

# VICEGERENCY (AL-KHILAFAH) AND GENDER JUSTICE IN ISLAM

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## INTRODUCTION

This chapter summarizes Islamic view of life as a system and analyzes some implications of this system for family and male-female relationships. It is necessary, therefore, to replace the conceived notion that Islam is a religion limited to the ritual acts of worship (the five pillars) with the affirmation that Islam is a system designed for a purpose, and that this system is either accepted as a whole, understood within its ontological worldview, and acted upon within its components, or its practice may not be total. It is as important to understand that one cannot be operating partially within this system and still claim it as the base of operation. That is because whenever something is not accomplished according to what the system was designed to achieve one cannot discredit the system for not fulfilling its goals. One might understand the reason(s) that have lead to the unexpected results, rather, by exploring the steps that may have been missed during the application.

I am proposing that Islam as a system or an ideology has a central concept (or an essence) around which certain principles (or secondary and tertiary concepts) are built. These principles vary in their priority depending on their closeness to objectifying the central concept. The closer they are, the higher value they should be given and the more consideration they should receive in application of the system. Then on the outer circle (of the imaginary diagram) there are the auxiliary hypotheses (or the manifestations) which, if were appropriated within the framework of the central concept and with the essence of the principles as the base, will achieve the intended results (or the outcome) of the system.

The focus of this paper is on the Islamic principle of *al-Khilafah* (vicegerency of human beings to *Allah* as the Only God and the Supreme Guide), its social implications for the family, and where and how its manifestations may have been mistaken for its essence. *Al-Khilafah* is the purpose of the Islamic system, that is, fulfilling the purpose of creation and the will of Allah through human morality. The first part of the argument is that the principle of *al-khilafah* has been generally understood by Muslims and non-Muslims alike, and has been practiced by the majority of Muslims on its manifestation level and not at the essence level of the principle. Furthermore, the perception (conception and practice) of this principle has been generally outside the Islamic ontological view and without consideration of the central concept of Islam, *Tawhid* (the Oneness of God and humanity).

The second part of the argument will be stated as follows. Unless scholars, Muslims or non-Muslims, who are concerned with the study of Islamic family realize the different conceptual levels of the Islamic system, understand the variation in the implications of the different conceptualizations, and use the

central concept as the epistemological base, their attempt to understand or prescribe solutions to injustice in male-female relations in the Muslim family will fail. Also, as long as Muslims are practicing the principle of al Khilafah and its social and political implications on the manifestation level only, they will not fulfill that principle nor the central concept of Islam, Tawhid.

## THE CENTRAL CONCEPT OF ISLAM

Tawhid means, primarily, that Allah, the Only and One God, occupies the central position in every Muslim's place, thought and action. The assertion of the Islamic faith that "There is no God but Allah" simply means that God is perceived as the core of values (normativeness)<sup>1</sup>, the Creator, the Source of knowledge and the Guide.

To perceive God as such is not possible unless there are beings for whom values are both perceivable (and hence knowledgeable) as well as realizable (i.e., applicable in real life). Thus, and this is the secondary meaning of Tawhid, God created one humanity to realize the imperative of creation, which means God's norms are for all humans (Universalism).<sup>2</sup> By entrusting the humankind with this divine will (the moral law), the creation of mankind and the appointment of human beings as al-Khalifah (vicegerent of divinity on earth)<sup>3</sup> was necessitated by higher order of the moral action, namely freedom to fulfill or not to fulfill the will of Allah. To (know) the divine will, human beings were given two things: revelation, a direct disclosure of what God wants them to realize on earth (the Law, the system), and rational ability (sense, reason, initiation, etc.) necessary to discover the divine will unaided. For God's will is imbedded not only in causal nature, but equally in human feelings and relations which takes the exercise of moral sense to discover it. Once God's will is perceived, the desirability of its content is a fact of human conscious. Therefore, moral action is not itself moral unless it is freely willed and undertaken to completion by a free, informed agent. The concept of "salvation" has no equivalent in Islamic vocabulary. Humanity and the world are either positively good or neutral, but not evil. A human being begins his/her life with *fitra* (natural endowment)<sup>4</sup> that is ethically sane and sound, and his/her individual destiny is exactly what each individual makes it to be. God's government is just<sup>5</sup> and its scale of justice is that of most perfect balance in the patterns of nature.<sup>6</sup> Its system of worldly and otherworldly rewards and punishments allocates for everyone exactly what s/he deserves.<sup>7</sup> Islam sees itself relevant to all of time and space including all mankind. This totality comes from the realism of the will of God in all spheres of life. Hence, in its social dimension (our concern here), Islam defines *al-Diin* (religion in the wide sense)<sup>8</sup> itself as the very business of life in space-time, the very process of history, all of which, in turn, constitute religion. These processes are conscious piety and righteousness when well conducted (namely following the steps prescribed by the system) and impiety and unrighteousness otherwise. Islam wants humans to pursue what is of nature, to eat and drink, to have lodging and comfort, to enjoy sex, friendship and all the good things of life, but to do

them righteously, without lying and cheating, without stealing and exploiting, without injustice to self, to others, to nature, and to history. Thus, the social order summarized above as the natural objective of all humans is both of natural quality and of necessity to fulfill the will of God. Islam calls the humanity the Khalifah of Allah, precisely because to do all these things well is to fulfill the will of God and, hence, to fulfill the purpose of the system. As facilitator of the social order the concept of *Ummah* (universal community) or *Dar al-Salam* (the House of Peace)<sup>9</sup> is introduced as the ultimate goal of Islam in time and space. Thus, pluralism<sup>10</sup> as political and religious practices<sup>11</sup> within the House of Peace is possible as long as the will of God is realized, and as long as al-Khilafah is understood and practiced within the framework of Tawhid.

## IMPLICATIONS FOR SOCIAL ORDER

Only a tiny section of the Law of Islam has to do with rites and with strictly personal ethics. The social order is the heart of Islam; it has precedence over individual rights. Islam agrees with all the religions which cultivate the personal values and recognize those values (such as humility, kindness, etc.) as necessary, but it regards them and their pursuit all empty unless their cultivators effectively increase the good and benefits of others in society. Yet, the *ummah* (the state community in political sense) is ruled neither by its own rules, nor by its people--the ruled. Both of them are ruled by the Divine Law (i.e., the system), and the state does not legislate, only executes the Law. Thus the ruler and the ruled are instrumental for instantaneous of the Divine Law, be it in political or in family affairs.<sup>12</sup> The Ummah is neither a "democracy," nor an "oligarchy," nor an "autocracy", since nobody legislates or enjoys any right over other to rule. In this sense the following are three practical implications within which we can classify the realization of Tawhid and al-Khilafah to family and male-female relations. These implications are: (1) no particularism, (2) everything is relevant in time and space, and (3) responsibility.

### 1. No Particularism

The identification of the divine will with value releases the latter from all particular bodies usually recognized as normative sources of value, such as, sex, tribe, race, land or culture. God alone is the Creator and every other being is a creature, and all creatures are equally part of the creation. Hence, the belief in the unity of God implies that the same value falls equally upon all.<sup>13</sup> This moral implication, however, is actualized by the free will of al-Khalifah, the human, only if s/he fulfills the will of Allah. Therefore, any understanding or practice of value whose source is not Allah causes injustice. This is because a member of humanity has been stripped of his/her freedom to fulfill the will of Allah by the mere fact that s/he was made to accept a fellow creature to be a source of his/her value. Two consequences follow from this implication with regards to family:

- a. Equality among members of the family in fulfilling the purpose of God: religious and civil vicegerency.<sup>14</sup>

- b. The family is the basic unit of society, where vicegerency starts with self and other members of the family.<sup>15</sup>

I will analyze one manifestation of the first consequence only. The religious and civil vicegerency is realized (manifested), through in part, by the most sublime act of worship, i.e., *Salat* (prayer) which has also psychological and social implications. *Salat* is a *Fardh 'Ayn* (obligatory on each individual who reaches puberty and is sane)<sup>16</sup> *Salat al jumu'a* (Friday assembly) is considered as *Fardh 'Ayn* by the majority of Muslim scholars and is classified as *Wajib* (an obligatory act, individuals are rewarded when they fulfill their obligations and punished when they don't).<sup>17</sup> *Salat al Jama'a* (congregational prayer), particularly in the Mosque (the House of God), is rewarded better than individual prayer if it does not inflict hardship.<sup>18</sup>

Although some scholars and lay people understand worship in its narrow sense, as commonly known to mean the ritual acts towards a supreme being, it will be used here in its widest sense that includes every aspect of the human life since it is ordained that humans were created to worship Allah.<sup>19</sup> If we are to analyze the practice of this manifestation--*Salat* in the Mosque, its relevance to injustice towards Muslim females, and how it has been understood by Muslims and non-Muslims alike, we may be able to shed some light on the issue of gender justice and justice to the Islamic system as well.

To enjoin an act of worship as a means of guiding towards the purpose of good work, the Quran states: "Salat prohibits the works of shame and evil, the sinful acts." (29: 45) The Quran also reminds the believers of the pattern of human nature and needs (spiritual, material, etc..): "O ye who believe! When the call is proclaimed to worship on Friday (the day of assembly) hasten earnestly to the remembrance of God, and leave off business (of life). And when the worship is finished, then may ye disperse thorough the land and seek of the bounty of God." (62: 9-10)

During the time of the Prophet Muhammad (PBUH) women conducted *Salat* in mosques, including the participation in Friday assembly<sup>20</sup> The same was practiced during the time of the early caliphs and companions of the Prophet.<sup>21</sup> The books of *Fiqh* (Islamic jurisprudence) show consensus among the four schools (the Hanafi, Shafi'i, Maliki, and Hanbali) with respect to prayer as being *Fardh 'Ayn* (i.e., being the responsibility of each individual without particularism).<sup>22</sup> The same schools consider Friday prayer as being *Fardh 'Ayn* and independent of the noon prayer with evidence from the Quran and Prophetic *Sunnah* (the prophetic acts and sayings), as indicated above. Yet, in a following section of the same source, four more conditions for the Friday obligatory status are presented; the first of which is that the individual must be male, but without presenting any evidence either from the Quran or from the Hadith to that effect. Furthermore, the source states that the female is not obliged to perform *Juma'* and if she did, she would not have to pray the regular noon prayer, contrary to what was stated earlier about the evidence of *Juma'* being *Fardh 'Ayn* and that it does not replace the noon prayer. A discrepancy is also seen in the ruling with respect to women's participation in the '*Eid* (Holiday) prayers. These prayers

were enjoined on all Muslims and were highly recommended by the Prophet <sup>23</sup> and are being considered by some schools of Fiqh as *Sunnah Mu'kkada* (confirmed act of the Prophet) and by others as *Fardh Kifayah*. (obligatory on the group). The discrepancy lies in the fact that if Muslim women, particularly those of the so called "religious" families, are enjoined to participate in 'Eid congregation which is considered as either Fardh Kifayah or a Sunnah Mu'kkada, wouldn't it be more logical and of utmost good that women be enjoined to attend Friday assembly, which is clearly ordered in the Quran for each believing individual, and which is ruled as Fardh 'Ayn?

In later dates, Muslim scholars, such as al-Ghazzali (1058-1111), has recommended, in the context of the way of men courting their women, that men should avoid unnecessary jealousy. al-Ghazzali went on to say that the Prophet had allowed women to attend the mosque, referring to the aforementioned Hadith. However, he added that "the correct action now is to prevent (the women) except the elderly." Al-Ghazzali based his recommendation on Aisha's (the wife of Prophet Muhammad) comment during the era of *Sahaba* (the companions of the Prophet): "Had the Prophet known what women have done after him, he would have prevented them from going out (of their homes)". al-Gazzali referenced Aisha's hadith as *Muttafaq Alayh*(received general consensus), and added that al-Bukhari had extrapolated that "the prophet would have prevented women from attending the mosques". <sup>24</sup>

The *Muqallidun*(Muslims who follow recommendations by the traditional interpreters and commentators of Quran and Hadith) seem to have extrapolated al-Ghazzali's judgement, preventing women from attending the mosques with different levels of restrictions and different types of reasoning regardless of the relevancy of time and place. By doing so, they have, knowingly or unknowingly forced a particularism on the meaning of vicegerency through the realization of one of its manifestations, Salat al-Jumu'a. That is, by preventing women from the mosque and, eventually, from Friday assembly and from congregational prayers in general, not only have they enforced a limitation on women's access to the community assembly (i.e., they have limited women's participation in the community affairs and exchange of knowledge which is an important part of the congregational prayer and is of a higher value than any of the reasons given, such as "to prevent *Fitna* [temptation]"), but they have also institutionalized an unwarranted differentiation between religious duties of males and females that is emulated by contemporary practitioners <sup>25</sup> Given that prayer is still recognized as Fardh 'Ayn, including Friday congregation <sup>26</sup> and given that collective prayer is ordered in the Quran even during the war <sup>27</sup> and enjoined by the Prophet as better than the individual prayer <sup>28</sup>, it seems that dual injustice has been committed against the female by preventing her from attending a mosque and by passing a rule against her wajib to attend Friday prayer. That is, through a particular interpretation of historical documentation, the contemporary understanding of such practice has been bound by certain judgement for a particular time and space and, hence for the Friday prayer which seems to be transformed, among the majority of contemporary Muslims, from a wajib on an

informed, mature, and sane individual into a wajib on mature, sane, free males only, with the women being classified with slaves, boys, insane, and immature<sup>29</sup>

Some Western and Westernized Muslim writers in the area of women and the practice of Islam see that since women were banished from the mosque, their religious duties were thus minimized to "a few quick prayers in the home".and, hence, banning of women from public places, such as the mosque, constitutes discriminatory practices in the Islamic teachings. These writers seem to observe the above transformations of the recommendations by certain interpreters and Faqihs along with the contemporary practices and classification of women with respect to this particular manifestation (Friday (assembly/congregational prayer) and conclude from these observations that Islamic teachings are to blame for women's oppression<sup>30</sup> Although an other group of these writers do realize the fact that the absence of women from the mosque had led to undocumented assumptions about the participation of women in Islamic life,<sup>31</sup> my augment consists of two parts: (1) particular practices of certain manifestations of some Islamic teachings have replaced the Quranic and prophetic principles that underlay some of these manifestations and, therefore, these practices were transformed from being temporal applications of a principle into principles by themselves, and (2) all parties involved in the discussion of the issue of mosque participation may have committed injustice, by thought or by action, including Muslim women themselves when they have allowed such transformation to have taken place.

On the one hand, Muqallidun/Traditionalists who banished women from the mosque seem to have committed injustice on two levels: First, they have made of themselves legislators<sup>32</sup> of a rule and, by doing so, they, knowingly or unknowingly, have misinterpreted the central concept of Islam (Oneness of God as the source of knowledge, value and authority) and one of the basic principles of al-Khilafah, namely, no particularism in the free-realization of the will of God. Second, although attending the mosques is only one aspect of the manifestation of the religious realization of the will of Allah, the mere fact that banishing women from mosques has become the rule, instead of being a temporal interpretation and practice, is not only placing a manifestation at the level of a principle, but also violating the second principle of al-Khilafah, namely everything is relevant in time and space. Furthermore, when human interpretation is given the same value and priority as the original principle/guidance that is part of the revelation or the Prophetic teachings, it is by itself a violation of the very principle that no human being may produce a rule for another human being. Only judgements that are relevant in time-place and that are drawn by '*Ijma* (consensus) may be used for governing the community for which they were drawn. By doing so, any person, even *wali al-amr* (governor/ruler), could commit injustice to self and to others if s/he were to generalize that recommendation to the point of making it a permanent law.

On the second hand, the contemporary modernists (i. e., who do not accept the traditional interpretations of Quranic teachings, and the majority of whom usually assert that Islamic teachings themselves are unjust or obsolete and,

therefore, Islam cannot be applied in modern times), by taking certain practices as the principles without investigating the original teachings in their holistic, historical context, have given the phenomenon of mosque attendance a value by itself. Using this phenomenon as a criterion to judge the religiosity of Muslim women and the credibility of the teachings, they may have caused more harm than good, and hence, injustice. First, and in the same vein of the Muqallidun, they are attributing value, where value only comes from Allah. Second, and a more lasting effect, is that they have, intentionally or unintentionally, mislead some of these women by making them think that by attending the mosques and by participating in public life without any constraint, these women would have regained their freedom of choice.<sup>33</sup> By doing so, these modernists have only treated a symptom of a problem, but caused other problems to arise, the least of which is the reactionary measures taken by some traditionalists. The worst of these problems, however, is that very few of those "liberated" women are able to understand the Islamic teachings in their ontological framework and, therefore, to respond to the traditionalists from the Islamic point of view. Because they were not trained in the sciences of Islamic law, nor are they operating within the Islamic ontological view, even though they may still identify with Islam, most of these "educated" Muslim women perceive Islamic teachings and practices outside the Islamic political praxis and, hence, the dialogue between them and the traditionalists remains like a dialogue between the mutes.<sup>34</sup>

On the third hand, Muslim women, in general, seem to be doing injustice to the will of Allah too. First, they take other's legislation as their source of value, hence violating the concept of Tawhid. Second, they do not exert themselves to learn and to understand the will from its primary sources and, hence, they may have committed injustice to self by not fulfilling the principal of informed morality and choice. One might argue here that it is unrealistic to expect "oppressed, illiterate" women to fulfill the principle of informed morality or any other principle. Part of the answer would be that if illiteracy is the problem, then why are most "educated" Muslim women, or men for that matter, deprived of the basic knowledge of the Islamic view while they still claim adherence to Islam as their religion or way of life? Not knowing how to read and write is one of the reasons for women's oppression, but why is it that some illiterate Muslims are more knowledgeable about certain aspects of Islam than many of the "degree-bearing" Muslims? In addition, oppression may prevent a human from acting at the level of free will as described in the Quran, but it does not stop her/him from thinking of ways to change one's situation.

In summary, the entire battle over women's public participation, whether in the mosques or any other places, has moved the focus away from helping the Muslim women, and men as well, to understand Islam at its central concept level and as a system. The history of the Muslim world reform movements, particularly the contemporary ones, attest to this observation and examples from recent history provide ample evidence about Muslims' drifting away from the basic message of Islam and immersing more into the traditional (tribal, societal or familial) understanding of women's role.<sup>35</sup> What is missing in the equation is not only the availability of "rational" scholars or more women moving freely in all

sectors of public life, but also the understanding of the original principles in context and within the intention (the underlying assumptions and the ontological view) of these principles. The intention behind the work of the "rational" scholars and the intention behind the women being part of public life are an important part of the fulfillment of the will of Allah and just as important as the intention of the Muqaliddun or the Modernists. Since *niyya* (human intention) in Islam is a prerequisite to any action before action is considered a fulfillment or not a fulfillment of the will of Allah,<sup>36</sup> and since intention should come out of free will and may be known only to the person (the agent) involved and to Allah, one cannot judge the value of a principle as being just or unjust from the practice of some of its manifestations. Therefore, to understand if and when injustice to the Islamic system and to the Muslim female is committed, one needs to make explicit the perceived principle (i. e., intended and practiced in line with the particular intention and conception), and then attempt to change this perception, if it contradicts the Quranic and Prophetic teachings. Another criterion for understanding where injustice may have taken place is in recognizing the extent to which women's absence from the mosque, throughout a long period of history, have affected women's education, in general, and the nature of the role they have played or have been assigned to by the particular society. To alleviate injustice fully, therefore, is to relinquish misconceptions of the principles, first, and then to achieve Islamic practices within the framework of Tawhid. Without such achievements, the symptoms (of oppression, illiteracy, etc...) will make a come-back depending on the various groups' interpretations and their level of rationality.

## 2. Everything Is Relevant in Time-Space

The application of value includes all goodness wherever it is to be found. This implies that society may establish a hierarchy of priorities, and it results in the flexibility within the Islamic jurisprudence and ethical classification of human activities into the five classes: obligatory, prohibited, recommended, recommended against, and neutral. Therefore, any Islamic society may lose its claim to Islamicity if it were to restrict its activities to one of the five classes or to anyone or to two departments of life. Totalism was, therefore, not only a description for society but an administrative policy for the state (Khilafah) as well. The consequences of this principle for Islamic family are:

- a. Vicegerency is fulfilled by participation in both domestic and public affairs by all members.<sup>37</sup>
- b. Vicegerency is fulfilled by guarding the two sectors of life from immoral exposure (i.e., from violating the will of God).<sup>38</sup>

I will analyze the first consequence by using one of its manifestations, namely, the domestic role of male and female in the family. Islam regards men and women as created for differing but mutually complementary domestic functions without specifying what these functions are. "Do not enviously wish for that

which God proffered on some and not on others. Men and women, to each belong the works they had personally accomplished..." (Quran 4: 32)

Two related verses received the utmost attention by both scholars and practitioners, whether traditionalists or modernists. They are verse 2: 228 and 4: 34. Muqallidun generally imply in light of the aforementioned verse (4: 32) that verse 2: 228 "For men a degree over them (women)" means men have advantage over women by their physical strength. Hence, traditionalists conclude that verse 4: 34, "men have (an additional) responsibility by which God has bestowed upon them and by spending from their means" also implies that men are the protectors and maintainers and guardians of women because they support them from their means.<sup>39</sup> Moreover, some traditionalists went to the extreme in saying that because women are under men's protection in the domestic sphere, they are incapable of functioning in the public sphere alone and that the home is their only place of function.<sup>40</sup>

The matter does not stand any scrutiny. First, it concerns the domestic relation only and the proof lies in the remainder of the verse which concerns itself with the conditions of application of the first part. This other half of the verse is usually omitted from the argument in order to make way for unwarranted generalization, whether by proponents or opponents to women's function in public domain. In the domestic relationship, men are the head of households insofar as patriarchy is the predominant form of family life which most of mankind has tried and observed since creation. Second, the condition of the man fulfilling the basic principle of vicegerency (i.e., informed and free application of the will of Allah) is prerequisite to fulfilling the principle of mutual guarding of the two sectors of life from immoral exposure. Therefore, if men demand of their female household what they themselves have not been able to fulfill (whether out of ignorance of the teachings, of tribal customs, or because they themselves are oppressed), it becomes injustice to require those females to be religiously or ethically obliged to abide by the instructions of their male household. Third, to interpret this verse in the fashion of the advocates of inequality in the teachings (as is the case with some traditionalists [who advocate equity instead] and modernists [who refuse any differentiation in male-female roles])<sup>41</sup> is to make it run counter to all the other verses that establish equality on the crucial levels of religious, ethical and civil life.<sup>42</sup>

Thus, the manifestation of role-playing in the family cannot be considered as a discrimination ruling against women nor does it call for segregation between religious and ethical obligations because both roles are equally subject to religious and ethical norms. Equally this role-differentiation says nothing about other activities whether in the area of overlap or not. Where natural aptitudes make it desirable, or necessity makes it expedient, men's and women's activities may cross into each other's realm without prejudice to the main role-differentiation established by God in nature. Otherwise, the Quran would not have granted to women the full civil rights it did, such as inheritance, disposal of own means, voting, etc..<sup>43</sup>

The argument, stated earlier, stands for this implication and its manifestations as well. As long as both scholars and practitioners view certain manifestations

of the role-differentiation as the problem and not as a symptom, injustice resulting of such manifestations may not be abated because the perception of a manifestation on the same level of the principle or its implications, the perception of one principle without the other, or the perception of one sphere of life without the other will always lead to an incomplete solution and, hence, unrealisation of the Divine Will. The result, therefore, is that injustice to self and others may be committed, particularly if those discriminatory acts were intended, despite the fact that the agent was informed of their consequences.

### 3 Responsibility

In order for totalism not to become totalitarianism, the principle of *Taklif* (responsibility) is eminent. Every human being, Islam tells us, is *mukallaf*, (i.e., charged with the realization of the Divine Will). This Taklif is based on his/her natural endowment which constitute the *sensus communis* that is shared with humanity. This innate but educable *sensus* is the faculty by which the individual recognizes the Creator and perceive Allah's will as sought-to-be in his/her life. This responsibility is the essence of morality. The Quran has emphasized the personal character of responsibility and denied every possibility for vicarious responsibility. Thus the Quran decreed that there shall be no coercion, and it required niyya for any moral act. The implications for family are:

- a. Freedom of choice for all individuals to realize or violate the Divine Will; an internal decision to undertake an act and bare its consequences. <sup>44</sup>
- b. No coercion among family members in the perception of values. <sup>45</sup>
- c. No discrimination in teaching or learning value-perception. <sup>46</sup>

I will analyze the first implication as manifested in the guarding of women's chastity to illustrate where injustice may have taken place. The Quran declares: "Nor can a bearer of burdens bear another's burden" (35:18). Also, the Quran asserts in another verse that "Allah will never permit any of their good works to be lost, whether male or female." The latter verse is concluded with: "...they (male and female) are members of one another." In other words, they are mutually responsible to aid one another in the good work, be it guarding chastity, raising children, or even fighting <sup>47</sup>

The traditional notion, represented in al-Ghazzali <sup>48</sup> suggests that women's chastity is the responsibility of her husband, grown male children and paternal relatives. The Modernists' view is that men, by claiming this responsibility, are appointing themselves as decision makers for the women under their auspices, and that this practice denies to the woman her humanity and ability to make her own decision as well as to bare the consequences of such a decision. yet, these same modernists do not recognize that many of their aspirations are centered more on the loss of dignity more than on the injustice or exploitation of women. <sup>49</sup>

Neither of the above two notions seem to do justice to women because, on the one hand, the traditionalists extended the domestic responsibility of the male in the family, as prescribed in the Quran, to making him a guardian of the women's inherent freedom to realize or violate the Divine Law. On the other hand, the modernists also appoint themselves liberators of Muslim women and hence, appointed themselves as protectors of women's rights. Furthermore, by using the manifestations of guarding chastity in separation from the other manifestations and away from the basic principle of mutual responsibility among males and females in aiding each other in the good work, the Modernists have assigned a different value to a principle and, thus, violating the principle of Tawhid..

## IMPLICATIONS FOR RELIGO-POLITICAL ORDER

Religo-political order of al-Khilafah is not limited to the elected or appointed leader, the caliph. It is realized by three principles. These same principles, if understood and applied, can also be facilitators for the principles of social order:

### 1. Consensus of Vision:

This principle implies that all humans, males or females, are capable of knowledge of (1) the values in the Divine Will, (2) the movement in history produced by the realization of these values, and (3) the present and how it can realize the previous two anew. Consensus of vision also implies equality in enjoining of *Ijtihad* (self-exertion to know, to understand, and to realize values in present conditions). *Ijtihad*, therefore, does not necessarily mean passing new rulings on certain issues for which past rulings may still be applicable in time-space. Rather, *Ijtihad* is to exert oneself to understand Allah's Sunna<sup>50</sup> behind a particular principle and to realize the multi-faceted manifestations of the *Minhaj* (system) in time-space. This realization will celebrate the diversity in interpretation but, more importantly, will internalize the diversity in the application of the same *Minhaj* in all avenues of life. Without such diversity, Islam will become an obsolete fixed law that will not allow for time-space changes and, hence, can be easily rejected.<sup>51</sup>

### 2 Consensus of Power:

This principle implies equality in social cohesiveness to move values from ought-to-be's into ought-to-do's. It also implies equality in the condition of *Nizam* (order), where every one should be literate and literary in order to understand and to follow the order of the *Minhaj*. This literacy does not necessarily mean that every individual Muslim has to be a scholar in order to be empowered. Rather, to be literate is to be informed of the teachings as a prerequisite of *taklif* (accountability). To be informed needs some basic knowledge and skills without which individual sharing in the political affairs of the community may be reduced or diminished, and thus social values may not be moved from the ought to the action status. That is, the individual who executes

any manifestation of the system may do so routinely and may not necessarily realize the social value of the system as intended in the principle.

### 3. Consensus of Action:

This principle implies equality in material need and in moral (education) need, where the minimum in the latter is what bring a full measure of self-realization as part of the cosmos. The ability to understand and to share in the political affairs empowers the individual to fulfill his/her role as khalifah and, hence, realize oneself as an active and not as a passive part of the Minhaj. Without this active role, the individual may not cause a change in history which is part of the accountability in carrying the message of al-Khilafah.

By applying these principles within the central concept of Islam, Tawhid, and in conjunction with the social order principles, the issue of injustice will be dealt with on a level that makes mutual understanding between the concerned parties possible. That is, by applying these religio-political principles within the state, the role-playing becomes temporal and may change as the system allows for. Furthermore, by making explicit the intention, or the underlying assumptions of different views and roles, the mutual goal will be realized and , consequently, all parties will work toward eliminating their misconceptions in order to produce lasting solutions to the issue of gender injustice or any form of injustice.

## NOTES

1. The basic ideas on the concept of Tawhid and its implications were drawn (and presented here nearly verbatim) from I. R. al-Faruqi, Tawhid: Its Implications for Thought and Life, (Wyncote, PA: International Institute of Islamic Thought, 1982). Yet, the extrapolation and application of these concepts to the principle of al-Khilafa and with reference to gender justice are the present author's.
2. "We offered our trust (amanah) to heaven and [to] earth and mountains. They shied away from it in fear, panic-stricken. But humankind accepted to carry it." (Quran 33: 72).
3. "When your Lord announced to the angels that He was about to create a vicegerent for Him on earth. I have a purpose [for what I am about to do] which you do not know." (Quran 2: 30)
4. "According to the pattern that Allah has made mankind" (Quran 30: 30). By relating this verse to verse (1:1): "In the name of God, Most Gracious, Most merciful," the methodology of objectifying the Qur'anic principles become very clear. That is, the Lord of the universe, has provided mankind with the natural perspective to understand the universe and to act within the natural course of *Nizam* (order) in it.
5. "On that day [the Day of Judgment] all people will be resurrected and shown their own deeds. Whoever does an atom's weight of good will behold it then; and whoever does an atom's weight of evil will be reckoned unto him, with equal precision." (Quran 99: 6-8)
6. "The word of thy Lord does find its fulfillment in truth and in justice: None can change His Words: For He is the one Who Hears and knows all." (Quran 6: 115)
7. "Their Lord responded to them that He will never permit any of their good works to be lost, whether done by male or female. They are members of one another." (Quran 3: 195).
8. "The religion (al-Diin) before God is Islam." Islam in Arabic means accepting of or submission to Allah's will (Quran 3: 19)
9. Note that the translation of the Arabic word *Ummah* can be understood as either Muslim community (ummah) or Islamic State (Ummah), which encompasses the Muslim community. In the present context the ummah or Muslim community is defined by I. R. al-Faruqi, Triologue of the Abrahamic Faiths, 1986 (Ann Arbor, Michigan: New Era Publications): Islam offers the universal community as the basis of human association, instead of the nation, the

people or ethnic group. This is not the ummah of the Muslims, or Muslim community, which is only a segment of the constituency of the Islamic state.

10. The Ummah of Dar al Salam is the felicity of the social order (pluralism) in addition to 'ibadat (the ritual acts) that have a social order as well: "Proclaim the pilgrimage a duty to all. People will come [to perform it] on foot or riding from every corner of the world, that they may achieve benefits provided for them therein." (Quran 22: 25, 26).

11. In Islam the separation between the religious (church) and political practices (state) is not explicitly stated, as is the case in secular societies. Although the separation is not real in the latter societies as well (see Eqbal Ahmad "Islam and Politics" in Y.Y. Haddad et. al., The Islamic Impact; Syracuse: Syracuse University Press; 1984, pp 11-12), the Arabic word *al-Diin* stands for both meanings (religious and political), even though it is often translated into English as "religion", meaning ritual acts of worship in the narrow sense.

12. "Let there be of you an Ummah which calls people to the good, enjoins the good works and prohibits the evil. Such are the felicitous." (Quran 3: 104)

13. "Would you command the people to do the good works and absolve yourselves from same? and yet ye study the Scripture? will you not understand?" (Quran 2: 44)

14. "O Mankind, we have created you all out of one pair, a male and a female, we have constituted you into people and tribes that you may know one another. Noblest among you in the eye of God is the most conscientious." (Quran 29: 13)

15. "It is of God's signs that he created out of yourselves spouses in whom to find quiescence; that He established between you and them love and compassion. For those who are rational, this is certainly a great sign of evidence." (Quran 30: 21)

16. "Regular prayers are enjoined on believers at stated times" (Quran 4: 103). The Hadith delineates: "Five prayers are made obligatory by Allah Almighty, who ever washed properly and prayed at assigned times, and fulfilled their condition, s/he is promised to be forgiven, but whoever ignored (did not do) them, s/he is not promised anything: Allah may decide to forgive or to punish." (narrated by Abu Dawud). The Muslim Jurists are in complete consensus about Salat being an obligatory on each individual (Al Fiqh 'Ala al Madhahib al 'Arba'h (Jurisprudence According to the Four Schools), Cairo: Wazarat al Awqaf, 1967, pp. 154-155.)

17 "O ye who believe! When the call is proclaimed to prayer on Friday (the Day of Assembly) hasten earnestly to the remembrance of God, and leave off

business (of life): That is best for you if ye but knew" (Quran 62:9). The Prophet said: "Let those people who have left (did not attend) Friday prayers stop (of doing that) or Allah will close up on their hearts (causes confusion and inability to rationalize)" The consensus among al-Jumhur is that Friday prayer is Fardh 'Ayn, being a replacement of the Dhuhr (noon) prayer on that day and as evidenced in the above Ayat (verse) and Hadith. (Ibn Rushd, Bidayat al Mujtahid, Cairo: Maktabat al Kulliyat al Azhariyah, 1969, p. 159.)

18. "Who ever left (did not attend) three Fridays in a row without an excuse, Allah will mark his/her heart (cause confusion)." Transmitted by Ahmad and al-Hakim (see Fiqh al Madhahib, Ibid. p. 330). Also, it is stated in al-Fiqh 'Ala al-madhahib al-'Arbaa' ibid p. 359, that congregational prayer is enjoined in the Qur'an, in the Prophetic Sunna, and in Ijma' as follows: The Qur'an states: "When thou [O Apostle] are with them, and stand to lead them in prayer..." (4:102) in the case of fear during the war The Prophet also said: "Congregational prayer is twenty-seven degrees higher than the individual prayer" narrated by al-Bukhari, Muslim, al-Termidhi, and Ibn Maja. The Ummah, finally, is also in full consensus about the enjoining of collective prayer. However, under the section of the ruling of this prayer, we find, in the same source, different interpretations by the different schools of fiqh, but without referencing to Qur'anic not to Prophetic evidence as to why each school has preferred the interpretation and, eventually, the ruling on the level of taklif which the particular school has adopted., pp. 359-362.

19. "I have only created jinns and humans, that they may worship me [proclaim my unity]" (Quran 51: 56).

20. The part of the *Hadith* that is often quoted by Muqallideen (those who follow the traditional interpretations of the Quran and Hadith) to propagate the recommendation that women pray in their home is the latter part of the following: "Do not prevent Allah's slave-women (*imaa' Allah*) from the houses of God, and their houses are better for them." (Abu Dawwod, 567; al-Hakim, 1/29; al-Bayhaqi, 3/131; and al-Albani, Sahih al-Jami' al-Saghiir, 7335. Many Muslims disregard the first part of the hadith. and, in addition, they use the word Imma' to imply all women indiscriminately, even though the meaning of *Imma'* (plural of ama) in Arabic is the opposite to free women.

21. It was reported that Ibn Umar transmitted the following hadith "Permit women to attend mosques at night." *Muttafaq Hadith* that is used as a foot note by Abu Hamid al Ghazzali to support the argument for Prophet's permission of the women's attending mosques. Ihya' Ulum al-Diin (Cairo: al-Maktaba al-Tijariyah, No date, V. 2, p. 47).

22. The first three conditions for conducting prayer, according to the four fiqh schools are: knowledge of the Prophet Muhammad's message, reaching puberty, and being sane (Al Fiqh 'Ala al Madhahib al Arba'a, 1967, Ibid., p. 151).

23. It was narrated by Muslim and Bukhari and others, according to Um 'Attiyah: "the Prophet (pbuh) had ordered us to join the Fitr and Adha (the two holidays)." M. Naser al-Diin al-Albani, Hijab al-Mara al-Muslimah (Damascus: al-Maktab al-Islami, 1982-83, p. 38).

24. Ihya' 'Ulum al Diin, Ibid., V. 2, P. 47).

25. J. M. al Yasiin, et. al., al-Jadawel al-Jami'ah fi al-"Ulum al-Nafi'ah, 1987 (Kuwait: Dar al-Da'wah, p. 106).

26 A. W. Debs wa Zayt and M S. al Burhani, al Salat, No Date (Damascus: Matabi' dar al Fikr, p. 78) and al Fiqh 'Ala al Madhahib al 'Arba'a, Ibid., p. 330.

27 "When thou (O Apostle) are with them. and stand to lead them in prayer, Let one party of them stand up with thee, taking their arms with them..." (Quran 4: 102).

28 Ibn Maktum narrated that when he attempted to apologize for joining a collective prayer the Prophet said: "Do you hear the Adhan (the call for the prayer)?" When Ibn Maktum answered in the affirmative, the Prophet said: "Then join in it even [if you have to] crawl" (Ahmad bi sand Sahih wa-Abu Dawud, 552, 553).

29... . al-Jadawel al-Jami'ah fi al-"Ulum al Nafi'ah, Ibid.

30. Sally Green, "Reading Middle Eastern Women Writers," American Book Review (July- August, 1989, p. 1).

31 E. W. Fernea, "Presidential Address", 1986 Middle East Studies Association Bulletin, (V. 21, No. 1, July 1987, p. 5) .

32. Many of these Muqallidun use the Quranic Ayat " O ye who believe! obey God, and obey the Apostle, and those charged with authority among you" (4: 59) to justify their authority in legislating, ignoring the basic principle that a ruler or a governor may only execute Allah's will as delineated through the prophetic Sunna and in accordance with the consensus of the community in time-space. More often than not the Muqallidun's rulings are built on an interpretation or a repetition of a ruling in a secondary source, such as al Ghazzali's, as mentioned above in note (24), in which the specific is repeated verbatim even though its physical conditions do not apply to the contemporary situation (for further discussion on the lack of comprehensive systematized approach in the field of law and Islamic social sciences see AbdulHamid A. AbuSulayman The Islamic Theory of International Relations: New Directions for ISlamic

Methodology and Thought (Herndon: International Institute of Islamic Thought, 1987, pp. 76-83).

33. S. N. Lawal, Critics of Consciousness, ( Cambridge: Harvard University Press, 1968) pp. vii) states that historic existentialism is known for its emphasis on choice and for its attempt to define human liberty in a world that lacks values or a code of behavior, and that its humanistic approach admits no attachment to any criteria outside man's awareness of his existence as expressed in his own intellectual production only.

34. See for example, Mernissi's arguments against Islam being the base of social and political solutions for the Muslim women status in the Muslim/arab societies. Oral presentation, October 1988.

35. Yvonne Y. Haddad. "Traditional Affirmations Concerning the Role of Women as Found In Contemporary Arab Islamic Literature." In Jane I. Smith (ed.) Women in Contemporary Muslim Societies,(London: Associated University Press, 1980). Also, Fazlur Rahman. "Islam: Challenges and Opportunities" in A.T.Welch and P. Cachia Islam: Past Influence and Present Challenge (New York: State University Press, 1979, pp. 315-330) distinguishes between the different movements within the complex phenomenon of 'resurgence of Islam' and their views of the West, of the intellect, and of the Qur'anic and historic Islam. Neo-revivalists, in his view, are those who adopted the perception that Islam is related to the whole of life, but by their radical rejection to modernism, they locked themselves into a position from which they could not either define their goals or develop a methodology. The result, Rahman concludes, was that they selected certain issues whereby they claim to distinguish Islam from the West, such as the rejection of bank interest, denial of any positive role to women, and the re-institution of Qur'anic punishment (Hudud).

36. "And they have been commanded no more than this: To worship God offering Him sincere devotion, Being true (in faith)" (Quran 98: 5). The Prophet also said " Actions are proceeded by intention" Mutaffaq Hadith.

37. "The believers, men and women, are protectors , one another: they enjoin what is good, and forbid what is evil: they observe regular prayers, practice regular charity, and obey God and His Apostle... God has promised to believers, men and women, gardens under which rivers flow, to dwell therein.. But the greatest bliss is that God will be pleased (with) your deeds" (Quran 9: 71-72)

38. "[O Muhammad], command the men-believers to lower their gazes and to keep their modesty. That is the pure way befitting them. Command the women-believers to lower their gazes as well, and to keep their modesty, and not display of themselves except what must appear thereof (Quran 24: 30-31).

39. E. W. Fernea and B. Q. Bezirgan, Middle Eastern Women Speak (Austin: University of Texas Press, 1977, pp xxiii-xxiv) explains how the basic premise remained that "men are in charge of women" and how family and tribal customs prevailed after the early days of Islam, using the afore-mentioned Surah to justify quite different practices with regard to women than what the Quranic teachings command and the Prophet had had in mind.

40. Radiance Magazine Jamaate Islami circles in India and Pakistan, May 3, 1989. ( ? Nimat: check ref.)

41. E.W. Fernea (Ed), Women and the Family in the Middles East (Austin: University of Texas Press; 1985: P. 216) wrote in discussing religion and law in the Middle East that "The division between male Muslims and female Muslims does not exist - in thought and in principle."

42. "Righteous are those who, if given dominion on earth, uphold the Salat, pay the zakat with good hearts, and prohibit all works of evil. To Allah will be the reckoning for all things." (Quran 22: 41)

43. "O Prophet! when believing women come to thee to take the oath of fealty to thee, that they will not associate in worship and any other thing with God... then do thou receive their fealty" (Quran 60: 12).

44. "We revealed to you the book in truth, that you may proclaim it to the world. Whoever decides to be guided by its guidance does so to his/her own credit, whoever, rejects its guidance does so to his/her own discredit" (Quran 39: 41).

45. "Let there be no compulsion in religion" (Quran 2: 256). Very rarely are relationships drawn from this verse to its directive to the human, who accept the Islamic ideology and to the meanings of other teachings in one's daily life and thought. For example, verses 30:30 and 33:35-36, are used in isolation from this verse and from the concept in verse 1:2 that Allah is the Guardian of the universe. The Arabic construct "rab al Usra" refers only to the male as the guardian in his family and not as the gate keeper against female intellectual and social mobility, even in his own household.

46. "Have we not created for humans their eyes, their tongues and lips? Have we not granted them their sense of orientation towards either ways? (Quran 90: 8-10) "God has indeed made all that in heaven and earth subservient to humankind "(Quran 45:13) "Who established for people in earth their prosperity, that they may prove righteous in their deeds." (Quran 43: 10).

47. "Their lord responded to them that He will never permit any of their good works to be lost, whether done be male or female, you 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." (Quran 3: 195).

48. Ibn Hamid Al-Ghazzali, Ihya 'Ulum al-Diin (Cairo: al Maktaba al-Tijariyah; V. 2 p. 47.)

49 P. Cachia " The Assumptions and Aspirations of Egyptian Modernists" in A.T.Welch and P.Cachia Islam: Past Influence and Present Challenge (Op. Cit, 1979, pp. 210-235) suggests that the Egyptian national movement, for example, centered not so much on the injustice or exploitation as on the loss of dignity consequent on the loss of power (P 219).

50 It is important to differentiate between three meanings of Sunna; the first , Al-Sunna (the pattern of Allah ordering creation or any part or aspect of it). The article "Al" distinguishes it from the general, the second, meaning of sunna (tradition of predecessors). The third meaning, Sunnat Al-Rasul (the path and example of Prophet Muhammad, consisting of all that he said, did, approved of, or condemned). For further discussion, see N. Hafez Barazangi, "Perceptions of the Islamic Belief System: The Muslims in North America", ( Ph.D. Dissertation, Cornell University, 1988; under preparation for publication).

51. Jawdat Sa'id, Iqra.. Wa Rabuk al Akram (Damascus: Ayman Nwelati Publications, 1988; pp. 38-447) Indicates the importance of ijtiḥad in its widest sense, that realizes the meaning of systematic research and methodology beyond what the human may conceive of. This systematized Minhaj does not change, because it was created on a certain pattern. What changes, however, is human's limited knowledge.