

A Draft Islamic Constitution



GENERAL RULES

Article 1

The Islamic '*Aqeeda* constitutes the foundation of the State. Therefore, nothing is permitted to exist in the State's structure, system, accountability, or any other aspect connected with the State that does not take the Islamic '*Aqeeda* as its source. The Islamic '*Aqeeda* is also the source of the State's constitution and laws. Consequently, nothing related to them is permitted to exist unless it emanates from the Islamic '*Aqeeda*.

Article 2

Dar al-Islam is the territory where the rules of Islam are applied in all of life's affairs and whose security is maintained by sovereignty of Islam. *Dar al-Kufr* is the territory where *Kufr* rules are applied or whose security is not maintained by Muslims.

Article 3

The *Khalifah* adopts *Ahkam Shar'iyah* and enacts it as canons and a constitution. Once the *Khalifah* has adopted a *Hukm Shar'ii* (Islamic law), only that *Hukm Shar'ii* must be enacted and implemented. Every citizen must publicly and privately obey the adopted *Hukm Shar'ii*.

Article 4

The *Khalifah* does not adopt any *Ahkam Shar'iyah* pertaining to *Ibadat*, except in the case of *Zakat* and *Jihad*. He also does not adopt any specific opinions, or thoughts concerning the Islamic '*Aqeeda*.

Article 5

All citizens of the Islamic State enjoy the *Shar'ii* rights and obligations.

Article 6

All citizens will be treated equally regardless of their religion, race, color or any other factor. The State will not discriminate between citizens in any matter, such as ruling, judiciary or welfare.

Article 7

The State implements Islamic *Shar'iyah* on all citizens, whether Muslim or not, in the following manner:

- a. All Islamic rules are applied on all Muslim citizens, without exception.
- b. Non-Muslims are permitted to follow their own beliefs and acts of worships.
- c. The *Murtadeen* will be treated according to the rules of *Murtadeen*, provided that they themselves have renounced Islam. If their ancestors are *Murtadeen* and they are born as non-Muslim, they are treated as non-Muslims according to their status as being either *Mushrikeen* or People of the Book.
- d. In matters of food and clothing, the non-Muslims are allowed to follow their religions within the limits set by Islam.
- e. Marital affairs, including divorce, among non-Muslims are settled in accordance with their religions. However, between non-Muslims and Muslims they are settled according to the rules of Islam.
- f. All the remaining *Shar'iyah* matters and rules, such as: the application of transactions, legal, political and economic systems are implemented by the State on everyone, Muslim and non-Muslim alike. This includes the *Muahid*, the *Al Musta'min* and all who submit to the sovereignty of Islam. The implementation on these people is the same as the implementation on the citizens of the State. Diplomats are afforded the diplomatic immunity.

Article 8

The Arabic language is the language of Islam. It is the sole language used by the State.

Article 9

Ijtihad is *Fard Kifayah*. Every Muslim has the right to exercise *Ijtihad* if the necessary conditions to perform it are met.

Article 10

There is no clergy in Islam. All Muslims bear the responsibility for Islam. Therefore, the State will prevent anything that signifies the existence of a clergy among Muslims.

Article 11

The primary function of the State is to carry the Islamic *Da'wah*.

Article 12

The Qur'an, the *Sunnah*, *Ijma'a as-Sahabah* [the consensus of the Companions of Prophet Muhammad ﷺ] and *Qiyas* are the only sources for extracting *Ahkam Shar'iyah*.

Article 13

Every individual is innocent until proven guilty. No person shall be punished without a court sentence. Torturing is absolutely forbidden. Whoever inflicts torture on anyone shall be punished.

Article 14

All actions are controlled by *Ahkam Shar'iyah*, while all things are permitted unless there is an evidence of prohibition. Therefore, no action should be undertaken unless its *Hukm* is known.

Article 15

An action is *Haram*, if it is declared by the *Shar'iyah* to be *Haram*. The medium which leads to *Haram*, will be prohibited, if it most likely will lead an individual to *Haram*. Otherwise, the medium is permitted.

THE RULING SYSTEM

Article 16

The ruling system is unitary and not a federation.

Article 17

Government is centralized. The Administration is decentralized.

Article 18

There are four positions of ruling in the State:

- a. The *Khalifah*
- b. The *Mu'awin Tafweed* (deputed assistant)
- c. The *Wali* (governor)
- d. The *A'mil* (subgovernor)

All other officials of the State are employees and not rulers.

Article 19

The ruler or anyone who assumes a ruling position must be just, free (not a slave), male. He must be a Muslim.

Article 20

Questioning the rulers is a right for the Muslims and a *Fard Kifayah* upon the Muslim *Ummah*. Non-Muslim citizens have the right to voice their complaints for any injustices or misapplications of the Islamic rules upon them by the rulers.

Article 21

Muslims have the right to establish political parties. These parties are to question the rulers or in order to assume power through the *Ummah*. The parties are to be based on the Islamic '*Aqeeda*. Their rules must be based on the *Ahkam Shar'iyah*. The establishment of such a party does not require a license by the State. Any group not established on the basis of Islam is prohibited.

Article 22

The ruling system is founded upon four principles. They are:

- a. Sovereignty belongs to the *Shar'iyah*, and not to the people;
- b. Authority belongs to the *Ummah*;
- c. The appointment of one *Khalifah* is an obligation upon all Muslims;
- d. Only the *Khalifah* has the right to adopt the *Ahkam Shar'iyah*. Therefore, he enacts the constitution and laws.

Article 23

The State system is based upon eight institutions. They are:

1. The *Khalifah*
2. *Mu'awin Tafweedh* (the deputed assistant)
3. *Mu'awin Tanfeedh* (the executive assistant)
4. The *Amir of Jihad* (Commander of *Jihad*)
5. *Al Qada* (Judiciary)
6. *Wulah* (governors)
7. *Masalihud Dawlah* (An administrative system)
8. *Majlis al-Ummah* (tassembly of the *Ummah*)

THE *KHALIFAH*

Article 24

On behalf of the *Ummah*, the *Khalifah* carries out the authority of the *Ummah* and the execution of the *Shar'iyah*.

Article 25

The *Khilafah* is a contract of mutual agreement. Nobody is forced to accept it. No one is to be forced to select a particular person for it.

Article 26

Every sane Muslim of legal age, male or female, has the right to elect the *Khalifah* and to give him the *Ba'yah*. Non-Muslims have no right in this issue.

Article 27

Once the contract of the *Khilafah* has been completed through the *Ba'yah* of agreement from those who are qualified to give it, the *Ba'yah* of the remaining people is a *Ba'yah* of obedience and not a *Ba'yah* of agreement. Consequently, anyone in whom a potential for rebellion is perceived must be compelled to make this *Ba'yah* of obedience.

Article 28

Nobody can become a *Khalifah* without being appointed by the Muslims. No

one can hold the authority of the *Khalifah* unless it is acquired according to the *Shar'iyah*, as is the case with any contract in Islam.

Article 29

The country which gives the *Khalifah* the *Ba'yah* of agreement must fulfill the following conditions:

- a. The country must be independent and its authority solely relies on the Muslims, not on *Kufr* states;
 - b. The security of the Muslims in that state, internally and externally, must be maintained by the sovereignty of Islam and not by the power of *Kufr*.
- The *Ba'yah* of obedience, as opposed to the *Ba'yah* of agreement, can be taken from any country without the need to satisfy the aforementioned conditions.

Article 30

The individual who is given the *Ba'yah* for *Khalifah* needs only to fulfill the basic conditions (listed in Article 31). He does not need to fulfill the preferred conditions, because what is necessary are the basic conditions.

Article 31

For an individual to become *Khalifah*, he must fulfill the following basic conditions: Male, Muslim, Free, Mature, Sane, Just.

Article 32

If the post of the *Khalifah* becomes vacant, due to death, resignation or dismissal, the appointment of a new *Khalifah* must take place within three days of the date when it became vacant.

Article 33

The *Khalifah* is to be selected in the following manner:

- a. The Muslim members of the *Majlis al-Ummah* (assembly of the *Ummah*) nominate the candidates. The names of the candidates are announced to the public. Muslims are asked to elect one person from this list of candidates.
- b. The results of the election are to be announced. The person who has ac-

quired the majority votes will become known to the people.

- c. The Muslims must give the *Ba'yah* to the candidate, who has attained the majority of votes as a *Khalifah* to apply the Book of Allah and the Sunnah of the Messenger ﷺ of Allah.
- d. Once the *Ba'yah* has been completed, the name of the *Khalifah* will be announced, so that the news of his appointment reaches the whole *Ummah*. Along with his name, a statement will be issued indicating that he satisfies the basic conditions, which makes him eligible to be the head of State.

Article 34

Although the *Ummah* appoints the *Khalifah*, it is not empowered to dismiss him once the *Ba'yah* has been effected in the legally prescribed manner.

Article 35

The *Khalifah* is the State. He possesses all of the authority of the State. Therefore, he has the following powers:

- a. The *Khalifah* issues *Ahkam Shar'iyah*. When he adopts and implements them, they become laws to be obeyed. They are not to be transgressed.
- b. The *Khalifah* is responsible for domestic and foreign policies of the State. He is the Commander-in-Chief of the Military and the Armed Forces. He has the right to declare war, conduct peace, armistice or any other treaty.
- c. The *Khalifah* has the authority to receive or refuse foreign ambassadors. He appoints and dismisses Muslim ambassadors.
- d. The *Khalifah* appoints and dismisses *Mu'aween* and *Wulah* (governors). The *Mu'aween* and *Wulah* report to the *Khalifah* and to the *Majlis al-Ummah*.
- e. The *Khalifah* appoints and dismisses *Qadi al Qudaa* (the Supreme Judge), the directors of all government departments, including commanders and generals of the Armed Forces; all of them report to the *Khalifah* and not to the *Majlis al-Ummah*.
- f. The *Khalifah* must adopt the *Ahkam Shar'iyah* by which the State's budget is set. The *Khalifah* decides the revenue and expenditure of every sector.

Article 36

In the process of adopting the *Ahkam Shar'iyah*, the *Khalifah* is himself is bounded by the *Ahkam Shar'iyah*. Thus, the *Khalifah* is forbidden to adopt any rule that is not correctly deduced from the *Shar'iyah* sources. He is confined to the rules he adopts and to the methodology of deduction he chooses. Consequently, he is prevented from adopting a rule deduced by a method that contradicts the method he has adopted. Nor should he enact any directive that contradicts the rules he adopted.

Article 37

The *Khalifah* has the absolute right to conduct the affairs of the citizens according to his opinion and *Ijtihad*. He is allowed to adopt from the *Mubah* actions what is needed to conduct the affairs of the State. He is not allowed to violate any *Hukm Sharii* with the pretext that it is beneficial for the people. For example, he must not prevent citizens from importing products on the pretext of protecting the State's industries. He must not control prices on the pretext of preventing exploitation. He must not impose birth control on the assumption of the scarcity of resources. Furthermore, the *Khalifah* must not appoint any female or non-Muslim governor, because he thinks it is beneficial. The *Khalifah* must not forbid any *Halal* or legalize any *Haram*.

Article 38

There is no term limit for a *Khalifah*, as long as he abides by the *Ahkam Shar'iyah*, and implements them, and is capable of running the State's affairs. He remains the *Khalifah* as long as his condition does not change. If his condition changes in such a way that he can no longer remain the *Khalifah*, he must be dismissed immediately.

Article 39

There are three situations which can change the condition of the *Khalifah* and thus render him unqualified to continue as the *Khalifah*. They are:

- a. If one of the basic conditions of the *Khalifah* changes; such as, he reverts from Islam, becomes insane or commits *Fusq* and so on. These are necessary conditions for the *Khilafah* contract, as well as the continuation of it.

- b. He is unable to undertake the responsibilities of the position of *Khalifah* for any reason.
- c. In the event of being incapacitated, whereby the *Khalifah* is rendered unable to conduct the affairs of the Muslims by his own opinions according to the *Ahkam Shar'iyah*. If the *Khalifah* is subdued by any force to an extent that he is unable to manage the citizens affairs by his own opinion according to the rules of the *Shar'iyah*, he is considered to be incapable of undertaking the duty for which he has been placed in charged, and therefore, he is no longer a *Khalifah*. This situation may arise under two circumstances, which are:
 1. When one of the entourage of the *Khalifah* exerts control over the management of affairs. If there is a chance that the *Khalifah* could rid himself of their dominance, he is given a warning for a specified period of time. After this period, if he fails to rid himself of their dominance, he must be dismissed. If it appears that there is no chance of the *Khalifah* freeing himself from their dominance, he is to be dismissed immediately.
 2. When the *Khalifah* becomes a captive by an enemy, whether actually captured or is influenced by that enemy. The situation in this case has to be examined. If there is a chance to rescue the *Khalifah*, he is given the time it will take to rescue him. When it appears that there is no hope to rescue him, then he is to be dismissed. If it appears from the outset that there is no hope of rescuing him then he is to be dismissed immediately.

Article 40

Only the Court of *Madhalim* decides if the condition of the *Khalifah* changed in such a way as to warrant his dismissal. Only the *Madhalim* Court has the authority to dismiss or to warn the *Khalifah*.

DEPUTED ASSISTANT

Article 41

The *Khalifah* appoints the deputed assistant who is given the authority to assist him in undertaking the responsibility of ruling. The *Khalifah* deputizes him to manage the affairs (with the deputy's opinion and *Ijtihad*).

Article 42

The deputed assistant has the same requirements as the *Khalifah*. These are: male, Muslim, mature, sane, free and just . In addition, he must be qualified for the tasks assigned to him.

Article 43

The appointment of the deputed assistant must include two items: to deal with all that entail ruling situations and to act on behalf of the *Khalifah*. Thus, in the appointment of the assistant, the *Khalifah* must pronounce a statement to the effect of "I appoint you on my behalf as my deputy" or any other statement that confers both deputation and general responsibility. If the person is not appointed in this manner he would not hold the authority of a deputy assistant and thus, would not be one.

Article 44

The function of the deputed assistant is to report to the *Khalifah* the actions he carried out and the issues he executed within the authority delegated to him. He should do this so that he will not be equal to the *Khalifah* in his responsibility. Therefore, his job is to report to the *Khalifah* and execute the directives given to him.

Article 45

The *Khalifah* must oversee the actions and decisions made by the deputed assistant. The *Khalifah* confirms what is sound and rectifies that which is wrong. This should occur, because the management of the *Ummah's* affairs is entrusted to the *Khalifah*. It is related to his *Ijtihad*.

Article 46

Once the deputed assistant has managed a matter with the knowledge of the

Khalifah, he has the right to carry it out as acknowledged without any revision. If the *Khalifah* revises the matter and objects to what the deputed assistant has executed, the following considerations apply:

- a. If the *Khalifah* has objected to what the deputed assistant has carried out with regards to a rule implemented correctly, or a fund spent justly, then the view of the deputed assistant must be enacted, because that action is the original view of the *Khalifah*. In this case, the deputed assistant must not redress rules which he has implemented and funds which he has spent.
- b. If the deputed assistant has implemented something else, such as the appointment of a *Wali* (governor) or deployment of the army, then the *Khalifah* has the right to object and to overrule the decision of the deputed assistant. The *Khalifah* has the right to revise and redress his own decisions in such cases and hence those of the deputed assistant.

Article 47

The deputed assistant has general responsibilities. Therefore, he must not be assigned to a specific department or specific types of actions. He must undertake general supervision of the administrative system without engaging in the work himself.

EXECUTIVE ASSISTANT

Article 48

The *Khalifah* appoints the executive assistant. His function is executive and not ruling. He is to execute the instructions of the *Khalifah* in both domestic and foreign affairs of the State. He is to relay to the *Khalifah* what is received from these spheres. This administrative office is a medium between the *Khalifah* and the others.

Article 49

The executive assistant must be a Muslim because he is one of the *Khalifah's* entourage.

Article 50

The executive assistant must remain in direct contact with the *Khalifah*, simi-

lar to the deputed assistant. However, the executive assistant is considered to be an assistant with respect to executive function only and not in ruling.

AMIR OF JIHAD

Article 51

The office of the *Amir of Jihad* consist of four departments. They are: Foreign Affairs, the Military and the Armed Forces, the Domestic Security, and the Industry. The *Amir of Jihad* is the supervisor and director of all four departments.

Article 52

The Department of Foreign Affairs handles the foreign policies which deal with the relationship of the *Khilafah* State with other states.

Article 53

The Department of Military and the Armed Forces handles all affairs related to the Armed Forces, such as: the Police, the Equipment, the Armament, the Logistics, Missions and other related activity. It also includes the Military Academies, Military Mission, and everything necessary to obtain the Islamic education and the general education of the Armed Forces. It also takes care of issues related to war and preparation of it.

Article 54

The Department of Domestic Security handles affairs related to security within the State. The Armed Forces are responsible for this function and they utilize the Police to accomplish this function.

Article 55

The Department of Industry directs all affairs related to industry. This includes heavy industry, such as the manufacturing of motors, engines and vehicle chassis; metallurgical industries, electronics and consumer industries. It also handles the affairs of privately owned factories that are engaged in military based production. All factories of whatever type should be established on the basis of the military policy.

THE ARMED FORCES

Article 56

Jihad is a *Fard* on all Muslims. Military training is compulsory. Every Muslim male, fifteen years and over, is required to undergo military training as a preparation for *Jihad*. Active participation in the army is *Fard Kifayah*.

Article 57

The Armed Forces consists of two services: those who are on active duty and are salaried from the State's budget, just like other employees, and the reserves, who comprise all Muslims capable of fighting.

Article 58

The Armed Forces are one force. The Police Force is a division of it, organized and trained in a particular way and provided with a special education.

Article 59

The Police Force maintains public order, supervises domestic security and enforces the laws.

Article 60

The Armed Forces will have flags and banners. The *Khalifah* gives the flag to whom he appoints as a Chief-of-Staff of the Armed Forces. The banners are introduced by the commanders of the divisions.

Article 61

The *Khalifah* is the Commander-in-Chief of the Armed Forces. He appoints the Chiefs-of-Staff, a General for each Corp and a Lieutenant General for each division. The brigadier and the Major General appoint the remaining ranks. Commissioned officers are appointed according to their military education and can be appointed by the Chiefs-of-Staff.

Article 62

The Armed Forces is one entity. It has units located in specific military bases. Some of these bases must be located in different *Wilayat* (provinces). Some should be situated in strategic locations and some must be striking forces with

mobility. The bases are organized in numerous formations. Each one is given a number to accompany its name, such as the first army, the second army and so on. Some units can be given names of *Wilayat* or '*Imala* (districts).

Article 63

It is necessary to provide the Armed Forces with the highest possible level of military education. Its intellectual level should be elevated as high as possible. Every member in the Armed Forces should be provided with the Islamic education, so that he possesses a full awareness of Islam, in toto.

Article 64

Each base should have a sufficient number of commissioned officers who have attained the highest level of military knowledge and experience in formulating plans and directing battles. The Armed Forces as a whole should have as many commissioned officers as possible.

Article 65

It is necessary to provide the Armed Forces with all the necessary armaments, supplies and equipment that it requires to fulfill its duty as an Islamic Army.

THE JUDICIARY

Article 66

Judgment constitutes the binding verdict delivered by the judges. It settles the disputes between people, prevents that which infringes the community's rights, eliminates the disputes between the people and any government official whether it is a ruler or an employee. This includes the *Khalifah* or anyone else below him.

Article 67

The *Khalifah* appoints the Chief Justice. This judge must be a Muslim male, mature, free, and just. He must also be a jurist. He has the authority to appoint, dismiss and discipline the judges within administrative regulations. The remaining courts employees are under the department which administers the court affairs.

Article 68

There are three types of judges: *Qadi al Khusoomat* (the judge who settles the disputes between people, in transactions and punishments); *Qadi al Hisba* (the *Muhtasib* who judges on public violations); and *Qadi al Mahkomat al Madhalim* (the judge of the Court of *Madhalim* who settles disputes between the people and the officials of the State).

Article 69

All judges must be Muslim, mature, free, sane, just, and jurist. They must be aware of how to apply rules in different situations. Judges of the Court of *Madhalim* must additionally be male and *Mujtahiddeen*.

Article 70

The *Qadi al Khusoomat* and the *Muhtasib* may be given a general appointment to pronounce judgment on all problems throughout the State, or alternatively they can be given an appointment to a particular location or a particular case. *Qadi Al Madhalim* is not restricted to a specific type of a case. In terms of location, he may be appointed to a particular location or throughout the State.

Article 71

Each court should have one resident judge who has the authority to pronounce judgment. One or more judges are permitted to accompany him to advise and consult. They have no authority to pronounce judgment. Their opinion is not binding on the resident judge.

Article 72

The judge cannot pronounce judgment except in a court session. Evidence and testimony are only considered in a court session.

Article 73.

It is permissible to vary the levels of courts according to the type of cases. Some judges may be assigned to certain cases of a particular level, while other courts are authorized to judge on other cases.

Article 74

There are no courts of appeal or annulment. All judgments are final. When the judge has pronounced the verdict, it becomes effective immediately. No other judge's decision can overturn it.

Article 75

The *Muhtasib* is the judge who rules on a public violation where there is no plaintiff, provided that the case does not involve felonies, including *Hudood*.

Article 76

The *Muhtasib* has the authority to judge upon violations, wherever and whenever they happen. He does not need a court to pronounce judgment. A number of policemen are put at the *Muhtasib*'s disposal to carry out his orders and to enforce his judgments immediately.

Article 77

The *Muhtasib* has the right to appoint deputies for himself, who must have the same qualifications as the *Muhtasib*. He can place them in various locations. These deputies have the same authority as the *Muhtasib* in the location and the cases assigned to them (within their jurisdiction).

Article 78

The judge of the Court of *Madhalim* is appointed to remove all unjust acts done by the *Khalifah*, or any other State employee who has allegedly dealt unjustly with any person, citizen or not, living within the domain of the State.

Article 79

Judges of the Court of *Madhalim* are appointed by the *Khalifah* or by the Chief Justice. The *Khalifah* evaluates his performance and disciplines him, if necessary. This can also be done by the Court of *Madhalim* itself, if given the authority to do so by the *Khalifah*. However, the judge of the Court of *Madhalim* cannot be dismissed while administering a case involving the *Khalifah*, the deputed assistant or the Chief Justice.

Article 80

There is no limit on the number of judges that can be appointed to the Court of *Madhalim*. The *Khalifah* can appoint as many as necessary to eradicate acts

of injustice. Although it is permitted for more than one judge to sit in a court session, only one judge has the authority to pronounce a judgment. The other judges only consult and provide advice. Their advice is not binding on the judge authorized to pronounce the judgment.

Article 81

The Court of *Madhalim* has the authority to dismiss any ruler, governor or state employee, including the *Khalifah*.

Article 82

The Court of *Madhalim* has the authority to investigate any case connected with the officials of the State; the *Khalifah*'s deviation from the *Ahkam Shar'iyah*; interpretation of the legislative texts in the constitution, canons and *Ahkam Shar'iyah* within the framework adopted by the *Khalifah*. The court also oversees situations involving levying of a tax.

Article 83

The Court of *Madhalim* does not require a court session. The defendant does not have to be summoned and there does not have to be a plaintiff. This court has the authority to look into any case of injustice, even if no one has brought charges concerning the case.

Article 84

Every defendant and plaintiff has the right to appoint a proxy. The proxy may be male or female, Muslim or not. There is no distinction between him/her and the proxy. The proxy can be appointed with a wage agreed upon between the person and his or her proxy.

Article 85

It is permitted for a person who is given a private assignment such as an executor, custodian or a guardian; or a public assignment such as the *Khalifah*, a ruler, a government employee, a *Madhalim* Judge or *Muhtasib* to assign a proxy on his behalf to represent him in prosecution and defence; but only in his capacity as mentioned above, that is he was a executor, custodian, guardian, head of the State, ruler, employee, Judge of *Madhalim* Court or a *Muhtasib*. The assignment of proxy is allowed whether the person is a plaintiff or defendant.

THE GOVERNORS OF THE PROVINCES

Article 86

The territories governed by the State are divided into units called *Wilayah* (provinces). Each *Wilayah* is divided into subunits called '*Imalat* (districts). The person who governs the *Wilayah* is called a *Wali* or *Amir*. The person who governs the '*Imalah* is called the '*Amel* (subgovernor).

Article 87

The *Wulah* and *Umaal* are appointed by the *Khalifah*. The *Wali* can, if authorized, appoint an '*Amel*. The *Wulah* and *Umaal* must meet the same qualifications as the *Khalifah*. They must be Muslim, male, free, sane, just and of legal age. They must also be highly qualified in their responsibilities. They are to be selected from the people of piety and must be decisive.

Article 88

The *Wali* has the authority to govern and supervise the performance of the departments in his province in his capacity as the deputy of the *Khalifah*. He has the same authority in the province as the deputed assistant has in the State. He has command over the people of his province and control over all affairs except finance, the judiciary and the Armed Forces. However, he has command over the Police with respect to execution, but not with respect to administration.

Article 89

The *Wali* is not obliged to inform the *Khalifah* of what he has carried out within his jurisdiction, unless he chooses to do so. But, if a new and uncommon situation arises, he has to inform the *Khalifah* in advance. He then proceeds according to the instructions of the *Khalifah*. If waiting would lead to harm, he must act upon the situation first and then inform the *Khalifah* later about the reason for the action and the reason for not informing him in advance.

Article 90

Every province has an assembly elected from its people and headed by the *Wali* of that province. The assembly has the authority to participate in ex-

pressing opinions on administrative matters, but not on ruling. The opinions of the assembly are not binding on the *Wali*.

Article 91

The term of a *Wali* in office in a particular province is not to be long. He must be dismissed whenever he becomes firmly established or whenever the people become enchanted with him.

Article 92

The *Wali's* appointment is a general responsibility in a defined location. Consequently, the *Wali* is not transferred from one province to another. He has to be discharged first and then he can be reappointed.

Article 93

The *Wali* can be discharged, if the *Khalifah* decides so, or if the *Majlis al-Ummah* expresses dissatisfaction with him, whether justified or not or if the majority of the people of the province appear to be displeased with him. In any event, the actual dismissal has to be done by the *Khalifah*.

Article 94

The *Khalifah* must exercise strict control over the *Wulah*, assess their performance, and assign people to periodically check on them. He must meet with the *Wulah* individually or collectively. The *Khalifah* should also listen to the complaints of the people about the *Wulah*.

THE ADMINISTRATIVE SYSTEM

Article 95

The management of the government's affairs and the interests of the people are performed by administrations, bureaus and departments. These entities perform the duties of the government and take care of the affairs of the people.

Article 96

The administrative policy must be based on simplicity, efficiency and promptness in taking care of the affairs of the people, and the competence of those who assume responsibility for the administration.

Article 97

Any qualified citizen, male or female, Muslim or non-Muslim, can be appointed as the secretary of any administration, bureau or department.

Article 98

Every administration must have a director. Every bureau and department must have a department head. Department heads report to the director on administrative issues. All of them are responsible to the *Wali* or '*Amel*' regarding compliance with administrative ordinances and the public order.

Article 99

The directors, offices and the head of the departments and bureau are to be dismissed only for reasons connected with the administrative regulations. It is permitted to transfer them from one post to another and to suspend them. Whoever has the final authority of each administration, bureau or department is responsible for appointing, dismissing, transferring, suspending and disciplining these directors.

Article 100

Civil servants, other than the administrators and the bureau chiefs, are appointed, transferred, suspended, questioned, disciplined or dismissed by the director of their administration, directorate or department.

ASSEMBLY OF THE *UMMAH*

Article 101

The membership of *Majlis al-Ummah* (Assembly of the *Ummah*) consists of those individuals who express the Muslims' views to the *Khalifah* when consulted. Non-Muslims are allowed to be members of *Majlis al-Ummah* so that they can voice their complaints with respect of unjust acts performed by the rulers and/or the misapplication of the Islamic laws upon them.

Article 102

The members of *Majlis al-Ummah* are elected by the people.

Article 103

Every citizen has the right to become a member of *Majlis al-Ummah*, provided he/she is mature and sane; this applies to Muslim and non-Muslim, man or woman. However, membership of non-Muslims is confined to their voicing of complaints with respect to unjust acts performed by the rulers and/or the misapplication of Islam on them.

Article 104

Shura is the mere requesting of an opinion. *Mashura* is the requesting of a binding opinion. Matters related to legislation, definitions, intellectual issues such as the examination of facts, and science and technology do not fall under the classification of *Mashura*. Everything else falls under *Mashura*.

Article 105

All citizens, Muslim or not, may express their views, but *Shura* is a right for the Muslims only.

Article 106

All issues that fall under *Mashura* are decided upon the basis of majority opinion, irrespective of whether it is correct or not. In all other matters of *Shura*, the correct opinion is sought, whether it be a majority or minority held view.

Article 107

Majlis al-Ummah is in charge of four duties. They are:

1. a. In affairs that fall under *Mashura*, such as: affairs of ruling, education, health, and the economy, the opinion of the *Majlis* must be followed. In all other matters, such as: foreign policy, finance and the Armed Forces, the opinion of *Majlis al-Ummah* is not necessarily sought.
- b. To question the government on all actions it actually carried out, whether they be internal or external affairs, financial or military. In matters where the majority view decides, the majority view is binding. Where the majority view is not sought, the viewpoint is not binding. In the event of *Majlis al-Ummah* and the rulers disagreeing on an action from the

Shar'iyah view point, the *Mahkumat ul-Madhalim* will decide.

2. *Majlis al-Ummah* can express dissatisfaction in governors and assistants of the *Khalifah*. In this case, the view of the *Majlis* is binding. The *Khalifah* must discharge them at once.
3. To discuss and express opinions on legislation, constitution and directives that the *Khalifah* intends to adopt and which he has presented to the *Majlis*. The views of the *Majlis* are not binding in this matter, though only the Muslim members have the right to express their views.
4. Muslim members of the *Majlis* have the exclusive right to nominate the candidates for the position of the *Khalifah*. No one can run unless nominated by the *Majlis*. The decision of the *Majlis* is binding.

THE SOCIAL SYSTEM

Article 108

A woman is primarily a mother and a home maker. She is an honor that must be safeguarded.

Article 109

Men and women are basically to be segregated from each other. They should not mix together except for a need permitted by the *Shar'a*. The *Shar'iyah* permission for mixing in this case should be there, such as in buying and selling and pilgrimage.

Article 110

Men and Women have the same rights and obligations with the exceptions of certain rights or duties given specifically to the man or the woman. *Shar'iyah* evidence is necessary for such exceptions. The woman has the right to practice trading, farming, and industry; to enter into contracts and strike deals; to possess all kinds of private ownership; to invest her funds by herself or by her proxy; and to conduct all of life's affairs.

Article 111

Women can participate in the election process and in the giving of the *Ba'yah* to the *Khalifah*. They can be members of *Majlis al-Ummah*. She can also be employed by the State.

Article 112

It is not permitted for a woman to assume responsibility for government. Consequently, women cannot hold the positions of the *Khalifah*, *Wali*, *'Amel* and she cannot undertake any task that is considered to be an aspect of government.

Article 113

Women functions in both the public and private lives. In public life, women are allowed to be with other women, *Mahrem* males and other males, provided that nothing of the women's body is revealed, apart from her face and hands. Seductive manners and clothing are not allowed. In private life, women are allowed to dwell with other women and *Mahrem* males. In both lives, all *Shar'iyah* laws should be complied with.

Article 114

(*Khulwa*) a man and a woman are not allowed to be alone without a *Mahrem*. (*Tabaruj*) Make up and dress that normally catches attention and/or exposes the body are not allowed in front of non- *Mahrem*.

Article 115

Men and women are not allowed to hold any job or perform any action which undermines the morality of the society or causes corruption in the society.

Article 116

The marriage is a life of tranquillity and companionship. Therefore, the responsibility of the husband towards his wife is one of care taking, and not ruling. She is to obey and he is to provide.

Article 117

Husband and wife must cooperate with each other in performing household duties. The husband performs all work undertaken outside of the house. The

woman performs actions normally undertaken inside the house to the best of her ability. The husband should hire a maid as required to assist her with the household tasks she cannot perform herself.

Article 118

The custody of children is both a right and duty of the mother, whether she is a Muslim or not, as long as the child is in need for it. When children, girls or boys, are no longer in need of care, they are to choose which parent they wish to live with. This applies if both parents are Muslim. If only one of the parents or guardians is a Muslim, there is no choice in the matter. The child is to join the Muslim.

THE ECONOMIC SYSTEM

Article 119

Economic policy is the view of what the society ought to be when addressing the satisfaction of its needs. So what the society ought to be is taken as the basis for satisfying the needs.

Article 120

The economic problem is how to distribute funds and benefits to all citizens, to enable them to possess them and to work for them.

Article 121

The State must guarantee full satisfaction of the individual's basic needs. The State must make opportunities available to have every individual satisfy his luxuries to the highest possible level.

Article 122

Wealth belongs to Allah. He allowed people to utilize it. With this permission, people have the right to possess property. Allah has also permitted the individual to gain possession of this wealth, and through this specific permission the individual can actually own it.

Article 123

There are three types of ownership: private, public and state.

Article 124

Private ownership is a *Hukm Sharii* , which determines that an object or benefit belonging to a person can be sold or utilized in any way beneficial to him.

Article 125

Public ownership is the *Shar'a* permission for the community to participate in enjoying the benefits of publicly owned items.

Article 126

Every wealth which can be disposed of only through the opinion and *Ijtihad* of the *Khalifah* is considered to be State wealth. Examples of this are the funds raised through general taxes, *Kharaj*, and *Jizya*, which is payable by non-Muslims.

Article 127

Private ownership on liquid and fixed assets is restricted by the following *Shar'iyah* causes:

- a. Work.
- b. Inheritance.
- c. Funds necessary for survival.
- d. State grants; from its own funds to a citizen.
- e. Funds obtained by individuals with no effort or substance.

Article 128

Disposal of property is restricted by the permission of *Shar'iyah*. This applies to both spending or investing. Squandering, extravagance and miserliness are forbidden. Also forbidden are the capitalist companies, cooperatives, and all other illegal transactions, such as: *Riba* (usury), fraud, monopolies, gambling and the like.

Article 129

Al-Ushriah land constitutes land within the Arabian peninsula and land whose

inhabitants have embraced Islam. *Al-Kharajiah* land is all land, other than the Arabian peninsula, which was acquired by the State either through *Jihad* or by conclusion of a peace treaty. *Al-Ushriah* land, together with its benefits, is owned by individuals. The title to *Al-Kharajiah* land is owned by the State. Individuals own its benefits. Everyone has the right to exchange, through *Shar'a* contracts, *al-Ushriah* land and the benefits from *al-Kharajiah*. All people can inherit these, as is the case with other types of ownership.

Article 130

Wastelands can be recovered by any individual thorough reclamation or by proclaiming it by fencing or marking. Other land can only be acquired by way of *Shar'a* causes, such as: inheritance, purchasing or through a grant from the State.

Article 131

Leasing land, whether *al-Ushriah* land or *al-Kharajiah* land, for agriculture is forbidden. Sharecropping of land planted with trees is permitted. Sharecropping on all other land is forbidden.

Article 132

Every land owner is obliged to utilize his land. The needy are to be given from *Bayt al-Mal* (treasury) to facilitate this. Anyone who leaves his land uncultivated for three years, will have it taken away from him to be given to another person.

Article 133

The following three categories constitute public ownership:

- a. Public facilities, such as the town square, streets, and bridges.
- b. Vast mineral resources, such as oil fields.
- c. Things which by their nature prevent the individual from acquiring a sole right to their possession, such as rivers.

Article 134

Factories in general are private ownership. However, each factory is governed by the rule related to the product manufactured within it. If the product is private ownership, the factory is considered to be a private ownership, such as

a textile mill. If the product is a public ownership, such as iron extraction, then the factory processing it belongs to the public ownership.

Article 135

The State has no right to change private ownership into public ownership because the public ownership is determined by its nature and attributes and not by the view of the State.

Article 136

Everybody in the State has the right to derive benefit from public ownership. The State has no right to allow any particular individual to possess, own or utilize publicly owned properties to the exclusion of other citizens.

Article 137

The State is allowed to claim land which is not owned by anyone, such as wastelands or any other property publicly owned for public interests.

Article 138

Hoarding funds is forbidden, even if *Zakat* is paid on it.

Article 139

Zakat is collected from Muslims on their properties specified by *Shar'a*, (money, goods, livestock and grain). It is not taken from anything not specified by the *Shar'a*. *Zakat* is taken from every owner whether legally accountable (mature and sane) or not (immature and insane). It is deposited in a special account in *Bayt al-Mal*. *Zakat* is only to be spent in one or more of the eight categories mentioned in the Qur'an.

Article 140

Jizya is collected from the *Dhimmis*. It is to be taken from mature men, if they are financially capable. It is not to be levied on women or children.

Article 141

Kharaj (land-tax) is collected on *Al-Kharajiah* land according to its potential. *Zakat* is payable on the actual production of *Al-Ushriah* land.

Article 142

The Muslims pay the tax that *Shar'a* has permitted to be collected to cover the expenditure of *Bayt al-Mal*. It is levied only on the surplus of the individual's conventional needs. The tax must be sufficient to cover the demands of the State. Non-Muslims do not pay any tax except the *Jizya*.

Article 143

If the *Shar'iyah* enjoins a particular task or activity on the *Ummah* as a duty and there are no funds in *Bayt al-Mal* for carrying it out the duty for providing these funds is transferred to the *Ummah*, and the State then has the right to collect these funds from it by imposing a tax on it. If, however, the *Ummah* is not legally obligated to carry out this task, the state has no right to impose any tax for the sake of it. Thus, the State is not allowed to collect dues for the courts or departments or administrations, or for accomplishing any governmental task.

Article 144

The budget of the State has permanent sources decided by the *Ahkam Shar'iyah*. The budget is further divided into sections. The funds assigned to each division and the matters for which the funds are allocated, are all decided by the view of the *Khalifah* and his *Ijtihad*.

Article 145

The permanent revenues for *Bayt al-Mal* are: *Fay* (spoils), *Jizya*, *Kharaj*, a fifth of *Rikaz* (buried treasure) and *Zakat*. All these funds are collected, whether there is a need for them or not, on a perpetual basis.

Article 146

If the permanent revenue for *Bayt al-Mal* are insufficient to cover the expenditure of the State, it is permitted to collect taxes for the following:

- a. The needs of the poor, the needy, stranded travelers, and to perform the obligation of *Jihad*.
- b. Remuneration: such as salaries of the employees, compensation for the rulers and the provisions for the soldiers.
- c. Providing the benefits and public utilities, such as constructing roads, extracting water, building mosques, schools and hospitals.

- d. Meeting emergencies, such as natural disasters, famine, floods and earthquakes.

Article 147

Income derived from public and state ownership, people dying without inheritors and customs levied at the State's borders are all revenue of *Bayt al-Mal*.

Article 148

The expenditure of *Bayt al-Mal* is distributed among the following six categories of people as follows:

- a. The eight categories of people entitled to partake of the *Zakat* funds. If there are no funds in this account they are not given any money.
- b. The poor, the needy, stranded travelers, the debtors and *Jihad* are funded from the permanent sources of revenue whenever there is insufficient funds in the *Zakat* account. When there are inadequate funds from the permanent revenues, the debtors are not to receive assistance. The poor, the needy, stranded travelers and *Jihad* must be funded from the taxes collected for this purpose. If required, and to avoid disorder, they can be funded from loans raised by the State for this purpose.
- c. *Bayt al-Mal* must provide for those people who perform certain duties or services for the State. Examples to this are employees, rulers and soldiers. If there are insufficient funds for this purpose, taxes must be collected immediately to meet these expenses. Loans should be raised if it is feared that disorder will occur.
- d. *Bayt al-Mal* shall provide for the essential services and utilities such as the roads, mosques, hospitals and schools. If there is insufficient funds, taxes must be collected to cover their cost.
- e. Non-essential services and utilities are funded by *Bayt al-Mal*. When there is insufficient funds available, they are not financed and accordingly delayed.
- f. Disasters, such as earthquakes and floods, must be financed by *Bayt al-Mal*. If there is insufficient funds available, loans are to be raised immediately, and will be repaid later from taxes.

Article 149

The State should guarantee employment for all citizens.

Article 150

Employees employed by individuals or by companies have the same rights and duties as state employees. Everyone who works for a wage, irrespective of the nature of the work, is considered an employee. In matters of dispute, between employer and employee over salary levels, the salary level is to be assessed on the basis of the market. If they dispute on something else, the employment contract is to be assessed according to the rules of the *Shar'a*.

Article 151

The salary is to be determined according to the value of the work or benefit expected from the employee. It is not determined according to the knowledge or qualification of the employee. There are to be no mandatory/automatic wage increases for employees. Instead, they are to be given the full value of the salary they deserve for the work they do.

Article 152

The State is to guarantee the adequate support for those who have no funds, no employment and no provider. The State is responsible for housing and maintaining the disabled and handicapped.

Article 153

The State must ensure the circulation of wealth among all citizens and forbid the circulation of wealth among only a sector of the society.

Article 154

The State endeavors to enable every citizen to satisfy his luxury needs and achieve a balance in the society based on the following:

- a. The State grants citizens liquid and fixed assets from funds deposited in *Bayt al-Mal*.
- b. The State grants its cultivated land to those who have insufficient land. Those who possess land but do not use it are not given any land. Those who are unable to use their land are given financial assistance to enable them to use their land.

- c. Those who are unable to settle their debts are given funds from *Zakat*, and other *Bayt al-Mal* funds.

Article 155

The State supervises agricultural affairs and its products in accordance with the agricultural policy, which accomplishes the full utilization of the potential of the land to its optimum level of production.

Article 156

The State supervises the affairs of the industry. It assumes direct responsibility for those industries which are associated with anything related to public ownership.

Article 157

International trade is assessed on the basis of the citizenship of the trader and not on the origin of the goods. Merchants from countries with which the State is at war are prevented from trading in the State, unless given a special permission for the merchant or the goods. Merchants from countries that have treaties with the State are treated according to the terms of the treaty. Citizens of the State are prevented from exporting strategic and needed materials. They are not prevented from importing any property they own. Excluded from this are countries which are in a condition of war with us, such as Israel. In which case, the rules of war apply for all relations, trade or anything else.

Article 158

All citizens have the right to establish research and development laboratories connected with the affairs of life. The State should also establish such laboratories.

Article 159

Individuals are prevented from possessing laboratories producing materials that could harm the public or the State.

Article 160

The State provides free health care for all. However, it does not prevent private medical practices nor the sale of medicine.

Article 161

Investment of foreign capital within the State is forbidden. It is also prohibited to grant economic concession or special priority rights to foreigners.

Article 162

The State must issue its own currency. It is not allowed to be associated to any other foreign currency.

Article 163

The currency of the State is gold and silver, whether minted or not. No other form of currency is permitted. The State can issue something else in place of gold or silver, on the condition that there is an equivalent in gold or silver in the State Coffers. Thus, for example, the State may issue currency in its name from brass or bronze, or paper notes etc., as long as it is covered totally by gold and silver.

Article 164

Foreign currency exchange is allowed between the currency of the State and that of other nations. However, such transactions must be undertaken in cash and constitute a direct transaction with no delay involved. It is permissible for the exchange rate between two currencies to fluctuate provided the currencies are different from each other. Citizens can buy whatever currency they require from both within or outside the State, and they can purchase the required currency without obtaining prior permission.

EDUCATION POLICY

Article 165

The Islamic '*Aqeeda* constitutes the basis upon which the curriculum rests. The syllabus and the teaching methods are designed to prevent a departure from this basis.

Article 166

The education policy is to shape the Islamic thinking and character. All subjects in the syllabus must be rooted to this basis.

Article 167

The goal of education is to produce the Islamic personality and to provide people with different disciplines of knowledge and sciences connected with life's affairs. Teaching methods are established to fulfill this goal and to prevent any departure from this goal.

Article 168

The weekly class time spent in teaching of Islamic culture and the Arabic language must be equal to all other classes taught.

Article 169

A distinction must be drawn in education between the empirical sciences, including everything that is related to these, such as mathematics, and cultural disciplines. The empirical sciences and whatever is connected to these must thus be taught as needed, and must not be confined to any stage of education. The cultural disciplines, on the other hand, should be studied in the elementary stage, before the advanced ones, in accordance with a specific policy which must be compatible with the ideas and legal rules of Islam. At the level of higher education, these disciplines can be studied as a particular form of learning, provided that this does not lead to any departure from the educational policy and its goal.

Article 170

The Islamic culture must be taught at all levels of education. In higher education, departments should be assigned to the various Islamic disciplines, as well as medicine, engineering, physics and other subjects.

Article 171

Technical disciplines and the vocational skills may on the one hand be associated with sciences, such as business administration, navigation and agriculture. These type of subjects are to be studied without restriction or conditions. On the other hand, they might be associated with a particular culture, whenever they are influenced by a particular view, as with painting and sculpturing. In which case, these disciplines will not be studied if they contradict the Islamic point of view.

Article 172

The State's curriculum is the only one allowed to be taught. Private schools are allowed, provided they are bounded by the State's curriculum. There should be separate classes for boys and girls. Furthermore, there should be no schools based on a particular religion or a sect or a race. All schools must adopt the State's curriculum and establish themselves on the education system and accomplish the goal and policy of education set by the State.

Article 173

It is an obligation upon the State to teach every individual, male or female, those things which are necessary for life. This should be provided freely to all and should be done in the primary and secondary levels of education. The State should, to the best of its ability, provide the opportunity for everyone to continue higher education free of charge.

Article 174

The State should provide libraries, laboratories and other educational facilities outside of the schools and universities to enable those who want to continue their education in various fields of knowledge, such as *Fiqh*, *Hadith* and *Tafseer* of the *Qur'an*, medicine, engineering and chemistry, research and development and others. This will create an abundance of *Mujtahideen*, outstanding inventors, and creative thinkers in the *Ummah*.

Article 175

Authorship at any educational level should not be considered a business and cannot be exploited. No one, including the author or the publisher, has the right of copyrights. However, if the book has not been printed and published, and thus is still an idea, the owner has the right to take a payment for transferring these ideas to the public, the way he/she takes compensation for teaching.

FOREIGN POLICY

Article 176

Politics is the management of the *Ummah's* affairs both internally and externally, and is undertaken both by the State and the *Ummah*. The State applies

itself to this management in practice, while the *Ummah* calls it to account for its handling of it.

Article 177

It is absolutely forbidden for any individual, party, group or association to have relations with a foreign state. Relations with foreign countries are restricted only to the State because the State has the sole right to practice taking care of the *Ummah*'s affairs. The *Ummah* and the groups are to call the State to account over its foreign relations.

Article 178

The goals cannot be achieved by any means necessary, because the method (*tariqa*) is derived from the idea (*fikra*). Thus, the *Wajib* (obligatory) and the *Mubah* (permitted) cannot be attained by performing the *Haram*. Political means must not contradict the political method.

Article 179

Political maneuvering is necessary in foreign policy. The effectiveness of this maneuvering is dependent on concealing one's aims and disclosing one's actions.

Article 180

The most important political means consist of disclosing the crimes of other states. It also includes, explaining the danger of erroneous policies, exposing harmful conspiracies and bringing down misleading personalities.

Article 181

One of the most important political strategy is the manifestation of the greatness of the Islamic thoughts in taking care of the affairs of individuals, nations and states.

Article 182

The *raison d'état* of the *Ummah* is Islam in the forceful persona of its State; the sound implementation of its rules; and in the persistence of conveying its *Da'wah* to mankind.

Article 183

Conveying the Islamic *Da'wah* is the axis around which the foreign policy revolves, and the basis upon which the relation between the State and other states is built.

Article 184

The State's relationships with other states are built upon four considerations. These are:

1. The current states within the Islamic world are considered as if they all lie in within a single country. Therefore, they are not included within the sphere of foreign affairs. Relationships with these countries are not considered to be in the realm of foreign policy and every effort should be expended to unite them all in a single state.
2. States with which we have economic, trade or cultural treaties, or friendship accords, are dealt with in accordance with the stipulations of those treaties. Citizens of such states have the right to enter our lands with their identity cards alone, without there being any need for a passport, if the treaty states as such, and on conditions that citizens of the Islamic State enjoy an equivalent right in return. Economic and trade relations with such states must be confined to certain items and to certain specifications only, on condition that these things are indeed essential to us and do not lead to strengthening of such states.
3. States with whom we do not have treaties, the colonist states, such as Britain, America and France, and those states that have ambitions in our lands, such as Russia, are considered to be potentially warlike states. All precautions must be taken against them and it is not permitted to establish diplomatic relationships with them. Their citizens may enter the State only with a passport, and a visa specific to every individual and for every trip.
4. With states that are actually belligerent states, such as Israel, a state of war must be taken as the basis for all dispositions with them. They must be dealt with as if a real war existed between us, whether during cease fire or other wise. All citizen of such states are prevented from entering the State.

Article 185

All military treaties and pacts are absolutely forbidden. This includes political treaties and agreements covering the leasing of military bases and airfields. It is permitted to conclude friendship accords, economic, commercial, financial, cultural and armistice treaties.

Article 186

The State is forbidden to join any organization which is not based Islam, or which applies non-Islamic rules. This includes international organizations such as the United Nations, the International Court of Justice, the International Monetary Fund, the World Bank, and regional organizations such as the Arab League.