), which means coming after someone. It also means steward, vicegerent or representative as in *khilafat al-Allah* (Vicegerency of God) or *khilafat al-Rasul* (successor of the Prophet). *Khilafah* also refers to the process and institution of choosing the successor of the Islamic community.

The term *khilafa* and its various definitions occur in a number of Quranic verses and *Hadith*. These verses indicate that while absolute, cosmic sovereignty belongs to God, sovereignty on earth He has delegated human beings, through the mandate of *istikhlaf* (choosing one's own successor). For example, the Holy Quran informs Muslims that, when human beings were created, God made them His *vicegerents* or *representatives* on earth (Q24:55) and that each individual is a representative of God on earth (*khilafat Allah fi l-Ard* (Q2:30, see also 33:72), therefore, is responsible for the order thereof.

In the Sunni Islam, the *caliph* as the successor of the Prophet (Pbuh) is the head of the community and the state (*dawlah*) and represents the political unity of the community as a whole. However, neither the Quran nor the *Sunnah* describe a clear procedure on how to appoint the *caliph*. In fact, immediately after the death of the Prophet (Pbuh), the first four *caliphs*, who are referred to as the 'rightly guided *caliphs'* (*al-Khulafa ar-Rashidun*), were appointed through very different procedures. As a model of an inclusive leadership, the common feature of these appointments is seeking the consent of the community through a private *bai'ah* (pledge of allegiance, a symbolic way of rendering obedience) and/or public *bai'ah*.

Because Muslims are required to hand trust only to those who are the most competent, the first four caliphs were chosen by the community based on whom the community considered to be most competent at the time. After the death of the Prophet (Pbuh), distinct groups were formed with their respective leaders. Abu Bakr (Abdulla bin Abi Quhafh), who served only two years (632-634), was the first Caliph after the Prophet (Pbuh). After the first election, Omar Ibn Al-Khattab proposed Abu Bakr, and the rest of the community swore allegiance to him. This private *bai'ah* was followed by a public *bai'ah*. Abu Bakr's status as the caliph did not come with much power. The second caliph Umar was nominated by Abu Bakr, and the community accepted his recommendation. Umar formed an electoral college before his death and his son was elected to have the deciding role if there was a tie. When Uthman was assassinated, Ali ibn Abi Talib was nominated as the candidate. He refused to have a private *bai'ah* and accepted only the public *bai'ah*. These different procedures show that the consent of the people is crucial to the process. As a result, Muslim scholars and jurist agree that that the crucial aspect political authority in Islam is the confirmation by the *Ummah*, through a *bai'ah*. In that sense political authority is a social

contract by which the community promises to obey the *caliph*, and the *caliph* promises to govern the community in conformity with Islam.

Ultimate goal of political authority is to ensure order and harmony on earth by applying laws derived from the *Shariah*. Accordingly, the Islamic state has two major organs: the judiciary and the executive. Legislation is constitutionally undefined because the Quran and the *Sunnah* already lay it down but it is interpreted and canonized by Islamic legal scholars. In order to implement the law, it is necessary to have a directing head to execute it. Although Caliph does not have an inherent power to legislate, s/he has the responsibility to implement it. At the same time, because human beings are referred to as the representative of God on earth in the Quran, every individual member of the *ummah* is legally obligated to ensure the proper execution of the delegated authority.

Role of Ulema in an Islamic State

Although the ideal political system in Islam is based on the system of *caliphate*, historical realities led to a proliferation of various forms of governmental rule, such as the sultanate. Unlike the previous four caliphs, leadership of the fifth caliph Muawiyah, founder of the Umayyad dynasty, caused much disagreement and conflict. Umayyad ruler Muawiyya was accepted as the caliph only after a painful period of war and arbitration, which resulted in the polarization of Muslims into Sunnis and Shias. Followers and supporters of Ali argued that Muawiyah had acquired the title of caliph unjustly due to a corrupted arbitration process, whereas others argued that since an allegiance was sworn to him, he was a legitimate caliph. Muawiyah's way of becoming a caliph was considered by some jurists as usurpation (*islita*), because it was obtained through coercion. Yet, some jurists considered usurpation one of the legitimate ways of obtaining the caliphate as long as an allegiance (*bay'ah*) was sworn to the caliph. Mu'awiyah, appointed his son as the heir apparent (*wali al-ahd*) and thereby established the tradition of hereditary succession. He justified appointing his son as the successor with the argument that this was the only way to prevent an internal discord (*fitna*) and protect the unity of the *Ummah*. Consequently, with Muawiyah the tradition of electing the caliph ended and the institution of the caliphate was transformed into a dynastic kingdom.

Later on, various rulers and dynasties such as the Abbasids, Mamluks, Seljuks, Ottomans, and Mughuls, among others dominated different territories, and *Ummah* was divided into different political units, and included not only Arabs but other ethnic and racial groups and traditions. As result, political power became diverse; yet a common arena of *Dar-al Islam* (lands ruled according to Islamic Law), based on a common sense of destiny and common practices, still existed and continued to inform the Muslim consciousness.

As these dynasties expanded to include diverse cultures, ethnicities and races, they needed to develop more sophisticated bureaucracies, institutions and systems to govern effectively. Increasingly *fiqh* and *siyasa* or *qanun* became distinct areas of law where the *ulema* continued to develop *fiqh* whereas the ruler ensured the application of *fiqh* and developed their *qanun*. Within this system, *ulema* have become a critical aspect of the society with their role as interpreters of the Quran and the *Sunnah*. Muslim rulers started to support and seek the support of eminent jurists and appoint them to different positions as early as 7th and 8th centuries. In some cases, rulers started to adopt different schools of thought without directly intervening in

the content of the law itself. However, although the state regulated the adjudication procedures of cases dealing with specific issues, doctrinally it did not intervene in the different schools' structures or authorities, or the content of their laws, and it accepted the opinions of eminent jurists.

Muslim jurists, kept their independence and considered the judiciary as one of the essential foundations of governance in the *Shariah* because of its critical role in protecting individuals, preserving their right, and repelling any violation or transgression of these rights.[41] For example, Imām Ahmed Ibn Ḥanbal stated that: "people need to have a legislator so that their rights may not be taken away." [42] Imām As-Sarsakhy stated: "be advised that judging between people fairly is among the most important commandments after faith in Almighty Allah."[43] Increasingly these jurists emphasized the mission of the *ummah* was to create a just moral social order. Lawmaking by temporal holders of power came to be seen as Islamically legitimate because of the widespread consensus in Islamic jurisprudence that the ultimate purpose of *Shariah* is to promote the welfare of the people (*maslaha*).[44] From this point of view, public good is the *raison d'etre* and objective of political authority in Islam and the caliph is responsible for ensuring that.[45]

Box. 9

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Case Study:
Ibn Ishaq's Record of the Constitution of Medina

"The Messenger of God wrote a document between the Emigrants and the Ansar, and in it he made a treaty and covenant with the Jews, establishing them in their religion and possessions, and assigning to them rights and duties."

"In the name of Allah (The One True God) the Compassionate, the Merciful. This is a document from Muhammad, the Prophet, governing the relation between the Believers from among the Qurayshites (i.e., Emigrants from Mecca) and Yathribites (i.e., the residents of Medina) and those who followed them and joined them and struggled with them. They form one and the same community as against the rest of men.

"No Believer shall oppose the client of another Believer. Whosoever is rebellious, or seeks to spread injustice, enmity or sedition among the Believers, the hand of every man shall be against him, even if he be a son of one of them. A Believer shall not kill a Believer in retaliation of an unbeliever, nor shall he help an unbeliever against a Believer.

"Whosoever among the Jews follows us shall have help and equality; they shall not be injured nor shall any enemy be aided against them.... No separate peace will be made when the Believers are fighting in the way of Allah..... The Believers shall avenge the blood of one another shed in the way of Allah .... Whosoever kills a Believer wrongfully shall be liable to retaliation; all the Believers shall be against him as one man and they are bound to take action against him.

"The Jews shall contribute (to the cost of war) with the Believers so long as they are at war with a common enemy. The Jews of Banu Najjar, Banu al-Harith, Banu Sa'idah, Banu Jusham, Banu al-Aws, Banu Tha'labah, Jafnah, and Banu al-Shutaybah enjoy the same rights and privileges as the Jews of Banu Aws.

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[41] Alarefi, Abdullah Saad (2009) "Overview of Islamic Law" *International Criminal Law Review* 9 (2009) 707–731 p.724
[42] See Alarefi (2009) n. 83 p. 742
[43] See Alarefi (2009) n. 84 p. 742
[44] Quraishi Landes p. 551
[45] Quraishi Landes p. 56

"The Jews shall maintain their own religion and the Muslims theirs. Loyalty is a protection against treachery. The close friends of Jews are as themselves. None of them shall go out on a military expedition except with the permission of Muhammad, but he shall not be prevented from taking revenge for a wound.

"The Jews shall be responsible for their expenses and the Believers for theirs. Each, if attacked, shall come to the assistance of the other.

"The valley of Yathrib (Medina) shall be sacred and inviolable for all that join this Treaty. Strangers, under protection, shall be treated on the same ground as their protectors; but no stranger shall be taken under protection except with consent of his tribe... No woman shall be taken under protection without the consent of her family.

"Whatever difference or dispute between the parties to this covenant remains unsolved shall be referred to Allah and to Muhammad, the Messenger of Allah. Allah is the Guarantor of the piety and goodness that is embodied in this covenant. Neither the Quraysh nor their allies shall be given any protection.

"The contracting parties are bound to help one another against any attack on Yathrib. If they are called to cease hostilities and to enter into peace, they shall be bound to do so in the interest of peace; and if they make a similar demand on Muslims, it must be carried out except when the war is against their religion.

 "Allah approves the truth and goodwill of this covenant. This treaty shall not protect the unjust or the criminal. Whoever goes out to fight as well as whoever stays at home shall be safe and secure in this city unless he has perpetrated an injustice or committed a crime. Allah is the protector of the good and God-fearing people.
> *Source: Ibn Isḥāq. (2009). In Encyclopædia Britannica. Retrieved November 29, 2009, from Encyclopædia Britannica Online: http://www.britannica.com/EBchecked/topic/280772/Ibn-Ishaq*

Discussion Questions:
1. What Islamic Principles of Good Governance are present in the Constitution of Medina?
2. How can the Medina Model inform state building and good governance today?

Table. 15

Select Verse on Principles of Islamic State	
Principles	**Quranic Verses**
Decision-Making through a Consultative Process (Shura)	"And [remember that] whatever you are given [now] is but for the [passing] enjoyment of life in this world – whereas that which is with God is far better and more enduring. [It shall be given] to all who attain to faith and in their Sustainer place their trust; and who shun the more heinous sins and abominations; and who, whenever they are moved to anger, readily forgive; and who respond to [the call of] their Sustainer and are constant in prayer, and whose rule [in all matters of common concern] is consultation among themselves; and who spend on others out of what We provide for them as sustenance." (Q42: 36-38) "And it was by God's grace that thou [O Prophet] didst deal gently with thy followers: for if thou hadst been harsh and hard of heart, they would indeed have broken away from thee. Pardon them, then, and pray that they be forgiven. And take counsel with them in all matters of public concern; then, when thou hast decided upon a course of action, place thy trust in God: for, verily, God loves those who place their trust in Him." (Imran: 159)

	"Do they follow the command of their reason, or is it that they are an unjust people?" (Q 52: 32).
Consent and Dissent Through Social Contract (Bay'ah and Hisba)	"Indeed, Allah was pleased with the believers when they pledged allegiance to you (O Prophet) under the tree. He knew what was in their hearts, so He sent down serenity upon them and rewarded them with a victory at hand" (Q 48:18). "Cooperate with one another for virtue and heedfulness and do not cooperate with one another for the purpose of vice and aggression" (Q5:2)

Decision-Making through a Consultative Process (Shura)

One of the key principles of governance in Islam is the consultative decision-making process rooted in the tradition of *Shura*. Principle of *shura* is rooted in the Quran, the *Sunnah*, and the practices of Rightly Guided Caliphs. The Holy Quran praises the consultative leadership of the Queen of Sheba. (Q27:22-44). Moreover, the 42nd Surah in the Quran is named *Ash-Shura* (council, consultation) which emphasizes the centrality of the consultation together with prayer and putting one's trust in God (Q42:36-38).

Similarly, in another Surah, Quran asks Muslim men and women "taking mutual counsel together according to what is just and reasonable" (Q65:6). Again, in Surah *Imran*, verse 159 God commands the Prophet (Pbuh) himself, as the commander, leader and guide of Muslim community to consult his companions. *Asbab- al-nuzul* (the context of revelation) of this verse is important to understand the significance and place of *shura* in Islamic tradition. According to tradition, this verse was revealed after the Battle of Uhud. The Prophet, before the battle of Uhud, made *al-Shura* of the general Assembly of the Muslims of Medina as to how to face the enemy, whether to defend the city from inside or fight in the open field. While some of the companions and the Prophet himself favored defending the city, the majority favored fighting in the field. The Prophet accepted the majority opinion and announced the decision of *al-Shura*. During the battle, some of the Muslims betrayed him and the Prophet stopped inviting them to participate in *Shura* decisions. In the above verse (Q65:6), Allah asked the Prophet to invite them also to such meetings for He is one who is the most gentle and kind hearted. Modern day Pakistani scholar Muhammed Shafiq argues that in this verse, God is not only making *shura* obligatory, but explaining how to conduct the meetings."[46] By asking him to invite those who had betrayed him, God is telling Him the importance of forgiveness, tolerance and inclusion of opposition in *shura*.

Sunnah tradition also points out that the Prophet (Pbuh) made all his decisions in consultation with the members of his community, both men and women, unless the matter was ordained by God. The Prophet's Companion Abu Hurayrah once observed, "Never have I seen anyone more prone to seeking his Companions' counsel than was the Messenger of God."[47] For example the Prophet consulted his wife Umm Salamah and acted on her advice in the truce of Hudaybiyyah in private

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[46] Shafiq, Muhammad. "The Role And Place Of Shura In The Islamic Polity." *Islamic Studies* 23, No. 4 (1984): 419-41. Accessed July 19, 2020. Www.Jstor.Org/Stable/20847284.
[47] Narrated by al-Tirmidhi in one of his sections on jihad see also Al Rasuni (2012) p.10

while he held consultations with the chiefs of tribes on all key matters as it was the case in the Battle of Uhud. Following the death of the Prophet (Pbuh), "a *shura* that sought the consensus (*ijma*) of the community was the only legitimate basis for setting up a political authority and for legislating and developing new doctrines."[48]

The aim of *shura* according to Muslim scholars was to reach a consensus (*ijma*). Companions of the Prophet would often consult with all the chiefs of the tribes and if they had agreed upon an opinion they would implement it, but if there was no agreement, those who disagreed were not bound by the decision.[49] Based on these practices, Muslims scholars such as Ibn Khaldun stated that after the death of the Prophet, his companions agreed that *ijma consensus* was as authoritative as the Quran and *Sunnah*. Persuasion through evidence and appealing to human reasons is at the core of the *shura* process and indeed the message of Islam.[50] The Holy Quran points to the centrality of reason when it contrasts it with injustice in Surah al-Tur (Q52:32). The Prophet (Pbuh) used persuasion in his affairs as well.

Box. 10

Benefits of Consultation According to Abu Bakr Ibn al-Arabi
Commenting on the traditions cited by al-Tirmidhi on the subjects of jihad and consultation, Abu Bakr Ibn al-Arabi states: Consultation brings a number of blessings: "One of these is that as a result of consultation, one acts based on something which is known (since one acts only after having engaged in investigation, verification, and a clarification of vision). Another is that through consultation, truth is freed from the [unwelcome] possibilities to which people's desires can lead. A third is that one gleans [that which is best] from people's minds and reasoning capacities. And a fourth is that through consultation, people's hearts are united as they set about to take action. This is what the Prophet did twice at Badr."
Source: Abu Bakr ibn al-Arabi, Aridat al-Ahwadhi fi Sharh Sahih al-Tirmidhi (Beirut: Dar alFikr li al-Tiba'ah wa al-Nashr wa al-Tawzi¢, no date), 7/206.

While Muslim jurists disagreed on what specific matters consultation should take place, or whether it is mandatory or recommended, overall, they agreed that *shura* is a foundational principle in Islamic government and leadership based on these Quranic verses and *Sunnah*. Al-Mawardi argued that the institution of caliphate was a result of the contract between the governor and the governed; the *caliph* and the *ummah* since it was chosen by an electoral body, and was the guardian of the *Shariah* and was the chief administrator charged with the protection of the Muslim communal welfare. Some jurists, such as the famous Maliki scholar Ibn Atiyya (d. 1146), reasoning that, if consultation is mandatory even for the Prophet (Pbuh), then it must be even more required for others, stating that "consultation is among the foundations and most binding precepts of Islamic law. Hence, he who fails to consult those possessed of knowledge and piety must be

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[48] Ahmad Mousalli (2001) *The Islamic Quest for Democracy, Pluralism, and Human Rights* (Gainesville: University Press of Florida) p. 33

[49] Mousalli (2001) p.93,

[50] Basma I. Abdelgafar (2018) Public Policy: Beyond Traditional Jurisprudence, A Maqasid Approach (Washington DC: IIIT) p. 13

dismissed. This point is beyond dispute."[51] While other scholars did not necessarily agree that such a leader must be dismissed, they agreed that *shura* is a central principle in Islam, especially in Islamic governance. In his commentary on Sahih Bukhari's *Hadith* collection *Fath al Bari*, famous scholar Ibn Hajar al-Asqalani (d.1449) points to the centrality of consultation for the political leaders when he states "if someone is offered to be the *ameer* [king] without the consultation of *shura*, then it is not appropriate for that person to accept the offer."[52]

There are two modes of political consultation in the Quran. In the first one, the Prophet is asked to consult with his companions but ultimately decides on his own. In this case consultation is mandatory, but not binding. In the second model, the community of believers are described as those who administer their affairs through mutual consultation. In this case, *shura* is described as "the very process by which decisions on public matters are made."[53] In this case, he cautions that the term *shura,* must be distinguished from the term *istisharah,* which means one side seeking counsel from another, and from the term *tashawur,* which means mutual consultation but on a lesser scale than that envisioned in *shura* as a nationwide participatory political exercise.[54]

Shura (consultation) is predicated on equality among those consulting in order to arrive at a collective decision and this form of *shura* must be distinguished from the notion that depicts it as merely an optional exercise in the seeking of non-binding counsel by the ruler, acting from a superior position, from those of his subjects with whom he may choose to consult.[55] The Quran asks both men and women to take mutual counsel (Q65:6). The Prophet and his companions consulted and took the advice of women. Therefore, "the legislative assembly-. . . *majlis ash-shura*-must be truly representative of the entire community, both men and women. Such a representative character can be achieved only through free and general elections, therefore the members of the elected by means of the widest possible suffrage, including both."[56]

Muslim scholars today have expanded upon the traditional understanding of *shura* and discussed it within the context of modern state. Mawlana Abu al A' la Mawdudi, Muhammad Asad and the *'Ulama'* in Pakistan agreed that *al-Shura* is a requirement in Islam and it is obligatory on the government to consult *Majlis al-Shura* in all important affairs of the government not clearly stated in the holy Qur'an and Sunnah of the Prophet.[57] Based on the notion of *shura* in Islam, Hasan al-Banna, founder of Muslim Brotherhood saw no inconsistency with Western style constitutional rule because it maintains personal freedom, upholds shura, postulates people's authority over government, specifies ruler's responsibilities of the executive, the legislature, and judiciary.[58]

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[51] Abd al-Haqq ibn ¢Atiyyah, Al-Muharrir al-Wajiz fi Tafsir al-Kitab al-Aziz, ed. alRahhali al-Faruqi, et. al., 1st Edition (Doha, Qatar, 1977), 3/397.
[52] Ibn Hajar al-Asqalani Fath al-Bari vol. 12 cited in Musharraf p. 51
[53] Suleiman (n.d) Shura Principle in Islam at http://www.alhewar.com/SadekShura.htm
[54] Suleiman (n.d) Shura Principle in Islam at http://www.alhewar.com/SadekShura.htm
[55] Suleiman (n.d) Shura Principle in Islam at http://www.alhewar.com/SadekShura.htm
[56] Muhammad Asad, The Principles of State and Government in Islam (Gibraltar: Dar al-Andalus, 1980; 1st pub. 1961), p. 45.
[57] Shafiq p. 422
[58] al-Banna, Hasan Rasa'il al-Imam al-Shahid Hasan al-Banna. Beirut: Dar al Quran al Karim 1984 p. 56-58 see also Mousalli p. 69

In many Muslim countries today, *shura* plays an important role in governance of both constitutional republics, absolute or representative monarchies. For example, the Parliament of Pakistan is called *Majlis-i Shura*. In Egypt, the Upper House of the Parliament is called *Shura* Council. In Indonesia, the People's Consultative Assembly is referred to as *Majlis Permusyawaratan Rakyat*, where the word Musyawarat is derived from Shura. In Saudi Arabia, the Consultative Assembly serves as a shura council. The Parliament in Morocco is called the House of Councilors.

Consent and Dissent Through Social Contract (Bay'ah and Hisba)

Another important principle of Islamic governance is the principle of consent. Both the Prophet (Pbuh) and his companions sought the consent of the people. Islamic model of governance employed by almost all Muslims jurists is based on the exemplary state that Prophet Mohammed (Pbuh) founded and ruled in Madina. Some of the principles of this political system include a social contract and consent, constitutional rule, freedom of religion, pluralism and rights of the individuals.[59] The Constitution of Madina (*Dustur al Madinah* or *Mithaq al-Madina*), established the importance of consent and cooperation for governance as the city-state of Madina was governed through consensual relationship between the Prophet and citizens of Medina, both Muslim and non-Muslim.[60]

After *Hijra* (migration) to Madina the Prophet founded the first Islamic state by the first constitutional document in Islam: Constitution of Madina (*Al-Sahifa*, *Dustur al-Madinah* or *Mithaq al-Madina*). *Al-Sahifa,* the written constitution of Madina, was a social contract signed by the Muslim and Jewish tribes of Madina. It was a basic formative political agreement sanctioning co-existences, collective identities, cooperation and solidarity among these tribes. In this contract, the Prophet did not only seek the consent of Muslims but also non-Muslims (the Jewish tribes of Madina), who did not recognize his religious authority but consented to his political authority.

An important aspect of this consent is the pledge of allegiance (*Bai'ah* or *Bay'ah*) to the political leader of the community. *Bai'ah* or *Bay'ah* in Islamic tradition refers to a form of electing or confirming the chief executive, however it is also used in other contexts as well. Ibn Khaldun in *Muqaddimah* defines *bay'ah* as a pledge to obey and indicates that with Bay'ah one accepts the authority of the ruler with regard to his own affairs and of the Muslims in general. The word *bay'ah* means ' a sale, or an exchange of un undertaking, or a deal done. The interactive nature of the word illustrates the contractual and consensual nature of the governance between the ruler and the people. There are two forms of *Bay'ah*. The first is called *bay'ah khassah* (private *bay'ah*), and it is similar to a nomination process through private consultation. The second one is called *bay'ah a'mmah* (public *bay'ah*), that is popular acceptance of the nominee.

Bay'ah is also mentioned in the Quran (Q48:18). *Bay'ah* was also put into practice during the time of the Prophet (Pbuh). There were a number of different pledges taken from the Prophet from his Companions, both men and women, on various occasions and Imam Nasai, a famous scholar and

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[59] Mousalli 2001 p. 30-31.
[60] Muqtedar Khan (2015) "What is Islamic Democracy? The Three C's of Islamic Governance at https://www.e-ir.info/pdf/53823

collector of traditions have enumerated about ten different types of pledges by the prophet.[61] Based on the Quran (60:12), which asks Prophet Mohammed (Pbuh) to accept the pledge of women, as well as the *sunnah* of the Prophet, *bay'ah* includes women as well as men.

The process of *Bay'ah is an* important part of the appointment of the four rightly caliphs as well. After the Prophet's death, his Companions, both *al ansar* (supporters) and *muhajirin* (migrants) held a *shura* to discuss the future of political authority and proposed a number of different options. One option that was suggested was that each group chose an *ameer* (king) to rule jointly. However, during the *shura* Umar ibn Al-Khattāb nominated Abu Bakr and the rest swore allegiance to him was nominated as the new *caliph* and the people swore allegiance to him. After two years of ruling, Abu Bakr nominated Umar and he was elected to be the second Caliph after the community swore allegiance to him. For the third caliph, Umar formed an electoral committee before his death and his son was elected to have the deciding role if there was a tie. After consulting with candidates and the community, he voted for Uthman. After the assassination of Uthman, Ali bin Talib was nominated as the candidate. He refused to have a private *bay'ah* and accepted only the public *bay'ah*. While in each case the procedure was different, consent of the people and consultation was crucial. In each case, "oath of allegiance was a proof that only upon the community's approval did a designated ruler become legitimate."[62]

Another important aspect of consent was that for the ruler to continue to be legitimate, consent had to be continuous and that Muslims have the right to dissent, or oppose the rulers. Basis of dissent is rooted in the Quran (Q5:2). Jurists such as al Ghazali argued that, because the Quran (Q9:112) clearly asks Muslims to "enjoining good and forbidding evil, it is a religious duty to dissent which can be performed individually or collectively.[63] Jurists agreed that failure of *shura* to reach a consensus or majority view gives the opposition a legitimate cause for dissent.[64] Later on, this principle of dissent was institutionalized by jurists as *hisba*, a comprehensive principle which legitimized opposition not only in political and communal areas but also in ethical behavior.[65]

Opposition or challenging the ruler was often an accepted form of expression in Islam during the time of the rightly guided Caliphs. One of the Islamic traditions regarding dissent is the tradition where Caliph Umar, in his capacity as the Caliph ordered no one should demand or pay dowry that exceeded a certain amount and that anything in excess of this amount would be confiscated and deposited in the public treasury. When he came down from the pulpit, a woman confronted him and stated "The Quran set no restrictions on this matter, Umar has no right to set an upper limit to the dowries" and cited the Quranic verse (Q4:20). Immediately Umar said, a woman had challenged Umar and defeated him. In another account, he is recorded to have said "May God forgive me, everyone knows better than Umar, even this old lady."[66]

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[61] Muhammed Nabeel Musharraf (July 2019) *The Principle of Bay'ah explained through 40 Ahadith* Austrialian Islamic Library p. 18
[62] Al-Tabari, *Tarikh*, 3:277; al Mawardi, *Al Ahkam al Sultaniyyah* 7, 15; al Iji, *al-Aqida al Adwiyya*, 304; al Sanhuri, *Fiqh*, 149, and al-Khalidi, *al Ma'alim al Khilafa*, 20-30 cited in Mousalli (2001) p. 35
[63] Mousalli 2001 p. 103
[64] Mousalli 2001 p. 105
[65] Mousalli 2001 p. 105
[66] Narrated in Tirmidhi/Ahmad also Muṣannaf 'Abd al-Razzāq 10420

Right to dissent is also closely related to accountability of the ruler which is an important part of the political system in Islam. *Rashidun* (rightly guided caliphs) have emphasized the importance of accountability on a number of different occasions. For example, Abu Bakr is recorded to have said, "I was made a ruler though I was not the best among you. If I commit any wrongdoing, correct me. Obey me insofar as I obey the Prophet. If I disobey God and the Prophet disobey me."[67]

Box. 11

Exercise:
Based on the Islamic foundations of state and political system discussed in this section, articulate an argument for a legal and political system for your context. In your argument take into consideration: ● What would this system look like? ● What are some basic pillars of a just and fair political system in Islam you would draw from? ● What are some of the key features and institutions of this system? ● Can you think of any examples in practice that reflect these values and principles?

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[67] Cited in Mousalli 2001 p. 35

Negotiating *Huquq al-Insan:* Human Rights in Islam

What is Huquq al-Insan

Although human rights are -mistakenly- considered to be a Western idea, many of its central tenets – such as human dignity, respect and sanctity of life, property and freedom of thought, among others are shared by different cultural traditions, including Islam. Islam views every human being as a perfect creation of God, His representative on the earth, superior to creation as a whole, including angels, and blessed with intellect and free will to be tried by the Creator (put Quranic verses on *fitrah*). Therefore, just by virtue of being a human being, humans have certain basic inviolable rights, which cannot be taken away by any authority and Muslims must respect and protect these rights. These rights, according to Islam are universal as they are accepted by all religions since the time of Adam and constitute the foundation of all legal systems past and present.

Roots of human rights in Islam go back to classical *fiqh* which included the legal term *haqq* (plural *huquq*), which means rights, facts, truth, justice and realities in *fiqh*. In fact, Islamic law (*fiqh*) is unique in that it has developed a concept of Human Rights.[68] Although classical Islamic jurisprudence accepted the inviolable rights of human beings since the time of Prophet Mohammed (Pbuh), Imam Abu Hanifa, the founder of the Hanafi School of Islamic law and his followers are among the first jurists to articulate the idea of universal human rights in Islam by unconditionally granting equal dignity to all individuals by birth, on a permanent and equal basis just by virtue of being a human which cannot be taken away by any authority. Abu Hanifa established the concept of *adamiyyah* (personhood or humanity) and the concept of *ismah* (inviolability), which means that every human being, whether Muslim or not, has the legal right to basic rights *(al-ismah bi al-adamiyya*h). Famous jurist (*faqih*) al-Mawardi (d. 1058) also used the term in his work The Principles of Government when he is discussing the duty of the ruling authority to protect and ensure certain rights of individuals.[69] The sixteenth century Hanafî jurist, Ibn Nujaym defined *haqq* to mean *mâ yastahiqquhû al-insân*, (that to which a person is entitled).[70] The term was used to refer to both duties and rights of the individuals but, even when the term refers to duties it is constructed as 'right upon" or "right against." [71]

Based on the sunnah (see Box. 12**)** Islamic legal system distinguishes two main kinds of rights:

First one is the *Huquq Allah* (Rights of God) and *Huquq Adamiyyin* or also called *Huquq al Ibad*

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[68]B. Breiner, "A Christian View of Human Rights in Islam", in B. Breiner (ed.), Two Papers on Shariah (Birmingham: CSIC Papers 1992). cited in also Baderin (2001) p.86

[69]A. al-Mawardi, Al-Ahkâm al-SultânIyyah (Arabic) 2nd Ed. (1386AH/1966AD) pp.243258. See also English Trans. by A. Yate, The Laws of Islamic Governance (London: Ta Ha Publishers 1996), pp.337362 at 341 cited in Baderin (2001) p. 85

[70]M.A. Baderin (2001) p. 83

[71]M.A. Baderin (2001) p. 83

(rights of humans). In Islamic legal system, *Huquq Allah* refers to those interests that serve the public well-being such as order and security. They represent a public interest upheld by authorities and imposed duties on individuals and governing bodies. Many jurists held that these rights rid the world of evil (*ikhla al-alam an al-fasad*).[72] These rights emanate from duties that God has placed upon every individual as well as upon the state and as such they are more of a ruling of God than a right of God, regarding public rights to which every individual is entitled for being human.[73] These rights are inherent in every individual due to their *fitrah* (original constitution of human beings) therefore they cannot be waived. Because of this, the state has a duty to enforce them for the common benefit of the society.

Second, *Huquq al ibad* or *adamiyyin* on the other hand, refers to the rights of the individuals. Islam places a strong emphasis on rights of individuals and Muslims are warned that there will be a heavy reckoning if they do not respect the rights of individuals. These rights are covered by inviolability axiomatic rights called necessities (*Daruriyyat*), and are foundations of fundamental principles (*usul*) and universal rights (*kulliyat*). Unlike other legal rules, which may change from religion to religion or time frame, these rights cannot be abrogated (naskh) because they are universal and transcend time and space.

Box. 12

Sunnah that is the basis of distinction between *Huquq Allah* and *Huquq Adamiyyin*
Prophet Muhammad was reported to have asked Muâdh ibn Jabal on one occasion whether he knew the right of God upon human beings and the right of human beings upon God. Muâdh answered, God and His Apostle know best. The Prophet then said, God's right upon His servants is that they should worship Him alone and ascribe no partners to Him, and The right of the servants upon God, for doing that, is that He should not punish them.
Source: A.I. al-Shâtibî, Al-Muwâfaqât (Arabic) (Saudi Arabia: Dâr Ibn Affân 1997), Vol.2 and Baderin p. 88-89

There has been difference of opinion among Muslim scholars regarding immutability of Islamic law and universality of human rights. For example, founder of the Hanafi tradition, Abu Hanifa argued that all human beings are inviolable, regardless of their innate, inherited or gained qualities for the sake of humanity. Followers of Abu Hanifa, such as Sarakhsi, Zaylai, Dabusi, Marghinani, Ibn Humam, Bâbartî, Kâsânî and Timurtâshi shared the same opinion and postulated this as: *al ismi bi al adamiyyah*. *Ismah* means inviolability and *adamiyyah* means humanity, personhood, or adamhood.[74] Inviolability arises on account of one's humanity and becomes the basis of a universal law focusing on the rights of human beings as members of humanity, not as a citizen of a particular state. These scholars point out that, if human beings were not granted basic freedoms and protections, their purpose on earth would be unrealizable. Hanafi scholar Burhan al-Din al Marghinani, whose book *al-Hidayah* is the most frequently used and referenced canonical textbook of the Hanafi School of *fiqh*, states that "the right to inviolability is due to humanity *"al-ismah bi al-adamiyyah* and identifies three important characteristics:

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[72]. Ḥuqūq Allāh and Ḥuqūq al-ʿIbād: A Legal Heuristic for a Natural Rights Regime
[73]Baderin p. 88
[74]Recep Senturk (2006) "Sociology of Rights: Inviolability of Other in Islam between Universalism and Communalism" in *Contemporary Islam: Dynamic not Static* A.A. Said, M. Abu-Nimer, and M. Sharify-Funk eds. (New York: Routledge) p. 30.

Box. 13

Famous Hanafi scholar Sarakhsi (d. 1090) on al *ismi bi al adamiyyah*
Upon creating human beings, God graciously bestowed upon the intelligence and the capability to carry responsibilities and rights (person-hood). This was to make them ready for duties and rights determined by God.Then He granted them the right to inviolability, freedom, and property to let them continue their lives so that they can perform the duties they have shouldered. Then these rights to carry and enjoy responsibility, freedom and property exist with a human being when he is born. The insane/child and the sane/adult are the same concerning these rights. This is how the proper person-hood is given to him when he is born for God to charge him with the rights and duties when he is born. In this regard, the insane/child and sane/adult are equal.
Source: Sarakhsi, Usul, p.333-334 in Senturk p.14

1. The only source for the right of violability is being a human;
2. The right to inviolability is granted to all human beings without exception;
3. The right to inviolability is enforced by the state, and violators are punished by predetermined penalties according to Islamic Law.

On the other hand, some of the Shafii, Maliki and Hanbali scholars argue that only Muslims are qualified for the *'ismah'*, by virtue of their faith (*iman*), unless they make a treaty with the Muslim state and secure their protection. Additionally, while the Hanafî and Shâfiî schools of jurisprudence hold that the exercise of rights was absolute, indivisible and cannot be suspended, the Mâlikî school, and other jurists held the view that rights were not absolute and should thus not be exercised to cause injury to others. Historically, the Hanafi school of understanding has been widely influential especially in Indian Subcontinent, Central Asia, Balkans and Turkey.

Despite some of these differences, Muslim jurists from all schools of thought unanimously agree (*ijma*) that, based on the *maqasid* of *Shariah*, there are five cardinal inviolable rights of every human being. Called the necessities or essentials (*darūriyāt*) of life, these five sacred rights include, sanctity of life (*al-nafs*), property (*al-mal*), religion (*al-din*), mind (*al-aql*), and dignity/lineage (*al-ird*). Ibn Taymiyya (d.1328) includes other central Islamic values to *maqasid*, such as justice, virtue, constitutional rights, and scientific excellence among others. Much of the purposes of detailed legal instructions in Islamic law can be traced back to the preservation of one of these areas.

Table. 16

al-Daruriyyat al Khams (Five Necessities)	
Al-Nafs	Right to life. Protecting everyone's right is important and obligatory.
Al-Din	Right to practice one's religion. Religious freedom. Freedom from persecution based on religious faith

Al-Ird	Right to protection of one's dignity and lineage. Protection of dignity includes individual rights to privacy, respectful relations between people.
Al-Aql	Al-Aql or the intellect is a great gift from Allah. Protection of intellect includes the right to utilizing our intellect for the benefit of all. This right is associated with freedom of expression, respect for difference of opinion, among others.
Al-Mal	Right to property is also a fundamental right and must be protected. This means no one should transgress or acquire the property of others forcefully and without the consent of the person.

Within this context, both classical and contemporary Muslim jurists have pointed out *Haqq* (rights) in Islam is closely associated with a number of key Islamic notions and doctrines such *maqasid* (*objectives of law*), the *fitrah* (original constitution of humans), *karamah* (dignity) *maslahah* (public interest), *ihsan and khayr* (doing good), *musawah* (equality), and *taa'wun* (cooperation).

Islamic Principles of Human Rights

Protection of Human Dignity, Life and Freedom through Fitrah and Amana
One of the key Islamic concepts that underlie the Islamic understanding of *huquq ul-insan* is *fitrah* (original constitution of human beings), which affirms the sacredness of human life and recognizes the inherent worth and dignity of each human being. *Fitrah* is the foundation upon which the cardinal rights such as sanctity of life, mind, and honor is built upon as well as the foundation of Islamic understanding of universal morality and human rights.[75] As a result of *fitrah*, cardinal rights established in the *maqasid* must be protected and enhanced.

The Holy Quran tells us every human being is created innocent, pure, true and free, inclined to right and virtue and endued with true understanding about his or her true nature because they are made "in the best of molds" (Q95:4) and states "verily, we have honored every human being" (Q 17:70). *Fitrah* rejects notions of innate sinfulness and recognizes that all humans are related to one another and come from the same pure origin (Q4:1; 6:98). *Fitrah* recognizes the goodness inherent to each and every human being at birth, regardless of religious, ethnic, racial or gender backgrounds (Q 17:70, 95:4, Q2:30–34, 33:72). These verses clearly show that human dignity is granted by God and cannot be taken away by any individual or institution and that "human dignity deserves absolute protection regardless of the person's religion, ethnicity, and intellectual opinion orientation (Q17:70)." As a result, Islamic law prohibits violation of an individual's dignity and whoever feels like their dignity is violated must have a right of redress.

Fitrah establishes that every human being is born free and no one should be coerced or deprived of their liberties. Muslim scholars agree that respect and protection of human dignity cannot be achieved without the sanctity and protection of life. Quranic discourse as well as the *Sunnah* tradition strongly emphasize the sanctity of human life -men and women, Muslim and non-Muslim-. For example, sanctity of life is evident in the Quranic verses such as "if any one slew a

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[75]Sachedina, Abdulaziz Abdulhussein (2009). *Islam and the Challenge of Human Rights*, Oxford University Press USA - OSO, 2009. ProQuest Ebook Central, http://ebookcentral.proquest.com/lib/georgetown/detail.action?docID=472366. P. 38

person - unless it be for murder or for spreading mischief in the land - it would be as if he slew the whole people: and if any one saved a life, it would be as if he saved the life of the whole people. (Q5:32) and "take not life, which Allah hath made sacred, except by way of justice and law:.. (Q6:151). Also, the *Hadith* "One who kills a man under covenant (i.e. a *dhimmi*) will not even smell the fragrance of Paradise" and "Your lives and properties are forbidden to one another till you meet your Lord on the Day of Resurrection," emphasize the sanctity of life of individuals.

Islamic understanding of sanctity of life also includes sanctity and protection of privacy. As it is made clear in the Quran with the verses, "Do not spy on one another" (Q49:12). "Do not enter any houses except your own homes unless you are sure of their occupants' consent" (Q24:27), Islam recognizes the right of every citizen of the state that encroachment on the privacy, interference and espionage on the life of the individual cannot be justified on moral grounds.

Freedom is also closely linked with free will. Quran informs us that human beings possess the faculty of reason, which distinguishes them from the rest of the creation (Q2:30-34) and gives human beings the ability to know right from wrong. This *fitrah* is also what enables human beings to accept the "*trust*" (*amana*) of freedom of will, which no other creature is willing to accept (Q33:72) and as the deputy of God (*Khalifah*) on earth bestows them with the responsibility of protecting and preserving God's creation. According to the Quranic creation story, upon creating the universe, God offered the trust to Heavens, Earth, and the Mountains. But they were afraid to bear such a responsibility and refused but only mankind accepted it (Q 33:72).

This *amana* (trust) is the responsibility of accepting free will, the responsibility of doing good or evil. Therefore, the quality of *fitrah* furnishes each individual with the prospect of being perfect (*insan-i kamil)* as they can choose to follow the path of God as his stewardess (*khalifah*) on earth and strive to bring justice, harmony and peace, thus perfect their humanity; or they can choose their egos, (*al-nafs),* follow their own interests and be unjust and corrupt.[76] As a result of this trust -this covenant between God and human beings-, human beings are appointed as God's deputy on earth. However, this test of free will is only possible within the context of freedom. At this point, it is also important to mention *aman* (safety) is related to *amanah* (trustworthiness) and one who upholds safety and is trustworthy is *amin*. Linking it to *maqasid*, this perspective is supported by Hanafi scholars such as Sarakhsi, Zaylai, Dabusi, Marghinani, Ibn Humam, Bâbartî, Kâsânî and Timurtâshi who held the position that the protection of the six basic rights is necessary because the purpose of God in creating the human family on this earth is "trial" (*taklif*), which cannot be achieved unless the human is free and protected.[77]

Pursuit of justice, equality and fairness through the principle of adl (justice)
Justice, equality and fairness are critical pillars of human rights. These values are absolutely central to Islam and are also the pillars of Islamic law. The Quran addresses the topics of injustice and oppressors in about 320 *ayahs* and commands justice in 54 *ayahs*. In these verses, the Quran constantly reminds Muslims about the value of justice and doing good, which is a Divine command, (Q2:178, Q7:29, and Q16:90) state. Quran clearly states that the aim of religion, in fact the purpose of life, is to bring justice (Q57:25). Therefore, maintaining and pursuing justice (*adl*) is the overriding principle and the purpose of creation, hence it must transcend any consideration

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[76]Kadayifci-Orellana 2007: 103
[77]Baderin p.

of religion, animosity, race, or creed. As a result of its centrality in Islam, over the centuries, many Islamic scholars and jurists have made justice a critical interpretive tool of *tafsir* (exegesis) and *fiqh* and a guiding principle of political, social and economic systems.

Adl and *qist* are the two words used in the Quran to refer to justice. *'Adl* and *Qist*, in their various forms, are used in the Quran about twenty-seven times each. *Al-'Adl* (The Just One) and *Al-Muqsit* (The Upholder of Equity) are two of the ninety-nine attributes of God. These names inform Muslims that Justice and Equity are qualities of God Almighty and assures Muslims that, even though He is All-Powerful and none can challenge His Authority, He deals with all with truth, kindness, justice, and the rights of none will be transgressed on the Day of Judgment.[78]As a reflection of these Qualities Muslims are urged to establish justice and deal with God's creation in a manner that assures equity, fairness and balance and safeguards the rights, property, honor and dignity of all people.[79] Other related words to justice include, *wasat* (moderation), *mizan* (balance), *nasib* (share). This Islamic system of also includes the upholding of equity (*'ihsan*), compassion (*rahma*), fairness and equality (*musawa*) and principles such as the presumption of innocence (*bara'at al-dhimma*) and the prohibition against the use of coercion or compulsion (*man' al-ikrah*).[80] In fact, working towards justice has been viewed as an important part of *ibadat* (worship) and *iman* (faith). For example, Sarakhsi writes that justice constitutes one of the best acts of devotion.[81] Kasani also says that justice is one of the best acts of devotion and one of the most important duties, after *iman*.[82]

Opposite of justice are *zulm,* the arabic word for injustice, cruelty, exploitation and oppression and *jawr*, stepping out of what is right, straying from the right path (*sirat al-mustaqim*) and ending up doing what is wrong. *Zulm* is unmistakably condemned and *zaalim*, a person who commits *zulm,* is strongly chastised in the Quran. God repeatedly warns believers against persecution, aggression, violence and injustice explicitly urges Muslims to be just and treat everyone fairly as there are about two hundred verses in the Quran admonishing those who are guilty of oppression and injustice. For instance, the Pharaoh, or Fira'vun, is chastised in the Quran for being despotic, corrupt, arrogant, and cruel as the following verse (Q28:3-5). God Almighty promises that those who are unjust, who wronged will be duly punished (Q27:52). The Prophet (Pbuh) also has also made it clear that injustice is forbidden. In a *sahih Hadith*, the Prophet is recorded to have said "I have forbidden injustice for Myself and I have made it forbidden among you, so do not wrong one another."[83]

Islamic notion of justice is universal and extends to both men and women, Muslim and non-Muslim, (Q4:135, Q5:8, and Q21:47). God informs Muslims that God himself will be just on the day of Judgement (Q21:47) and God instructs Prophet Muhammad (Pbuh), to be just (Q42:15). These verses show that justice and kindness is more important than kinship, family or tribal

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[78]	Mohammad	Shafi	(2000)	"Justice	and	Equity	in	Islam"	at http://www.daralislam.org/portals/0/Publications/JusticeandEquityintheQuran.pdf
[79]	Mohammad	Shafi	(2000)	"Justice	and	Equity	in	Islam"	at http://www.daralislam.org/portals/0/Publications/JusticeandEquityintheQuran.pdf
[80]Khaled Abou El Fadl "Islamic law, human rights and neo-colonialism" in War on terror' Chris Miller ed. Manchester University Press p. 199
[81]As-Sarakhsi Shams al-Din, Al-mabsut (Cairo: Dar Al-Kutub Al-ÑIlmiyah, 1910), vol, 21, at. 82
[82]Muhammad Muslehuddin, Philosophy of Islam law and the orientalists, (India: Taj Company 1992), at.103.
[83]Al-Adab Al-Mufrad 490 Book 28, Hadith 490 at https://sunnah.com/adab/28/8

relations and it is 'next to piety.'

Conception of Justice in Islam is based on equality. Classical and modern-day Muslim scholars point out that equality is central principle in Islam. For example, al Isfahani states that Justice [*al-adl*] is a term associated with equality [*musawah*] and relates to the innate desire for equality, and in the context of action, it means dealing fairly with others.[84] Majid Khadduri writes that "equality among members of the community is perhaps the principle most empathetically stressed, not only in the narrow legal but the wider social sense as Islam recognizes no distinction on the basis of race, color or class."[85]

Inherent equality between human beings is closely related to Islamic understanding of dignity. Justice and equality are an inherent aspect of *fitrah* and is a result of *amana* (trustworthiness) (Q49:22). The Holy Quran addresses all human beings and shows that all human beings are equal and the most noble or honored ones are distinguished only in terms of *taqwa* (God consciousness), which is reflected in doing good. Furthermore, Muslim scholars such as al-Mawarding and Ibn Abi al Rabi, pointed out that seeking justice and cooperation to achieve it is part of the fitrah.[86]

An important aspect of justice in Islam is legal justice, which implies equal rights for all and is the basic condition of communal life. Legal justice must be guided by the ethical justice embodied in Islamic framework. In addition to being a key interpretive tool, justice in the Islamic legal system focuses on the process as well and provides certain rights to individuals. These issues related to procedural justice include, equality before law, independence of judiciary, due process, presumption of innocence until proven guilty (*bara'at al-dhimma),* right to privacy, and protection from arbitrary imprisonment, among others.

Quranic conception of justice cannot be achieved without an actively, socially engaged community. Therefore, the Qur'an calls Muslims to mobilize and act against injustice, even if a Muslim originates the injustice (Q4:135). *Adl* is closely linked to human responsibility and purpose on earth. As part of their covenant with God, through which they are given the role of the vicegerent of God on earth (*khilafat Allah fi l-Ard* Q2:30), irrespective of their gender, ethnicity and race, humans are responsible for the order on earth. Law, according to Islam is a sacred trust at the core of the covenantal obligation between God and human beings to maintain order are ensure the protection of God's creation. The Holy Quran makes it clear that this responsibility is linked to human being's ability to carry out two prerequisites of exercising God's authority, namely justice and knowledge.[87] Furthermore Muslims are asked to cooperate with each other in doing good and justice and not to cooperate in acts of injustice (Q5:2 and Q9:71).

Therefore, justice (*adl*) is the essential component of political, economic and social system according to the Qur'anic message, and as part of their role on earth as the vicegerent of God it is the responsibility of all Muslims to work towards the establishment of justice for all, including social and economic justice (Q4:135; 57:25; 5:8; 2:178; 2:30; 16:90). So irrespective of their

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[84]Yasien Mohammed (2020)"More than Just Law: The Idea of Justice in the Quran" Yaqeen Institute for Islamic Research at https://yaqeeninstitute.org/yasienmohamed/the-idea-of-justice-in-the-quran/ p. 5
[85]Majid Khadduri (1984) Islamic Conception of Justice (Baltimore: Johns Hopkin University Press) p. 237
[86]Abou el-Fadl (2004) p. 19
[87]Sachedina, (2009). 47-48

gender, religion, ethnicity, and race, Muslims must treat everyone with equality, and fairness. Muslims must struggle to make life on earth just, safe and peaceful because they are responsible for the order on earth as they are God's representatives (Q2:30 and 33:72) on earth. Nasr supports this view when he notes that in the Islamic tradition "human community is judged according to the degree to which it allows its members to live a good life based on moral principles".[88]

Consequently, Muslims are not only asked to resist and correct the conditions of injustice, eliminate all forms of discrimination, oppression, and exploitation which are seen as a source for conflict and disorder on earth (Q27:52), but to establish political and legal systems based on justice. An important aspect of justice in Islam is distributive justice that focuses on economic justice and equitable distribution of wealth. This includes protection of property (2:188) as well as right to a basic standard of life (Q51:19). And the responsibility of ensuring these rights, including distributive rights and taking care of the poor, the destitute and the needy is the government and the head of the Muslim community based on the Hadith: "The Head of state is the guardian of him, who has nobody to support him."[89]

Table. 17

Select *Hadith* and *Sunna* on *Huquq al-Insan*	
Theme	**Hadith/Sunna**
Fitrah	"Every new-born child is born in a state of *fitrah*. Then his parents make him a Jew, a Christian or a Magian, just as an animal is born intact. Do you observe any among them that are maimed (at birth) " *Source: Hanîf, M Sahîh Muslim bisharh al-Nawawî, Book of Qadr, Vol. 16 (al-Matba'at al-Misriyyah bi al-Azhari, 1930) p. 207*
Right to Life	"One who kills a man under covenant (i.e. a dhimmi) will not even smell the fragrance of Paradise" (al-Bukhari and Abu Dawud) *Source: Sahih Bukhari Vol. 9, Book 83, Hadith 49*
Equality	" All mankind is from Adam and Eve, an 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" Source: Last sermon of Prophet Mohammed (Pbuh): https://www.islamreligion.com/articles/523/prophet-muhammad-last-sermon/
Justice	"I have forbidden injustice for Myself and I have made it forbidden among you, so do not wrong one another" Al-Adab Al-Mufrad 490 Book 28, Hadith 490 at https://sunnah.com/adab/28/8 Jabir ibn 'Abdullah reported that the Prophet (Pbuh) said, "Fear injustice. Injustice will appear as darkness on the Day of Rising. Fear avarice. Avarice destroyed people before you and led them to shed one another's blood and to make lawful what was unlawful for them."

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[88] Nasr S. H (2004) *The Heart of Islam: Enduring Values for Humanity*. Harper One, 2004 p. 159-160
[89] Sunan Abu Dawud, al-Tirmidhi

	Al-Adab Al-Mufrad 483 Book 28, Hadith 483 at https://sunnah.com/adab/28/8 The Holy Prophet of Islam said: "A moment of justice is better than seventy years of worship in which you keep fasts and pass the nights in offering prayers and worship to Allah" Source: *Jami'us Sa'adat*, vol. II, p. 223)
Sanctity of Privacy	"When the ruler begins to search for the causes of dissatisfaction amongst his people, he spoils them" *Source: Sunan Abu Dawud*

Rights of Freedom of Religion and Conscience and Treatment of Non-Muslims

One of the central tenets of Human Rights is freedom of religion and conscience. Muslim scholars and jurists agree that principle 'no compulsion in religion' is a central principle in Islam (Q2:256), and point out that forbids forcing others to believe in Islam. Other Quranic verses also emphasize that Islam is not about actions done by force, but rather with someone's own intentional (willful) deeds. The very first thing that Islam disapproves is hypocrisy (the state of a *munaafiq*), that is, acting outward in dishonesty for a purpose, while the inner beliefs contradict with outward actions. For example, the Quran reads: *"They have made their oaths a screen (for their hypocrisy). Thus, they hinder (men) from the Path of Allah. Verily, evil is what they used to do"* (Q63:2). Muslim jurists recognize forcing someone to accept a religion will inadvertently lead to hypocrisy and undermine the religious requirement of sincerity in belief, honesty, and cordiality.

Religious freedom or freedom of conscience is also important as God's plan and purpose. according to the Quran human beings are created equal and are asked to work towards righteousness. Clearly human beings need guidance in this process. From an Islamic point of view, guidance is given in different ways. One source of guidance is religion and the second source is *fitrah*.

First source of Guidance: Religion and Religious Diversity as Divine Plan
Muslims recognize that religion, revealed through different prophets and holy books, aims to help people distinguish right from wrong. Therefore, following a religious path must be based on a conscious decision and sincere faith, therefore it is not universal but voluntary. The Quran explicitly states that the existence of different religions and nations is God's design to be reflected upon (Q49:13 and Q5:48). In fact, Quran states that God will reward not only Muslims but non-Muslims, especially "people of the book" which, initially included Jews, Christians and Sabeans" too (Q2:114, Q42:13, Q22:40, and Q9:6) For Muslims, it is clear that human variety and diversity (in terms of race, gender, religion, and ethnicity) is part of God's blessing, bounty and part of the Divine Project and that God will judge each individual according to his/her righteousness. Therefore, this diversity must be celebrated, respected, and protected.

Second Source of Guidance: Fitrah and Rational Mind
Second source of guidance is the rational mind rooted in *Fitrah*, the original constitution of human beings. According to Islamic tradition every human being is created in accordance with the form and image of God and Divine Names or Qualities, which are manifested in their entirety in the

human form.[90] *Fitrah* reminds Muslims that, irrespective of gender, religion, race, etc., all human beings are created in the image of God, therefore they are all sacred and must be treated as such and Muslims must see the goodness in everyone. *Fitrah* also recognizes the capacity for universal righteousness that can be found among the adherents of other religious traditions, and sets forth a fundamental principle of religious liberty. In contrast to the revealed religion, which is voluntary, a rational mind is universal in the sense that all human beings, irrespective of their race, gender, and religion are bestowed with (Q30:30). As one of the five cardinal rights, the mind (*al-aql*) of everyone must be honored and protected even if they oppose the way we think.

Furthermore, *fitrah* also reminds Muslims that only God knows the heart of a human being, and therefore he is the only judge (*Hakeem*) and guide (*al-Hadi*). Also, the Quran clearly states that God is the true guide and he will guide whomever he wills (Q42:52 and Q16:108). Therefore, it is God who decides who will follow the revealed religion of Islam, discover truth through his *fitrah* or remain unguided, and Muslims must submit to the will of God and accept and respect different religious traditions as God's design and plan. Moreover, the Quran calls the followers of various religious traditions to engage and urges Muslims to conduct any dialogue or even disagreement with others matters in a spirit of gentleness, sensitivity, and good will and never with hostility or violence. (Q3:64) Quran also considers all religious places of worship as sacred and asks Muslims to defend the right of liberty of worship for all (Q22:40).

Treatment of Non-Muslims
Muslim scholars agree that as a result of *fitrah*, all human beings have inherent dignity and that the Quran forbids forced conversion and that freedom of religion is an indisputable Quranic principle. Famous *Hadith*, "One who kills a man under covenant (i.e., a non-Muslim citizen of a Muslim land) will not even smell the fragrance of Paradise," among others, also strong complements this Quranic principle. However, they have disagreed whether Muslims and non-Muslims have the same rights and whether non-Muslims who do not have a treaty with Muslims enjoy equal rights with *dhimmis* (non-Muslims who have a treaty with Muslims and pay a tax called *Jizya*).

The Hanafi school of Islamic law holds that both Muslims and non-Muslims have universally and unconditionally granted rights and liberties granted to all by birth on a permanent and equal basis, by virtue of being a human being. Majority of Shafi, Maliki and Hanbali jurists on the other hand, argue that although *dhimmis* are protected under Islamic law, non-Muslims who do not have an agreement with Muslims do not enjoy the same rights. Still these scholars agree with the Hanafi school that forced conversion is against God's divine purpose and clear command stated in the Quran (Q2:256). Consequently, there is an agreement among Muslim jurists and scholars that compelling (*iqrah*) as a form of actions done by force is disallowed and forbidden. From this perspective "making religious conversion explicit and measurable objective of *da'wah* violates both the prerogative of God, who changes the hearts of human beings, and God-given freedom of choice, without which the call of Islam to faithful submission would be meaningless."[91]

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[90]Al Hakim. Suad "Islam and Peace" Paper presented at the Symposium *Islam and Peace in the 21st Century.* February. Translated by Tara Aziz and Karim Crow (1998) p.5

[91]Abedin, Sayed Zainul, (1989) "Da'wa and Dialogue: Believers and Promotion of Mutual Trust" in *Beyond Frontiers: Islam and Contemporary Needs* (London: Mansell) p. 54

As a result, Muslim jurists concluded that it is prohibited to convert Christians and Jews but assign them a protected status. Under Islamic system, these communities enjoyed practicing their religion freely and had their own autonomous administration. They were free to determine arbitration, and social, legal and religious affairs while Muslims could not. Again, unlike Muslims, they were not required to join the army. If they chose to join the army, they were not required to pay taxes. Their life, money and property were guaranteed safety and they had retirement guarantees. They were allowed to choose their profession, which could include being minister, in charge of armies, or other high-level officials. *Jizya* (poll tax) was collected only from the listed adult males who were physically capable of working. In fact, there is evidence that despite the communal pressure and even threat of excommunication, an increasing number of *dhimmis* preferred Islamic courts instead of their communal court because of their confidence in the court in its handling the cases justly and fairly with patience in the 17th century and onwards.

Therefore, there is no justification in Islam for violating people's rights to existence and movement due to their different religious affiliation (Q42:15), nor there is justification for any discrimination on the basis of faith. On the contrary, Muslims are asked to extend forgiveness, compassion and mercy to all creatures, and most significantly, all human beings irrespective of religion, ethnicity, race, or gender. They are urged to cooperate and engage each other with kindness and gentleness.

Box. 14

Exercise:
Based on the Islamic foundations of huquq al-insan discussed in this section, articulate an argument for a legal and political system that protects human rights for your context. In your argument take into consideration: ● What are some basic pillars of a human rights in Islam you would draw from?   ● What are some of the key features and institutions of human rights in Islam?   ● Whose responsibility is it to project human rights in a Muslim Country?   ● Can you think of any examples in practice that reflect these values and principles?

Table. 18

Select Quranic Verses on *Huquq al Insan*	
Theme	**Verses**
Fitrah	So direct your face toward the religion, inclining to truth. [Adhere to] the fitrah of Allah upon which He has created [all] people. No change should there be in the creation of Allah. That is the correct religion, but most of the people do not know" (Q30: 30).
Guidance Comes from God	And thus have We, by Our Command, sent inspiration to thee: thou knewest not (before) what was Revelation, and what was Faith; but We have made the (Qur'an) a Light, wherewith We guide such of Our servants as We will; and verily thou dost guide (men) to the Straight Way" (Q42:52).

	Such are they whose hearts and ears and eyes God hath sealed. And such are the heedless" (Q16: 108).
Amana	"We did indeed offer the Trust [*amana*] to the heavens and the earth and the mountains, but they refused to undertake it being afraid thereof; but man undertook it. He was indeed unjust and foolish. (Q. 33: 72)"
On Dialogue	Say: O people of the Book! Come here for a word which is in common between you and us: that we worship none but God; that we associate no partners with Him; that we erect not, from among ourselves, lords and patrons other than God" (Q3: 64)
Equality of Human Beings	"Oh mankind! We created you from a single pair of a male and female and made you into nations and tribes that you may know each other. Not that ye may despise each other. Verily, the most honored of you in the sight of God is he who is the most righteous of you. And God as full knowledge and is well acquainted with all things" (Q49:13)
Right to Justice	Do not let your hatred of a people incite you to aggression" (Q5:2). "And do not let ill-will towards any folk incite you so that you swerve from dealing justly. Be just; that is nearest to heedfulness" (Q5:8). "You who believe stand steadfast before God as witness for (truth and) fairplay" (Q4:135). "O ye who believe! The law of equality is prescribed to you" (Q2:178), "My Lord commands to justice" (Q7:29) "God commands justice and good-doing... and He forbids indecency, dishonor, and insolence" (Q16:90) state. "We sent aforetime Our messengers with clear signs and sent down with them the book and the balance (of right and wrong), that men may stand forth in justice." (Q57:25). "We shall set up scales of justice for the day of Judgment, so that not a soul will be dealt with unjustly in the least. And if there be (no more than) the weight of a mustard seed, we will bring it (to account); and enough are We to take account. "(Q21:47) "Now then, for that (reason), call (them to the Faith), and stand steadfast, as thou art commanded, nor follow thou their vain desires; but say "I believe in the Book which God has sent down; and I am commanded to judge justly between you. God is our Lord and your Lord; for us (is the responsibility for) our deeds, and for you for your deeds. There is no contention between us and you. God will bring us together, and to Him is (our) final goal" (Q42: 15)
Universality of Justice	"O ye who believe! Stand out firmly for justice as witnesses to Allah even as against yourselves, your parents or your kin, and whether it be (against) the rich and poor..." (Q4:135);

	"...To fair dealing, and let not the hatred of others make you swerve to wrong and "depart from justice. Be just for it is next to Piety..." (Q5:8); "And we set you up as nations and tribes so that you may be able to recognize each other. Indeed, the noblest among you before God are the most heedful of you" (49:13).
Admonishing oppression/tyranny (*zulm*)	"We recite to you from the news of Moses and Pharaoh in truth for a people who believe. Indeed, Pharaoh exalted himself in the land and made its people into factions, oppressing a sector among them, slaughtering their [newborn] sons and keeping their females alive. Indeed, he was of the corrupters. And We wanted to confer favor upon those who were oppressed in the land and make them leaders and make them inheritors." (Q 28:3-5) Now, such were their houses in utter ruin because they practiced wrongdoing. Verily, in this is a Sign for people of knowledge" (Q27:52).
Right to Life	Whosoever kills a human being without (any reason like) manslaughter, or corruption on earth, it is as though he had killed all mankind And whoever saves a life it is as though he had saved the lives of all mankind (Q5:32) Do not kill a soul which Allah has made sacred except through the due process of law ... (Q6:151)
Right to Basic Standard of Life	And in their wealth there is acknowledged right for the needy and destitute. (Q51:19)
Right to Property	And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly a little of (other) people's property (Q2:188)
Right to Cooperate and not to Cooperate	"Co-operate with one another for virtue and heedfulness and do not co-operate with one another for the purpose of vice and aggression" (Q5:2). "They enjoin what is proper and forbid what is improper" (Q9:71)
Protection of Honor	"You who believe, do not let one (set of) people make fun of another set. Do not defame one another. Do not insult by using nicknames. And do not backbite or speak ill of one another" (Q49:11-12)
Protection from Arbitrary Punishment	No bearer of burdens shall be made to bear the burden of another" (Q6:164)
Sanctity of Privacy	"Do not spy on one another" (49:12). "Do not enter any houses except your own homes unless you are sure of their occupants' consent" (24:27).
Right to protest against tyranny	"God does not love evil talk in public unless it is by some- one who has been injured thereby" (Q4:148).

	"They enjoin what is proper and forbid what is improper" (Q9:71).
Right to participate in the affairs of the state	"God has promised to appoint those of you who believe and do good deeds as (His) representatives on earth" (Q24:55). "And their business is (conducted) through consultation among themselves" (Q42:38).
Freedom of Conscience and Conviction	"There is no compulsion in religion. Truth stands out clear from error: whoever rejects evil and believes in Allah hath grasped the most trustworthy handhold, that never breaks" (Q2:256) "Do not abuse those they appeal to instead of God" (Q6:108). "Do not argue with the people of the Book unless it is in the politest manner" (Q29:46)
Diversity as Divine Plan	"O mankind! We created you from a single (pair) Of a male and female, and made you into Nations and tribes, that Ye may know each other (Not that ye may despise Each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you." (Q49: 13) "To thee We sent the Scripture in truth, confirming the scripture that came before it, and guarding it in safety: so judge between them by what God hath revealed, and follow not their vain desires, diverging from the Truth that hath come to thee. To each among you we have prescribed a law and an open way. If God had so willed, He would have made you a single people, but (His plan is) to test you in what He hath given you: so strive as in a race in all virtues. The goal of you all is to God; it is He that will show you the truth of the matters in which ye dispute" (Q5: 48) "Those who believe (in the Quran) and those who follow the Jewish (scriptures) and the Christians and the Sabaeans, any who believe in Allah, and the Last Day, and work righteousness, shall have their reward with their Lord, on them shall be no fear, nor shall they grieve (Q2: 114) "The same religion has He established for you as that which He enjoined on Noah - that which we have sent by inspiration to you- and that which we enjoined on Abraham, Moses, and Jesus: Namely, that ye should remain steadfast in Religion, and make no divisions therein." (Q. 42: 13) "If one of the idol worshipers sought safe passage with you, you shall grant him safe passage, so that he can hear the word of God, then send him back to his place of security. That is because they are people who do not know." (Q9: 6)
Sacredness of Religious Sites	"Did not Allah check one set of people by means of another, there would surely have been pulled down monasteries, churches, synagogues, and mosques, in which the name of God is commemorated in abundant measure" (Q 22: 40).

Negotiating Gender Justice In Islam

Gender Justice

Gender refers to how a society characterizes women and men in terms of norms, roles and relationships between men and women in a given society. These characteristics and relations between men and women differ from society to society and within the same society. These characteristics and relations are informed by class, age, economic and social context, educational background, and religious and cultural traditions and may change over time as a result of social, economic and political pressures or changing contexts.

In many societies, women and girls experience discrimination and inequality and their rights are often nor respected. Muslim communities are no exception. Some of these inequalities include income disparities, unequal access to health, education, health care, employment opportunities and decision-making. Exclusion and restrictions based on gender not only deprives individuals of their God-given dignity and honor but also has serious socio-economic and political consequences. For instance, women and girls comprise half of the society and restricting women and girls' economic and educational rights prevents countries from becoming prosperous and independent. Whereas countries who invest in women and girls see positive results such as alleviation of poverty, lower infant, child and mother mortality rates, stronger economy, improvement of family health and overall welfare, faster recovery and less dependency of foreign aid, among others.

Discrimination and unequal treatment of individuals because of their gender go against Islamic principle of justice (*adl*). As the main objective of religion and law (*maqasid al-shariah*), justice (*adl*) is central to Islam. Gender justice is an integral component of Islamic tradition supported by the Holy Quran as well as the *Sunnah*. The Quran states that every human being, men and women, are created in "the best of molds" (Q95:4) and must be honored (Q17:70). Therefore, all humans, irrespective of their gender are equal before God and deserve equal appreciation of their worth and value. However, Islam goes further than recognizing equality and calls for equity by recognizing that each individual or group have unique needs and gifts that must be acknowledged and addressed. Equality means that each individual, or group is given the exact same resources and opportunities without paying attention to their different needs and circumstances. Equity, on the other hand, recognizes each individual may have different circumstances, particular needs and unique gifts and refers to a process that allocates resources, opportunities to address them to reach an equal outcome. This process is not necessarily the same, but it is just and fair. Gender justice in Islam emphasize the equal value and importance of women, girls, men and boys and equity in treatment of all people, regardless of their status, race, gender, and ethnicity.[92] Any form of discrimination towards women is not only detrimental to the society but is also against God's will.

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[92] Islamic Relief Gender Justice Policy at https://www.islamic-relief.org/gender-justice

Gender Justice in the Quran and Hadith

Gender justice and equality between men and women in Islam is well-established in the Quran and is informed by Islamic principles such as *maqasid*, *adl*, *fitrah*, *amana* and *khalifah*. Women's equality and rights are not only natural extensions of these principles but are explicit injunctions in the Quran and the *Sunnah*. In the Holy Quran, God Almighty addresses both men and women directly, and postulates equity and complementarity between them. In fact, it is recorded that Hind bint Abi Umayya (Umm Salama) asked the Prophet (Pbuh) "Why are men mentioned in the Qur'an, and why are we not?" In response to her question, Allah (SWT) answered (Q33:35) that both men and women are equal and is not sex that determines who earns his grace; it is faith and the desire to serve and obey him,[93] providing an example of a woman who demonstrated her concern for women's place in public and sought an answer from God. The Holy Quran makes it clear that its message is for both men and women as the Quran mentions *al-nisa* (women) 57 times, more than *rijal* (men).

Many verses in the Quran emphasize that the man and women come from the same source, are equal and that they will be judged according to their righteous deeds. The Quran also tells Muslims that men and women are equal, have similar rights (Q2:228, and Q3:195) and share equal moral responsibilities (Q9:71).

Equality of women and men is evident, for instance, in the Quranic creation story. he Quranic narrative tells us that "from the very beginning the human couple shared everything as equal, whether it was the divinely taught ability to restore oneself with God through repentance after having fallen short in one's religious performance, or whether it was in the performance of ethical duties as free agents of God with equal endowment of moral cognition and capability to execute a decision, right or wrong, and face the consequences accordingly."[94]

According to the Quran, Adam and Eve are created from the same being (*nafs wa'hida*) and have mutual rights (Q4:1) In this verse, as well as in verse (Q49:13) God informs human beings that they are all created from a single source, and that they all come from this one soul and are equal. The Quran also tells us that both Adam and Eve were tempted by Satan and they were equally held responsible for falling into temptation. These verses recognize their deeds as equally worthy, and state that they are 'of one another', meaning equal in the sight of God, and inform them that they will be rewarded equally (Q3:195, Q 4:124, 16:97, Q33:35).

Based on these verses, "the Qur'anic commentaries reveals with much clarity and certainty that the Qur'an treats man and woman as fundamentally equal, with no modifying adverbs such as "spiritually" equal but "socially" unequal", and "gender justice can be asserted as a decisive feature of the Qur'anic proclamation that cannot be overturned by any hermeneutic move, however intellectually compelling, against its explicit text to that effect."[95]

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[93] Mernissi, F. (1991). *The veil and the male elite: a feminist interpretation of women's rights in Islam.* (ft 12 p, 70) see also Fatima Mernissi (1990) *The Forgotten Queens of Islam* (Minneapolis: University of Minnesota Press p. 119
[94] Sachedina (2009) p. 132.
[95] Sachedina, Abdulaziz Abdulhussein. *Islam and the Challenge of Human Rights*, Oxford University Press USA - OSO, 2009. ProQuest Ebook Central, https://ebookcentral.proquest.com/lib/georgetown/detail.action?docID=472366 p. 132

Women in the Quran

The Holy Quran specifically mentions that women, like men, have rights. For example the first verse of Surah *al Nisa* stated above includes a clear declaration that both men and women have rights clearly indicating that there is no superiority of one over the other which states "...through whom ye demand your mutual (rights), and (reverence) the wombs (That bore you): for God ever watches over you." (Q4:1). It is also significant, in *Surah* 58, which is named as *Al-Mujadala*, translated as 'She that Disputed' or 'Pleading Woman,' Quran is responding to a woman who complained to God Almighty about her husband, who mistreated her. While the Quran does not mention her name, according to the *Sunnah*, she was Khawlah bint Tha'labah. In addition to recognizing her complaint, in the verses that follow, the Quran restores her rights. An examination of court documents in Muslim countries over the centuries show that Muslim women often sought their rights at Islamic courts successfully.[96]

Based on these verses, it is clear that the Qur'an treats man and woman as fundamentally equal, with no modifying adverbs such as "spiritually" equal but "socially" unequal" and that "gender justice is a decisive feature of the Qur'anic proclamation.

While only Mary, mother of Prophet Isa (Jesus, Pbuh) is mentioned by name, The Quran explicitly mentions a number of different women and praises them as role models for both men and women. Each of these women represent a different aspect and role women play in society. These women include Eve (Hawa), who is created by Allah (SWT) together with Adam to live in Paradise. In the Quran, Eve is not the instigator but equally compliant in the sin as well as in the punishment and atonement. For example, Mary, mother of Prophet Isa (Jesus, Pbuh), who is the only woman mentioned by name, is mentioned seventy times in various verses and has a whole *surah* (chapter 19) dedicated to her. In addition to being a mother of a Prophet, Quran mentions that she is a sign from God and is chosen above all others (Q21:91) and was an exemplary woman who was surrounded by Divine Grace. Two other women that play an important role in the Quran are Sarah (mother of Isaac) and Hagar (mother of Ismael) (Q11:71-72). Especially the story of Hagar and her struggles in the desert play an important role in Islamic narrative.

Other women that play important roles include wife of Yusuf's master (Zulaykha) (Q12:51), mother and sister of Moses (Pbuh) (Q28:7, 10), wife of Moses (Pbuh) (Q28:23, 26-27), wife of Moses (Asiyah), Queen of Sheba (Bilqis) (Q27:22-44), wife and daughter of Lot (Lut), wife of Noah (Nuh)wife of Imran (Q3:35-36), wives and daughters of Prophet Mohammed (Pbuh), women who complained to God about her husband (Khawla bint Tha'labah) (Q58), and wife of Abu Lahab.

Women's Rights in Islam

Founded on the Quranic verses and *Sunnah*, Islam empowers women with many rights, were unheard of in the 7th century. In fact, "The place of women accorded in Islam is the liberating

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[96] For examples see Judith E. Tucker (1998) In the House of The Law: Gender and islamic Law in the Ottoman Syria and Palestine (Berkeley: California University Press)

starting point for the majority of Muslim women."[97] This is significant because during Jahiliyyah, period of ignorance prior to Islam, women and were often treated with disrespect and girls were buried alive. These practices were condemned explicitly in the Quran (Q16:58-59) and the *Sunnah*.

The Holy Quran specifically mentions that women, like men, have rights. For example, the first verse of Surah *al Nisa* stated above includes a clear declaration that both men and women have rights clearly indicating that there is no superiority of one over the other which states "...through whom ye demand your mutual (rights), and (reverence) the wombs (That bore you): for God ever watches over you." (Q4:1). It is also significant, in *Surah* 58, which is named as *Al-Mujadala*, translated as 'She that Disputed' or 'Pleading Woman,' Quran is responding to a woman who complained to God Almighty about her husband, who mistreated her. While the Quran does not mention her name, according to the *Sunnah*, she was Khawlah bint Tha'labah. In addition to recognizing her complaint, in the verses that follow, the Quran restores her rights.

Since its the earliest days of Islam women enjoyed their God-given rights and have participated in social, political, economic, and intellectual life in Islam as poets, Islamic scholars and spiritual teachers, warriors, heads of state, businesswomen, among other positions. Women's active roles in the society have been based on Quran verses and models as well as the models provided by Prophet Mohammed's wives, daughters and other companions of the Prophet. In fact, the first person to hear about the revelation, first person to believe and become a Muslim was his wife, Khadijah bin Khuwaylid. First Muslim martyr was a woman named Sumeyya, who refused to concede to torture and abuse, have informed and inspired many of these roles. An examination of court documents in Muslim countries over the centuries show that Muslim women often sought their rights at Islamic courts successfully.[98]

Right to Political Participation

One of the contentious issues in current political debates in the Muslim world revolves around the issue whether women can participate in politics, if so to what extent? Can they run for office, hold the highest office in the country? Since the time of the Prophet (Pbuh), women, of whom Aisha is most well-known, played important roles in the political life of the community. They have advised the Prophet and his companions, participated in decision making on key issues, fought and led armies on the battlefield. Therefore, it is clear that Prophet Muhammad (Pbuh) "recognized the women as free and participating citizens of the new and militant state."[99]

Both Quranic and historic examples show that Islam endows women with political rights as well. According to the Holy Quran both men and women have received the Divine trust (*amana*) and are representatives (*Khalifah*) of God on Earth (Q6:165). As a result of this trust, both men and women are stewards of God on earth and are obligated to work together as allies to 'enjoin what is right and good and forbid what is evil and wrong"(Q9:71). In these verses, God commands both

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[97] Yasmin Saikia and Chad Haines (2015) "Introduction: Situation Peace, Islam and Women in Everyday" inWomen and Peace in the Islamic World: Gender, Agency and Influence Yasmin Saikia and Chad Haines eds. (London: IB Tauris) p.9

[98] For examples see Judith E. Tucker (1998) In the House of The Law: Gender and islamic Law in the Ottoman Syria and Palestine (Berkeley: California University Press)

[99] Abbott, Nabia. 1942a. Women and the State in Early Islam. Journal of Near Eastern Studies, 1(1), 106-126 p. 119

women and men to work together as allies -- to be in a mutually supportive cooperation-, doing good and forbidding the bad. As discussed earlier, pursuing justice, and establishing just social economic and political systems are considered central in Islam. Therefore, in the context of Islamic understanding of 'doing good (*al-ma'ruf*) and forbidding evil (*al-munkar*),' which is reiterated a number of different times in the Quran, it is the responsibility of Muslims to take part in all aspects of the community to establish just systems – which is the realm of politics.

Political participation, through voting and serving, among others is a key element of this responsibility. For example, voting is a kind of advice, it is through voting that the community members express who they chose which includes commanding the good and forbidding the bad. The same applies to the *bay'ah* of women. We know from the Quran (Q60:12) and the *Sunnah* that women pledged their allegiance to the Prophet. Women also participated in *shura's* and were often asked their opinion and advice. The Quran asks both men and women to take mutual counsel (Q65:6). The Prophet and his companions often consulted and took the advice of women. For example, the Prophet consulted his wife Umm Salamah and acted on her advice in the truce of Hudaybiyyah. Again, during the expedition against the tribe of Banu Qurayza, Umm Salama intervened in a case involving the liberation of a political prisoner. The source does not say that she sought the liberation of the prisoner but that her intervention influenced decision makers and their actions.[100] These examples show that Umm Salama's influence extended beyond the private and family affairs of herself and the Prophet. As a result of these and other examples, Muslim scholars such as Muhammad Asad conclude that "the legislative assembly-. . . *majlis ash-shura-* must be truly representative of the entire community, both men and women.

Additionally, the Holy Quran provides an example of a woman, Queen of Sheba, who was given authority and wisdom, and praises her for the consultative way she managed her own affairs and the affairs of her people (Q27:22-44). It is significant to note that Queen of Sheba, often referred to as Balqis in the Islamic tradition, is described in the Quran in the same way as that of Prophet Sulaiman (Pbuh). The Holy Quran praises Queen of Sheba for leading consultatively and asking advice from her community (Q27:32-33). In these verses the Quran uses the Arabic expression "*tamlikuhm*" in this verse describes her status which comes from the root "mlk" meaning: to own something[101] which suggests that she had a powerful authority over her people and stating that she was given everything suggests she has a very high rank. What is even more significant, she notes, is that, in the same *Surah*, the Quran describes Prophet Sulaiman with the same words, as someone who, "has been given from everything" (Q27:16). Use of the same words to describe both Prophet Sulaiman and the Queen of Sheba clearly points to the egalitarian message of the Quran.

Women have been involved in political leadership – including militaries throughout Islamic history. One of the most famous examples is A'ishah bint Abu Bakr, wife of Prophet Monammed and daughter of first Caliph Abu Bakr, who led an army against Ali, the Fourth Caliph at the Battle of Camel. It is significant that, when she sought supporters against Ali, many tribes agreed and fought under her leadership. However, after that, women's political leadership have been discouraged by some scholars and a weak *Hadith* narrated by Abu Hurayra, which stated "Those

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[100] Mernissi (1991) p.162

[101] Abla Hasan (2016) "The Queen of Sheba: Would Rethinking the Quranic Story Support Female Public Leadership in Islam? Journal of Gender and Feminist Studies No. 7 pp. 190- 196 at http://www.analize-journal.ro/library/files/8_-_abla_hasan.pdf

who entrust their affairs to a woman will never know prosperity" was used to justify exclusion of women from leadership roles. Other classical *fiqh* experts such as al-Tabari, al-Muzani and Ibn Tsaur have concluded that in *fiqh*, women's leadership—especially in politics—is permissible and that women could become leaders in both public and domestic affairs. Based on his examination of the Quran, and the Hadith tradition, al-Azhar scholar Yusuf al-Qaradawi (b. 1926) stated "a woman can be a candidate for presidency as well as appointment as a judge as there is no explicit text that prohibits women from carrying out either role (al-Qaradawi, 1997)."

There have been numerous Muslim women who held political power, some jointly with their husbands, others independently. The best-known women rulers in the premodern era include Khayzuran , who governed the Muslim Empire under three Abbasid caliphs in the eighth century; Malika Asma bint Shihab al-Sulayhiyya and Malika Arwa bint Ahmad al-Sulayhiyya , who both held power in Yemen in the eleventh century; Sitt al-Mulk , a Fatimid queen of Egypt in the eleventh century; the Berber queen Zaynab al-Nafzawiyah (r. 1061 – 1107); two thirteenth-century Mamluk queens, Shajar al-Durr in Cairo and Radiyyah in Delhi; six Mongol queens, including Kutlugh Khatun (thirteenth century) and her daughter Padishah Khatun of the Kutlugh-Khanid dynasty; the fifteenth-century Andalusian queen Aishah al-Hurra, known by the Spaniards as Sultana Madre de Boabdil; Sayyida al-Hurra , governor of Tetouán in Morocco (r. 1510 – 1542); and four seventeenth-century Indonesian queens.[102]

In the contemporary era, women have again assumed leadership roles in the Muslim world. Muslim countries that had women presidents or prime minsiters include Pakistan, Bangladesh, Turkey, Senegal, Indonesia, Kyrgystan, Kosovo, Mali, Northern Cyprus, Mauritius and Singapore. Most recent country to be added to list is Tanzania with Samia Suluhu becoming the first Muslim women president of the country on March 19, 2021. In 2018 a record number of women have been elected in Bahrain's elections with a total of six women being voted in as legislators on the Council of Representatives. Women also play an important role in political life in Somalia. In January 2021, Prime Minister of Somalia affirmed that 30% of seats will be reserved for women in the parliament and as of March 2021, Somali women are present in the leadership positions with Dr. Fawziya Abikar heading the Federal Ministry of Health and Human Services and Hanifa Mohamed Ibrahim leading The Ministry of Women and Human Rights Development.[103] UAE has ranked number one in a global ranking for women in parliament in the female parliamentary representation index of the IMD World Competitiveness Yearbook 2020 with 50% of its 40 member Federal National Council being women. This development was the result of the 2019 directive which aimed to increase the representation of women in the Federal National Council to 50 per cent.

Right to Education

Education is not only a fundamental right but als is key to social and economic prosperity, individual and community health and well-being of every society. Education is more than just the ability to read and write. It is a process of acquisition of knowledge, skills, and values in a variety of different areas that enables individuals to contribute to the social, economic and political well-

[102] Mernissi, F. (1991). *The veil and the male elite: a feminist interpretation of women's rights in Islam.* (ft 12 p, 70) see also Fatima Mernissi (1990) *The Forgotten Queens of Islam* (Minneapolis: University of Minnesota Press) and Kadayifci-Orellana

[103] Relief Web https://reliefweb.int/report/somalia/let-somali-women-lead

being of their communities in meaningful ways. A society that does not invest in education can not develop and prosper. However, still in a number of countries, including Muslim countries, many adults, majority of which are women do not have access to education and there is a big gap between the literacy rates of women and men. Problem of illiteracy and its complications cast a heavy shadow on social life and have quite serious social and economic consequences.

In Islam, women do not only have the right to education, but like men, are obligated to increase their knowledge and pursue it. In the Quran, God orders both men and women to increase their knowledge and condemns those who are not learned. The Holy Quran puts the highest emphasis on the importance of acquiring knowledge and with more than 800 references to the word ilm (knowledge) and its derivations, it urges mankind to think, ponder, reflect and acquire knowledge.

The very first revelation that came down to Prophet Mohammed (Pbuh) starts with the word read (Q96:1-5). The Holy Quran makes it clear that, only through knowledge people will know God and his creation and distinguishes those who know from those who do not. For instance, in (Q39:9) Quran says, "Are those who have knowledge equal to those who do not have knowledge?"

Obligation to study for women and men is also confirmed by the *Hadith* and *Sunnah* (See Tables 19 and 20). In fact, the first school in the history of Islam was established by the Prophet (Pbuh) himself following the battle of Badr. During the battle, seventy men from the enemy ranks were taken prisoner. These prisoners were literate people who could read and write well. In order to benefit from their education and knowledge, the Prophet told them to teach Muslim children. He declared that, if each prisoner taught ten Medinan children, both girls and boys, how to read and write their ransom would be paid and they would be set free.

Since the early years of Islam, learned women enjoyed a high public standing and authority.[104] The Prophet (Pbuh) himself made an effort to educate women and girls and encouraged his wives and daughters to learn and be educated. He would hold classes for women and women were often present in the public assemblies that came to learn from the Prophet (Pbuh). Women in his household received education not only in Islamic sciences but in other fields such as medicine, poetry, mathematics, among others. For example, Aisha bint Abu Bakr was a very learned woman, who is known for her scholarly and inquisitive personality. Since the early years of Islam, learned women enjoyed a high public standing and authority.[105] Women studied many different topics including Quranic and Hadith studies.

Education of women has significantly contributed to the social, economic and political success of their communities in the Muslim world over the centuries. Women have been important in preserving and transmitting the customs of the Prophet and his family. Transmission of *hadith* is a serious endeavor for Muslims, as it is the second source of Islamic law and the foundation for other fields of knowledge. After the death of the Prophet Muhammad in 632, the guidance of his wives Hafsa, Umm Habiba, Maymuna, Umm Salama, and A'isha were critical to understanding and practicing the life of the Prophet and maintaining it in the historical memory of the Islamic community (*ummah*).

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[104] Mohammad Akram Nadwi (2007) al-Muhaddithat: The Women Scholars in Islam – By Mohammad Akram Nadwi (London: Interface Publications)
[105] Nadwi (2007)

A'isha, particularly in Sunni Islam, is a pivotal figure in preserving *hadiths,* as she is recognized as one of the earliest reporters of the largest number of *hadiths,* and as one of the most careful interpreters of *hadith.* Abu Misa al Ashar reports that "Whenever we Companions of the Prophet encountered any difficulty in the matter of any *hadith* we referred it to Aisha and found that she had a definite knowledge about it."[106]Believers used to come to A'isha for verification of what they had heard, confident in her judgement, not only because of her closeness to the Prophet, but because of her own abilities '. A'isha was, among all the people, the one had he most knowledge of *fiqh*, the one who was the most educated and, compared to those who surrounded her, the whose judgement was the best. [107]

In addition to her contributions to Hadith, A'isha's intellect and knowledge in various subjects, including poetry and medicine, were highly praised by early scholars and companions of the Prophet (See Box. 15). A'isha is also known for being a strong advocate for the education, especially education of women in law and the teachings of Islam. She was known for establishing the first madrasa for women in her home, where both men and women attended. Aisha received the title Mother of Muslims because she dedicated her life to educating Muslim children, particularly girls. She was also known as an excellent orator and public speaker.[108]

Women continued to be important in hadith literature throughout Islamic history, and authoritative *hadith* collections, such as Sahih Bukhari, could not have been completed without the efforts and contributions of many women. Women scholars of *hadith* were called *al-Muhaddithat.* Sunni scholar Mohammed Akram Nadwi, in his work al-Muhaddithat identifies over 8000 women scholars of hadith throughout Islamic history filling 40 volumes. Women scholars often attained high rank in all spheres of knowledge of the religion, and were sought after for their *fiqh*, for their *fatwas*, and for *tafsir* and taught both men and women.[109] In sufi circles too, women were recognized as teachers, adherents, "spiritual mothers," and even inheritors of the spiritual secrets of their fathers. Women also traveled extensively to study and to increase their knowledge.

In addition to Islamic sciences, women also studied other topics. For instance, women excelled in the fields such as science and technology since the early days of Islam. For example, Amat-Al-Wahid Sutaita Al-Mahamli (d. 987) from Baghdad was a Muslim woman who excelled in many fields including Arabic literature, hadith, and jurisprudence as well as mathematics. She was known to be an expert in *hisab* (arithmetics) and *fara'idh* (successoral calculations), and have invented solutions to equations and was praised by leading scholars of her time such as Ibn al-Jawzi, Ibn al-Khatib Baghdadi and Ibn Kathīr.[110] Similarly Lobana (or Lubna) of Cordoba was another 10th century Muslim woman who was recognized for her knowledge and expertise in sciences, especially in solving complex geometrical and algebraic problems. As a result of her

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[106] See Zakir Naik, "Women's Rights in Islam: Modernization or Outdated?" *Islamic Voice,* vol. 10–11, no. 129 (October 1997), available at http://www.islamicvoice.com/october.97/wome.htm (accessed November 24, 2009).

[107] Mernissi, F. (1991). *The veil and the male elite: a feminist interpretation of women's rights in Islam.* (ft 12 p, 70) Retrieved from https://hdl-handle-net.proxy.library.georgetown.edu/2027/heb.04417.

[108] Amina Wadud, "Legacy of Aisha," *New Internationalists,* no. 345 (May 2002), available at http://findarticles.com/p/articles/mi_m0JQP/is_2002_May/ai_87424387 (accessed November 24, 2009).

[109] Nadwi (2007) p. 3

[110] Salim al Hassani (March, 2018) "Early Women of Science, Technology, Medicine and Management" in Muslim Heritage at https://muslimheritage.com/early-women-of-science/

expertise she served as the private secretary to the Umayyad Caliph of Islamic Spain, al-Hakam II.[111] Also Maryam Al-Ijliya (d.967) was a known astrolabe maker in Northern Syria, whose innovative designs were recognized by city's ruler Sayf al Dawla and she is mentioned in Ibn al-Nadim's bibliographical work *Al-Fihrist*.[112] Also, Rabia Balkhi of Afghanistan, who lived in the 9th century is considered to be the first woman to have written poems in modern Persian and was very famous for her beautiful poetry.

Many women were founders or patrons of schools and other educational institutions. For example, University of Al-Qarawayyin, was founded by Fatima Al Fihri, in 859 AD in Fez Morocco. Al-Qarawayyin university is recognized as the oldest continuing university in the world by UNESCO and Guinness World Records. Al-Qarawiyyin University was a famous center of learning, leading in sciences, philosophy and Islamic studies where Muslim and Non-Muslims scholars such Muslim philosopher Ibn Rushd, Jewish philosopher Maimonides, and Pope Sylvester II, who is said to have introduced the Arabic numerals to Europe have studied. Dhayfa Khatun (d.1242) was another Muslim woman, who, in addition to her political and social roles, sponsored learning in Aleppo where she founded two schools; al-Firdaous School specializing in Islamic studies and Islamic law, specially the Shafi'i doctrine, located close to Bab al-Makam in Aleppo and the Khankah School, specialized in both Shariah and other fields, located in Mahalat al-Frafera.

Box. 15

Muslim Scholars on A'isha's contribution to Islam as a source of religious knowledge
Shafi Scholar Zarkashi reports: "A'isha is the Mother of the Believers…. She is the lover of the Messenger of God… She lived with him for eight years and five months. She was 18 years old at the time of the death of the Prophet… She lived to be 65 years old… We are indebted to her for 1,210 *Hadith* (1) Abu Misa al Ashar reports that: "Whenever we Companions of the Prophet encountered any difficulty in the matter of any *hadith* we referred it to Aisha and found that she had a definite knowledge about it."(2)
Sources: *(1) Mernissi, F. (1991). The veil and the male elite: a feminist interpretation of women's rights in Islam. (ft 34, p, 77) Retrieved from https://hdl-handle-net.proxy.library.georgetown.edu/2027/heb.04417. Mernissi* *(2) Zakir Naik, "Women's Rights in Islam: Modernization or Outdated?" Islamic Voice, vol. 10–11, no. 129 (October 1997), available at http://www.islamicvoice.com/october.97/wome.htm (accessed November 24, 2009).*

[111] Salim al Hassani (March, 2018)
[112] Nageen Khan (nd) "Astrolobes and Early Islam: Mariam "Al-Astrolabia" Al Ijliya at https://www.whyislam.org/muslim-heritage/

Box. 16

Successful Examples of Girls Education in Muslim Countries
While there are systemic inequalities regarding girls and boy's education, and girls lag behind boys in school attendance exist, virtually many more girls are receiving education in Muslim countries. Some Muslim countries are even about to close any gaps. **Turkey** is very close to eliminating the gender gap in schooling. In Kuwait, **UAE, Bahrain, Libya** more girls are in secondary school than boys. In **Malaysia**, boys are lagging behind girls at almost all levels of education as Malaysia prioritized education for all. Amongst predominantly Islamic countries **Tunisia, UAE,** and **Indonesia** have some of the highest female literacy rates[113] with 96.1 percent in **Tunisia**[114] and 92.1 percent in **Indonesia**[115], and 95.8 percent in **UAE** — a statistic unheard of in multiple regions of the world.[116] **Bahrain, Kuwait**, and **Libya**, girls have a higher school participation rate than boys, and girls drop out less in primary school than males in these countries. The percentage of women pursuing an education in Science, Technology, Engineering and Mathematics (STEM) fields is higher in the **Middle East** in comparison to the **West**.[117] According to 2015 data from UNESCO, regional averages for the share of female researchers are 39.8 percent for Arab states and 32.3 percent for North America and Western Europe.[118] The National Science Foundation in the US is funding a $589,200 study to identify the mechanisms that motivate women to pursue degrees in engineering in **Jordan, Malaysia, Saudi Arabia** and **Tunisia**, where participation rates by women are as high as 50 percent. In the U.S., approximately 15-20 percent of engineering students are women. (1) In the UAE, women make up 70 percent of all university graduates and 56 percent of the **UAE**'s graduates in STEM courses at government universities are women. At the prestigious Masdar Institute of Science and Technology in Abu Dhabi, 60 percent of Emirati graduate students are female. Over the last few years, **Egypt** has been redesigning the education system to reach girls to provide quality education. In **Egypt**, there are more females in various fields than men, for instance, female enrollment in the fields of education (72%), humanities (72%), and arts (73%), basic sciences (54%) and medicine (57%).(2) In 2017 King Salman bin Abdulaziz Al Saud of **Saudi Arabia**, granted women access to government services, including education and healthcare without the need for consent from a guardian. Saudi Arabia's Princess Nora Bint Abdulrahman University is the world's largest female-only university. The King Abdullah University of

[113] UNICEF Tunisia at https://www.unicef.org/tunisia/

[114] Borgen Project https://borgenproject.org/top-10-facts-about-living-conditions-in-tunisia/

[115] Borgen Project https://borgenproject.org/top-10-facts-about-girls-education-in-indonesia/

[116] Borgen Project https://borgenproject.org/girls-education-in-tunisia/

[117] Rana Dajani , Sonali Dhawan, and Sara M. Awad (May 2020) The Increasing Prevalence of Girls in STEM Education in the Arab World: What Can We Learn? In Sociology of Islam Volume 8: Issue 2

[118] Rana Dajani , Sonali Dhawan, and Sara M. Awad (May 2020) The Increasing Prevalence of Girls in STEM Education in the Arab World: What Can We Learn? In Sociology of Islam Volume 8: Issue 2

Science and Technology (KAUST) in Jeddah is **Saudi Arabia**'s first coed university. According to the Ministry of Education, as of 2015, Saudi women constitute 51.8 percent of university students.

Sources:
(1) *Adriana Aumen, and Emil Venere (2016) "Learning from Muslim countries with many women engineers" at* https://news.wsu.edu/2016/09/06/learning-muslim-countries-produce-women-engineers/
(2) *Nagwa Megahed (2010) "Access to the University and Women's participation in Higher Education in Egypt at* https://www.mei.edu/publications/access-university-and-womens-participation-higher-education-egypt

Right to Divorce

In Islam marriage (*nikah*) means "to collect and bind together" and is a legal and social contract between two individuals. An important aspect of marriage is that both spouses must consent to the marriage of their own free will and cannot be forced upon. Both men and women in Islam have a right to terminate the marriage. Therefore, Islam provides women with right to divorce her husband.

There are two kinds of divorce in islam: one is with a reason or just cause (darar) and te other is without provident a reason (*khul*). Both, the right to divorce initiated by women either with a just cause (*darar*) or without providing a reason (*khul*) is juridically and religiously permitted in the Quran (Q2:217 - 218), the Sunnah as well as classic legal texts in different schools of thought.

According to fiqh, whereas divorce for just cause can be pronounced by the qadi without the husband's consent, khul` does require his consent. Moreover, based on Sunnah, it is established in Islamic law that a wife who files for divorce through *khul'a* must waive her right to '*mu`akhar sadaq'* (deferred dowry). Furthermore, based on the Quranic verse (Q2:236 and 241), when her husband divorces her, women have a right to compensation, or alimony to the wife as well as cover the expenses of children according to most Islamic schools of law, however specifics of this compensation changes according to different schools and contexts. Based on the Sunnah, women also have a right to have the custody of their children after divorce.

Box. 17

Case Study on Child Custody
Narrated by Sa'Id ibn al-Musayyab about 'Umar ibn al-Khattab during the caliphate of Abu Bakr. According to this narrative, 'Umar divorced the mother of his son 'Asim, then saw her somewhere with their son and took him from her. She appealed her case to Abu Bakr. The caliph judged that 'Asim ibn 'Umar should remain with his mother until he was grown up or until she remarried.   This verdict was based on the *Sunnah* where a woman came to the Prophet and said: "O Messenger of God my womb was his vessel, my arm was his container, and my breast was his drink. And now his father claims that he is going to snatch him from me. The Prophet said: You have more right over the child while you do not remarry.'[119]   Nadwi observes that "Neither Omar's rank as one of the most senior of the Companions, nor his being Abu Bakr's dearest friend, nor his argument that he had more to give the boy, swayed the judgement in his favour."

[119] Sunnan Abu Dawood

Right to Own Wealth and Employment

Gender discrimination and restricting women's right to own wealth and participate in economic life holds back countries from growing and prospering and women's participation in economic life has significant benefits for the whole society. Women bring new skills and perspective to the workplace therefore make important contributions to the productivity and growth of their societies. Therefore the right of women to own wealth and have a profession is a matter of public interest and welfare *(al-maslaha al-mursala)*, which according to Islamic *fiqh*, is the ultimate purpose of *Shariah* (*Maqasid al shariah*). Preventing women from working and earning a living is also against the God given rights of Muslim women.

The Holy Quran also specifically declares women's economic rights such as her right of inheritance, earning, and engaging in economic activities outside the home These verses show that women have a right to own wealth either through their own endeavors, or through inheritance. For instance, the Holy Quran clearly states that both men and women will be allotted what they earn (Q4:32).

Based on this verse, and the practices of the Prophet and his companions, where women were allowed to work and inherit, classical Muslim scholars have concluded that women can have their own wealth, inherit and have their own business without the interference from their husbands and fathers. According to Islam, women were also entitled to dowry, and this dowry was to be paid directly to her not to her family. For example, Prophet's wife Khadija was a successful businesswoman, a merchant, who owned caravans and hired people to work for her. In fact, she had hired Prophet Mohammed to work for her before they got married. Khadija supported the Prophet both spiritually and financially. The Quran mentions her financial support to the religion (Q93:8) without giving her name. In Islamic scholarship she is portrayed as a wife, a mother and a believer. She is portrayed as the voice of calm and reason during his emotional distress. Also Aisha bint Abu Bakr, Prophet's wife and daughter of the first Caliph, Abu Bakr, inherited property from her father.

Inheritance: Inheritance rights of women are based on the Quran (Q4:7-12 and 176) and Hadith (See Table. 19). Muslim scholars explain the seeming inequality by stating that it is not because women's inequality but economic opportunities available to both.[120] For example, women have the right to keep their own wealth, whether it is from her inheritance, property, investment or job and have a right to dowry, and do not have the obligation to spend it towards her family whereas men have the obligation to spend her wealth and income towards taking care of all of his family. When these conditions are no longer present, there is no reason for them to receive equal share.

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[120] See Hoque, Kazi & Uddin, Muhammad & Islam, Mohammad. (2013). Inheritance rights of women in Islamic law : An assessment. 2. 45-58.

Women also worked in a number of different professions other than business and trade since the early days of Islam, and acted autonomously as the biographies of distinguished women from the time of the Prophet (Pbuh) show. More than 300 authentic *sunnah* confirm full participation of women in social and economic activities during the time of the Prophet (Pbuh). Women have served as judges, advisors, and inspectors. These Muslim women were crucial to public policy in different capacities and played important leadership roles. In addition to many verses that points out to equality in creation, piety, rewards, and excellence, the Holy Quran provides examples of women's leadership in a number of areas, such as Mary, who reached to highest level of human virtue and spiritual authority, and Queen of Sheba, who is praised for her excellent leadership qualities and wisdom.

Public Servants, Inspectors and Leaders: Caliph Umar appointed women to serve as officials in the market of Medina, like Samra bint Nuhayk al Asadiyya, who was appointed inspector of the markets at Medina by Umar ibn Al Khattab, the second caliph of Islam.[121] Others, such as Khaula, Lakhmia, Thaqafia, traded perfumes whereas the wife of Abdulla ibn Mas manufactured and sold handicrafts. A female companion named Quila came to the Prophet and told him, "I am a woman who buys and sell things" and asked questions regarding selling and buying thingsBased on these examples, fiqh experts such as al-Tabari, al-Muzani and Ibnu Tsaur, who allow women to become leaders in both public and domestic affairs.

Medicine and Health: Women were very active in the field of medicine since the time of the Prophet (Pbuh). Rufaida al-Aslamia (b.620 AD) is arguably the first known female nurse and surgeon. She established mobile caravans to serve her community during war and peace times. She was also active in various community services to help the poor and needy and trained many of the Prophet's companions in clinical skills.[122] Another famous nurse during the time of the Prophet was Al-Shifa bint Abdullah whose real name was Layla, but was given the name of Al-Shifa (the healer) due to her services. She was also a public administrator who was appointed as the market inspector by Caliph Umar ibn Al-Kattab. Ash Shifa was also granted responsibilities for public health and safety in Basra, Iraq.[123] Like Samra bint Nuhayk al Asadiyya, she was appointed inspector of the markets at Medina by Umar ibn Al Khattab, the second caliph of Islam.[124]Ash Shifa was also granted responsibilities for public health and safety in Basra, Iraq.[125] Tradition of female nurses and surgeons continued well into the 16th-17th centuries as the famous Turkish surgeon, Serefeddin Sabuncuoglu (1385-1468 AD), author of the famous manual of surgery *Cerrahiyyetu'l-Haniyye,* illustrated.[126]

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[121] Imam Zaid Malik *Islamic Center Newsletter,* vol. 10, no. 3 (March 15, 2004), available at www.icnef.org/newsletters/2004/Mar2004.pdf (accessed November 24, 2009).

[122] Jan, R. (1996). Rufaida Al-Asalmiya, the first Muslim nurse. Image: *The Journal of Nursing Scholarship*, 28(3), 267-268.

[123] Hassna'a Mokhtar, Laura Bashraheel, and Somayya Jabarti, "Al-Angari Blames Ignorance of Rights for Women's Plight," *Arab News,* May 19, 2008.

[124] Hassna'a Mokhtar, (2008)

[125] Hassna'a Mokhtar, (2008)

[126] G. Bademci Gulsah, "First illustrations of female "Neurosurgeons" in the fifteenth century by Serefeddin Sabuncuoglu, *Neurocirugía* (Sociedad Española de Neurocirugía, Murcia, Spain), April 2006, vol. 17, no. 2, pp. 162-165. See also Serefeddin Sabuncuoglu, *Kitabul Cerrahiyei Ilhaniye*, Istanbul, Kenan Basimevi, 1992, and Ankara, Turk Tarih Kurumu Yayinlari, 1992.

*Sciences***:** Additionally, Muslim women, like Muslim men have contributed to the fields of physics, engineering, mathematics, astronomy, among others. Sutayta al-Mahamili was a tenth century Muslim mathematician from Baghdad.[127] Her work in mathematics and inventing solutions to many equations has been praised by Ibn Kathir and was cited by mathematicians all over the world. Lubna of Cordoba was well versed in many fields including mathematics. She was known for her ability to solve complex geometrical and algebraic problems making her the secretary of the Caliph of Córdoba, Al-Hakam II.

Preachers and Religious Teachers: Some women would become preachers. Umm Waraqa was instructed by the Prophet to lead the men and women of her home and her village in prayer. The people of Umm Waraqa's home, however, were so numerous that the Prophet appointed a *muezzin* (one who calls the prayer) for her. She was also one of the few to hand down the Qur'an before it was written. *Hadith* tells us that the Prophet had visited the residence of Ummi Waraqah, appointed a person to recite the adhan, and ordered her to lead her family in the prayer.[128] Based on this hadith, some *ulemas* such as Imam Ibn Jarîr alThabarî Abu Tsaur, Imam Mazni Qâdhi Abu Tayyib, and al-'Abdar are of the opinion that women can lead prayers.[129] A second example if Sayyida Nafisa,the great granddaughter of the Prophet Muhammad (saws), was a teacher of Islamic Jurisprudence. She had many students who traveled to be tutored by her and she was the teacher of Abu Abdullah Muhammad al Shafi. Al Shafi was the founder of the Shafi'i School of Fiqh, and when he was a student Nafisa sponsored his studies financially. If she didn't help him economically and provide mentorship, he might have struggled to create the Shafi school of thought. Therefore, Islamically women were allowed to be scholars and have been contributing to Fiqh schools of thoughts. Finally, there is also Aisha bint Sa'ad bin Abi Waqqas, a jurist and scholar who also was the teacher of Malik bin Anas bin Malik, the founder of the Maliki School of Fiqh. Again, showing women's influence of the Islam we know today.

Judges: In Islam, there is neither a prohibition nor obstacles to women serving as judges either. In fact, some of the prominent jurists and scholars in Islam argue that women have equal rights to those of men in the judiciary. For instance, Imam Abu Hanifa- founder of the Hanafi madhab, Imam al-Tabari and Ibn Hazm support that women could hold the topmost judicial position. Most recently, Imam Muhammed al-Ghazali (1917-1996) of Al-Azhar gave many examples relating to women whose actions and policies had led to the improvement of their countries and stated that "Welcome to any women who can do what men fail to do (al-Gazali, 1989, p. 63). Al-Azhar scholar Yusuf Qaradawi (b.1926) also concluded that "a woman can be a candidate for presidency as well as a judge as there is no explicit text that prohibits women from carrying out either role (Al-Qaradawi, 1977). Grand Imam of Al-Azhar, Muhammed Tantawi and Mufti of Egypt, Ahmad al Tayyib in their fatwa dated October 2002 also concluded that there is no explicit statement in the Quran and the *sunnah* that prevents women from becoming judges and invoking the principle of *maslaha* (public interest) they conclude that appointment of women as judges serves the interest of the public therefore should be permitted.

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[127] Zainab Aliyah (2015) "Great Women in Islamic History: A Forgotten Legacy" at https://www.youngmuslimdigest.com/study/02/2015/great-women-islamic-history-forgotten-legacy/
[128] Sunan Abu Dawud, No. 502
[129] Tedi Supriyadi, J. Julia & Endis Firdaus (2019) "The Problems of Gender Equality: A Reconstruction of Islamic Doctrine" *Journal of Social Studies Education Research (Sosyal Bilgiler Eğitimi Araştırmaları)* Dergisi at https://jsser.org/index.php/jsser/article/view/698

Box. 18

Examples of Muslim Women in the Judiciary
Today many Muslim countries have recognized that women can be judges. In 1950s, in **Indonesia**, a Shafi Muslim country, the Ministry of Religious Affairs determined that appointment of a women Qadi (Judge) did not constitute a threat and concluded that due to lack of qualified qadis, it is permissible to appoint women to the position and in 1964, first female qadis (judges) were appointed to the Sharia courts (mostly part-time but one full-time). In 2011, 15% of all judges were women. Women are also allowed to head Sharia courts. (1) Women have been allowed to serve as judges in civil courts in **Malaysia** since the 1960s but women were not allowed to serve in Sharia courts until more recently. In 2016, Malaysia made history when two women were appointed as Sharia High Court judges and again in 2019, Malaysia, appointed Tengku Maimun Tuan Mat, an ethnic Muslim Malay woman as the countries next chief justice first female top judge. (2) **Sudan** has also allowed women to be qadis since the 1970s and in 1987 four women held judicial positions. First female chief qadi (Judge) of the Sharia courts was appointed in 2019 in Sudan. Other Muslim countries that allow women to become judges include, **Syria**, **Libya, Pakistan, Tunisia, Indonesia, Morocco,** and **Egypt.** In **Turkey** women can become preachers.
Sources: (1) Euis Nurlaelawati and Arskal Salim(2013) "GENDERING THE ISLAMIC JUDICIARY: Female Judges in the Religious Courts of Indonesia" Al-Jāmi'ah, Vol. 51, No. 2, 2 pp. 247-278 at https://core.ac.uk/download/pdf/267991104.pdf (2) Ida Lim (2019) History Made as Temki Maimun Becomes Malaysia's First Female Chief Justice at https://www.malaymail.com/news/malaysia/2019/05/02/history-made-as-tengku-maimun-malaysias-first-female-chief-justice-appointe/1749119

Patron of Arts and Architecture: Another woman that played a significant role in Muslim public life is Zubayda bint Abu Ja'far, the wife of Harun ar-Rashid. Zubayda was a learned woman and a patron of arts and poetry, and is still remembered for her enormous project to build service stations with water wells and roads all along the Pilgrimage route from Baghdad to Mecca.[130] The famous Zubaida water spring in the outskirts of Mecca still carries her name. Biographies of distinguished women, especially in Muhammad's household, show that women behaved relatively autonomously in early Islam.

Warriors, Negotiators and Peacemakers

Islamic history also offers numerous other examples of courageous Muslim women who have fought in wars, stood up to the commanders of invading armies, mediated conflicts, and reconciled opponents. Perhaps a strong example is Nusaybah bint Ka'ab and her role in fighting and protecting the prophet in the battle of *Uhud*. Her role as a helper and as a fighter was what was needed in that time and shows that even in battles women were allowed to fight for the good of their society. Ibn

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[130] Ma'n Abul Husn (July- August 2003) "Zubaida Bint Jaf'ar: A Great Women Behind a Great Caliph" in Al Shindagah issue 53 https://www.alshindagah.com/julaug2003/woman53.html

Qunfudh of Morocco recorded an incident in which one of the women he studied with, Lala Aziza of Seksawa, negotiated a peace deal and reconciled a conflict between two rival groups. Again, during the Caliphate of Mu'āwiyah after the assassination of fourth Caliph Ali 16 women traveled to the Capital of the Muslim world, Damassus to demand justice. Referred to as *Wafidat*, meaning delegates, these 16 women who were present at the Battle of Siffin in 657, came to Mu'āwiyah to demand their rights and exercise their freedoms. Among these women, Umm Sinān bt. Haytama approached the caliph to negotiate the release of her grandson, who was unjustly imprisoned by Marwan b. al-Hakam in Madinah. Another woman, Sawda bt. 'Amāra also came to see Mu'āwiyah to seek justice for her community. She explained to him the unjust behaviour of Busr ibn Artāt, the governor who was appointed to her region by Mu'āwiyah. She complained about Ibn Artāt's injustice and violence and asked for his dismissal. Mu'āwiyah, unable to reject Sawda's appeal for justice, approved of her request and dismissed Ibn Artāt.

To conclude, it is clear that women, like men have the right to work and earn a living according to Islam. Moreover, when women work,their families and communities benefit therefore it is in the public interest (*al maslaha al-mursala*) for women to work. Finally, there are many women throughout Islamic history who have fulfilled their religious responsibility of contributing to the economic, social, and political life as successful leaders and members of their communities.

Box. 19

Examples of Women in Science and Teach in Muslim Countries Today
Today, a number of Muslim countries are recognizing the importance of incorporating women in furthering the country's knowledge.
In UAE, UAE fifth Space Agency to reach Mars, 80% of the scientific team is women.
In Saudi Arabia, in 2017 women outnumbered men in graduating with a bachelor's in biology, information technology (IT), mathematics and statistics, and physics.
Meanwhile, In Iran, close to 70% of university graduates in science, technology, engineering and mathematics (STEM) are women.
Sources: https://qz.com/1223067/iran-and-saudi-arabia-lead-when-it-comes-to-women-in-science/

Right to Freedom of Expression, Independence, and Challenge Authority

Muslim women, like Muslim men, have the right to express their opinion, act independently, and challenge authority to "enjoin good and forbid evil." In fact, according to *fuqaha* and Imam Malik, it is a Muslim's right and duty to question everything and everybody.[131] Both in the Quran as well as the *Sunnah* we find examples of women who acted independently but trusting only in God Almighty, expressed their opinion, and talked truth to power. For example, the Quranic story about Ibrahim (Pbuh) and Ismail (Pbuh), tells the story of Hajar, who was left in the desert with her child. As a single mother, without a companion, she persevered and became the mother of a great nation.

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[131] Mernissi 1981 p. 76

The Holy Quran praises her belief, and trust in God and tells us that God provided her with relief in the verse: "…and despair not of relief from Allah. Indeed, no one despairs of relief from Allah except the disbelieving people." (Q12:87). Hajar initiated the ritual of *sa'ee* (walking) between Safa and Marwa, which is an important part of the Muslim Hajj and *Umrah*. As a strong, brave single mother she represents putting one's trust in Allah in the most difficult times and is a model believer.

Women were also outspoken members of the community since the time of the Prophet Mohammed, Prophet's wives in particular were actively involved in the public life and when they saw an injustice or a wrong, they are recorded to have stepped in to correct it. In addition to wives of the Prophet other women in the community had the right to raise their concerns and challenge the highest authorities and women have often talked truth to the highest authorities in Islam. Muslim women continued to speaking out and taking a stand after the death of the Prophet as well. (see Box. 20)

Box. 20

Woman Talking Truth to Caliph Umar
It is recorded that a woman challenged Caliph Umar at the mosque after her, in his capacity as the Caliph ordered no one should demand or pay dowry that exceeded a certain amount and that anything in excess of this amount would be confiscated and deposited in the public treasury. When he came down from the pulpit, a woman confronted him and stated,   "The Quran set no restrictions on this matter, Umar has no right to set an upper limit to the dowries" and cited the Quranic verse 4:20. Immediately Umar said, 'a woman has challenged Umar and defeated him'. In another account, he is recorded to have said "May God forgive me, everyone knows better than Umar, even this old lady."
Source: Narrated in Tirmidhi/Ahmad also Muṣannaf 'Abd al-Razzāq 10420

Historical records show that women narrating hadith or reciting the Quran to challenge authorities was seen as a right of women as well as men throughout Islamic history. These women exercised their right to intervene and challenge the decision of a court and the decision be overturned because her knowledge of Hadith and Islam.[132] For example, during the Caliphate of Mu'āwiyah after the assassination of fourth Caliph Ali 16 women traveled to the Capital of the Muslim world, Damassus to demand justice. Referred to as *Wafidat*, meaning delegates, these 16 women who were present at the Battle of Siffin in 657, came to Mu'āwiyah to demand their rights and exercise their freedoms. Among these women, Umm Sinān bt. Haytama approached the caliph to request the release of her grandson, who was unjustly imprisoned by Marwan b. al-Hakam in Madinah. Another woman, Sawda bt. 'Amāra also came to see Mu'āwiyah to seek justice for her community. She explained to him the undemocratic behaviour of Busr ibn Artāt, the governor who was appointed to her region by Mu'āwiyah. She complained about Ibn Artāt's injustice and violence

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[132] Nadwa 2007 p. 15

and asked for his dismissal. Muʿāwiyah, unable to reject Sawda's appeal for justice, approved of her request and dismissed Ibn Artāt.[133]

Box. 21

Lala Aziza: Women Who Challenged the Powerful General
Ibn Qunfudh of Morocco recorded an incident in which one of the women he studied with, Lala Aziza of Seksawa, reconciled a conflict between two rival groups. He describes an encounter between Aziza and al-Hintati, the governor of Marrakesh and a powerful general who was attempting to conquer south Morocco. Ibn Qunfundh tells her story: Aziza walked out of the safety of the foothills and onto the harsh Marrakesh plains and stood—alone—before the great general and his army. She confronted al-Hintati with her words and his own faith. She spoke of God's demands for justice, the pull of the good, the wrong of harming God's creation. Aziza talked the general out of his conquest. She convinced him to leave the people of Seksawa unharmed. He marched his army back to Marrakesh, and she returned to the mountains. The story of a woman who dared to stand up to a general and his army, armed only with her faith. Down through the centuries people have sought refuge there, people fleeing the excesses of central power or local conflicts, people falsely accused of crimes, people who have done great harm. Aziza's tomb is a sanctuary and it is still used as a space for mediating conflicts. Even during the time of the independence war with France, her tomb was a safe haven where many people would seek peace and calm in the midst of the conflict
Sources: *Elaine M. Comb-Schilling, "Sacred Refuge: The Power of a Muslim Female Saint," Fellowship: Islam, Peace, and Nonviolence, vol. 60, no. 5–6 (May–June 1994), 17.*

Table. 19

Quranic Verses on Gender Justice	
Themes	**Verses**
Equality	"O mankind! Reverence your Guardian-Lord, who created you from a single person, created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women;- reverence Allah, through whom ye demand your mutual (rights), and (reverence) the wombs (That bore you)" (Q4:1). "O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things)." (Q49:13).

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[133] Amira Zubairi (2015)" Speaking Truth to Power: A Legacy from Umm Sinan to Linda Sarsour at http://www.ihistory.co/speaking-truth-to-power-a-legacy-from-umm-sinan-to-linda-sarsour/

Equal Rights of men and women	Women have rights similar to the rights against them" (2:228)
Equa Moral responsibility	"The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practise regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise." (Q9:71)
Equal Rewards	"And their Lord hath accepted of them, and answered them: "Never will I suffer to be lost the work of any of you, be he male or female: Ye are members, one of another: Those who have left their homes, or been driven out therefrom, or suffered harm in My Cause, or fought or been slain,- verily, I will blot out from them their iniquities, and admit them into Gardens with rivers flowing beneath;- A reward from the presence of Allah, and from His presence is the best of rewards." (Q3:195). "If any do deeds of righteousness,- be they male or female - and have faith, they will enter Heaven, and not the least injustice will be done to them" (Q 4:124). "Whoever works righteousness, man or woman, and has Faith, verily, to him will We give a new Life, a life that is good and pure and We will bestow on such their reward according to the best of their actions" (16:97). "For Muslim men and women,- for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in Allah's praise,- for them has Allah prepared forgiveness and great reward" (Q33:35).
Condemnation of mistreatment of women and girls	"When news is brought to one of them, of (the birth of) a female (child), his face darkens, and he is filled with inward grief! With shame does he hide himself from his people, because of the bad news he has had! Shall he retain it on (sufferance and) contempt, or bury it in the dust? Ah! what an evil (choice) they decide on?" (Q16:58-59).
Right to political participation	"It is He Who hath made you (His) agents, inheritors of the earth: He hath raised you in ranks, some above others: that He may try you in the gifts He hath given you: for thy Lord is quick in punishment: yet He is indeed Oft-forgiving, Most Merciful" (Q6:165). "The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those - Allah will have mercy upon them. Indeed, Allah is Exalted in Might and Wise" (Q9:71).
Bay'ah	"O Prophet! When believing women come to thee to take the oath of fealty to thee, that they will not associate in worship any other thing whatever with Allah, that they will not steal, that they will not commit adultery (or fornication), that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and that they will not disobey thee in any just matter,- then do thou receive their fealty, and pray to Allah for the forgiveness (of their sins): for Allah is Oft-Forgiving, Most Merciful" (Q60:12).

Praise of Queen of Sheba	"I have found a woman *owning them [tamlikuhm]*, and she has been given of everything, and she has a great throne." (Q27:23). "advise me in my affair. I would not decide a matter until you witness [for] me." (Q27:32). "They said: "We are men of strength and of great military might, but the command is yours, so see what you will command." (Q27:33),
Responding to a woman's questions	Allah has indeed heard (and accepted) the statement of the woman who pleads with thee concerning her husband and carries her complaint (in prayer) to Allah: and Allah (always) hears the arguments between both sides among you: for Allah hears and sees (all things)." (Q58: 1)
Right to education	"Read. Read in the name of thy Lord who created; [He] created the human being from blood clot. Read in the name of thy Lord who taught by the pen: [He] taught the human being what he did not know." (Q96: 1-5) "Are those who have knowledge equal to those who do not have knowledge?" (Q39:9)
Right to Wealth and employment	"And in no wise covet those things in which Allah Hath bestowed His gifts More freely on some of you than on others: To men is allotted what they earn, and to women what they earn: But ask Allah of His bounty. For Allah hath full knowledge of all things." (Q4:32) "men shall have a share in what parents and kinsfolk leave behind, and women shall have a share in what parents and kinsfolk leave behind, whether the property be small or large- a determinate share" (Q4 : 7). "Allah (thus) directs you as regards your children's (inheritance): to the male, a portion equal to that of two females. If only daughters, two or more, their share is two-thirds of the inheritance. If only one, her share is a half... and Allah is All Knowing, All Wise" (Qur"an, 4 : 11). "In what your wives leave, your share is a half, if they leave no child. But if they leave a child, ye get a fourth, after payment of legacies and debt. In what ye leave, their share is a fourth, if ye leave no child. But if ye leave a child, they get an eight, after payment of legacies and debts…Allah is All-knowing, Most Forbearing" (Q 4 : 12).
Right to Divorce	"if you have cause to fear that the two may not be able to keep within the bounds set by God, there shall be no sin upon either of them for what the wife may give up [to her husband] in order to free herself. These are the bounds set by God; do not, then, transgress them: for they who transgress the bounds set by God - it is they, they who are evildoers!" (Q2:217 - 218). "Divorced women shall also have such maintenance as is considered fair: this is a duty for those who are mindful of God" (Q2: 241) "But make fair provision for them, the rich according to his means and the poor according to his—this is a duty for those who do good." (Q2:36)

Table. 20

Hadith and Sunnah on Gender Justice	
Theme	**Hadith and Sunnah**

Treatment of Girls	Prophet Mohammed (Pbuh) is recorded to have said, "Who is tested with the presence of a girl, then the child will be a shield for them in hell"
	    Sahih Al Bukhari. Beirut Libanon: Darul Qurub. No. 1418; Hanbal, Ahmad Ibn. (2001). Musnad al-Imam Ahmad ibn Hanbal. Beirut: Mu'assasah al-Risalah. No. 12498
	
	"If anyone has a female child, and does not bury her alive, or slight her, or prefer his children (i.e. the male ones) to her, Allah will bring him into Paradise."
	    Dawud, A. (1994). Sunan Abi Daud. Beirut: Maktabah al-'Asriyyah No. 5146

Hadith on Education	"The seeking of knowledge is obligatory upon every Muslim"
	    Baihaqi, Mishkat, al Tirmidhi
	"Searching for knowledge is compulsory for every Muslim male and Muslim female
	    Sunan Ibn Majah.
	"If anyone travels on a road in search of knowledge, God will cause him to travel on one of the roads of Paradise. The angels will lower their wings in their great pleasure with one who seeks knowledge. The inhabitants of the heavens and the Earth and (even) the fish in the deep waters will ask forgiveness for the learned man. The superiority of the learned over the devout is like that of the moon, on the night when it is full, over the rest of the stars. The learned are the heirs of the Prophets, and the Prophets leave (no monetary inheritance), they leave only knowledge, and he who takes it takes an abundant portion. –
	    Sunan of Abu-Dawud
	
	"If death comes to the student of knowledge while he is thus engaged, he dies as a martyr."
	    Al-Bazzar

Right to Wealth and Employment	al-Tabari (1984) reports that, "a woman (the wife of Sa''ad bin Rabi''a) complained to the Prophet (SAW) that she and her daughter were prevented from inheriting property left behind by her husband. Her husband's brother justified his action by saying that women do not mount horses, do not endanger themselves going into battle, therefore they should not inherit." *Al-Tabari*
On Right to Divorce	It is recorded in the *Sunnah* that when a woman came to complain to him about her husband, the Prophet (Pbuh) told her to return her dowry and divorce him. This is based on a hadith in which it is narrated that the wife of Thabit ibn Qays approached the prophet (Pbuh) and said, "'O messenger of Allah! I do not find blame with Thabit ibn Qays in anything concerning his character or religion, but I do not want to disobey [the teachings of Islam].' The prophet [pbuh] said, 'Do you agree to return the orchard he gave you as mahr?' 'Yes,' she replied. So the Prophet told Thabit, 'O Thabit! Accept the orchard and grant her divorce.'" *Bûkhârî, Muhammad, (1993) Le sommaire du Sahih al-Boukhari, 2 vols., Beyrouth, Dar al-Kutub al-Ilmiyah*

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