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# ONE WORD - YAK KALEME

19TH CENTURY PERSIAN TREATISE  
INTRODUCING WESTERN CODIFIED LAW

A.A. SEYED-GOHRAB, S. MCGLINN



LEIDEN UNIVERSITY PRESS

## **One Word – Yak Kaleme**

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# **One Word – Yak Kaleme**

19th-Century Persian Treatise Introducing  
Western Codified Law

*with an introduction and annotated translation  
by A.A. Seyed-Gohrab and S. McGlenn*

Leiden University Press

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## The Essence of Modernity

### INTRODUCTION

The author of the work translated here is Mīrzā Yūsuf Khān Mustashār ad-Dowla Tabrīzī, one of the prominent liberal thinkers who contributed substantially to the development of a theory of constitutional government for Persia towards the end of the nineteenth century. Biographical information about Mustashār ad-Dowla can be gleaned from his own works and several other sources of the period. Although his contribution is universally acknowledged in his homeland, he is hardly known in the west. Apart from an article by Mehrdad Kia, a few other studies devote short sections to his role before the Constitutional Revolution (1905-1911) in Persia.<sup>1</sup>

He was the son of Mīrzā Kāẓim Āqā Tājir Tabrīzī, a merchant from Azerbaijan, and was born in the city of Tabrīz.<sup>2</sup> In his home town he followed the traditional curriculum, learning Persian and Arabic literature and religious sciences, and some elements of Islamic Law. He started his political career as a secretary in the English consulate. It was during this time that Mustashār ad-Dowla became interested in politics and curious about European culture

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<sup>1</sup> M. Kia, "Constitutionalism, Economic Modernization and Islam in the writings of Mirza Yusef Khan Mostashar od-Dowle" in *Middle Eastern Studies*, vol. 30, no. 4, October 1994, pp. 751-777; Abdul-Hadi Hairi, *Shi'ism and Constitutionalism in Persia: a Study of the Role Played by the Persian Residents of Iraq in Persian Politics*, Leiden: Brill, 1977, pp. 30-7; H. Algar, *Mīrzā Malkum Khān: A Study in the History of Iranian Modernism*, Berkeley: University of California Press, 1973, pp. 139-40.

<sup>2</sup> For a biography of Mustashār ad-Dowla see Muḥammad Ṣādiq Fayz, *Mīrzā Yūsuf Khān Mustashār ad-Dowla Tabrīzī, Yak kalima wa yik nāma*, Tehran: Ṣabbāḥ, 1382/2003, pp. 13-23. Our introduction has benefited considerably from this introduction; also see Y. Āryanpūr, *Az Ṣabā tā Nīmā*, vol. I, fifth edition 1357/1978, pp. 280-86; Mīrzā Mahdī Khān Mumtahn ad-Dowla Shaqqāqī & Mīrzā Hāshim Khān, *Rajāl-i wizārat-i Khārija dar ʿaṣr-i Nāṣirī wa Muẓaffarī*, ed. Ī. Afshār, Tehran: Asāṭir, 1365/1986, p. 95.

and technological progress. In 1270/1853 he resigned his position at the consulate, and chose to work in the office of the Ministry of Foreign Affairs. First-hand information about his political career can be found in his *One Word*, in which he describes how Nāṣir ad-Dīn Shah appointed him to a position of consul in the town Hājjī Tarakhān for eight years. In 1278/1861 he returned to Persia and had an audience with Nāṣir ad-Dīn Shah in Tehran. Seventeen months later he returned to Hājjī Tarakhān. After three months he set out to travel to several European countries, visiting Moscow, and later St. Petersburg, where he stayed for six months. Here, Mustashār ad-Dowla was appointed *Chargé d’Affairs*. In 1280/1863, he was promoted to Consul General in Tiflis, a position he held for four years. At the end of 1283/1866 he was promoted to *Chargé d’Affairs* in Paris, where he remained for three years. When he arrived in Paris he visited the ‘*Exposition of 1867*,’ which made a great impression on him. From Paris, he made four private visits to London.<sup>3</sup>

Mīrzā Malkum Khān (1249-1326/1833-1908) has been identified as the person, mentioned in *One Word*, with whom Mustashār ad-Dowla exchanged ideas about the progress of European countries and the decline of Persia, but this is far from certain. His influence is in any case clear from the terms used. Malkum Khān wrote his *Kitābcha-yi ghaybī yā daftar-i tanzīmāt* (Booklet inspired by the unseen, or the book of reforms) in 1275/1858-9. This book introduced many key terms such as *qānūn* (codified law), *islāhāt* (reforms), *majlis-i showrā* (consultative council), *millat* (in the sense of nation), *huqūq-i millat* (rights of the people) and *millī* (national). Mustashār ad-Dowla follows Malkum Khān in his use of these terms to advocate legal reforms, and also in the literary device of presenting his inspiration as a message conveyed from the unseen world. While Mustashār ad-Dowla concentrates on describing the legal system which should result

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<sup>3</sup> Nāẓim al-Islām Kirmānī, *Tārīkh-i bīdārī-yi Īrāniyān*, Tehran, p. 177.

from the reform, Malkum Khān also advocates the summoning of a national constitutional assembly: a mechanism for getting the reform underway.<sup>4</sup>

According to the author of *Tārīkh-i Bīdārī*, the friend referred to in *One Word* is Malkum Khān, but H. Algar has pointed out that they were not in London at the same time: Malkum's appointment to England did not come until 1873; Mīrzā Yūsuf Khān's term in Paris ended in 1870—the same year in which *Yak Kalima* was written—and he was back in Tehran by August 1871, at the least.<sup>5</sup> Nonetheless, Algar observes that “Malkum's more remote influence on the composition cannot be discounted” and it is quite possible that Mustashār ad-Dowla was inspired to write the treatise by views he exchanged through letters with Malkum Khān.<sup>6</sup> Malkum Khān is

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<sup>4</sup> Another Persian reform writer of the period was Mīrzā ʿAbbās Nūrī (Abdul-Bahā) whose *Risāla-yi madaniyya* (1292/1875) and *Risāla-yi Siyāsiyya* (1311/1893) set out broader principles for social reform, including reform of the legal system and institution of a code of law, and rationalisation of the court system, but also extending to educational reform, democratic accountability, the separation of the religious and political orders, and the summoning of a constitutional assembly to achieve these ends. These ideas were interpretations and applications of the ideas found in his father's writings (Bahā' u-llāh, 1817-1892), the founder of the Baha'i Faith. An influence from Babi or Bahai sources on Mustashār ad-Dowla cannot be ruled out, given the large number of crypto-Babis and crypto-Bahais among educated and court sources of the time (see, eg J.R.I. Cole “The Provincial Politics of Heresy and Reform in Qajar Iran: Shaykh al-Rais in Shiraz, 1895-1902.” *Comparative Studies of South Asia, Africa and the Middle East* Vol. 22, nos. 1-2 (2002 [2003]), pp. 119-126).

<sup>5</sup> H. Algar, *Mīrzā Malkum Khān*, pp. 139-40; see also M. Kia, *Constitutionalism*, p. 764. Other influences are likely: Shaykh Rifā'a Rafī' at-Tahtawī was sent to Paris in 1826 and wrote a travelogue which shows a familiarity with French thought on natural rights, including Montesquieu and Rousseau. He also translated the French Civil Code into Arabic with a commentary. Since the structure of the *Yak Kalima*, with its 19 points, does not correspond to the structure of the Civil Code, it is possible that he has relied on some such commentary.

<sup>6</sup> H. Algar, *Mīrzā Malkum Khān*, p. 140.

## Introduction

the person responsible for coining new words to express modern European political and social concepts.<sup>7</sup> One of these coinages was to use the word *qānūn* to mean codified law, which is accessible to the public and rationally administered, in contrast to the way in which the Sharīʿa and the common law were administered in Islamic countries.

Whoever the friend mentioned in *One Word* may have been, Mustashār ad-Dowla says that he asked him: “Why have other countries achieved such progress, while we have remained in such a state of lethargy and disorder?” The friend answers, “The foundation and origins of the European system of administration are one word, and every sort of progress and benefit one sees here result from this single word. (...) The people of your country are far from the essence of the topic. (...) A few of you attribute the administrative system and progress of Europe to derivative and transitory things. Some of you think that they are based on sciences and industries such as the telegraph, steam-powered boats and carriages, and military equipment. These are the results and not the prerequisites. You only form inadequate ideas based on superficial reasoning. You do not give any attention to the underlying mechanisms. When you wish to throw open the doors of progress and civilisation in Persia, you fail to identify the *one word* at the beginning of your task. Every time that one of the Muslim scholars writes on this topic, purely for the sake of service to his homeland, he describes the history and industry of Europe without referring to the foundations and origins of their administrative processes. This is why the efforts of the functionaries of Islamic governments are fruitless and the writings of authors on this topic are useless and without impact.”

In 1285/1868-9, Mustashār ad-Dowla was summoned to Tehran, where he continued his reformist activities. Being a friend

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<sup>7</sup> On Malkum Khān see P. Avery, *Modern Iran*, London: Ernst Benn Limited, 1967, p. 115ff.

of Ḥājj Mīrzā Ḥusayn Khān Sipahsālār, who at that time was the *sadr al-aʿẓam*, he received a cabinet post, but after a dispute, Sipahsālār exiled him to Khurāsān in the year 1290/1873-4. Their friendship reportedly came to an end when Sipahsālār asked him to break off his friendship with Mīrzā Maḥmūd Khān, known as Nāṣir al-Mulk. Sepahsālār and Nāṣir al-Mulk were not on good terms and often clashed. Mustashār ad-Dowla refused to break off his friendship, saying: “I am friend to both of you, and I do not desire to break off my friendship with Nāṣir al-Mulk without any reason!” In 1290/1873-4, while he was in Khurāsān, he wrote the book *Kitābcha-yi Banafsh* or *Risāla-yi Rāh-āhan* (*A treatise on the railway*), praising its benefits. To further his modernist ideas, he asked the clergy to issue a *fatwa* in favour of building a railway between Tehran and Khurāsān. Because of his involvement with social and political affairs in Khurāsān, it was not long before he was appointed Governor of this large province. In 1291/1874, he was summoned to the royal court in Tehran where his services to the country were recognised. He met Nāṣir ad-Dīn Shāh, who offered him a robe of honour, and appointed him to a senior post for the foreign ministry (*wizārat-i khārijī*), serving in Azerbaijan.

In 1299/1881-2, the Ministry of Justice fell into the hands of Mīrzā Yaḥyā Khān Mushīr ad-Dowla Qazwīnī, who had been educated abroad and advocated a modern European system of Justice for Persia. He recruited Mustashār ad-Dowla to his Ministry, appointed him as his deputy, and granted him the title of Mustashār ad-Dowla (‘Counsellor of the State’). Mustashār ad-Dowla accepted this office, emphasising that “the decrees issued and implemented by the Ministry must be based on the Quran and in accordance with the code of laws.” Unfortunately, he was not long in this office. He attributed his resignation to the prevalence of customs such as bribe-taking and the overturning of court verdicts. During the same period, articles were published in Persian newspapers such as *Akhtar*, in which Mustashār ad-Dowla’s enemies complained about him and the way he was running the Ministry. Hostile people

attributed criticisms of the Persian justice system, published in newspapers, to Mustashār ad-Dowla. They convinced Nāṣir ad-Dīn Shah that Mustashār ad-Dowla was behind these criticisms. This was reason enough for Nāṣir ad-Dīn Shah to order the chamberlain Maḥmūd Ḥasan Khān to seize him and birch him. He was then imprisoned for five months and fined heavily. He remained there until some friends interceded, and he was then placed under house-arrest. Later he was appointed to a senior post in Azerbaijan, but his enemies again complained about him. This time, they brought him and his book *One Word* before Nāṣir ad-Dīn Shah. It is reported that Nāṣir ad-Dīn Shah ordered the guards to beat him with *One Word* on his head and face, so that he suffered swollen eyes.<sup>8</sup> Afterwards, the Shah sent him in chains to Qazwīn where he remained imprisoned for some time. His house was confiscated and his stipends were stopped.

Finally he was released from prison through the intercession of Zill as-Sultan, the prince-governor of Isfahan, and returned to Tehran. An exceptional source describing his arrival in prison and his physical and mental condition there is the diaries of Ḥājj Sayyāh:<sup>9</sup> *"They reported that Sa'd as-Salṭana had ordered that a carpet should be placed in the room next to ours, and they prepared the shackles for a traveller who was coming from Tabriz. They made the preparations, and for that day they shackled all of us prisoners. That afternoon they said, "He has arrived at the guesthouse and Sa'd as-Salṭana, bearing the telegram from the Shah, went to him in person." I understood that this was someone very important, and I said "If you see him, tell me what he looks like! They said, "It is an old and honoured gentleman who has been broken." One of the soldiers said, "I know his title, for a consideration I will tell." I said, "If he is a friend of mine, his arrival is not an occasion for gifts, but rather a new disaster visited*

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<sup>8</sup> Y. Āryanpūr, *Az Ṣabā tā Nīmā*, vol. I, p. 283.

<sup>9</sup> As quoted in M.Ş. Fayḍ, *Mīrzā Yūsuf*, pp. 20-1.

upon me." He said, "He is *Mīrzā Yūsuf Khān, Mustashār ad-Dowla*." I was very much dismayed by this news, because this highly respected man is one of the humane, well-educated and praiseworthy men of Persia, and he wrote a book known as *One Word*, and he was a close friend of mine. They returned and said, "Sa'd as-Salṭana read the telegram to him in the guesthouse and he responded: 'I already knew.' Because of *Yūsuf Khān's* personality, charisma and dignity, Sa'd as-Salṭana was very ashamed and he said, 'One who obeys a command, bears no guilt.' Then he said, "Entrust your own horses and furnishings to whomever you wish. The chamberlain is at your disposal: you should go with him." So he entrusted his horses and luggage to *Mīrzā Maḥmūd Amīnī*, who was a friend of his. They brought him with the chamberlain and some of his luggage. When he arrived, we were locked in our rooms. They placed guards and ordered that nobody should speak. Then, from the next room, one could hear the sounds of chains and shackles. When I realised that the honoured person who was chained and shackled in the next room was *Mustashār ad-Dowla*, my heart stopped beating, and I lost the power of speech. My heart burned to think of the condition of the honourable old man, who had been devoted, all his life, to dignity and high-mindedness and the service of his government and the people. I was astounded by the conditions and trends in Persia. When they brought in the lantern I said to the chief guard, *Ismā'īl*, "How could they bear to put chains on the neck and shackles on the feet of this old man of eighty years, who has devoted his life to the service of the government and the people, in this country and in foreign lands?" He said, "The Shah has ordered it, in a telegram."

Night fell. It was the first day of the month of *Muḥarram*. It was very distressing for me to see the condition of *Mustashār ad-Dowla*. Hope was denied to us on every side. When they confine and chain such a great man, of such a venerable age, and with all the weakness of his years, what hope can we have of being freed? The guard *Ja'far Qulī* came in. I was so upset that I had a fever. I said to the guard: "I would like you to shackle both of my feet, and put a



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*chain on my neck, only, do not put chains and shackles on Mustashār ad-Dowla. After all, the purpose of chains and shackles is to prevent the prisoners escaping, is it not? Is there any suspicion that that noble man would escape, in his condition?” He said: “You are feverish. If you were not in such a fever, I would do as you wish, so that you would know how delightful it is!” When the guard went, I heard the voice of Mustashār ad-Dowla, raised in complaint. Calling on the guard, who was kind, I said: “Go and see what is being done to this honoured prisoner.” He said: “I am not able to go. It is forbidden. We may not go from room to room.” I said: “Ask his guards.” He asked, and they said: “Since Mustashār ad-Dowla has a hernia and was chained and shackled, his pain has worsened. He is in a bad way and his breathing is ragged. I said: “You should inform the guard Ja’far Qulī.” They said: ‘We are afraid he will be furious and give us a dressing-down.’ I said: “You know, if anything should happen to him, it would go badly for Sa’d as-Saltāna and for you all. The Shah would hold you responsible. He ordered that he should be kept under observation, not that he should be killed!”*

He paid some three hundred thousand *tumans* for his freedom. This was a sum he had inherited from his father. After his release he returned to Tehran, but in 1309/1891 he was again seized and exiled to Qazwīn.

Because Mustashār ad-Dowla had no income, Shaykh Muḥsin Khān granted him 1,000 *tumans* from the government. He died in the year 1313/1895. According to Nāẓim al-Islām Kirmānī, the author of *Tārīkh-i Bīdārī*, he wrote a will during his final illness, addressed to his friends, saying: “Whenever I may die, after my departure, drag me to my grave with ropes when nobody is looking, because I am going to that Great One, the creator of all beings, whose majesty and grandeur are unrivalled. May he have mercy on his humble servant and immerse my soul in seas of his mercy. If at that time it is not acceptable to transport my body in that way, my will is that my bier should be carried on the shoulders of common

porters and buried in the eastern courtyard of Qabr Āqā.”<sup>10</sup> Nāẓim al-Islām Kirmānī reports that, in accordance with his Will, all his friends hired porters to carry his bier to the eastern courtyard of that graveyard, which is situated in Southern Tehran.

Even during his final illness, in 1306/1888 in Tabriz, he composed a critical letter for the crown prince Muẓaffar ad-Dīn Mīrzā. Being feeble and unable to write, he was aided by Ḥasan ‘Alī Khān, the Amīr-i Niẓām. In this letter, he addresses the crown prince personally, asking him to apply the ideas he had formulated in his *One Word*. Since Mustashār ad-Dowla outlines his view on many issues not covered in *One Word* in this letter, we have cited it in its entirety at the end of this introduction.

Both Mustashār ad-Dowla’s *One Word* and this letter contain daring statements directed at the ruling king and cabinet. At a time when the king had absolute power over the whole country and every critical voice would be silenced by death, Mustashār ad-Dowla offers an alternative, which will give more freedom to individuals as well as securing the position of the king. In *One Word*, he underscores several times the equality between a king and a beggar before the code of laws: “The king and beggar, subjects and soldiers are bound to follow it and no one has the power to oppose the book of law.” In another place, he emphasises: “there is no place for interference and giving orders in public affairs on the basis of one’s own opinion and personal idiosyncrasies, but only in accordance with what is written in the code of law.” Again he states: “No king is entitled to decree a single blow of the bastinado for the least of men.” Surely in an absolutist monarchical system in which all rights are preserved for the king, the following statement was a direct insult and undermined the King’s position: “no individual person in the world, whether king or beggar, civilian or soldier, has the right to rule. That is, they are not rulers, but are delegated

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<sup>10</sup> Nāẓim al-Islām Kirmānī, *Tārīkh-i Bīdārī*, p. 171.

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responsibilities. If they are called ‘rulers,’ this is in a metaphorical sense, and not in reality.”

The chief aim of Mustashār ad-Dowla is not to criticise the person of the king, but he lists shortcomings of the government, describing the appalling situation of Persia compared to European nations. Towards the end of his letter to the Crown-Prince he warns the government that if the rule of law is not implemented, people will demand it violently. Mustashār also states that “others,” meaning foreign powers, will force constitutional government on countries such as Persia. The way he chooses to present his reform was to become familiar in Islamic political literature: every European idea that he introduces is supported with several verses from the Quran and traditions. In this way, he tries to convince both the ruling monarch and the traditional clergy, who had a strong influence in society, that the ideas of reform, the rule of law, and constitutional government do not conflict with the Islamic holy law (*sharīʿa*). On the contrary, they can all be found in the Quran and traditions.

Despite continual suffering, hardship and adversities, Mustashār ad-Dowla continued to patiently champion freedom, justice and liberty throughout his life, as a civil servant and author. In addition to *One Word* and his influential letter to Muẓaffar ad-Dīn Shah, he wrote several other books such as *The Joseph Mystery*, *The Education of Children*, *The Book of Reckoning* and other papers and essays that were published in Persian newspapers.<sup>11</sup>

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<sup>11</sup> The following treatises are also written by Mustashār ad-Dowla and published in Tehran at Bīnā Publisher: *ʿIlm-i ṭabaqāt al-arḍ*; *Ramz-i jadīd-i Yūsufi-yi Tabrīz*; *Risāla dar wujūb-i iṣlāh-i khatt-i islām*. We did not have access to these sources at the time this research was carried out.

*AN EVALUATION OF ONE WORD*

In the second half of the nineteenth century, wide-ranging translations of European works were introducing the reading class to the concept of political evolution, to European political philosophy, to the structure of European society. *Yak kalima* should be placed in the midst of a virtual storm of books, traveller's accounts, newspapers and pamphlets in Persian, in which Iranians examined themselves in the mirror of Europe. Like many other texts of the period, such as James Morier's *The Adventures of Haji Baba of Isfahan*, Mustashār ad-Dowla deals with the theme of decline. He appeals to his wide experience in European countries to lend authority to his claim that Iranian society was backward in almost all respects, and that he knew the remedy: introducing codified law. *Yak kalima* can be characterised as a demand for justice ('*adālat*) as it was understood in Europe, alongside Islam and religious law. Mustashār ad-Dowla sees '*adālat* as an old perso-islamic concept, but claims it can also be found in the French term *égalité*. His chief aim in all his writings, particularly his *Yak Kalima*, is to replace the arbitrary power of tribal, urban, royal and clerical establishments with an independent, democratically endorsed, code of law, in which Muslims and non-Muslims, men and women of all social classes would be treated equally.

The distinction between religious law and 'customary' law (the latter in fact referring to the administrative law of the state), implies a separation between the religious order and the political order, each with its code. He is not saying that the *fiqh* books should be disregarded to return to the pure Islam of the Quran, but that they should cease to be the law books actually used in the courts: public law must be based on codes of law that are universally available and written in the language of the people. The Sharī'a is implicitly reduced to a *source* of law, in the political sphere.

Another theme is the importance of the separation of the legislature and the executive, and the independence and secure tenure of the judiciary. On the latter point, Mustashār ad-Dowla

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clearly explains the rationale, but he appears unable to explain why it is so important to separate the legislature and the executive, appealing instead to ‘wise men’ and the fruit of experience.

Although he advocated tenets of liberalism, Mustashār ad-Dowla’s aim was not to disrupt the religious and monarchical order of Iran. Rather he tries to build a bridge of text-based arguments between the foundations of Western political philosophy and traditional Islamic culture, between the Sharī’a and constitutionalism. In *Yak Kalima*, he writes not as an *Islamic* reformer, but as a modernist presenting reform in an islamically acceptable guise. He is writing an apologetic for reform, against criticism from the religiously orthodox. But in his letter to Prince Muẓaffar ad-Dīn Mīrzā he appears as a sincerely religious man, although he does not share the concerns of the orthodox clerics. This can be contrasted to Malkum Khan, who had little personal attachment to Islam, if any, and Ākhūndzāda, another contemporary reformist who rejected Islam and was anti-clerical (as well as anti-Arab).

Rather than criticising the Islamic contribution, Mustashār ad-Dowla attributes Iran’s backwardness to the failure of Islamic peoples to understand the Quran and hadith. These foreshadow many modern principles, and one must be aware of these principles to correctly understand the meaning of the Quran and hadith. Driven by the apologetic need to present reform to the orthodox, his reinterpretations of the texts are sometimes far-fetched, for instance finding a mandate for public works in the Quranic verse (18:6) “*We have appointed all that is on the earth for an adornment for it, and that We may try which of them is fairest in works,*” and in the tradition “*purify your courtyards.*” (page 84). But this question is also far from the core theme of his work. Like many books, *Yak Kalima* would have been stronger with a little pruning towards the end.

*THE RECEPTION OF ONE WORD*

From the outset, *One Word* was widely praised and its contents were used during the secret meetings of intellectuals before the Constitutional Revolution. There were also criticisms on Mustashār ad-Dowla's attempt to reconcile the Islamic law with the modern European justice system. The secularist Fath-ʿAlī Ākhūndzāda characterised *One Word* as an “unmatched book” (*kitāb-i bīnāzīr*) and praised Mustashār ad-Dowla's attempt to show the compatibility of Islam with the European system of constitutional government. Yet Ākhūndzāda strongly believed that a book such as *One Word* would have no impact on the government and people of Persia.<sup>12</sup> In a letter he wrote in 1875 to Mustashār ad-Dowla he emphasises that the book has the character of a piece of ‘advice’ and in Persia no one listens to any advice. He puts his finger on several issues, which are difficult points for an Islamic country even today. The first point, he raises is the equality between men and women. In his view, the Islamic law accords a lower position to women and has doomed women to eternal imprisonment, by stipulating the wearing of the veil. It is because of veiling that women are taken to harems and innocent youth are castrated to supervise these harems. The second issue that he considers as an irreconcilable difference between Islamic and modern European laws is equality between people, irrespective of their religion. His third criticism concerns the question of why Islamic law allows slaves and concubines to be bought and sold. Sexual freedom on the basis of mutual consent is the fourth point of incompatibility. Under Islamic law, those who have sexual intercourse outside marriage should be severely punished. Ākhūndzāda's fifth point of criticism is the religious tax and the requirement to make a pilgrimage to Mecca. Why, he asks Mustashār ad-Dowla, should one give one

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<sup>12</sup> For a discussion of Ākhūndzāda's criticism on *One Word* see F. Ādamiyyat, *Andīshahā-yi Mīrzā Fath-ʿAlī Ākhūndzāda*, Tehran: Khārazmī, 1349/1970, pp. 155ff.

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fifth of his income to a divine, and why should a person who has sufficient means be expected to go to Mecca and spend his money on Arabs? Other points of criticisms are the death sentence, amputations for theft, and the use of the bastinado, which in his opinion belong among savage and uncivilised people.<sup>13</sup>

### PUBLICATION HISTORY OF ONE WORD

Information about the publication history of *Yak Kalima* is meagre. As indicated in the colophon of the lithographed edition, *Yak Kalima* was completed in 1871 in Paris. Several editions have been published in Iran. We do not know when the first edition was published. At least two copies of the first edition are autographed by the author himself. This means that *One Word* was published before his death in 1895. This edition is used for our bilingual edition. A second lithographed edition was published in Tabriz in 1906. It was reprinted in the following year at the Royal Printing House in Tehran. On the authority of B. Mu'minī, Fayz states that the book was also published in 1887. Şādiq Sajjādī republished the book in 1984 in Tehran in a collection of other treatises written during the Qajar epoch.<sup>14</sup> This publication was immediately banned. *Yak Kalima* has become very popular in recent years and has been published at least twice to our knowledge. In addition to Sayyid Muḥammad Şādiq Fayz, who printed the book together with Mustashār ad-Dowla's letter to Muẓaffar ad-Dīn Mīrzā in 2003, ʿAlī-Riḍā Dowlat-Shāhī published an edition in 2007.<sup>15</sup>

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<sup>13</sup> Mīrzā Faṭḥ-ʿAlī Ākhūndzāda, *Maqālāt*, Tehran, Āwā, 1351/1972, pp. 96-102.

<sup>14</sup> Sayyid Jamāl ad-Dīn Wāʿiz Isfahānī, et al, *Ruʿyā-yi Şādiqa - Libās-i taqwā*, (Rasāʾil -i Qājārī, vol. 4-5), ed. Şādiq Sajjādī & Humā Riḍwānī, Tehran: Tārīkh-Irān, 1363/1984.

<sup>15</sup> Mīrzā Yusuf Khān Mustashār ad-Dowla Tabrīzī, *Yak Kalima wa yik nāma*, Muḥammad Şādiq Fayz, Tehran: 1382/2003; idem, *Yak Kalima*, ed. ʿAlī-Riḍā Dowlat-Shāhī, Tehran: Bāl, 1386/2007.

*The Essence of Modernity*

MUSTASHĀR AD-DOWLA'S LETTER TO  
MUẒAFFAR AD-DĪN SHAH<sup>16</sup>

*May I be a sacrifice to the holy dust under your feet, I fear that no more than three or four days of life are left to this aged servant. As a servant of your house and well-wisher of your government, I feel that it is my inescapable duty to offer the final thoughts of this dying soul to the holy dust under your feet. By the time you read this petition, this aged servant will have bade farewell to this transitory world. I am totally confident, as a sincere petitioner and faithful servant of your house, that I have never betrayed my king or country. When you read this petition, [know that] there is no place for denials and counter arguments to a call coming from beyond the grave for the sake of friendship, truth and righteousness. His Majesty, the most glorious, may our lives be sacrificed to him, has been selected and elevated by God almighty to a high station and excellence, but at the same time God has summoned him to a very important responsibility as the one worthy of hearing some true but painful reflections.*

*It is the firm opinion of political thinkers that the extensive kingdom of Persia, which is the natural homeland of the king of Islam, is in a state of jeopardy. The great and rapid progress of neighbours and action and inaction of obstinate and insolent courtiers have so dissipated and weakened the power accumulated over several thousand years by the government of Persia that the patriots of this land are unable to provide a remedy. However the opinion of the wise and politicians of all civilised countries is as follows: The difficulties and dangers Persia is facing can be obviated with just two words, namely to turn our backs on the ways of the past and to begin with the establishment of codified law. In this way we*

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<sup>16</sup> The text of the letter is taken from *Tārīkh-i Bidārī* and bears the following title: "A letter written by the late Mustashār ad-Dowla, the author of *Yak Kalima*, to the late blessed MuẒaffar ad-Dīn Shah, when he was Crown Prince, in 1306/1888. It was written with the help of Ḥasan-ʿAlī Khān, the Amīr ad-Dowla."



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*can gain credibility and the respect that the ancient government and people of Persia once had in the eyes of foreign people, civilised nations and neighbouring countries may be renewed. In the eyes of perceptive observers and right-thinking people, this proposition is so self-evident that there is no need for arguments or proof. The ways and means that will ensure the good fortune of the kingdom may perhaps be acquired in this way. Because then the officials in government circles, whether high or low, may consider themselves obliged to apply the articles and instructions of the code in their work, each according to his rank and position. In this way, legal equality can be given to all of the people and subjects, of whatever walk of life and community. The officials should use any measure necessary to achieve the best interest of the people.*

*But truly because of the mistakes of ministers and government officials it is certainly beyond the range of possibility and beyond human capacity to continue to preserve and guard the splendour and power of the ancient kingdom of Persia by relying on what our forefathers did within Persia and abroad. I swear by the dust beneath your feet, which is the salve to the eyes of Persians, if anyone has the temerity and selfishness to claim that the present management of ministries are completely free of inadequacy and failing, and that no changes are required, this is a claim without substance, clear water that proves bitter and a report not to be listened to. These misguided individuals, from their childhood to the present day are addicted to plundering the poor Persian people. They continue to take away the honour and power of the nation in exchange of fur-lined coats and halters adorned with gold. And by saying the words “the ‘ulamā’ are the support of the government and the king,” they excuse their own guardians of good order and the security of the citizenry – the flattering servants and the standing army – from government responsibility.*

*If the government were to establish the code of laws and institute reforms in the kingdom, it would become clear that these nonsensical words have no weight and value in any of the courts and administrations of the countries that have constitutional*

## *The Essence of Modernity*

*governments, but only in Asian countries. If, [after Persian reforms,] the neighbouring governments were to model their procedures on the guidelines of the ministries, governors and political and diplomatic officers of the Persian government, what favours the Persian government could [then] ask of them! And would they not be granted? There is no authorisation that they would not grant in favour of the subjects of the Persian crown, whose articles would benefit Persians. How could they dare or be able to have political and commercial relations with others in their own country without the awareness of diplomatic officials of Persia?<sup>17</sup>*

*[In European counties] they have a book of procedures, which is the code of law. Its articles are periodically revised in accordance with the times, and it is printed every year and is distributed among the groups and individuals of the nation, even to villagers, farmers and labourers, by means of newspapers. Thus the duties and constraints of all of the people are defined. So they progress continuously. The book of procedures for Persians is the bright ideas of courtiers: whatever they desire or wish is good, and all else is pointless. So inevitably, every day they sit back, in all humility and fine words, granting themselves their own lawful rights in relation to others.*

*It is generally said that the government of Persia is thinking of reorganising government bodies. The wise say that this initiative has no chance, unless codes of law are established. The political thinkers and the wise of the age are raising a clamour, because the peoples of Persia, high and low, consider a code of law as an imitation of the Europeans. The responsibilities for transforming the civil service we have inherited are in the powerful hands of the most excellent individual in the state. And without a code of laws, the steps taken by government officials to improve the conditions of the peoples and of*

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<sup>17</sup> The question is who is “they” in this sentence: the Persian people in the present situation who cannot lift a finger without reference to the Persian government, or the foreign governments in the hypothetical situation in which Persia

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*their subjects has not and will not be compatible with the astounding progress of this age. They do not believe that the continuity of Persian monarchy can be [achieved] only by being proud of the ancestors. The ministers and supporters of the government, in the light of their own duties and calling on the help of scholars and intellectuals, must begin to established codes of law and reforms. Because they think that a code of laws would be contrary to their interests, they will never take any steps to further this cause, as long as they live. Therefore it is desirable to reduce the influence of the neighbouring countries, for they are nurses better loved than mothers, and ravenous wolves in the guise of lambs, and guests who destroy your house. Until there is a government under the rule of law, they will not turn their eyes from their own interests. To achieve, their aims, they send several cats to chase a single mouse. And to instigate something in matters of politics or trade, they set in motion various intrigues against one another. Even if the [Persian] treasury had as much money as the English, and there were as many engineers in the factories as among the industrious French, and as many soldiers trained, ready and mounted as the population of China, and as many armoured ships as the United States ... still, it would only succeed if it is with the agreement of political thinkers and officials in accordance with the requirements of the times. For one day of every week, they should consult together to settle the affairs of the government and people on the basis of the truth, in accordance with the verse from the Quran: "Their consultation is in the affair." Because it is self-evident that the commandments of God in every religion are clear and manifest, and justice is the sun shining on the peoples of the world, and it is not possible to conceal it among any people. This aged servant may be said to have learned what he can of the commandments of the glorious Quran and the example set by the Prophet in the Traditions, and I have found that the sanctified religious law of Islam is in no way opposed to law codes that are just.*

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adopted constitutional government and so dominated the region.

## *The Essence of Modernity*

*Today my faculties are collected and I am sufficiently aware to understand what would be treasonous harm for the holy person of the Shah and the crown prince, our religion and rite, our country and its sons. I am especially aware that I am at the point of passing to the other world, and will stand before the court of justice of the Creator of the universe. I swear an oath with all my heart, before God, the Lord of power and might, and inform the sacred thoughts of the most holy servants of the blessed and most excellent [Shah], may our souls be sacrificed for him, concerning the matters of the world as follows: considering the exceptional progress of the Europeans and the present condition of the people of Persia, it is inevitable in these difficult times that the government of Persia will join the ranks of constitutional governments in the near future. The provisions of the codified law [should] be implemented in accordance with needs of the king and the country and their natural character and then you will see the results. Through this implementation of codified law, these extensive lands and [their] native peoples and subject peoples will be united under the flag of patriotism. The just principles of freedom of thought and equal rights will be enforced, and then no-one will listen to siren voices, because “present events are a sign of the future.” Therefore, it is absolutely necessary that he should inform the blessed heart of the King of Islam (may our souls be sacrificed for him), through sincere petitions about the equivocation of lying courtiers. Indeed, their every effort is directed at their own short-term advantages, not to supporting the sovereignty of the government of Persia. It is self-evident that in the future no people, whether Muslim or non-Muslim, will be able to live without a codified law. Whenever they themselves have not been eager to promulgate a code of law as in the case of Serbia and other cases, outsiders have forced the Ottoman government, with all its power, to accept a code of law. They will also not leave us alone and will force our hand.*

*I swear by the pure essence of One God that the establishment of a code of law is not in any way contrary to the true doctrine of Islam, and will not do any harm to Islam or the Muslims. On the*

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*contrary, by implementing a code of law, Islam and the Muslims will attain benefits beyond their expectations. They will be freed and live peacefully without the interference of foreigners. In the eyes of the people of the world, they will live in glory and grandeur.*

*In this condition in which I have no hope of living, it is my duty to explain some points concerning the relationships between the Persian government and foreign governments, for the sake of the officials of the royal House. The conduct of the European governments and their present policies demand that the matter should be given the closest attention.*

*Prior to the war of 1877 between the Russian and Ottoman governments, the whole civilised world was convinced that all European countries strive day by day to promote the means of peace among human kind and prosperity for the peoples of the world, and seek to universalise the tradition of justice, freedom and integrity. We were firmly convinced that the source of life, the order of nations, and the well-being of individuals were all tied to the political centres of the courts of the European governments. The people of Europe consider some of the costumes and traditions of Eastern governments to be savage, uninformed and ignorant while they characterise the methods of European governments as educated, civilised and human. But if we are strictly fair, we will see that the methods of the contemporary Europeans are no different to those of African savages, because the former savagery of the Africans has decreased—in fact it is no more—whereas extreme savagery has become widespread among the Europeans. If they are satisfied with their own legitimate rights and their objective is universal wellbeing, why are they building up their military power, hostility and dominance to such an extent? And they call this legitimate, while they sacrifice millions upon millions of God's creatures without any reason and for the sake of pursuing and achieving their base lusts. The Persian government is also obliged to defend its own rights and to use all proper means to establish friendship with foreign governments. The English and Russian governments have their rights as Persia's neighbours, but their*

*jealousy and envy for one another put the Persian government in the most difficult position and in order to protect its rights, it has been forced to behave in a way that cannot be endured.*

*In the first place, we should have common policies with the Ottoman government and Afghanistan, just as we are brothers in faith and neighbours, and we should consider unity among Muslims to be a bounty. However the enemies of Islam have not permitted this, thus far, and they have taken over most Islamic countries. So long as they live, they will do their utmost to sow disunity among Muslims, and will use open, secret and spiritual influence to hold Muslims back from the speedy attainment of their goal. Sad to say, Muslims today are sleeping the sleep of negligence. The Muslims above all should be attentive to these issues, putting aside bigotry and fanaticism, so that they may no longer be afflicted, weak and despised.*

*Secondly, they should make a diplomatic and commercial treaty with the government of France which, after the English and the Americans, is the richest nation on earth and which has no bad intentions towards Persia. They should entrust the building of railways and factories inside Persia to them. The great ambition of the proud French nation is very like that of the Persian people. With all the governments they have encountered they have sought to establish a good reputation, not to practice deception and get a bad name. It will not be long before the establishment of a bank in Persia means that all the gold and silver coinage of Persia is gone, in exchange for trade-goods and European manufactured goods. Given the government's high expenditure and low income, it will not be long before it needs to borrow for the first time from the Europeans.*

*If the Persian government were to give the concessions that it has issued to foreign governments to the French, it would be possible to obtain a sufficient sum from them at a rate of 3 or 4 percent and the easiest terms, for the purpose of starting factories and opening mines, and the interest on the debt would be paid from the yield of the factories and mines. Unfortunately, it appears that*

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*the courtiers are obtaining this loan from the Russians on the harshest terms. So much so, that the stain of it will not be washed from the faces of the Persian people, with water and scrubbing, until the end of the world. In the light of this borrowing, the Persians must quickly protect their position in the face of their neighbours. It is not sufficient for them to simply cling to their own rights. They say: "It [codified law] is an imposition," but it is a new kind of imposition, an imposition that is continually capable of producing protection and victory, an imposition which is today the cause of the power and grandeur of the governments of Europe, and the source of their progress. This will not be possible unless an effort is made to make all of the diverse peoples who live in Persia partners with a stake in their country's good or bad fortune. They will not become partners and stake-holders unless they are given freedom to write and to make all efforts to disseminate knowledge and found colleges. If the tree of equality is to bear fruit, the most important thing is to put the ministries of justice, finance and the Royal Household in order, so that by justice, and in accordance with codes of law, the wealth and possession of all citizens, without distinction or favouritism or consideration for persons, may be guarded from domestic or foreign violation. Then the government itself will have no need for others to establish a bank or build factories or railways, but will rely on the possessions and wealth of the peoples of this country. This matter is so vital that immediate efforts are required.*

*I am sure that many will slander this aged servant, alleging that I am an enemy to Islam and the Muslims. This servant has never voiced any complaint about them. I have put Persia and the Persians in their hands, and I have resigned myself. Since they do not understand what I am saying, and they do not understand my vision, let them say whatever they want to say. Our offspring and descendants in the future will know whether those libellers are Muslims or I, who have fought for the progress of the people of this country like a martyr in the path of God throughout my life, to prevent the dignity and grandeur of Islam and the Muslims being*

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*trampled in this way. Now I address a petition without any self-interest to your Most Sacred Threshold, beseeching you to look kindly on this aged servant, whose soul will soon ascend to the Court of Unity, in response to the Exalted Command: “O soul at rest, return to your Lord,”<sup>18</sup> passing from this transitory world without any regret and repenting my unworthy acts.*

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<sup>18</sup> Quran 89: 27-8.



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یک کلمه

One word



## رساله موسوم به يك كلمه

بنده کمترین، یوسف خلف مرحمت پناه حاجی میرزا کاظم تبریزی در سال هزار و دویست و هفتاد، به موجب فرمان مبارك اعلیحضرت ولی نعمت همایون شاهنشاه ایران ناصرالدین شاه خلدالله ملکه و سلطانه به کارپردازی حاجی ترخان که به اصطلاح فرانسه کونسلی باشد مامور شدم، مدت هشت سال در آنجا اقامت کرده، و در تاریخ هزار و دویست و هفتاد و هشت حسب الاجازة اولیای دولت علیه به ایران مراجعت کرده و به زیارت خاک پای همایون پادشاهی شرف اندوز گشتم. پس از هفده ماه توقف در طهران حسب الامر به حاجی ترخان معاودت کردم و بعد از سه ماه به عزم سیاحت از حاجی ترخان به مسکو و از آنجا به پتربورغ رفتم، و شش ماه در پتربورغ در جای وزیر مختار دولت علیه شارژدفر ماندم. پس از آن در تاریخ هزار و دویست و هشتاد هجری به کونسول ژنرالی تفلیس سرافرازی حاصل کردم.

## *One Word*

In the year 1270/1853, this least of servants, Yūsuf, descendant of that refuge of compassion Ḥājjī Mirzā Kāzīm Tabrīzī, was directed by his Supreme Excellency, the lord of beneficence, the august King of Iran, Nāṣir ad-Dīn Shah (*may God extend his empire and reign*),<sup>1</sup> to Ḥājjī Tarakhān to a position (which in French could be called ‘consul’). I remained there for eight years. I returned in 1278/1851, with the permission of the custodians of the exalted government of Iran, and was blessed with the privilege of an audience with that august King. After a stay of seventeen months in Tehran, I returned to Ḥājjī Tarakhān, as instructed. Three months later, I left Ḥājjī Tarakhān to undertake a tour, going to Moscow and then to St. Petersburg. I remained in St. Petersburg as a replacement for the most excellent Vizier of the exalted government, the *Chargé d’Affairs* for six months. Then, in 1280/1863, I was promoted to *Consul General* in Tiflis.

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<sup>1</sup> Phrases and quotations in Arabic and French are italicized.

چهار سال تمام در تفلیس ماندم. در مدت اقامت خود در مملکت مزبوره که انتظام و اقتدار لشگر و آسایش و آبادی کشور را می دیدم، همواره آرزو می کردم، چه می شد که در مملکت ایران نیز این نظم و اقتدار، و این آسایش و آبادی حاصل می گردید.

در اواخر سال هزار و دویست و هشتاد و سه به موجب فرمان پادشاهی خلدالله ملکه به شارژدفری پاریس سرافراز گشتم، از راه اسلامبول و نمستان عازم مقصد گردیده. وقتی که داخل شهر پاریس شدم و افپوزیسون یعنی بساط عمومی هزار و دویست و شصت و هفت مسیحیه را مشاهده کردم. در مدت سه سال اقامت خود در پاریس چهار دفعه به عزم سیاحت به لندن رفتم. در این مدت میدیدم که در فرانسه و انگلیس انتظام لشگر و آبادی کشور و ثروت اهالی و کثرت هنرو معارف و آسایش و آزادی عامه صد آنقدر است که در مملکت سابق الذکر دیده بودم و اگر اغراق نشمارند توانم گفت که آنچه در مملکت سابق الذکر مشاهده کرده بودم نمونه بوده است از آنکه بعد در فرنگستان می دیدم اگر چه سبب این نظم و این ترقیات و این آسایش و آبادی را از عدل می دانستم به سبب آنکه این سلطنت و این ثروت و این آبادی و عمارت به غیر عدالت میسر نشود. چنانکه در اثر آمده لا سلطان الا بمال و لا مال الا بعمارة و لا عمارة الا بعدل. و هر چند بر وجه یقین می دانستم که این عمارت از عدالت است و این ثروت و راحت از حسن سیاست، لیکن پیش خود خیال کرده و بخود می گفتم با اینکه بنیان دین اسلام مبنی بر عدل

## *One Word*

I remained in Tiflis for a full four years. During my stay in that country I saw such good administration, military power, order and prosperity, that I continually wished it was possible for Iran, too, to have this good administration, power, peace and prosperity.

At the end of 1283/1866, I was promoted to *Chargé d’Affairs* in Paris by royal decree. I proceeded by way of Istanbul and through the Austrian Empire. When I arrived in Paris, I witnessed the *Exposition*, or Universal Exhibition, of 1867.<sup>2</sup> During my three years in Paris, I went on private visits to London four times. During this time I saw that in France and in England, the military order and prosperity of the country, the public services, the multitude of arts and sciences, and the peace and freedom of ordinary people were a hundred times greater than in Russia. It may sound exaggerated, but I can say that what I witnessed in Russia was only a foretaste of what I later saw in Europe. I recognised that this good administration and progress and peace and prosperity stem from justice because such sovereignty, wealth, fine cities and buildings would not be possible without justice, as it is written: “*There is no king without capital and no capital without foundations and no foundations without justice.*” And I knew for a certainty that these foundations are composed of justice, this wealth and peace were the results of good policy. But I said to myself: “Given that the foundations of Islam are based on justice and equity,

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<sup>2</sup> The manuscript mistakenly gives this date as 1267 A.D.



وانصافست و با اینکه درچندین جای قرآن مجید خدای تعالی عدل را ستوده و سلاطین و حکام اسلام نیز هیچوقت منکر عدل نبوده‌اند، پس چرا ماچنین عقب مانده و چرا اینطور از عالم ترقی خودرا دورتر داشته‌ایم.

چون روزی در این فکرت شدم از شدت تفکر خوابم ربود و پنداشتم هاتف غیبی از سمت مغرب مابین زمین و آسمان به سوی ممالک اسلام متوجه شده با آواز بلند می گفت: "ای سالکان سبیل شریعت سید انام و ای پیشوایان با غیرت اهل اسلام این انتم من التصرة و السلطنة این انتم من الثروة و المعرفة چرا این طور غافل و معطل نشستهاید و چرا از حالت ترقی سایر ملل اندیشه نمی کنید همسایه شما وحشیان کوهستانات را داخل دایره مدنیت کرده و هنوز شما منکر ترقیات فرنگستان هستید. در کوچکترین بلدهای مجاور شما مریضخانها و معلم خانه های منتظم برای ذکور و اناث بنا کرده‌اند، و هنوز در معظم ترین شهر شما يك مریضخانه و يك معلم خانه نیست. كوچه های دهات همجوار شما تنظیم و توسیع و تطهیر یافته ولی در شهرهای بزرگ شما بسبب تنگی و اعوجاج و كثافت و سوراخهای بی نهایت که در كوچه هاست عبور نامقدور گردیده. درهمجوارى شما راه‌آهن میسازند و شما هنوز براه عرّاده نپرداخته‌اید. درهمسایگی شما جمیع کارها و امورات اهالی در محكمه‌های منتظمه از روی قانون بروفق حقانیت فیصل مییابد در دیوان خانهای شما هنوز يك کتاب قانون

and that at several points in the glorious Quran, God the exalted has praised justice, and that Islamic kings and rulers throughout history have not rejected justice, why then, have we remained so backward? Why in this age are we increasingly remote from the progressive world?"

One day I was thinking about this so intensely that I could not sleep. I thought I saw a messenger from the unseen, standing between heaven and earth, who appeared from the West and faced the lands of Islam. He cried aloud: "O travellers in the path of the Shari'a, the ruler of mankind, and O you zealous leaders of the people of Islam! *Where is your victory and authority and where is your wealth and knowledge.* Why in this age do you sit, negligent and useless, and why do you pay no attention to the progress made by other peoples? Your neighbours have brought the wilds of the mountains into the circle of civilisation<sup>3</sup> while you are still denying the progress of Europe. There are well-ordered hospitals and schools for both boys and girls in the smallest of the neighbouring territories, while there is not even one hospital or school in your largest city. The village streets in neighbouring countries are ordered, wide and clean but the streets in your great cities are so narrow, dirty, crooked and potholed that it is impossible to pass. In neighbouring countries, they build railways while you have not even started to use wagons. In neighbouring countries, all processes and affairs of the people are determined impartially in tribunals based on a code of law. Today your courtrooms do not contain a single book of codified law

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<sup>3</sup> Mehrdad Kia (Constitutionalism, 752, 758) suggests that the reference is to the Russian subjugation of Daghestan, completed in 1859.

نیست که حگام عرف تکلیف خود را از روی آن بدانند. در همسایگی شما هرکس بدهی خود را بی‌محصل آورده به دیوان می‌دهد در ملك شما حکومت را مجبور به گماشتن تحصیل داران میکنند فلان فلان...

این غفلت و این بی‌اعتنائی مآلش برای شما و اخلاف شما موجب خسارت و ندامت عظیم خواهد گشت و در روز جزا در حضور خداوند مسئول و شرمنده خواهید شد از خواب غفلت بیدار بشوید بر خود و اخلاف خود ترحم کرده به معاونت و ارشاد اولیای دولت و به اتفاق و اتحاد علمای دین راه ترقی خود را بیابید."

چون هاتف غیبی از ایراد این مقالات فارغ گشت بنده از خواب بیدار شدم درحالی که بدنم از صولت تقریرات هاتف بشدت تمام می لرزید. پس از آن که آرام حاصلم شد، عزم اینرا کردم بایکی از دوستان که از تواریخ و احادیث اسلام اطلاع کامل داشت ملاقات کرده، سرّ این معنی را بفهمم که چرا سایر ملل به چنان ترقیبات عظیمه رسیده‌اند و ما درچنین حالت کسالت و بی‌نظمی باقی مانده‌ایم. به آن دوست رسیده این مطلب را با او به میان آورده، سرّ این معنی را پرسیدم. جوابم چنین داد: "که بنیان و اصول نظم فرنگستان يك كلمه است و هرگونه ترقیبات و خوبی ها در آنجا دیده میشود نتیجه همان يك كلمه است." گفت: "اهل مملکت شما از اصل مطلب دور افتاده‌اند." پرسیدم: "چگونه؟" دوست مزبور جواب داد: "که بعضی از شما نظم و ترقی فرنگستان را از فروعات

### *One Word*

people force the government to appoint tax-collectors and similar persons.” by which judges applying customary law could know their own duty. In neighbouring countries each person brings their taxes to government offices without any need for a tax-collector. In your country, “This negligence and lack of careful management destroys your estate and that of your children; it will cause loss and great regret. On the Day of Retribution you will be questioned and will blush. Wake from the sleep of negligence. Take pity on yourself and the generations to come. With the support and guidance of the leading figures of the government and in co-operation and unity with the religious scholars, find your own path to progress.”

When the messenger from the Unseen had ceased to argue thus, I awoke. I was in such a state that my whole body was trembling violently from the force of the assertions of the messenger. Once I had regained my composure, I decided to meet with one of my friends who was fully informed about Islamic historiography and Traditions, in order to unravel this conundrum: Why have other countries achieved such progress, while we have remained in such a state of lethargy and disorder? I went to this friend and presented my question, wanting to understand this mystery. His response was that the foundation and the origins of the European system of administration are one word and every sort of progress and benefit one sees here result from this single word. He said: “The people of your country are far from the essence of the topic.” I asked: “What do you mean?” My friend said: “A few of you attribute the administrative system and progress of Europe to derivative and transitory things. Some of you think

غير برقرار می دانید و برخی از علوم و صنایع تصور می نمائید مانند تلغراف و کشتیها و عرّاده‌های بخار و آلات حربیه که اینها نتایج است نه مقدمات و فقط به نظریات ساده قصد نظر می کنید و از عملیات عمده صرف نظر می نمائید و اگر می خواهید در ایران اسباب ترقی و مدنیت راه بیندازید در بدو کارها از تعیین کلمه واحده غفلت می نمائید و هرگاه کسی از دانشمندان اسلام محض خدمت وطن تألیفی در این مواد می نویسد از تاریخ و صنایع فرنگستان تعریف می کند و از بنیان و اصول عمل اداره آنها اشاره نمی نماید. این است که کردهای کارگزاران دول اسلام بی ثمر و نوشته‌های مؤلفین این مطلب متروک و بی اثر مانده. "گفتم: "چگونه يك کلمه؟ مگر با يك کلمه این همه ترقیات میتواند حاصل بشود؟ آن يك کلمه چیست؟ معنی آنرا به من بیان کنید." گفت: "معنی يك کلمه را من می گویم و شما در رساله خود درج نمائید."

#### مقدمه در شرح يك کلمه

آن دوست چنین گفت، يك کلمه که جمیع انتظامات فرنگستان در آن مندرج است کتاب قانون است که جمیع شرایط و انتظامات معمول بها که به امور دنیویه تعلق دارد در آن محرّر و مسطور است و دولت و امت معاً کفیل بقای آنست چنانکه هیچ فردی از سکنه فرانسه یا انگلیس یا نمسه یا پروس مطلق التصرف نیست یعنی در هیچ کاری که متعلق به امور محاکمه و مرافعه و

## *One Word*

that they are based on sciences and industries such as the telegraph, steam-powered boats and carriages, and military equipment. These are the results and not the prerequisites. You only form inadequate ideas based on superficial reasoning. You do not give any attention to the underlying mechanisms. When you wish to throw open the doors of progress and civilisation in Iran, you fail to identify the one word at the beginning of your task. Every time that one of the Muslim scholars writes on this topic, purely for the sake of service to his homeland, he describes the history and industry of Europe without referring to the foundations and origins of their administrative processes. This is why the efforts of the functionaries of Islamic governments are fruitless and the writings of authors on this topic are useless and without impact.” I said: “What do you mean by one word?” “Is it possible to achieve so much progress through one word? What is this word? Please explain what it means.” He said: “I shall explain the meaning of the one word and you should include it in your treatise.”

### *INTRODUCTION TO THE TOPIC OF THE ONE WORD*

My friend said: “The one word that encapsulates all administration in Europe is the book of law, in which all conditions and routine administrative procedures that relate to worldly matters are recorded. The government and the people together undertake to maintain the continued existence of the law, in such a way that no individual living whether in France, England, Germany, or Austria holds absolute power. In other words, in any case that relates to criminal and civil law or politics and such like matters, he cannot

سياست و امثال آن باشد به هوای نفس خود عمل نمی تواند کرد. شاه و گدا و رعیت و لشگری در بند آن مقید هستند و احدی قدرت مخالفت به کتاب قانون ندارد و باید بدانید که قانون را به لسان فرانسه لخوا می گویند و مشتمل برچند کتابست که هر يك از آنها را "كود" می نامند و آن كودها در نزد اهالی فرانسه ب منزله كتاب شریعت است در نزد مسلمانان، اما در میان این دو فرق زیاد هست.

فرق اول (كود) به قبول دولت و ملت نوشته شده نه به رای واحد. فرق دویم آنست که كود فرانسه همه قوانین معمول بها را جامع است و از اقوال غیر معموله و آرای ضعیفه و مختلف فیها عاری و منقح است. اما كتب فقهیه اسلام اقوال ضعیفه را نیز حاوی است و هر قولی اختلاف کثیر دارد به نحوی که تمیز دادن صحیح از ضعیف دشوار است اگر چه مجتهد و مفتی باشد مگر اعلم از علمای عظام.

بهتر می بود که به مفاد فرمان جلیل، *واعتصموا بحبل الله جمیعا و لا تفرقوا* علما متفق شده، قوانین شریعت را معین فرموده بنویسند و همه مهر کنند و اولیای دولت و وکلای ملت نیز مهر کرده در خزانه ضبط نموده و از روی آن نسخ متعدده طبع کرده، تمام حکام و صاحبان دیوان از اعلی و ادنی حتی کدخدایان شهرها بدانند که بنای عمل عامه مردم بر شریعت میباشد و قادر به اجرای حکم خلاف قانون شریعت نخواهند بود.

follow his own personal inclination. The king and beggar, subjects and soldiers are bound to follow it and no one has the power to oppose the book of law. You should know that law in the French language is called *loi* and it comprises several volumes, each of which is called a code. For French people these codes are the same as Shari'a-books for Muslims but there are many differences between the two.

The first difference: the code is written with the approval of government and people and not according to one opinion. The second difference is that the French code combines and orders all the applicable law codes. It is free of uncommon expressions, unsupported opinions and contradictions, whereas the books of Islamic jurisprudence also preserve weak opinions. And there are many contradictions in each of these rulings in such a way that it is difficult to distinguish the sound rulings from the weak ones, even for a [traditional] religious scholar (mujtahid or mufti).

However, it would be better for the most learned of the great 'ulamā if they were to agree in accordance with the illustrious command: "Hold you fast to God's bond, together, and do not scatter" (Quran 3:103). It would be better if they were to define the laws of Shari'a and to write them down. They should all approve them, and the high functionaries and representatives of the nation should also approve them, and they should be preserved in the archive.<sup>4</sup> By printing many copies, all the judges and civil administrators from the highest to the lowest, even town overseers, would know them, so that the affairs of the common people would be based on the Shari'a. They would be unable to issue judgements contrary to the codified Shari'a.

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<sup>4</sup> Literally: *khazīna*, 'treasury.'



فرق سیم آنست که کود فرانسه به زبان عامه نوشته شده است معانی و مقاصدش بسهولت مفهوم می شود و شرح و حاشیه را احتیاج ندارد معنی البلاغ المبین در قرآن متین این است پس کتاب قانون بدون اغلاق به زبان معمول این زمان که هرکس از خواندن آن بهره‌مند شده تکلیف خود را بدانند باید نوشته شود.

فرق چهارم که عمده و اهم است، آن است که کود فقط مصالح دنیویه را شامل است چنانکه بحالت هرکس از هر مذهب و ملت که باشد موافقت دارد و امور دینی را کتاب مخصوص دیگر هست اما در کتاب شرعی مسلمانان مصالح دنیا با امور اخروی چون صلوة و صوم و حج مخلوط و مزوج است فلذا برای سیاست عامه ضرر عظیم دارد چراکه ملل غیرمسلمه از ساکنان ممالک اسلام به خواندن کتاب قانون شما رغبت نمی کنند به سبب اینکه احکامی که از قبیل صوم و صلوة و حج و خمس و زکوة و امثال اینهاست با مذهب ملل غیر مسلمه موافق نیست و به هیچ وجه به احکام مزبوره عمل نخواهند کرد اما در سایر احکام که به امور دنیا تعلق دارد تکلیف رعایائی که از مذاهب مختلفه در تحت اختیار دولت واحده هستند علی‌السویه است، پس هرگاه مانند علمای متقدمین قوانین اسلام را کتابهای علیحده بنویسند مثلا کتاب عبادات و معاد علیحده و کتاب سیاست و معاش را علیحده ضرری به شریعت نخواهد داشت

The third difference is that the French code is written in the language of the common people. Its meanings and purposes are easily understood and they do not require any explanation or marginal gloss. The concept of “to preach the Clear Message” in the Quran<sup>5</sup> thus refers to the book of the code. It should be written without ambiguities and in the language current in this age so that everyone can benefit from reading it and may know their duties.

The fourth relevant, and most important, difference is that the *code* considers only worldly matters, so that it is suitable for the condition of every person, irrespective of their ethnicity and religion. There is a different book for religious matters. In contrast, in the books of Islamic law, worldly matters are tempered and mixed with other-worldly affairs such as obligatory prayers, fasting and pilgrimage. This causes great harm in administering the affairs of the common people because non-Muslim peoples living in Islamic lands have no desire to read your code of law. Since commandments such as fasting, obligatory prayer, pilgrimage, *khums* tax (tithing), alms and such like are not in accordance with the religions of non-Muslim peoples, and they would never act according to such commandments. But as for the remaining commandments relating to worldly matters, the duties of all subjects, of various religions but under one government, are the same. Thus if the foremost *‘ulamā’*, wherever they may be, were to write Islamic codes in separate books such as the book of acts of worship, the afterlife, and books of civil and commercial matters, this would not be detrimental to the *Sharī‘ā*.

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<sup>5</sup> E.g. Sura 16 verses 35 and 82, 29.18, 36.17, 64.12: all verses which state that the role of the Prophets (and by implication religion) is only to deliver a message, and not to force obedience.

و در حدیث شریف *انتم اعلم بامر دنیاکم* فرموده شده تنظیم امور دنیا را به اعتبار مکلفان سفارش نموده.

فرق پنجم کُود قوانین عرفیه و عادیه را نیز جامع است ولی در نزد مسلمانان مسائل بسیار که به عرف و عادت تعلق دارد در سینه هاست نه در کتاب و مادام که قوانین عرفیه در کتاب محدود نیست، وقوع مظالم بیشمار به اسم عرف و عادت آسان است، با وجودی که اصول متخذة مسلمانان به شریعت پیغمبر اسلام موافق نیست زیرا که در اثر آمده: *المعروف عرفاً کالمشروط شرعاً*. پس قید و تسجیل قوانین عرفیه نیز واجب است.

بالجمله هر وقت که ذات امپراطور با پادشاه وضع قانونی را اراده نماید اگر به مالیات و خراج متعلق نباشد اول به دیوان *سینا* یعنی مشورتخانه اعظم ارسال می‌کنند بعد به دیوان وکلای ملت و الا بالعکس. یعنی اگر متعلق به خراج باشد اول بديوان وکلای ملت می‌فرستند بعد به *سینا* و این قاعده بآیه کریمه و *امرهم شوری بینهم* موافق است و قضیه امتحان و تدقیق و مباحثه وکلای ملت بفرمان عالی *فاعتبروا یا اولی الابصار* مطابقت تمام دارد و حسن این ترتیب در عقول سلیمه محل انکار نمی‌تواند شد.

چون اهالی فرانسه و سایر دول متمدنه بواسطه وکلای خود از حق و ناحق مباحثه و گفتگو کنند هر تکلیفی را قبول نمایند ظهور و اختلاف و عدم مطاوعت محال می‌باشد، چونکه خود بر خود حکم کرده‌اند و ذات امپراطور و پادشاه نیز ایمن باشد زیرا که از غدر ارباب نفوذ و از فتنه اهل فساد به این طریق

As it is said in the holy tradition: “*You know best in ordering worldly matters*” the ordering of worldly affairs should be entrusted to capable people.

The fifth difference is that the codes of public (*‘urfiyya*) and traditional (*‘ādiyya*) law are also collected, whereas among Muslims, many questions relating to public and traditional law are oral and not in the book. So long as the public laws are not defined in books, it is easy to perpetrate innumerable injustices in the name of custom and tradition, even though this is not in accordance with one of the principles accepted by Muslims as part of the law of the Prophet of Islam. For it has been said: “*Recognition as public law is equivalent to being specified as the religious law (sharī‘a).*” So it is necessary that the public law too should be delimited and written down.

When the emperor or king desires that a code should be instituted, if it is not related to taxation, he first sends it to the *Senate*, that is the grand consultative chamber, and then to the house of representatives of the people. On the other hand, if it is related to tax, he first sends it to the house of representatives of the people, then to the *Senate*. This procedure is in accordance with the blessed verse: “*Their affair being counsel between them*” (Quran 42:38). And the evaluation and scrutinising and debating of the people’s representatives is in complete accordance with the exalted instruction: “*Take heed, you who have eyes*” (Quran 59:2). And the virtue of this arrangement in terms of rationality cannot be denied.

Since the French and other civilised nations discuss all matters through their own representatives, no imposition that they accept can be a cause for opposition or disagreement, because they themselves have made the decisions that affect them. In this way, the emperor or king is also secure,

فارغ البال میشود و هرچه فرماید مخالفی را تصادف نکند و امرا و ارکان دولت نیز آسوده و فارغند به سبب آنکه امور و مصالحی را که در اکثر احوال موجب شکایتها تواند شد بعد از آنکه بدیوان وکلای ملت اعلام و آرای عامه را استحصال کردند دیگر بر دولت و امت چه غایله و هایلله خواهد ماند.

گذشته از قانون غالب امور دیوانی نیز در فرنگستان به قبول ملت و دولت اجری مییابد هرکه این تفاوتهای پنج گانه را بخلوص خاطر و تأمل تمام بخواند. لاجرم خواهد دانست که در فرهنگستان شخصی مطلق التصرف نیست. یعنی خودرأی و خودسر در امور اهالی نمی تواند مداخله و حکم بکند مگر موافق آنچه در قانون نوشته شده. خلاصه همه سر بسته اند به رشته قانون و در این معنی در قرآن کریم میفرماید / بحسب الانسان ان یترک سدی.

چون در مملکتی که انسان سر بسته است و سدی نیست یعنی مثل شترگلائی نیست. هرکس به قانون معین وظیفه خود داند و بکار و شغل خود پردازد و لامحاله ستم نکند و ستم نبیند زیرا هر چیزی را که خارج از قانون است، داند و مدافعه کند. و قانون حسب الاصول المذكوره در زیر کفالت دولت و امت است و بقای او عین بقای جان و مال جماعت است.

since he is relieved of the perfidy of influential grandees and the mayhem caused by depraved people. Whatever he orders, it does not face opposition. The affairs of the government officers are also relieved, since cases and issues that are likely to give rise to complaints are announced in the chamber of the people's representatives, and the opinions of the people are received. If this is not done, what misfortune and anxiety will be visited on the government and the people! In Europe, not only the codes of law but also most administrative affairs are implemented with the consent of the people and government.

Whoever thoroughly considers these fivefold differences without bias, will undoubtedly understand that there is no one in Europe who has unrestrained freedom of action. In other words, there is no place for interference and giving orders in public affairs on the basis of one's own opinion and personal idiosyncrasies, but only in accordance with what is written in the code of law. In brief, everyone is bound to the thread of the code. This sentiment is also presented in the noble Quran: "*What, does man reckon he shall be left to roam at will?*" (75:36).

For in a kingdom where a person is bound and is not a camel left free to wander (i.e. like a camel turned out to graze), everyone knows his own duty based on specified law and devotes himself to his own occupation and work. A person cannot commit oppression and does not suffer oppression, because he knows everything that is excluded by the code and he will shun it. The code is in accordance with the principles mentioned above because the government and the people guarantee it. Its continuity is the source of the security of the person and property of all people.

اکنون می توانم گفت که يك كلمه سابق الذكر عبارت از قانون است ولی به شرط آنکه مقاصد تفاوت‌های پنج گانه را موافق باشد همه عمارت و انصاف در این است. عمارت و ثروت راحت همه از عدالت می زاید و وصی پیغمبر علی (ع) فرموده اند *العدل اساس العمران*.

سؤال کردم که کودها از چگونه مبادی اجتهاد کرده شده است جامع حق است یا باطل در جوابم گفتم: "اگر چه کودها جامع حق است و سرمشق چندین دول متمدنه معه‌ذا من نگفتم که کود فرانسه یا سایر دول را برای خودتان استنساخ کرده معمول بدارید، مراد من کتابی است که جامع قوانین لازمه و سهل العبارة و سریع الفهم و مقبول ملت باشد تدوین چنین کتابی با شروطی که در شرح تفاوت‌های پنج گانه بیان کردم ممکن است خصوصاً در دیوانی که اجزای آن از رجال دانش و معرفت و ارباب حکمت و سیاست باشند همه کتب معتبره اسلام را حاضر و جمله کودهای دول متمدنه را جمع کنند در مدت قلیل کتابی جامع نویسند چون کتابی چنین مقبول عقلای ملت نوشته شود و به دستخط همایون شاهنشاه برسد و حفظ آن به عهده مجلس مخصوص مستقل سپرده شود لامحاله وظیفه دولت و ملت اطاعت بر قانون می باشد يك كلمه که من گفتم این است.

و تدوین چنین کتابی بطریق مزبور یعنی بوجه مذاکره و مشاوره در نزد اسلام نامسبوق نیست در کتب اخبار ثبت است

## *One Word*

Thus I can claim that the one word mentioned previously can be explained with the word 'code' with the condition that the code is in accordance with the points made in relation to the five-fold differences. Every refinement and fair dealing lies in this. Refinement, wealth and tranquillity all spring from justice. 'Alī, the executor of the Prophet, has stated: "*Justice is the foundation of prosperity.*"

I asked: "Are *codes*, whatever their origins may be, universally valid or void?" He answered: "Although the *codes* are all valid and have served as models for so many civilised governments, nevertheless I have not said that you should copy the *code* of France or other governments for yourselves and promulgate it. What I mean is a book in which all the codes would be applicable, easily explained, readily understood and acceptable to the people. It is possible to write such a book, including the conditions I mentioned in my explanation of the five-fold differences, especially in an assembly whose members include men of learning and understanding, men of wisdom and policy. They should gather all the most respected books of Islam that are available, and all the *codes* of civilised governments. In a short time they will be able to write a comprehensive volume. When such a book, acceptable to the intelligent men of the nation, has been written and has received the signature of his majesty the King, and its preservation has been delegated to a special independent assembly, undoubtedly it would be the duty of the government and the people to obey the code. The one word of which I spoke is this.

To prepare such a book in the way mentioned above, that is, through consultation, is not unprecedented in Islam. One of the pious stories recounts



که در اوائل اسلام اصحاب پیغمبر (ص) قوانین تجهیز لشکر و تدوین دیوان ها را از قانون فرس قدیم اقتباس کردند و عالمیان را معلوم است که شاه عالم گیر از سلاطین هند به جمع علماء و کبراء فتاوی مشهوره و منقحه را بوجود آورد.

پس از آنکه دوست مزبور شروح مسطوره را از روی اطلاع کامل و بصیرت تمام به بنده تقریر نمود ختم کلام به اینطور کرد: "حال اگر به مشتملات کودهای فرانسه و سایر دول متمدنه عطف نظر کنید خواهید دید که تداول افکار امم و تجارب اقوام عالم چگونه مصدق شریعت اسلام اتفاق افتاده و خواهید فهمید که آنچه قانون خوب در فرنگستان هست و ملل آنجا بواسطه عمل کردن به آنها خود را به علی درجه ترقی رسانیده اند پیغمبر شما هزار و دویست و هشتادسال قبل از این برای ملت اسلام معین و برقرار فرموده."

پس از اتمام صحبت با دوست مزبور چندی اوقات خود را به تحقیق اصول قوانین فرانسه صرف کرده و بعد از تدقیق و تعمق همه آنها را بمصداق لا رطب و لا یابس الا فی کتاب مبین با قرآن مجید مطابق یافتم. زهی شرع مبین که بعد از تجربه های هزار و دویست هشتاد سال بیهوده نگشته و زهی حبل متین که پس از ترقی علوم و تقدم فنون فرسوده نه. بهتر آنست که بیان تفصیل این نکته را از ما قبلس فصل نموده و بجهت اطلاع وطن تاشان، خود به ایراد اصول قوانین فرانسه پردازم.

that in the early days of Islam, the companions of the Prophet borrowed the rules for collecting an army and for preparing administrative records from the codes of the ancient Persians. The people of the world know that the one of the kings in India gathered religious scholars and great men, passing famous and clear judgements (*fatwās*).”

When the friend I mentioned had offered these explanations to this servant, demonstrating his perfect mastery and acute perception, he concluded the conversation thus: “Now, if you glance at the contents of the *codes* of France and other civilised governments, you will see how the currents of opinion and the experience of the nations of the world affirm the religious laws of Islam. You will see that while there are excellent codes in Europe and the people there have raised themselves to the highest degree of development by following them, your Prophet has determined and established this for the Islamic peoples 1280 years ago.”

After completing my discussion with this friend, I set myself to research the principles of the French codes for some time. After careful study and deepening into all those codes I found, in accordance with the verse “not a thing, fresh or withered, but it is in a Book Manifest” (Quran 6:59) that they are in accordance with the Quran. Praised be the Perspicuous Law (*sharʿ*) that has not been rendered obsolete by 1280 years of experience. Praised be the Firm Cord that has not been weakened by the progress of arts and sciences. It would be better to explain this point by devoting a chapter to the principles of the French code from its beginning in order to inform the home-land, so far as I am able.

## فصل در حقوق عامه فرانسه

اگر ما تجسس و تفحص در اجرای کودهای فرانسه بکنیم اطناب بی‌منتها و کار بیهوده و بی حاصل است زیرا که قوانین دنیویه برای زمان و مکان و حال است و فروع آن غیر برقرار است، یعنی فروع آنها قابل‌التغییر است. ولی اجمالا عرض می‌کنم که روح دائمی کودهای مزبوره و جان جمله قوانین فرانسه مشتمل بر نوزده فقره است چنانکه در ابتدای کود چاپ شده در فقره اول از نظامنامه حکومت که کونستیسسیون نام دارد عبارتی مسطوره شده که ترجمه‌اش این است این کونستیسسیون شناخت و تصدیق و تکفل کرد آن اصول کبیره را که در سال هزار و هفتصد و هشتاد و نه اعلان شده بود آن اصولی اساس حقوق عامه فرانسه است.

بنده آن اصول کبیره و اساسیه را تفحص کردم بر وجه اشارت سابقه و ارقام آتیه در نوزده فقره مندرج یافتم پس ترجمه آن فقرات را به عبارت فارسی در این رساله ثبت نمودم:

اصول کبیره اساسیه فرانسه اینهاست:

(۱) مساوات در محاکمه در اجرای قانون؛

(۲) منصب و رتبه دولت برای هیچ کس ممنوع نیست اگر اهل باشد؛

(۳) حریت شخصیه یعنی هرکس حرّ و آزاده است و کسی را مجال تعرض نیست مگر بحقوقی که در کود مذکور است؛

(۴) امنیت تامّه بر نفس و عرض مال مردم؛

(۵) مدافعه ظلم هرکس راحق است؛

*THE GENERAL LAWS OF FRANCE*

If we were to deeply search and investigate all the parts of the French *codes*, it would lead to endless prolixity. Moreover it would serve no purpose, because all worldly codes are related to time, place and situation, and the detailed application of the codes are not fixed, that is, their details are subject to change. However, I can briefly explain that the unchanging essence of these *codes* and the spirit of all the French codes fall under nineteen headings, which are printed at the beginning of the *code*. In the first heading of the book of government and order (known as the *constitution*), there is a phrase whose meaning is as follows: “This *constitution* recognises, confirms and guarantees those great principles that were promulgated in the year 1789. These principles are the foundation of the general law of France.”

I have investigated these great fundamental principles, considering what has already been said, under the nineteen headings, which I have translated below. The great fundamental principles of France are as follows:

1. Equality in judicial matters and in implementing the code;
2. Appointments and promotion in government are open to all suitable people;
3. Personal liberty: everyone is free and nobody has the power to infringe this freedom, except according to the rights written in the *code*;
4. Full security of persons, and of their honour and property;
5. Everyone is entitled to resist oppression;

۶) حریت مطابع، یعنی هرکس آزاد و مختار است در نگارش و طبع خیالی خود بشرط آنکه مخالف و مضر احکام کود نباشد اگر مخالف و مضر باشد منع و ازاله ضرر واجبست؛

۷) حریت عقد مجامع، یعنی جماعت حرّ و مختار است در اجتماع اگر مذاکرات ایشان به کود مخالف و مضر نباشد؛

۸) اختیار و قبول عامه اساس همه تدابیرحکومت است؛

۹) حریت سیاسیه، یعنی اهالی حق دارند در انتخاب وکلا و نواب برای دیوان کورلژیسلاتیف یعنی دیوان قانون گذار که در مقابل دیوان دولت است؛

۱۰) تعیین مالیات و باج برحسب ثروت بلا امتیاز؛

۱۱) تحریر اصول دخل و خرج دولت؛

۱۲) هر مأمور و حاکم در تصرفش مسئول است؛

۱۳) قدرت تشریح و قدرت تنفیذ بالفعل منقسم باید بشود و درید واحد نباشد یعنی مجلس وضع قانون جدا و مجلس اجرای قانون جدا باشد و بهم مخلوط نباشد؛

۱۴) عدم عزل اعضا از محکماها؛

۱۵) حضور ژریها درحین تحقیق جنایات؛

۱۶) تشهیر مفاوضات سیاسیه و حوادث جنائیه در روزنامه رسمیّه، یعنی هر منصب و رتبه و شغل بهرکس دادند و هر قسم تنبیه و سیاست در حق مجرمین روا دانستند و هرگونه تقریرات در مجلس مبعوثان ملت ایراد کردند در روزنامهجات رسمیّه آن روزی حقیقت وقایع اعلان و انتشار یابد؛

*One Word*

6. Freedom of the press: everyone is free to write and publish his own thoughts, except for what is in opposition to, or harmful to, the stipulations of the code. If it is in opposition or harmful, it may be prohibited and forcefully confiscated;
7. Freedom to form associations: the public are free to come together if their discussions are not opposed to or harmful to the code;
8. All government policies are based on the choice and approval of the people;
9. Political liberty: each person has a say in the election of representatives and guardians for the *collège élatief*, that is, the institution that passes laws, which is distinct from the cabinet;
10. Taxes and duties are to be levied on the basis of wealth without discrimination;
11. The amounts of the government's income and expenditure are to be specified;
12. Every official and judge is accountable for the conduct of his office;
13. The executive and legislative powers should be separated in practice and should not be in one hand, in other words, the body that establishes the code and the body that administers it should be distinct and should not be mixed;
14. The judiciary cannot be dismissed;
15. The presence of jurors when investigating crimes;
16. The publication of political deliberations and criminal cases in the official gazette. That is, every appointment, rank and office given to any person, and every reprimand and punishment handed down to criminals, and all statements of the assembly of people's representatives, should be faithfully reported in official newspapers of the day;

(۱۷) عدم شکنجه و تعذیب؛

(۱۸) حرّیت صنایع و کسب؛

(۱۹) بنای مکتب خانه‌ها برای اطفال فقرا.

اکنون می‌خواهیم بعضی ملاحظات خود را براساس کودهای فرانسه ها  
معروض خدمت هموطنان خود بدارم.

(۱)

فقره اول که عبارت است از مساوات در محاکمه و مرافعات در اجرای  
قانون، یعنی اجرا شدن احکامی که در قانون نوشته شده درحق اعلی  
و ادنی، وضیع و شریف، قوی و ضعیف به طریق مساوات باشد و به هیچ  
وجه امتیاز نداشته باشد اگر چه مدعی و مدعی علیه ذات امپراطور باشد  
حکم قانون چون دیگران بر او نافذ است.

ملاحظه باید کرد که این قضیه را که بر اقامت عدل و انصاف چه قدر  
مدخلیت دارد و در دین مقدس اسلام اساس همین است. طلب قصاص  
عکاشه و ابوسعید الخدری از حضرت رسالت پناه صلی علیه و آله و  
مرافعه جناب ولایت مآب علی علیه السلام باخضم خود در نزد شریح  
قاضی ثبت کتب احادیث است و در کتاب تواریخ آمده که ابو یوسف قاضی  
خلیفه عصر هارون الرشید را به جهت ادعای یهودی به محکمه شرع

17. No torture;
18. Freedom of the crafts and professions;
19. Establishment of primary schools for the children of the poor.

Now I would like to present some of my own opinions, based on the French *codes*, in the hope that this explanation will be of service to my compatriots.

*I. EQUALITY IN JUDICIAL MATTERS AND IN IMPLEMENTING THE CODE*

The first section deals with equality in judicial matters and in implementing the code, that is, the laws written in the code should be equally enforced on high and low, plebeians and nobles, weak and powerful, without any discrimination, even if the complaint of the plaintiff is against the emperor himself. He is subject to the laws of the code like other people.

We can see how essential this issue is for the establishment of justice and fairness since it is the very foundation of the holy religion of Islam. ‘Ukkāsh and Abū Sa‘īd al-Khudarī’s request to the Prophet for blood-money (*qisās*), and ‘Alī’s appeal against his enemy before the judge Shurayḥ, are recorded in the books of Traditions. Also it is recorded in the books of history that Abū Yūsuf, the Caliph’s judge, brought the Caliph Hārūn al-Rashīd before the court of Islamic law on the basis of a claim made by a Jew,



برده و مرافعه كرد. خدايتعالی در قرآن مجيد در سوره نساء امر به اين معنى نموده مى فرمايد و *انذا حكتم بين الناس ان تحكموا بالعدل* يعنى زمانى كه حكم كنيد ميان مردمان حكم كنيد به مساوات زيرا كه عدل در لسان عرب به معنى تسويه است چنانكه اعتدل الميزان گویند در سوره نحل ايضاً فرموده *ان الله يأمر بالعدل والاحسان و ابتاء ذى القربى و ينهى عن الفحشاء و المنكر و ايضاً در سوره مائده امر مى فرمايد و ان حكمت فاحكم بينهم بالقسط* يعنى اگر حكم كنى تو پس حكم كن ميان ايشان بعدل و مساوات ايضاً در سوره مزبور مى فرمايد *فلا تخشوا الناس و اخشونى* يعنى اى حكم كنندگان مترسيد از مردمان در اجراى احكام حق و بترسيد از من كه خداوند هستم و باز در سوره انعام مى فرمايد *و اذا قلتم فاعدلوا و لو كان ذاقربى يعنى زمانى كه حكم كنيد پس طريق عدل و مساوات را مرعى داريد اگر چه محكوم عليه خویش نزديك شما باشد و باز در سوره ص خطاب به حضرت داود عليه السلام مى فرمايد *يا داود انا جعلناك خليفة فى الارض فاحكم بين الناس بالحق و لا تتبع الهوى* يعنى بدرستىكه اى داود گردانيدم ترا خليفه در روى زمين پس حكم كنم ميان مردمان براستى و مساوات چنانكه محقق در *شرايع الاسلام* در كتاب قضا فرموده *تجب التسوية بين الخصوم* حال ما بايد بدون اغماض از راه حقانيت و انصاف بگوئيم كه دركدام يك از محكمه هاى عدالت مملكت اسلام موافق احكام مزبوره رفتار مى شود و كدام يك از حكام عرف را، در دست خود كتاب قانون هست كه از روى آن با رعايا كه امانت محترمه خداوند است رفتار كند.*

and he heard the case. Moreover God the Exalted states in the glorious Quran in the Sura of Women (4:58) *“When you judge between the people ,that you judge with justice.”* That is, when you judge between people, judge with equality (because ‘justice’ in Arabic means equality and even balance). As it is written in the Sura of the Bee: (16:90) *“Surely God bids to justice and good-doing and giving to kinsmen; and He forbids indecency, dishonour, and insolence, [admonishing you, so that haply you will remember.”]* And similarly in the Sura of Food (5:45) *“If thou judgest, judge justly between them.”* That is if you are judging, then judge among them with justice and equality. Also in the same Sura (5:47) it is written: *“So fear not men, but fear you Me.”* That is, O you who judge, do not fear people in issuing just judgement but fear me, for I am God. And again in the Sura of the Cattle (6: 152), it is written: *“And when you speak, be just, even if it should be to a near kinsman.”* That is, when you deliver judgement, observe the way of justice and equality even if the condemned should be a close family member. And again in the Sura of the letter ‘Şād’ (38:26) David is addressed: *“David behold, We have appointed thee a viceroy in the earth; therefore judge between men justly and follow not caprice.”* That is, truly, O David, I have given you authority on the face of the earth, therefore give judgement between people in righteousness and equality. As Muḥaqqiq has said in the book entitled *Divine Judgement (qaḍā)* about the Islamic laws: *“Seek for equality between the opponents.”* Now, we must say forthrightly and in all fairness and without bias what this entails. What court in the Islamic world functions in accordance with the principles above? And what judge in a traditional court (‘urf) is given a code of law so that he can treat the subjects, who are an honoured trust from God, in accordance with it?

به هر ذی شعوری بدون دلیل معلوم است که ظلم قبیح و مخرب مملکت و سبب غضب خدا و موجب انواع ذلتها است حکام حالیه اسلام و مقصری را که بالفرض شرب یا خلاف دیگر کرده به معرض عتاب می‌آورند. در آن بین اگر حاکم به سبب های دیگر متغیر است، امر به کشتن یا قطع ید او می‌نماید، و اگر تغییر خارجی ندارد، حکم می‌کند او را بچوب می‌بندند. در این بین رقعہ به دست حاکم می‌دهند. اندازه چوب خوردن مقصر، موقوف به مطلب آن رقعہ است. اگر مطول است، آن قدر چوب باید بخورد تا رقعہ تمام بشود. اگر مختصر است کمتر چوب خواهد خورد. اغلب اوقات اندازه چوب خوردن مقصر، موقوف به تشفی قلب حاکم است: اگر قسی القلب است مقصر در زیر چوب می‌میرد، و الا ناخنهایش می‌ریزد.

هر عقل و هر قانون و هر انصاف تصدیق می‌کند که تنبیه هرگونه جرایم قبل از وقت باید معین شده باشد که حکام را از آن اندازه نه قدرت زیادتر باشد نه کمتر. با اینکه در شرع مقدس پیغمبر آخر زمان (ص) در حد نهایت تاکید شده، مع هذا چیزی که اصلاً محل اعتنا نیست، این مسئله است و تأدیب بندگان خدا محول به میل حکام شده. مثلاً چند نفر مقصر که درجه جرم آنها همه به يك قرار باشد، بعضی را حاکم میکشد، بعضی را سیاست می‌کند، برخی را چوب میزنند، بعضی را خلعت میدهد. در همین فقره اندک تأمل بشود، معلوم میگردد چه قدر ظلم فاحش و خارج از طریق عقل و انصاف است. و همچون مملکت ممکن نیست از خرابی و بلا و غضب و استیلاي بیگانه ایمن باشد. از مضرت و قباحات آن اگر کتابها شرح داده شود کافی نخواهد بود.

For anyone possessed of understanding, it is self-evident that injustice is detestable and the destroyer of the kingdom. It brings down the wrath of God and is the cause of all kinds of vice. Suppose an Islamic judge today brings a malefactor, who has drunken alcohol or committed some other offences, before the bar. If at that moment the judge is distracted with many other things, he may order execution or the amputation of his hand, and if there is no distraction, he may order him to be taken to the bastinado.<sup>6</sup> If at that point the judge is given a letter, he delays with counting the strokes for the offender because of the letter. If it is a long one, the offender must endure countless strokes: if it is short, he will receive fewer. In most cases, the number of strokes is subject to the mercy of the judge. If the judge is hardhearted, the offender will die under the rod and if not his toenails will fall out.

All rational thinking and every code and any sense of fairness will confirm that punishment of every type of crime should be fixed in advance so that the judges do not have the power to increase or decrease it. Although it is emphatically stated in the holy law of the Prophet of the last day, this issue has been totally ignored. And the discipline of God's servants is changed at the whim of the judge. For example, there may be several offenders whose equal guilt has been established: some are condemned to death, some receive discretionary punishments, a few are given the bastinado and some receive robes of honour. If we think about this example, it becomes clear how much utter injustice and irrationality and unfairness there is. Such a country cannot escape destruction, disaster, oppression and subjugation to foreigners. Volumes would not suffice to explain the injury and harm done to such a country.

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<sup>6</sup> The literal translation of *ba chūb bastan* is 'to tie to the plank.' Bastinado is beating on the soles of the feet and was a common punishment during the Qājār era.

(۲)

فقره ثانیه از فقرات نوزده گانه کونستیسسیون فرانسه عبارت از امتیاز فضلی است یعنی نائل شدن به منصب و رتبه دولت از روی فضل و علم مقصود از فضل و علم نه این است که يك نفر سر تیب یا يك نفر حاکم در علوم انشاء و ادبیات ماهر و فاضل باشد بلکه مقصود این است که يك نفر سردار در بدو طفولیت علوم متعلقه به نظام و لشگرکشی را تحصیل کرده و در مدرسه نظامیه عمل آن را نیز به بیند و بعد داخل خدمت عسگریه شده مراتب را بتدریج طی کرده در وقت و موقع خود به رتبه سرداری یا سپه سالاری برسد.

همچنین يك نفر حاکم باید از بدو درس اداره و علم حقوق را تحصیل بکند و از کدخدائی به تدریج ترقی کرده به فرمان فرمائی برسد و طرز سلوک و رفتار خود را با زیردستان خود بداند و با آنها از روی نصفت و عدالت رفتار کند در این باب نیز خدای مهربان ما را از ارشاد و هدایت محروم نفرموده چنانکه در سوره حجرات می فرماید *ان اکرمکم عند الله اتقیکم* یعنی عزیز و مکرم ترین شما نزد خداوند پرهیزگارترین شماست و باز در سوره هود می فرماید *و یؤت کل ذی فضل فضله* یعنی بدهد خدای هر صاحب فضلی را جزای فضل او. باز در سوره

II. SELECTION BY MERIT AND KNOWLEDGE

The second of the nineteen headings in the French *constitution* refers to selection by merit. This means that one attains a position or rank in the government by means of merit and knowledge. The standard of merit and knowledge does not mean that an army commander or a judge should be outstanding in literary fields, rather it means that a commander in his youth has learned sciences relating to discipline and military engagements, and has seen it in practice in a military school. Then he should have entered military service and passed through the ranks, and in due time he may achieve the rank of commander or general.

In the same way, a judge should first master the procedures of administration and the science of law. He can gradually advance from the lowest ranks to a position of responsibility.<sup>7</sup> He must know how to treat people who are under him and he should treat them with equity and justice. In this matter, again, God the beloved has not left us bereft of guidance, for as it is written in the Sura of the Inner Apartments (49:13): “*Surely the noblest among you in the sight of God is the most godfearing of you.*” That is, the greatest and the most honoured of you in God’s eyes is the most abstinent among you. And again in the Sura of the prophet Hūd, it is written (11:3): “*and He will give of His bounty to every man of grace.*” That is, God gives every possessor of virtue a reward for his virtue. And again in the Sura of

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<sup>7</sup> The words are from *kad-khudā* (lit. ‘chief of a quarter’) to *farmān-fārmā* (lit. ‘issuing orders’).

آل عمران می فرماید لا اضیع عمل عامل منکم یعنی ضایع نگردانم عمل عاملی را از شما. باز در سوره النجم می فرماید لیجزی الذین اسئوا بما عملوا و یجزی الذین احسنوا بالحسنی یعنی سزا دهد آنان را که بد کردند و جزا دهد آنان را که نیکویی کردند. به مثبت نیکو در سوره بقره فرموده و لا تنسوا الفضل بینکم یعنی فراموش نکنید تفصیل را در میان یکدیگر. ایضاً در سوره نور آیه ۳۸ می فرماید لیجزیهم الله احسن ما عملوا الخ...

و کلام معجز نظام حضرت ولایت پناه علی علیه السلام که فرموده الشرف بالفضل و الادب لا بالاصل و النسب مصدق این معنی است و نیز فرموده:

ایها الفاخر جهلا بالنسب	انما الناس لام و لاب
هل تریهم خلقوا من فضة	ام حدید ام نحاس ام ذهب
انما الفخر لعقل ثابت	و حیاء و عفاف و ادب

و ایضاً می فرماید لا فضل الا لاهل العلم انهم علی الهدی لمن استهدی ادلاً در این باب علامه جلی رحمة الله در اواخر کتاب صلاح نوشته است يجب ترجیح الفاضل علی المفضول عقلاً

## One Word

the Family of ‘Imrān (3:195): “*I waste not the labour of any that labours among you.*” That is, I will not waste the deeds of any doer among you. And again in the Sura of the Star, it is written (53:51): “*He may recompense those who do evil for what they have done, and recompense those who have done good with the reward most fair.*” That is, He punishes those who do wrong and rewards those who do good with a fine reward. And again in the Sura of the Cow (2:237), it is written: “*Forget not to be bountiful one towards another.*” That is you must not forget generosity with one another. And again, in the Sura of Light (24:38), it is written: “*that God may recompense them for their fairest works.*”

The inimitable words of his holiness, the Essence of Guardianship (‘Alī), “*nobility derives from merit and ethics and not from lineage and firm ties*” confirm this point. Also he has stated:

O you who boast of your ancestry, knowing nothing!  
Truly, people come from a mother and a father.  
Do you not see how they are moulded  
from silver or iron, from copper or gold?  
Better the glory of a well-proven mind,  
with modesty, chastity and virtuous conduct.

And again he states: “There is no merit except for the people of knowledge, truly they are on the right path, they are guidance for those who wish to be guided.” On this topic, ‘Allāma Ḥillī at the end of his book Ṣalāḥ (Expediency) has written: “Logically, the more accomplished person takes precedence over



لقبح تقديم المفضل على الفاضل من الحكيم الخبير و سمعاً و در سوره  
يونس (ع) *افمن يهدى الى الحق احق ان يتبع امن لا يهدى الا ان يهدى فما  
لكم كيف تحكمون* فضل و ادبی که مقتضی حالت این عصر است هر عاقل  
با بصیرت میداند که علوم و صنایع حاضره حالیه است که به واسطه آن  
ملل بی‌تربیت فرنگستان درصد سال به انچنان درجه اوج و ترقی عروج  
نموده و کل مشرق زمین را محتاج به خود کرده‌اند.

(۳)

فقره سیم حریت شخصیه است، یعنی بدن هرکس آزاد است و احدی را  
قدرت نیست سیلی و مشت به کسی بزند و یا دشنام و فحش بدهد. صورت  
این مسئله متعدد و کثیر است من جمله احدی را درون خانه کسی حق  
دخول و تجسس نیست و هیچ کس را به گناه دیگری عقوبت نمی‌توان کرد  
و کسی را با ظن مجرد نمی‌توان گرفت و حبس نمود و احدی را بدون  
حکم قانون جریمه و تنبیه و سیاست نمی‌توان کرد. این نیز کائنه قانون  
اسلام است چنانکه خداوند در سوره حجرات میفرماید *يا ايها الذين امنوا ان  
جائكم فاسق بنباء فتبينوا ان تصيبوا قوماً بجهالة فتصبحوا على ما فعلتهم  
نادمين* یعنی ای آنکسانیکه ایمان آورده‌اید اگر فاسقی بشما خبر بیاورد پس  
تفحص کامل در صدق و کذب آن بکنید

the less accomplished, since the primacy of the accomplished over the more accomplished is repugnant to the wise, the all knowing and all hearing.” In the Sura of Jonah (10:35) it is written: “God – He guides to the truth; and which is worthier to be followed: He who guides to the truth, or he who guides not unless he is guided? What then ails you, how you judge?” How crucial merit and knowledge are, in the conditions of this age! Everyone who can see and think knows that contemporary sciences and industry have reached such a stage that, through them, the uneducated European people have attained such a degree of ascendancy and progress in one hundred years that they have made the whole eastern world dependent on them.

### *III. LIBERTY OF THE PERSON*

The third heading is liberty of the person, that is the body of every individual is free and no one has the right to slap or punch any one, or to curse and abuse. This principle takes numerous forms. For example, no one is entitled to enter and search the house of any person; no one may be punished for the fault of someone else; and no one may be arrested and imprisoned on mere suspicion. No one may be fined or punished without the verdict of a court under the code. This is also confirmed in the Islamic code, as God says in the Sura of the Inner Apartments (49:6): “*O believers, if an ungodly man comes to you with a tiding, make clear, lest you afflict a people unwittingly, and then repent of what you have done.*” That is, O those who have attained to faith, if a wicked person brings a report to you, you should conduct a complete investigation to find out whether it is trustworthy or a lie,

به جهت اینکه مبدا از راه عدم علم و نادانی بحقیقت کار درحق قومی فعل مکروهی برسانید پس از آنچه کرده باشید پشیمان و نادم شوید.

ایضاً در همان سوره مآثور است *يا ايها الذين امنوا اجتنبوا كثيرا من الظن ان بعض الظن اثم و لاتجسسوا* یعنی ای کسانی که صاحب ایمان هستید اجتناب کنید از گمان بد درحق مردم بدرستی که بعض گمان بدگناه است و تجسس مکنید چیزیرا که بر شما مخفی باشد. باز در سوره نور می فرماید *يا ايها الذين امنوا لا تدخلوا بيوتا غير بيوتكم حتى تستأنسوا* یعنی ای کسانی که ایمان آورده‌اید داخل مشوید بخانه‌های غیر تا وقتیکه انسیت حاصل بشود باز در آیه دیگر بعد از این می فرماید *فان لم تجدوا فيها احداً فلا تدخلوها حتى يؤذن لكم و ان قيل لكم ارجعوا فارجعوا هو ازکی لكم* پس اگر کسی را در خانه نیابید داخل نشوید تا وقتی که صاحب خانه اذن به شما بدهد هرگاه به شما بگویندکه بازگردید پس بی‌توقف بازگردید و اصرار در ملاقات نکنید که آن بازگردیدن برای شما پاکیزه‌تر است. ایضاً در سوره بقره می فرماید *و ليس البربان تأتوا البيوت من ظهورها* یعنی نیکوئی نیست در آنکه درآئید بخانه‌ها از پشت بام‌ها.

(۴)

فقره چهارم امنیت جان و عرض و مال است این نیز از اصول اسلام است چنانکه خدای تعالی در قرآن می فرماید: *من قتل نفساً بغير نفس او فساد فی*

*الارض*

lest through lack of evidence and not knowing the truth of the matter, you may breach the rights of any people. Later you may regret it and repent.

And again in the same Sura (49:12) it is recorded: “*O believers, eschew much suspicion; some suspicion is a sin. And do not pry.*” That is, O you who possess faith, avoid thinking ill about people. Truly the least suspicion is a sin. And do not search for anything which is hidden from you. And again in the Sura of Light (24:27): “*O believers, do not enter houses other than your houses until you first ask leave.*” That is, O you who have attained to faith, do not enter houses other than your own unless you have close ties. Again, in the next verse, it is written: “*If you find not anyone therein, enter it not until leave is given to you. And if you are told, 'Return,' return; that is purer for you.*” Thus, if you do not find anyone in a house, do not go into it, until the owner of the house gives you permission. Whenever they tell you to withdraw, you should do so immediately. And do not insist on staying, because your withdrawal is purer for you. In the Sura of the Cow (2:189) it is written: “*It is not piety to come to the houses from the backs of them.*” That is, there is no virtue in entering houses through their roofs.

#### *IV. SECURITY OF LIFE, HONOUR AND PROPERTY*

The fourth heading is security of life, honour and property. This too is one of the essential teachings of Islam as God the Exalted has decreed in the glorious Quran (5:35): “*whoso slays a soul, not to retaliate for a soul slain, nor for corruption done in the land*

فكانما قتل الناس جميعا یعنی اگر کسی بکشد کسی را بی آنکه نفسی را کشته باشد و یا فسادی کرده باشد مانند دزدی و زنا همچنان است که همه مردمان را کشته است. ایضاً در سورتین انعام و بنی اسرائیل فرموده و لا تقتلوا النفس التي حرم الله الا بالحق یعنی مکشید نفسی را که حرام کرد خدای کشتن او را مگر بحق. ایضاً در سوره بنی اسرائیل می فرماید من قتل مظلوما فقد جعلنا لوليه سلطانا یعنی مقرر کردیم مر وارث مقتول را تسلط و قوت قصاص. و باز در سوره بقره می فرماید يا ايها الذين امنوا كتب عليكم القصاص في القتلى یعنی ای مومنان واجب شد بر شما قصاص نمودن در کشتن قاتلان. باز در همان سوره می فرماید و لكم في القصاص حيوۃ يا اولی الالباب یعنی زندگی و بقا برای شما در قصاص است ای صاحبان عقول. ایضاً در سوره نساء آیه ۳۳ و در سوره فرقان آیه ۶۸ در همین معنی.

و اما در امنیت عرض و ناموس در سوره نور می فرماید الزانية والزانی فاجلدوا كل واحد منهما مائة جلدة یعنی بمرد و زن زناکار بزنید صد تازیانه. ایضاً در سوره ۲۴ آیه ۴ و ۶ و در سوره فرقان

*shall be as if he had slain mankind altogether.*” That is if someone kills a person, except if someone has been killed or corruption has been perpetrated, such as robbery or fornication, it is as if all people have been killed. Similarly in the Suras of the Cattle (6:151) and of the Israelites, it is written: “*slay not the soul God has forbidden, except by right.*” That is, do not kill anyone because God has forbidden killing, except by way of justice. In the Sura of the Israelites (17:33) it is said: “*Whosoever is slain unjustly, We have appointed to his next-of-kin authority.*” That is, we have granted all the heirs of the person who is killed the authority and power [to demand] retribution. And again, in the Sura of the Cow (2:178), it is said: “*O believers, prescribed for you is retaliation, touching the slain; [freeman for freeman, slave for slave, female for female.]*” That is, O believers, you must apply the law of retribution in cases of murder. In the same Sura (2:179) it is said: “*In retaliation there is life for you, men possessed of minds.*” That is, there is a life and continuity for you in the law of retaliation. O men of understanding. There are similar statements in the Sura of Women (Sura 4) verse 33,<sup>8</sup> and in the Sura of the Criterion (Sura 25) at verse 68.

As regards the security of reputation and family honour, it is stated in the Sura of Light (24:2): “*The fornicatress and the fornicator – scourge each one of them a hundred stripes.*” That is, flog the man and woman who commit fornication, one hundred lashes. There are similar verses in the same Sura, verses 4 and 6.<sup>9</sup> And in the Sura of the Criterion (25:68)

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<sup>8</sup> The reference appears to be to verse 29: “(...) And kill not one another.” Verse 33 refers to the appointment of the heirs. Such minor differences in the numbering of verses are not unusual.

<sup>9</sup> 4-6: “And those who cast it up on women in wedlock, and then bring not four witnesses, scourge them with eighty stripes, and do not accept any testimony of theirs ever. (...) And those who cast it up on their wives having no witnesses except themselves, the testimony of one of them shall be to testify by God four times that he is of the truthful.”

و لا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ و لا يَزْنُونَ. بعلاوه آیات مذکوره حکم رجم در زناى محصنه از احکام استوار در امنیت عرض و ناموس است.

اما امنیت مال خدای تعالی در سوره مائده می فرماید و السارق و السارقه فاقطعوا ايديهما یعنی ببرید دستهای دزد را خواه مرد باشد خواه زن. این آیات باهره در امنیت جان و عرض و مال قانون متین و محکم است پس معلوم شد که این قانون از اصول قوانین نوزدهگانه فرانسه نیز مطابق است با احکام خدای و قانون اسلام آنها این قوانین شریفه را رعایت کرده‌اند در مدت چهل سال سی کرور نفوس فرانسه به هشتاد کرور رسیده اما در مملکت ما از چندین سالها با این طرف نفوس ایران را نشنیده‌ام که زیاده بر هیجده کرور برآورد کرده باشند.

(۵)

فقره پنجم از فقرات نوزدهگانه کود مدافعه ظلم هرکس را واجب است هرکه به نظر بصیرت بنگرد اغلب خوبیها و آسایش و آبادی و امنیت فرنگستان از وجود این قانون است و چون این امر مزبور علت اصلی عدل و انصاف است این است که خدای تعالی در چندین محل قرآن مجید امر و ترغیب به آن می نماید من جمله در سوره آل عمران می فرماید و لتکن منکم امة یدعون الی الخیر و یأمرون بالمعروف و ینهون عن المنکر و اولئک هم مفلحون

it is said: "(...) nor slay the soul God has forbidden except by right, neither fornicate." In addition to these verses that have been mentioned, the penalty of stoning for the fornicator who is, or has been, married is one of the indubitable principles to guard security of reputation and family honour.<sup>10</sup>

In relation to the security of property, in the Sura of the Table (5:41), God the Exalted has said: "*And the thief, male and female: cut off the hands of both.*" That is: cut off the hands of the thief be it man or woman. These lucid verses constitute a clear and decisive code on the security of the person, honour and property. Thus it is clear that this code as contained in the nineteen principals of French law is also consonant with the commands of God and the code of Islam. The French have respected these noble codes. Over a period of forty years fifteen million French people became forty million, whereas in our country in the recent years we have not heard of any estimated population higher than nine million.

#### *V. DEFYING INJUSTICE*

The fifth of the nineteen headings of the *code* is that each individual is required to defy injustice. Any intelligent person will see that most of the virtues, ease, prosperity and security of Europe are due to this law. Since this command is the chief foundation of justice and fairness, God the exalted at several points in the glorious Quran has commanded or encouraged that it be respected. For example, in the Sura of Imran (3:104) "*Let there be one nation of you, calling to good, and bidding to honour, and forbidding dishonour; those are the prosperers.*"

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<sup>10</sup> Having quoted the Quran, which specifies only 100 lashes for adultery, Mustashār ad-Dowla here indicates that he nevertheless accepts the customary ruling of death by stoning.



یعنی باید بعضی از شما باشد که آنها دعوت بکنند مردم را بکارهای نیک و امر و ترغیب نمایند بامور پسندیده و منع نمایند از امور ناشایسته که باعث خرابی مملکت و عدم امنیت است و آنهایی که این کار را می کنند ایشانند رستگاران. ایضاً در سوره هود می فرماید *و لا ترکنوا الی الذین ظلموا* یعنی میل مکنید به سوی آنان که ستم کردند ایضاً در سوره آل عمران آیه ۱۰۶ می فرماید *کنتم خیر امة اخرجت للناس* و در سوره توبه آیه ۷۲ و آیه ۱۳۳ و در سوره حج آیه ۴۲ و در سوره نحل آیه ۹۲ و در سوره لقمان ۱۶ در این معنی احکام اکیده و آیات صریحه است.

از نتایج حسنه این قانون اختیار و آزادی زبان و قلم شایع شده هرکس از اعلی و ادنی هرچیزی که در خیر و صلاح و رفاه مملکت و ملت به خیالش برسد با کمال آزادی می نویسد و منتشر می کند اگر خیال و تصورات او مقبول امت باشد تحسین و در صورت عکس منع و تقبیح خواهند کرد.

That is, they should be some of you who call the people to do good deeds and command and encourage them to do approved things and forbid unworthy things that are the cause of the ruin of the country and insecurity. And anyone who does this work will have their sins forgiven. Likewise in the Sura of Hūd (11:113) it is said: “*And lean not on the evildoers.*” That is: do not be partial to those who have committed oppression. And again in the Sura of the Family of Imran, verse 106 it is said: (3: 110) “*You are the best nation ever brought forth to men.*” And the Sura of Repentance, verse 133 (9:112)<sup>11</sup> and in the Sura of Pilgrimage, verse 42 (22:41)<sup>12</sup> and the Sura of the Bee, verse 92 (16:89)<sup>13</sup> and the Sura of Luqmān the Wise, verse 16 (31:17)<sup>14</sup> there are clear verses and subtle commandments of the same sort.

The benefits of this code have led to freedom of speech and of the pen. Every person, whether high or low, can write and publish with full freedom anything that comes to his mind about the well-being, expediency and peace of the country and the nation. If people accept his thinking and ideas, he will be praised, otherwise they will vilify and reject him.

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<sup>11</sup> 9:112: “Those who repent, those who serve, those who pray, those who journey, those who bow, those who prostrate themselves, those who bid to honour and forbid dishonour, those who keep God’s hounds – and give thou good tidings to the believers.”

<sup>12</sup> 22:41: “If We establish them in the land, perform the prayer, and pay the alms, and bid to honour, and forbid dishonour; and unto God belongs the issue of all affairs.”

<sup>13</sup> 16:89-92: “And the day We shall raise up from every nation a witness, then to the unbelievers no leave shall be given, nor shall they be suffered to make amends. And when the evildoers behold the chastisement, it shall not be lightened for them, and no respite shall be given them. (...) Surely God bids to justice and good-doing and giving to kinsmen; and He forbids indecency, dishonour, and insolence, admonishing you, so that haply you will remember.”

<sup>14</sup> 31:17: “O my son, perform the prayer, and bid unto honour, and forbid dishonour.”

پس این قانون شریف نیز طبق قانون اسلام است و در این باب شیخ طوسی علیه الرحمه در کتاب نهایی الاحکام گفته است الامر بالمعروف و النهی عن المنکر فرضان من فرائض الاسلام و هما فرضان علی الاعیان لا یسغ احداً ترکهما او الاخلال بهما و الامر بالمعروف و النهی عن المنکر یجبان بالقلب و اللسان و الید اذا تمکن المکلف من ذالک ... الخ.

(۶)

فقره ششم آزادی مطبعه هاست، بعضی از احکام این آزادی داخل حکم علوم و معارف است اگر آن چیز چاپ شده متعلق بعلم و معارف باشد پس در شرف آنها آیات و احادیث بسیار هست که بعضی از آنها را خواهم نوشت و برخی از احکام آزادی مزبور داخل امر بمعروف و نهی از منکر است اگر چیز چاپ شده متعلق بر اینها باشد پاره از احکام آن بحق مدافعه مظالم راجعت بالجمله مطبوعات از قبیل کتب و رساله و روزنامه هرچه باشد لاجرم بحثش به یکی از احکام مزبوره راجع می شود. پس آن راجع البته حکم مرجعش را دارد و اگر مطلب چاپ شده ضرری به دین و یا به اخلاق عامه و یا مخالفت به احکام (کود) دارد ازاله آن ضرر واجب است. و در حدیث شریف *الضرر یزال* وارد است و این حدیث در نزد کافه اسلام اصلی از اصول فقه شده است.

Thus, this noble code is also in accordance with the Islamic code. On this subject, Shaykh Ṭūsī<sup>15</sup> writes in his book *An-nihāya al-aḥkām* (“The Ethics of ordinances”): “*Commanding the good and forbidding what has been condemned are Islamic duties. They are incumbent on every individual. No one is permitted to neglect them or to subtract from them. Commanding the good and forbidding what has been condemned are two obligations, upon the heart, and tongue, and hand for whoever is capable...*”

#### VI. FREEDOM OF THE PRESS

The sixth heading is freedom of the press. Some of the ordinances of this freedom fall under the laws concerning sciences and education. In so far as what is printed relates to sciences and philosophy, there are many relevant Quranic verses and Islamic traditions and I will cite some of them. And some of the ordinances of this freedom fall under the principle of commanding good and forbidding what is condemned. If something is printed, by way of books, pamphlets, newspapers or whatever it may be, and it relates to those obligations, some of the ordinances of that right to defy injustice also cover it. Consequently, its line of argument will refer it to one of the ordinances mentioned, and “the reference necessarily implies the thing referred to.” And if something printed on a topic is harmful to the faith or to the ethics of the society or if it is contrary to the laws (*code*), it is obligatory to eliminate that harm. In a noble tradition it is said: “*Eliminate the harm.*” In the eyes of all Muslims, this tradition is the essence of the basic principles of Islam.

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<sup>15</sup> Ṭūsī (955-1067) also known as Shaykh aṭ-Ṭaʿīfa.

باید دانست که حریت مطابع در ممالک متحده آمریکا و انگلیس و فرانسه و سوئیس و بلژیک و یونان به مرتبه کمال است و امروز در شهر پاریس صد چاپخانه و شش صد کتاب فروش است.

(۱۷)

فقره هفتم آزادی مجامع است، هر فرقه و هر جماعت هر وقت اراده کنند در مجمعی مخصوص جمع شده در مسئله از مسائل علوم یا سیاست و افعال حکومت و یا در امر معاش خود بدون موانع گفتگو و مباحثه می کنند و هر صنفی از اصناف اهالی را از قبیل اصلزاده گان و ارباب صنعت و اهل لشگر و زارعین مجمع های مخصوص هست و همه مجمع ها اگر چه در افکار طرق مختلفه دارد ولی در دوام و ترقی دولت همه به مقصد واحد متوجه است و عقد جماعات (ولی به مقصد واحد).

در زمان پیغمبر صلی الله علیه وآله مختار و آزاد بود چنانکه اصحاب کرام هر روز در مسجد نبوی (ص) فرقه فرقه اجتماع کردند و از آن حضرت چندین مسائل خفیه استفسار و استیضاح نمودندی. حضرت پیغمبر (ص) به منبر صعود فرموده و در مجمع عام به حل مشکلات و ایضاح مسائل مبادرت فرمودندی. وقتی که آنحضرت اسامه را به سرداری لشگر نصب فرموده و به جهاد مأمور کرد جماعتی از اصحاب پیغمبر (ص) اعتراض از جوانی اسامه میان آوردند و در اهلیت وی شبهه نمودند با اینکه اسامه با لشگر از مدینه بیرون رفته بود مع هذا او را در راه نگاه داشتند تا آنکه پیغمبر (ص) از خانه سعادت بیرون آمده و به منبر صعود فرمودند اهلیت اسامه را با آثار اثبات و اصحاب را قانع

It should be recognised that in the United States of America, England, France, Switzerland, Belgium and Greece, the press is completely free. And today in Paris there are one hundred publishers and six hundred booksellers.

*VII. FREEDOM OF ASSEMBLY*

The seventh heading is the freedom of assembly. Every grouping and association is free at any time to gather in specific meetings and to discuss and debate any academic or political question, or the doings of the government or matters affecting their own means of livelihood, without any impediments. And the people of every kind of guild have specific associations, whether they are notables, skill-tradesmen, the military or agriculturists. Although they have different ideologies, all the associations are united in concern for the permanence and the progress of the government.

In the time of the Prophet, the organisation of assemblies was open and free (but always for one purpose). So much so that the most important companions of the prophet would gather in separate groups each day in the Nabī mosque, and they would present any subtle issue to Him for information and elucidation. The Prophet would go up to the pulpit and would solve the difficulties and clarify the issue in front of all the people. Once, when the Prophet appointed Usāma [Ibn Zayd] to lead the army and had issued a call to arms, a group of the Prophet's companions objected that Usāma was a young man and expressed doubt about his competence. Although Usāma had left the city with the army, people made him stop on the road. Then the Prophet came out of his house, ascended the pulpit, and demonstrated Usāma's competence with examples,

و ساکت کردند با وجودی که تن مبارکش خسته و ضعیف بود هیچ اظهار رنجش خاطر نفرمود.

(۸)

فقره هشتم اختیار و قبول ملت اساس همه تدابیر حکومت است و این کلمه از جوامع الکلم است و در نزد صاحبان عقول مرتبه صحتش را حاجت تعریف نیست و در نقل و شرع اسلام نیز چنین است و آیه کریمه در آل عمران و *لو كنت فظا غليظ القلب لا نفضوا من حولك* یعنی اگر بودی تو درشت خوی و سخت‌گوی هر آینه پراکنده شدندی اصحاب تو از گرداگرد تو و آیه شریفه و *امرهم شوری بینهم* در این امر باب عظیم است و این با ب از مقاصد استشاره است.

(۹)

فقره نهم از اصول نوزده گانه (کود) فرانسه حق انتخاب و کلاست مر اهالی را در مقابل دیوان دولت و به این سبب اهالی را در بحث تدقیق افعال حکومت مداخله عظیم هست و وکلای مزبوره که به اصطلاح فرانسه *یُپت* میگویند با شروط معلومه و معینه در کتاب قانون از جانب اهالی منتخب و در مجلس *کورلژیسلاتیف* یعنی مجلس قانون‌گذار مجتمع می شوند و این قاعده در شریعت مطهره اسلامی به باب مشورت راجع است و مشورت

so that the companions were satisfied and stopped cavilling. Although His blessed body was weak and wounded, he gave no thought to His own distress.

*VIII. ELECTION AND APPROVAL BY THE PEOPLE*

The eighth heading is that the election and approval by the people is the basis of all the government's administration. This concept is contained in the book of many significations [the Quran]. For those of sound mind its compelling nature needs no elucidation. It is also found in the texts and laws of Islam. One blessed verse in the Sura of the Family of 'Imrān (3:159) says: "*Hadst thou been harsh and hard of heart, they would have scattered from about thee.*" That is, had you been rough in bearing and harsh of speech, verily your companions would have dispersed from your circle. And the noble verse (42:38) "Their affair being counsel between them" is a subject on which much more could be said. This is one of the reasons for seeking the opinions of others.

*IX. ELECTING DEPUTIES*

The ninth heading in the nineteen folds *code* of France is the right of the people to elect deputies, even in opposition to the cabinet. By virtue of this, the people have a considerable role in debating and scrutinising the doings of the government. Such deputies (in French terminology *député*) are chosen by the people in accordance with clear and fixed provisions in the written Code. They assemble in the council known as the *Corps Législatif*, that is, the council that passes the laws of the code. A basis for this can be found in the sacred Islamic law, under the heading of 'consultation,'



از قوانین اعظم اسلام است چنانکه خدای تعالی در قرآن مجید به رسول خود امر می فرماید در سوره آل عمران و شاورهم فی الامر یعنی مشاورت کن درکارها با اصحاب خود و جناب پیغمبر (ص) با اکابر مهاجر و انصار درباب اذان برای اخبار نماز جماعت شوری فرمودند. ایضاً آن حضرت درجنگ اُحُد با اینکه رأی مبارکشان متحصن شدن درمدینه بود اما چون رأی جماعت و اصحاب مایل به خروج از مدینه شد پیغمبر خدا (ص) بعد از شوری رأی جماعت بر رأی مبارک خود ترجیح دادند. ایضاً حدیث صحیح وارد است وقتی که حضرت رسول صلی الله علیه و آله از مدینه به قصد حج و عمره به مکه تشریف می بردند در یکی از منازل با اصحاب خود مجلس مشورت منعقد فرمودند و نیز از حضرت رسالت پناه صل الله علیه و آله مروی است: "بدبخت نشود بنده که به مشورت در امری شروع نماید."

و کلام معجز بیان حضرت ولایت مآب علی علیه السلام لا صواب مع ترک المشورة مؤید این قول است. و همچنین در اثر مشهور المشاورة اصل فی الدین و سنة الله فی العالمین و هی حق علی عامة الخلیفه من الرسول الی اقل الخلق یعنی مشورت اصلی است از اصول دین و سنت خداوند است بر عالمیان و آن حقی است بر عامه خلق الله از رسول صلی الله علیه و آله گرفته تا ادنی خلق. خلاصه جناب رسول (ص) محض به جهت وضع سنت مشورت در میان امت در هرکار با اصحاب خود شور می فرمود.

which is one of the greatest codes of Islam. In the glorious Quran, God the Exalted commanded his own messenger in the Sura of the Family of 'Imrān (3: 159): *“take counsel with them in the affair.”* That is, consult your companions about matters. The Prophet consulted with the foremost of those who had accompanied him from Mecca and of the Muslims of Medina, with regard to how the people could be called to congregational prayer. There is another example, in the battle of Uhud. His own blessed opinion was to remain fortified in Medina, but the opinion of his companions and the people favoured leaving the city. Having consulted the general opinion, the Prophet of God preferred their opinions over his own. And again there is a sound Islamic tradition that on one occasion the Prophet had left Medina intending to perform the greater and the lesser pilgrimage. At one of the stopping places he summoned a counsel of his companions to consult. It is also reported that the Refuge of the Messengers of God said: *“He who consults before starting an enterprise, will not suffer misfortune.”*

The inimitable formulation of 'Alī, that *“There is no good outcome if consultation is neglected,”* confirms this saying. And similarly in his celebrated work, he states: *“Consultation is one of the essential principles of the religion and way of God in both worlds, and it is obligatory for the people God created, from the Messenger of God to the least of creatures.”* That is, consultation is one of the principles of the religion and way of God for the whole world and it is a right for all people, from the Messenger of God to the least of creatures. In short, purely in order to establish the example of consultation among the Muslims, the Messenger consulted on every issue with his companions.

(۱۰)

فقره دهم تعیین مالیات و باج است بر حسب ثروت بلا امتیاز و این امر نه به فرمان مجرد امپراطوری است و نه با میزان احتیاج هیئت دولت بلکه از روی مداخل و منفعت سالیانه هرکس است و تعیین این کار برضا و قبول دیوان وکلا است که در حقیقت قبول عامه است فلذا بدهی که اهالی متحمل ادای آن شده است در سر وعده معینه به پای خود بدون محصل به محل معین برده می دهد.

زهی عدالت که هرکس از روی تعیین قرض خود داند و به صفای دل دهد و این امر از روی مساوات است نه از روی امتیاز به این معنی که هرکس از اعلی و ادنی مقدار معین از منافعش یا مداخلش باید به دولت بدهد واحدی مستثنا نیست و این قرار به شریعت اسلامی مطابقت کلیه دارد چنانکه در قرآن مجید و احادیث شریفه مقدار و زمان زکوة و صدقات معین و معلوم است و فردی از این تکلیف معاف و مستثنا نیست.

و باید دانست که قاعده ایشان در این خصوص بر این است که اول مکنت و قدرت و استطاعت اهالی را مشخص و بدهی سالیانه آن را معین کرده و بعد به مقام مطالبه و اخذ بر می آیند و این قاعده به عینها مطابق شرع اسلام است زیرا که قرآن و احادیث ایمان را قبل از عمل تکلیف کرده و عمل را پس از ایمان چنانکه تکلیف اول به وجوبیت زکوة و صدقات ایمان آوردن است آنان که ایمان ندارند زکوتشان عندالله مقبول نیست.

*X. TAXES AND TRIBUTE IN PROPORTION TO WEALTH*

The tenth heading is that taxes and tribute are in proportion to wealth, without discrimination. This is not determined merely by the decree of the Emperor nor on the basis of the government's demands, but rather on the basis of individual income and profits each year. The rate of taxes is set with the approval of the body of the people's representatives, which is in fact the approval of the people. Therefore, the people will bring the tax they have to pay at an appointed time and place without the intervention of a tax-collector.

What perfect justice this is! Each person ascertains his own dues, on the fixed basis, and pays it honestly. This is done on the basis of equality without discrimination. That is, everyone, high or low, has to give a fixed proportion of his profits or income to the government, and no one is exempt. This is entirely in accordance with the Islamic law, as the amount of tithes and alms and the times they are due are set out in the glorious Quran and noble traditions, and no one is exempt from these duties.

It should be noted that in France their primary basis is to first ascertain the ability of people to pay and the amount of money they have to pay annually. Only then do they make demands and collect it. This basis is in essence consonant with Islamic law. As the Quran and the religious traditions say, beliefs come before deeds and deeds follow beliefs. The primary duty is to believe in the necessity of tithes and alms. God does not accept the alms of those who do not believe.

(۱۱)

فقره یازدهم تحریر اصول دخل و خرج دولت و نشر آن است بدهی اهالی را قدر معینی لازم است و این قدر معین را در مقابل خرج دولت مقیاس و میزانی است ضرور. اگر مخارج يك دولت محرر و معلوم نباشد تعیین مالیات بر وجه عدالت میسر نشود و مقدار احتیاج اداره‌ها چون اداره لشکر و اداره داخله و اداره خارجه و غیره بدین طریق معلوم میشود یعنی قبل از وقت مشخص میکنند که برای وزارت جنگ فلان مقدار و برای وزارت داخله فلان مقدار و برای وزارت خارجه فلان مقدار مخارج خواهد شد و با این طرز خلاصی از اسراف در خرج دولت و رفع تعدی نسبت به رعایا آسان میگردد و از آنطرف هم چون اهالی می دانند که مخارج لازمه دولت فلان مقدار است در ادای آن تعلل نمی‌ورزند پس این قاعده نیز در شریعت مطهره اسلامیة به باب تبلیغ و تفهیم مطابق است. حدیث *قلیلغ الشاهد منکم الغائب* (یعنی شما که در این مجلس حاضرید تبلیغ بکنید غائبان را).

در این باب برهان واضح است و حضرت رسالت پناه صلی الله علیه و آله در اکثر خطبه‌ها در پی هر جمله *هل بلغت* فرمودی. اگر مستعمان نعم گفتندی و خواهش توضیح و تکرار ننموندی حضرت بجملة آخر گذشتندی.

باید دانست احسن سیاست آن است که بر اخلاق حسنه مؤسس باشد این کلام ارسطاطیس است و بعقل و نقل مطابق. پس واجب است که تدابیر دولت به تغییر اخلاق تبعه و اهالیس سبب نباشد بلکه به تهذیب و تحسین اخلاق آنها اسباب عمده شود.

XI. PRINCIPLES OF INCOME AND EXPENDITURE OF THE GOVERNMENT

The eleventh heading is that the principles of income and expenditure of the government should be written. The dues of the people need to be specified and this fixed amount must be in balance with the government's expenditure. Necessarily, if the expenditure of a certain government is not known, it is not possible to fix taxes justly. Thus the total need of ministries such as the ministry of defence, and of internal and external affairs and such like are stipulated. That is, for instance, they stipulate in advance how much money will go to the ministry of war and how much for internal affairs and how much for external affairs. This prevents excessive expenditure by the government and injustice to the subjects. On the other hand, the people know about the government's necessary expenditure and they do not hesitate to pay their dues. This foundation is also in accordance with all that is written on the subject of communication and understanding in the holy Islamic law. One tradition states: "*You who are present, inform those who are not present.*" That is, you who are present in this meeting, inform those who are absent.

On this subject there is evident proof. In the majority of his sermons, the Prophet repeated after each section "*Have I said enough?*" If the listeners said, "yes" and did not ask for more explanation, the Prophet would go on to the next section.

We should understand that the best sort of governance is based on proper ethics. This saying comes from Aristotle and is in accordance with reason and the transmitted teachings of religion. Thus, it is necessary to base the government's policy fundamentally on correcting and refining the citizens' morals and not on people's degenerating ethics.

بنابراین اکثر تدابیر سیاسیه فرنگستان در تهذیب و تحسین اخلاق اهالی مدخلیت عظیم دارد و قضیه تعیین مالیات و تحریر خرج که شرح داده شد از این تدابیر است امروز در ممالکت اسلام چون محصلان مالیات بسر اهالی گماشته شوند و اهالی که از مخارج دولت خبر ندارند چنین پندارند که بدهی آنها بهوا و هوس حکمداران صرف میشود لهذا اکثر آنها برای تخلیص گریبان از تکالیف دولت به خیال پیدا کردن راههای حیل و خدعه و دروغ و حبس مال و کتم ثروت خود می افتند و بدین جهت اخلاق صادق و اسلامیة آنها تغییر پذیرد و از آن طرف نیز محصلان مالیات راه های حیل و دروغ آنها را کشف کنند و آنها را به مجلس برند و چوب زنند لاجرم اهالی را خوف و مسکنت و هتک ناموس و فرار عارض گردد و اخلاق شجاعت و بطالت و علو همت آنها مرده شود.

در دولت انگلیس سابقاً برای تعیین مالیات نسبت به واردات اهالی قاعده تفحص گذاشته بودند امروز آن قاعده راترك کرده و بقول خود هرکس اعتماد می کنند یعنی از مداخل هائیکه صلاح دولت و رعیت است و موافق قانون در بدو کار معین کرده اند از خود شخص می پرسند و او هرچه بگوید باور می نمایند و مالیات را از روی مداخل او از قرار گفته خودش اخذ می کنند.

ملاحظه باید کرد که به اهلی به چه درجه اعتماد کرده اند و به جهت همین اعتماد چه قدر اخلاق آنها را به اصلاح آورده و به صدق و راستی معتاد شده اند و از وقتی که این تدبیر را به کار برده اند مالیات دولت روز به روز زیاد شده

### *One Word*

As a result, the majority of political policies in Europe have a strong effect on the refinement and improvement of people's ethics. The issues of determining taxes and the publication of expenditures, which I previously explained, belong to this category of policy. In Islamic countries today, when tax collectors are appointed over the people, individuals have no idea about the government's expenditures, so they think that their taxes are spent for the leisure and pastimes of those in authority. Therefore, in order to find a way to evade their obligations towards the government, most people use legal constructions or fraud, lying, hiding their capital, and concealing their possessions. The result is that their honest Islamic morality degenerates. Moreover, when tax collectors find out about their ways of deception and lying, they take them to prisons and birch them. Naturally the people suffer from fear, humiliation, and dishonour. The virtues of chivalrous behaviour, courage and noble ambition perish.

In the past, the English government would fix taxes on the basis of an investigation of each person's income. Today however, they have abandoned this method and rely on each individual's word. In other words, having defined those sources of income that are in the interest of the government and the people, and in accordance with the code, they ask each individual, and accept what each says. They collect taxes on the basis of a person's income, based on his own report.

It is remarkable how much trust they put in individuals, and how much they have refined the people's ethics. They have become accustomed to truthfulness and honesty. From the day that they applied this policy, the government's tax revenues have grown day by day.



و به تجربه دیده‌اند که سابقاً اگر از صد نفر ده نفر بدهی خود را ناراست  
گفتی امروز پنج نفر بهم نمی‌رسد.

(۱۲)

فقره دوازدهم از فقرات نوزده‌گانه هر وزیر و امیر و حاکم در مأموریت  
خود مسئول بودن است. سبب مسئول بودن این است که هر مأمور مکلف  
است به متابعت احکام قانون چون سایر مکلفان. و این قاعده نیز از شریعت  
اسلام است زیرا که در قرآن عظیم هر تکلیفی بصیغه جمع آمده *اطيعوا و*  
*اتوا* فرموده و خطاب عام کرده. حتی ذات پیغمبر صلی الله علیه و آله را از  
تکلیف استثنا ننموده. مسلمانان که بر مکلف بودن انبیاء و اولیاً معتقدند هیچ  
حاکم و امیری را از تکلیف آزاد نمی‌توانند شمرد. حدیث *كلکم راع و*  
*كلکم مسئول عن رعیتہ* مؤید این قول است.

(۱۳)

فقره سیزدهم تفریق قدرت تشریح از قدرت تنفیذ. مقصود از این سخن آنست  
که وضع و تنظیم قوانین در اختیار مجلسی باشد و تنفیذ و اجرای آن در  
درست مجلس دیگر چنانکه آن مجلس هیچ گونه بیم و امیدی از این مجلس  
نداشته باشد تا که هر يك از دو مجلس ودیعه خود را

They have learnt that, whereas in the past ten out of every hundred people would lie about their obligations, today it is no more than five.

## *XII. MINISTERS' RESPONSIBILITIES*

The twelfth of the nineteen headings is that every minister, commander and notable is answerable for his own sphere of responsibility. The reason that he is responsible is that each official is obliged to follow the provisions of the code like other people with responsibility. And this is also found in Islamic religious law. In the holy Quran, every responsibility is summarised in the formulation "*Obey, and bring forth*".<sup>16</sup> This is preached to the mass of the people, and even to that essence of prophethood. No-one is excluded from responsibility. Muslims, who believe that the prophets and saints have been entrusted with a task, cannot exempt any ruler or commander from responsibility. The tradition "*each of you is a shepherd, each is answerable for his flock*" confirms this sentiment.

## *XIII. SEPARATION OF THE LEGISLATIVE FROM THE EXECUTIVE POWER*

The thirteenth heading is the separation of the legislative power from the executive power. This means that one body is responsible for establishing and compiling codes of law, and implementation and enforcement are in the hands of a separate body. The former should not have anything to hope or fear from the latter, so that each of the two is

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<sup>16</sup> Not an exact Quranic citation, but two verbs which are found together as aspects of the believer's duties. The author intends us to read it as "obey, and let it be seen [that you have obeyed]." See for example Sura 24:56, "Come forward with the *zakāt* dues, and obey the messenger," or Sura 58.13, "Come forward with *zakāt* dues, and obey God and his messenger."

با استقلال و آزادی تمام حفظ توانند کرد. اگر در فواید و محسنات تفریق دو اختیار مذکور صد جلد کتاب نوشته شود، باز هزار يك فواید آن را شرح نمی توان داد الان هرگونه ترقی و قدرت و قوت و ثروت و معموریت و تجارت در دول فرنگستان دیده می شود از نتایج جدائی دو اختیار است و هر قسم بی‌نظمی و بی‌پولی و عدم قدرت و نکث در صنایع و تجارت و زارعت در مشرق زمین مشاهده می شود از اختلاط و امتزاج دو اختیار است. عقلای روی زمین از روی تحقیق و تجربه گفته‌اند در دولتی که دو اختیار مخلوط هم استعمال بشود ممکن نیست که باعث ضعف و خرابی و بلکه بالمآل سبب انقراض آندولت نگردد.

بالجمله این قانون مستحسنه فرنگستان نیز از قوانین قدیمیه اسلامیة است چنان که در ایام پیشین مجتهد و مفتی در وظیفه خود و والیان و محتسبان در وظیفه اجرا و تنفیذ مستقل بودند.

اگر چه تنظیم قانون و تنفدیش درحقیقت به مرجع واحد یعنی به وحدت امامت مربوط است ولی در ترتیب تفریق واجب است چنانکه شیخ علی کرکی در شرح شرایع الاسلام در کتاب امر به معروف می گوید: *ویفرق بین الحکم و الفتوی بان الحکم انشاء قول فی حکم شرعی یتعلق بواقعة شخصیة کالحکم علی عمر و بثبوت دین زید فی ذمته.*

able to guard their own preserve with perfect freedom and independence. Even if a hundred volumes were devoted to the benefits and virtues of the separation of these two functions, a thousand and one more benefits would have to be omitted. All the progress, power, capacity, wealth, social development and commerce in the European states at the present time result from the separation of these two functions. All regions of the east are seen to lack order, wealth and power, and to be deficient in industry, trade, and agriculture. This is due to the mixture and confusion of the two functions. On the basis of investigation and experience, the wise men of the world say that if the two functions are mixed indiscriminately in a government, weakness and decline must result, and it may even result in the downfall of that government.

Once again, this praiseworthy European law is also one of the ancient laws of Islam. For in former times, legal experts were independent in their own tasks, and the governor and sheriff were independent in the task of implementation.

Although in reality the compilation of laws and their implementation are bound to one source, that is, the oneness in the institution of the imāmat, a structural distinction is necessary. As Shaykh ‘Alī Karrakī<sup>17</sup> in his commentary on Sharā’i‘ al-islām<sup>18</sup> in the chapter dealing with “*command what is accepted [and forbid what is reprehensible]*” said: “*The difference between a judgment and a fatwa is that the judgment is a declaration in a legal opinion concerning a personal event such as the judgment for a certain person establishing the debt for another person who has committed a misdeed.*”

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<sup>17</sup> Known under the names Muḥaqqiq the second and al-Amilī (c. 870-940 A.D.)

<sup>18</sup> The author of this book is al-Ḥillī, known as Muḥaqqiq the First

و اما الفتوى فانها بيان حكم شرعى لا يتعلق بماده شخصية و انما هو وجه  
كلى فهو فى الحقيقة بيان مسألة شرعية.

(۱۴)

فقره چهاردهم عدم عزل اعضا از مجالس حكم يعنى محكمه‌هاى عدالت و از ديوانخانه سنا كه مشورت خانه كبرى باشد. منصب قضا و منصب سنايى يعنى اعضاى ديوان خانه سنا بودن ابدى است. فوايد اين قانون بسيار است: اول اينكه در اعمال مشكله تجربه و بصيرت حاصله كرده‌اند؛ دويم اينكه در كار دولت و ملت بى‌غرض هستند؛ سيم چون بدوام و بقاى در منصب مطمئن هستند محتاج نمى‌شوند كه از كسى حمايت بخواهند و در مقابل آن به قبول توسط مجبور شوند اين قانون نيز بشريعت اسلاميه مطابقت دارد زيرا كه عزل مأمورى از منصبش بى‌جنحه و بى‌ثبوت تهمت ظلم و جفا است و ظلم و جفا در شريعت اسلام ممنوع است.

(۱۵)

فقره پانزدهم حضور ژورى ها در حين تحقيق جنايات. ژرى اشخاصى هستند كه اهالى مملكت آنها را از مردمان آبرومند و درستكار و امين انتخاب مى‌كنند و اقل آنها دوازده نفر مى‌باشند و هميشه هنگام تحقيق جنايات و جرايم كبيره در محكمه‌هاى عدالت حضور بهم مى‌رسانند و چون قاضى احتجاج و گفتگوى

## *One Word*

*A legal opinion on the other hand is an explanation of the ruling in religious law, not linked to any specific event but in general. It is in essence an explanation of a question of religious law.*

### *XIV. MEMBERS OF THE JUDICIAL BODIES*

The fourteenth heading is that the members of the judicial bodies (the courts of justice and the supreme constitutional court) cannot be dismissed. The post of judge and of senator (that is, membership of the supreme court) are perpetual. The benefits of this provision are many. Firstly, these people have accumulated experience and understanding in difficult matters. Secondly, they should work for the government and people without self-interest. Thirdly, because they are assured of the continuity of their appointment, they have no need for the patronage of any person, whose pleas they would then be obliged to accept. Once again this provision is in conformity with the Islamic law, since the dismissal of an officer from his post without any cause or confirmation of the accusation against him would be injustice and oppression, which are forbidden in Islamic law.

### *XV. THE ROLE OF JURORS*

The fifteenth heading is the presence of *jurors* when investigating crimes. *Jurors* are individuals who have been selected by the people of a country from among honourable, upright and trustworthy men. There are at least twelve *jurors*. They are always present when crimes and serious offences are investigated before the courts of justice. The judge hears the evidence for the defence and the arguments

مدعی و مدعی علیه را استماع نماید پس آن کار را محولّ به تمیز و تحقیق ژوری ها میکند و از ایشان رأی می‌طلبد. ژوری ها به محل مخصوص و خلوت داخل شده بعد از مذاکره و تحقیقات فی‌مابین خود به هرچه اتفاق و یا اکثریت آراء قرار گرفت آن را به قاضی افاده میکنند و ژوری ها را حق حکم و یا تعیین مقدار عقوبت نیست بلکه فقط نظر ایشان به بیان رأی و اشارت مقصور است.

فلهذا این قاعده نیز در شریعت اسلام به باب مشورت راجع است بنابراین آنها را مشاور نامیدن سزاوار است. و در این باب شیخ طوسی در کتاب قضا گفته است:

ينبغي ان يكون في المجلس الحكم للقاضي اهل العلم من اهل الحق  
و عند المخالف من اهل كل مذهب واحد ان حدثت حادثة يفتقر فيها  
الى ان يسئلهم عنها ليتذكر جوابه فيها و دليلهم عليها فان كانوا  
بالقرب ذاكرهم و ان كانوا بالبعد استدعاهم و اذا حكم بحكم فان  
وافق الحق لم يكن لاحد ان يعارضه و ان اخطأ و جب عليهم ان  
ينبهودا عليه ... الخ.

لفظ ژوری در اصطلاح فرانسه بمعنی آن کسی است که سوگند خورده باشد چون ژوری ها حین انتخاب شدن بر وفق قانون معینه سوگند یاد می‌کنند که همیشه بر جاده حق و راستی بوده و بدون هرگونه منظور آرای خود را بر مسموعات و مخاصمات در حق هرکسی بوده باشد بروجه راستی و خلوص بیان نمایند. پس ژوری در وظیفه خود مشاور سوگندخور است. مخفی نماند که قاعده انتخاب ژوری در محکمه‌های مخصوص فرنگستان بجهت

### *One Word*

of the plaintiff and claimant, then he hands the matter to the *jury* to investigate and determine the truth and asks for their opinions. They go to a certain place in private. After consulting and investigating among themselves, they give whatever they have decided, unanimously or by majority vote, to the judge. The *juries* do not have the right to issue judgement, or to decide on the severity of punishment. Their considerations are confined to clarifying opinions and evidence.

This principle is also contained in Islamic law, under the heading of consultation, since they could be called counsellors. On this topic, Shaykh Ṭuṣī has written a chapter on Decision:

*Whenever a dispute arises, the judge should have knowledgeable and upright people present when hearing the case, and during the counter arguments, from all the schools of law. If a case arises that needs clarification, they can answer and present their arguments in the matter. If they are present, they should be involved and be consulted, and if they are not present, one should call them. And if a ruling is issued, if it is agreeable, they need not oppose it, but if it is wrong they are obliged to clarify how it should be [and so forth.]*

The word *juror* in French refers to somebody who has sworn an oath, because when *jurors* have been chosen in accordance with the established law, they swear an oath that they will always adhere to truth and justice, and will form their opinions based on evidence and arguments, giving every one his due, without any favouritism. And also, that they will deliver their decisions based on uprightness and sincerity. Thus the *juror* is bound by oath in fulfilling the duties of a counsellor. It will be evident that the principle of the selection of *jurors* in the particular case of European courts



مؤید بودن منصب قضا واجب آمده است چون منصب قضاوت در قانونشان ابدی است و قضاات متمکنه و مؤبده را مجال استیلا باقیست. پس برای سدّ مجال تعیین ژوری و مشاور واجب افتاده ژوری هائی که دريك امر اظهار رأی کردند و در امر دیگر ژوری های علاحدہ انتخاب می کنند.

(۱۶)

فقره شانزدهم تشهیر و اعلان مفاوضات سیاسیه و حوادث جنائیه و مخاطبات رسمیّه وکلای ملت در روزنامهجات دولتیّه. این قانون مطابقت تامه دارد به قاعده تبلیغ شرعی که در فقره یازدهم شرح کردیم و به وجوه مذکوره راجع است به قانون حرّیت مطابع.

(۱۷)

فقره هفدهم عدم شکنجه و تعذیب. مادام که هرگناهی را که در کتاب قانون جزای مخصوص و معین موجود است تعذیب جانی برای اقرار گرفتن و به بهانه های دیگر غیر ممکن است و جزای هر تقصیر قبل از وقت در کتاب قانون معین است. و احدی از حکام و امراء و سران لشگر جرئت و قدرت ندارند که نسبت به زیر دستان خود بدون حکم قانون به هوای نفس به جهت اقرار گرفتن یا سبب های دیگر که محض ظن باشد چوبی بزنند یا شکنجه بکنند یا فحشی بگویند. حتی در قانون ایشان چوب و تازیانه

has become necessary because the judicial office is permanent. Since, under their laws, the judicial office is lifelong, sitting judges have permanent power. Therefore to limit this power, it has been found necessary to appoint jurors and counsellors. The *jurors* give their findings in one case, and other jurors are appointed for the next case.

*XVI. PUBLICATIONS OF THE GOVERNMENT*

The sixteenth heading is the publication of the political debates and criminal acts and official speeches of the representatives of the people in government newspapers. This law is in complete accordance with the principle of the promulgation of Islamic law, as was explained under the eleventh heading, and it follows from the law of the freedom of the press.

*XVII. ABSENCE OF THE RACK AND TORTURE*

The seventeenth heading is the absence of the rack and torture. Since a particular punishment for each crime is specified in the book of the code, physical torture to obtain a confession or for any other reason is not possible. The punishment for each offence is fixed in advance in the book of the code. None of the judges, governors, or army commanders has the power or temerity, on their own initiative, to subject a suspect who is in their power to the birch or the rack or other excesses, whether to obtain a confession or for any other reason, without a legal decree. In fact,

زدن ممنوع است و درلسان ایشان فحش و دشنام نیست و این قسم تنبیها ت را که خلاف شأن انسانیت است در حق اسب و استر و سایر حیوانات بارکشی هم روا نمی دانند. این قانون شریف نیز طبق قانون اسلام است چنانکه خدای تعالی در قرآن مجید می فرماید و من جاء بالسئنة فلا یجزی الا مثلها. ایضاً در سوره نحل فرموده و ان عاقبتم فعاقبوا بمثل ما عوقبتم. ایضاً در سوره آل عمران آیه ۲۴ و در سوره زمر آیه ۷۰.

بالجمله نکته شریعت اسلامی را که در باب سیاست امروز اهل اسلام ترك و فراموش و اهل فرنگستان اخذ و تدارك کرده اند واجب آمد که در اینجا به سمت تحریر در آورم. در شرع پیغمبر (ص) اصلی است از اصول که قضات و حکام مهما ممکن درأ حدود کنند یعنی در تخفیف جزای جانی سعی نمایند جماعت متمدنه که از اهل شهوت و غفلت مرکب هستند لاجرم افرادش از ارتکاب جرم و جنایت و استحقاق حدود خالی نمی باشد اگر حکام طریق تجسس و شکنجه را پیش بگیرند بسی جانها را باید اعدام و بسی پردهای ناموس را باید هتك کنند با اینکه طبیعت اصول اجتماع در این عالم مدنیت حفظ جانها و ستر ناموس ها را اقتضا کرده پس لازم است که حفظ جانها و ستر و حرمت ناموس ها را بر اعدام و هتك ترجیح دهند و بقدر امکان از عیب ها اغماض نمایند و این ترجیح و اغماض بجز ترك تجسس

birching is forbidden in their code, and they use no curses or insults. They do not even apply such punishments, which are contrary to human dignity, to horses, mules or other beasts of burden. This noble law, too, is in accordance with the Islamic code. For God the exalted has said in the Quran: (6: 160) “[Whoso brings a good deed shall have ten the like of it]; *and whoso brings an evil deed shall only be recompensed the like of it.*” And again in the Sura of the Bee (16: 126) “*And if you chastise, chastise even as you have been chastised.*” The same can be found in the Sura of the Family of Imrān (3: 24)<sup>19</sup> and in the Sura of the Crowds, verse 70.<sup>20</sup>

Note that the maxims of Islamic law regarding punishment are abandoned and forgotten in the Islamic world today, whereas the people of Europe have seized and understood them. I should state here that in the law of the Prophet, one of the fundamental principles is that judges and rulers should wherever possible “breach the prescriptions” that is, should do what they can to lighten the physical punishment. In civilised societies, which are made up of licentious and neglectful people, the individual certainly cannot be exempt from committing crimes and offences deserving the specified physical punishments (ḥudūd). If magistrates were to apply the method of imprisonment and the rack, how many would have to be hanged and how many would be disgraced! The fundamental nature of society in this civilised world demands that life and reputation should be protected. Therefore it is necessary to prefer the protection of life and reputation over execution and the rack, and so far as possible to overlook vices. And this preference and overlooking

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<sup>19</sup> The verse is 3:25 in the usual numbering: “But how will it be, when We gather them for a day whereon is no doubt, and every soul shall be paid in full what it has earned, and they shall not be wronged?”

<sup>20</sup> 39:70: “Every soul shall be paid in full for what it has wrought; and He knows very well what they do.”

و شکنجه میسر نمی‌تواند شد. و در این نکته از جناب پیغمبر صلی الله علیه و آله حدیث اذرو الحدود ما استطعتم وارد شده یعنی تخفیف بدهید در اجرای حدود هر چه ممکن باشد. در فرنگستان به جهت تکمیل این قانون سلاطین را حق عفو و بخشش هست. مثلاً هیچ پادشاهی قادر نیست در حق ادنی‌ترین ناس حکم زدن يك چوب و تازیانه بدهد اما هر پادشاه حق این را دارد مقصری که دیوان عدالت حکم بر قتلش کرده باشد پادشاه قتل را تبدیل به حبس مؤبد بکند در صورتیکه اولیای مقتول راضی بشوند. ملتفت باید شد که این معنی به چه درجه باعث محبت و اخلاص قلبی اهالی نسبت به پادشاه می‌باشد در حقیقت سلاطین را منبع عفو و رحمت قرار داده‌اند. عجب‌تر این است که این قضیه در مشرق زمین به تمامه برعکس است: ببین تفاوت کار از کجاست تا کجا.

(۱۸)

فقره هجدهم حریت صنایع و کسب. مقاله شرعیه در این نوع حریت همان آثار است که در حریت مطلق وارد شده. باید دانست که در فرنگستان باعث عمده و اعظم در ترقی صنایع و کسب آزادی آنهاست چنانکه هر کس بهرگونه کسب و بهر قسم صنعتی که بخواهد اقدام کند مانع و ملامتی از کسی نخواهد دید. مع‌هذا آن نیز در تحت قانون است به این معنی کسیکه صنعتی و عملی اختراع کرد امتیاز آن را چه از دولت متبوعه خود و چه از سایر دول متمدنه تا مدت معینه با شروط قانونیه برای خود تحصیل کرده از منافع آن بهره‌مند می‌شود و این باعث می‌گردد

would not be possible without abolishing interrogation and the rack. There is a tradition from the Prophet about this point: “*Avoid the prescribed punishment wherever you can.*” That is, lighten the administration of the prescribed punishments wherever possible.

In Europe, in order to complement this law, the kings have the authority to remit punishments or to pardon. For instance, no king is entitled to decree a single blow of the bastinado for the least of men. But all the kings are entitled, when any person has been condemned to death by the court of justice, to commute the sentence to imprisonment, on the condition that the relatives of the person who has been killed agree. It should be noted how much this causes love and sincerity in the heart of people with respect to the king. In fact, the kings are established as the source of forgiveness and mercy. Even more astonishing is that the situation in the East today is quite the opposite. “Behold the differences between here and there.”

#### *XVIII. FREEDOM OF CRAFTS AND PROFESSIONS*

The eighteenth heading is the freedom of crafts and professions. The rulings of the Islamic religious law on this form of freedom point in the same direction as the absolute freedom [in the west]. Note that in Europe, freedom has been the principal cause of progress in crafts and professions. If an individual wishes to enter any profession or branch of industry, there will be no obstruction or criticism from anyone. Moreover, there is another aspect to the code. If someone discovers a craft or a work, either his own government or other civilised governments will grant him the rights to it, for a specified period under legal conditions, and he will benefit. As a result,

که هرکس در اختراعات جدیده صرف افکار کنند و به این وسیله حرف و صنایع ترقی و انتشار می یابد.

(۱۹)

فقره نوزدهم از فقرات نوزدهگانه حقوق عامه بنای مکتب خانه ها و معلم خانه ها برای تربیت اطفال فقرا چون تعلم علوم و معارف در فرنگستان مطلقاً از الزام امور و اقدم وظایف است لهذا تعلیم اطفال فقرا و مساکین حتی نابینایان را از حقوق عامه شمرده اند. بنابراین بعضی آثار شرعیه از آیات قرآن و احادیث نبوی در شرف علم در اینجا مناسب افتاد، من جمله خدای تعالی در قرآن مجید می فرماید یرفع الله الذین امنوا و الذین اوتوا العلم درجات یعنی خدای تعالی اهل علم و دانش را درجات عالییه وعده فرموده. ایضاً در سوره زمر هل یتوی الذین یعلمون و الذین لا یعلمون تقدیم عالمان و تأخیر جاهلان را اشاره فرموده. و ایضاً در سوره بقره آیه ۲۷۲ و ایضاً در سوره طه آیه ۱۱۳ و در سوره علق آیه ۳ و ۴

everyone focuses their thoughts on contriving something new, so that trades and industry progress and expand.

*XIX. ESTABLISHING SCHOOLS AND TEACHER-TRAINING COLLEGES*

The nineteenth and last heading of universal rights is the right to have primary schools and teacher-training colleges for the sake of the education of the children of the poor. Because the teaching of sciences and letters is regarded as the most necessary matter and the primary duty in Europe, the education of the children of the poor and needy and even of the blind, is considered as a universal right. Many of the rulings of the religious law, based on the verses of the Quran and the traditions concerning the Prophet which praise knowledge, are relevant here. For example, in the glorious Quran (58:11) God the exalted says: “*God will raise up in rank those of you who believe and have been given knowledge.*” That is, God the exalted has promised lofty ranks for the people of science and knowledge. And again in the Sura of the Crowds (39:9) He says: “*Are they equal -- those who know and those who know not?*” This points to the precedence of the knowledgeable and the low rank of the ignorant. Yet again in the Sura of the Cow, verse 272,<sup>21</sup> the Sura of Tā Hā, verse 113 (20:114),<sup>22</sup> the Sura of the Clot of Blood, verses 3 and 4 (96:3-5),<sup>23</sup>

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<sup>21</sup> 2:272. “He gives the Wisdom to whomsoever He will, and whoso is given the Wisdom, has been given much good; yet none remembers but men possessed of minds.”

<sup>22</sup> 20:114: “O my Lord, increase me in knowledge.”

<sup>23</sup> 96:3-5: “Recite: And thy Lord is the Most Generous, who taught by the Pen, taught Man that he knew not.”



و در سوره عنكبوت آیه ۴۲ و در سوره نحل آیه ۴۵ و بنی اسرائیل آیه ۱۳ در شرف و فضیلت علم تأکیدات بلیغه فرموده و حدیث معاذبن جبل در فضیلت علم و تعلم در کتاب جامع ابن عبدالبر مسطور است که جناب رسالت پناه صلی الله علیه و آله فرموده:

تعلموا العلم فان تعلمه الله حسنة و طلبه عبادة و مذاکرته تسبیح و البحث عنه جهاد و تعلیمه لمن {لا} یعلمه صدقة و بذله لاهله قربة. لانه معالم الحلال و الحرام و منار سبیل اهل الجنة و هو الانیس فی الوحشة و صاحب فی الغربة و المحدث فی الخلو و الدلیل علی السراء و الضراء و السلاح علی الاعداء و الزین عند الاخلاء یرفع الله به اقواماً فیجعلهم فی الخیر قادة و ائمة تقتص اثارهم و یقتدی بفعالهم. ترمق اعمالهم و تقتبس اثارهم و ترغب الملائكة فی خلتهم و باجنحتها تمسحهم. یرستغفر لهم

the Sura of the Spider, verse 42 (29:43),<sup>24</sup> the Sura of the Bee, verse 45 (16:48),<sup>25</sup> and the Sura of the Children of Israel, verse 13 (17:15),<sup>26</sup> the high station and benefits of science have been eloquently emphasised. The tradition reported by Ma'ād ibn Jabal regarding the excellence of science and teaching in the collection of Ibn 'Abd al-Barā confirms that Muḥammad said:

*“Study science, for truly, this is a good deed and seeking it is an act of worship and studying it is praise of God and the search for it is striving in the path of God (jihad) and teaching it to one who does not know it is an act of charity and sharing it freely with one’s people is the cause of union. For truly it consists of the distinguishing marks of permitted and forbidden things and is the guiding light on the path of the people of Paradise. It is the companion in time of fear and the friend in exile, the counsellor in the world, the guidance underlying fortune and misfortune. It is armour against foes, and virtue in doing good. Through it God elevates peoples and he makes them leaders and paradigms in virtue. Their example is followed and their doings are imitated, their works are studied and their traditions are transmitted. The angels seek their friendship and pass their wings over*

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<sup>24</sup> 29:43: “And those similitudes – We strike them for the people, but none understands them save those who know.”

<sup>25</sup> 16:48: “We sent not any before thee, except men to whom We revealed: 'Question the people of the Remembrance, if it should be that you do not know -- with the clear signs, and the Psalms; and We have sent down to thee the Remembrance that thou mayest make clear to mankind what was sent down to them; and so haply they will reflect.”

<sup>26</sup> 17:15: “‘Read thy book! Thy soul suffices thee this day as a reckoner against thee.' Whosoever is guided, is only guided to his own gain, and whosoever goes astray, it is only to his own loss; no soul laden bears the load of another. We never chastise, until We send forth a Messenger.”

كل رطب و يابس و حيطان البحر و هو امه و سباع البر و انعامه لان العلم حيوۃ القلوب من الجهل و مصابيح البصار من العمى. يبلغ العبد بالعلم منازل الاخير و الدرجات العلى فى الدنيا و الاخرة. التفكر فيه يعدل الصيام و مدارسه تعدل القيام. به توصل الارحام و به يعرف الحلال و الحرام و هو امام العقل و العقل تابعه و يلهمه السعداء و يرحمه الشقياء و قال ايضاً لا يقبض العلم انتزاعاً من الناس و لكنه يقبض العلماء.

يعنى علم قبض نميشود و نمى ميرد لكن علماء قبض ميشوند و قال ايضاً اطلبوا العلم من المهد الى اللحد و مضمون كلام معجز نظام جناب ولايت مآب على عليه السلام العلم علما علم البدان و علم الاديان و العقل عقلا ن عقل المعاش و عقل المعاد ملتف بايد شد كه علم ابدان را بر علم اديان مقدم داشته اگرچه در ايران مدارس بسيار هست و تحصيل علوم مى كنند اما از براى معاد نه از براى معاش با اينكه پيغمبر (ص) فرموده: "من لا معاش له لا معاد له." و آن قسم تحصيل در جنب تحصيل علوم صنايع و معاش اهل فرنگستان مثل چراغ است در مقابل آفتاب و مانند قطره است در جنب دريا از اشعه علوم فرنگيها ذره به ايران تايبده صنعت طباعت و آبله كوبي و تلغراف و عكس تصوير ايجاد شده كه منافع و محسناتش مستغنى از بيان است.

*them. All things moist and dry and the great fishes of the sea and its creatures, and the wild animals of the land and its cattle ask forgiveness for them. For knowledge is life for the hearts, dispelling ignorance, and light for the eyes, curing blindness. One who attains to knowledge attains the most excellent station, and the most exalted degree in this world and the world to come. Reflecting on it is equivalent to fasting, and teaching it is equivalent to giving gifts to one's family. And through it comes the recognition of the permitted and the forbidden. It is the leader of reason and reason follows it. The fortunate will be inspired while the iniquitous deprived." And in another place he says: "Knowledge will not be entirely eliminated among the people, unless the 'ulama' are taken from us."*

That is, knowledge will not cease, and will not die, unless the 'ulamā' cease. And again he says: "*Seek knowledge from the cradle to the grave.*" We should note the significance of Ali's inimitable saying: "*Knowledge is of the two kinds: knowledge of physical things and of the religions, and intelligence is of two kinds: intelligence in earning a livelihood and intelligence concerning [our] ultimate destination.*" Here, the knowledge of physical things takes precedence over knowledge of religions. While there are many schools in Iran, they teach the sciences relating to our ultimate destiny, but do not give instruction regarding the means of livelihood. But has the Prophet not said: "*One who has not secured the means of livelihood has also not attained to his ultimate purpose.*" And in that part of the sciences, Persian education is as a lamp in the presence of the sun, and a droplet beside the sea as compared to the knowledge of industry and the means of livelihood of the people of Europe.. One ray of the sunlight of European sciences has shone on Iran: the technologies of printing, vaccination, the telegraph, and photography exist here. Their benefits and virtues require no explanation.

خاتمه مشتمل بر دو بیان است: بیان اول خلاصه را باید شناخت که مدعا و نتیجه همان است و اصول سیاست فرنگستان داخل در اوست و آن این است که در دنیا فردی از آفریدگان از شاه و گدا و رعیت و لشگری هیچکس حق حکم ندارد یعنی حاکم نیست بلکه محکوم و مکلف است آنان را که حاکم می نامند بر سبیل مجاز است نه حقیقت اما آنکه حاکم کیست یعنی مبداء حکم در کیست شریعت اسلام و نظریات علمای اروپا در این باب متفق است که حاکم حضرت یزدان است. الیس الله باحکم الحاکمین مصدق این معنی است.

هر اصل و قاعده که حضرت یزدان به طبیع و عقول ما تودیع و به وسایط انبیاء تسلیم کرده، ظهور آن سعادت ماست چون که حکم یزدان است. حدیث السنة الخلق اقلام الحق و کما حکم به العقل حکم به الشرع و بالعکس باین نکته اشارت عظیم. و حدیث ما راه المؤمنون حسنا فهو عند الله حسن. در این بحث ایضاح جمیل دارد.

بیان ثانی از مضمون رساله ظاهر شد که آن حقوق نوزده گانه اگر چه حقوق عامه فرانسه نام دارد ولی در معنی حقوق عامه مسلمانان بر کلّ جماعت متمدنه است و چون جمیع آنها با احکام و آیات قرآنیه مؤید آمده است پس احکام الهی است و واجب است که آنها را بعمل آوریم و به احکام الهی امتثال کنیم تا به سعادت مضمون آیه شریفه: و هذا کتاب انزلناه مبارک فاتبعوه و اتقوا العلمک ترحمون نایل آئیم. و از سخط آیات شریفه: و من لم یحکم بما انزل الله فاولئک هم الکافرون و من.

Finally, we must add two explanations. First, that the crux of the matter should be understood, because it embraces the argument and conclusion. And the root principles of European governance are contained within it. It is this, that no individual person in the world, whether king or beggar, civilian or soldier, has the right to rule. That is, they are not rulers, but are delegated responsibilities. If they are called ‘rulers’, this is in a metaphorical sense, and not in reality. Then who is a ruler? In other words, who is the fountainhead of rulership? The Islamic religious law and the opinions of the learned men of Europe are in agreement on this point: the ruler is God himself: *“Is not God the justest of judges?”* (95:8).

From this sentiment, it is evident that all the principles and essential doctrines that God has specialised for us in our characters and intellects and has entrusted to us through the prophets, have as their outcome, our happiness. For this is what God decrees. The Islamic tradition *“The tongues of men are the pens of truth, and everything that reason prescribes, is prescribed by the religious law, and vice versa,”* is strong evidence on this point. Another tradition, *“what the faithful see as a good thing, is good in the eyes of God,”* is an elegant commentary on this issue.

The second explanation is this: from what has been said in this treatise, it has become clear that those 19-fold rights, although they are called the rights of the French people, are in fact the rights of ordinary people and of Muslims, nay, of all civilised societies. Since all of them are in accordance with the principles and verses of the Quran, they are the decrees of God. It is obligatory that we should put them into effect, and model our practice on them. In this way we may attain the blessing referred to in the noble Quranic verse (6:153): *“This is a Book We have sent down, blessed; so follow it, and be godfearing; haply so you will find mercy,”* and we may be safe, and escape God’s wrath, as mentioned in the noble verses (5:47-50): *“Whoso judges not according to what God*

لم يحکم بما انزل الله فاولئک هم الظالمون و من لم يحکم بما انزل الله فاولئک هم الفاسقون رستگار و ایمن شویم.

علاوه بر خاتمه کتاب بعضی جزئیات از قوانین مدنیت آیات در فرانسه و در سایر ممالک فرنگستان هست که خدای تعالی از راه کمال رأفت و رحمت ما را از اشعار و تنبیه آنها نیز محروم و بی خیر نگذاشته. من جمله اسباب احیای نفوس است که در فرنگستان به چندین وسایل مختلفه فراهم آورده‌اند از قبیل بنای مریضخانه‌ها و ترغیب شناوران برای تخلیص غرق شده‌گان و چندین مجالس دیگر که ذکر آنها موجب اطناب است در این باب خدای تعالی در قرآن می فرماید و من احیایا فکانما احیا الناس جمیعاً.

ایضاً تنظیم و پاک‌ی و زینت راهها و شهرها و دهات است که بآیه شریفه انا جعلنا ما علی الارض زینة لها لنبلوهم ایهم احسن عملاً مطابق است. و حدیث جامعه الصغیر طهروا افنیتم اشاره بدین معنی است. ایضاً سوره اعراف آیه ۷۲ .

دیگر صحت و درستی اوزان و مقیاس و مسکوکات است که خدای تعالی در چندین محل قرآن به تأکیدات بلیغه ما را تنبیه فرموده من جمله در سوره انعام آیه ۱۵۳ و اعراف ۸۳ و بنی اسرائیل

*has sent down -- they are the evildoers. Those who do not give judgement according to what God has sent down, they are wrongdoers. Those who do not give judgement according to what God has sent down, they are sectarians."*

To conclude this book, there are some of the finer points of the civil codes in France and other European countries, of which God the Exalted, in his perfect compassion and mercy, has not kept us in ignorance, or excluded us from their announcements and warning.

To give one example: in Europe they have introduced various means for the revival of individuals, such as building hospitals, and training swimmers to save people from drowning. There are other institutions but to mention them would lead to prolixity. On this point God the Exalted says in the Quran (5:35): "*whoso gives life to a soul, shall be as if he has given life to mankind altogether.*"

Again, the ordering, purification and beautification of cities, roads and villages is in accordance with noble verse (18:6) "*We have appointed all that is on the earth for an adornment for it, and that We may try which of them is fairest in works.*" The Islamic tradition known as the *Lesser Jāmi'*, "*purify your courtyards*" points in the same direction. There is also verse 72, in the Sura of the Heights.<sup>27</sup>

Another point is the correctness of weights, measures and coins which God the exalted has eloquently emphasised for us at various places in the Quran. For example, there is the Sura of the Cattle, verse 153,<sup>28</sup> the Sura of the Height, verse 83,<sup>29</sup> and the Sura of the Children of Israel, verse 73<sup>30</sup>

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<sup>27</sup> 7:74: "And remember when He appointed you as successors after the people of Noah, and increased you in stature broadly; remember God's bounties; haply you will prosper."

<sup>28</sup> 6:153: "And fill up the measure and the balance with justice."

<sup>29</sup> 7:84: "So fill up the measure and the balance, and diminish not the goods of the people."

<sup>30</sup> 17:35: "And fill up the measure when you measure, and weigh with the straight balance; that is better and fairer in the issue." Verse 73 does not refer to measures: this appears to be a mistake by the author.



۷۳ و شعرا ۱۸۱ تا ۱۸۳ و سوره مطففین و سوره هود ۸۵ و ۸۶. دیگر به کار انداختن معادن است خاصه معادن آهن که به موجب آیه شریفه و انزلنا الحديد فيه بأس شديد و منافع للناس ارشاد به این عمل نافع فرموده.

دیگر ثبت اسناد و قباله جات و شرط نامجات در دیوان مخصوص آیه ۲۸۲ در سوره بقره یا ایها الذین آمنو اذا تداینتم... الخ در این باب دلیل کافی است.

دیگر اعتنا و دقت در تهیه و ترتیب امور عسگر است از قبیل توافق اسلحه به اسلحه دشمن و مهیا بودن آذوقه و ثبات ورزیدن افراد لشگر در جنگ و صاحب علم و اطلاع بودن سران سپاه و بعد از تسلیم شدن دشمن به مهربانی با ایشان رفتار کردن در سوره ۴۷ آیه ۵ در سوره ۶۱ آیه ۴ و در سوره ۳ آیه ۲۰۰ و در سوره ۴۷ آیه ۸.

and the Sura of the Poets, verses 181-83<sup>31</sup> and the Sura of the Stinters<sup>32</sup> and the Sura of the Prophet Hūd, verses 85-6.<sup>33</sup>

Another point is the exploitation of minerals, especially iron, as required by the noble verse: “*And We sent down iron, wherein is great might, and many uses for men,*” (57:25) which draws attention to this beneficial work.

Another point is that documents, title deeds, and contracts are registered in a special Ministry. Verse 282 of the Sura of the Cow (2:282), which begins: “*O believers, when you contract a debt one upon another for a stated term, [write it down, and let a writer write it down between you justly,]*” is sufficient argument on this matter.

Another point is care and punctiliousness in the preparation and arrangement of military matters such as having weapons that match those of the enemy; having provisions laid ready; the reliability of individual soldiers in war; having educated and well-informed officers; and, once the enemy has surrendered, dealing with them mercifully. These points are found in Sura 47 verse 5, Sura 61 verse 3; Sura 3 verse 200 and Sura 47 verse 8.<sup>34</sup>

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<sup>31</sup> 26:181-83: “Fill up the measure, and be not cheaters, and weigh with the straight balance, and diminish not the goods of the people, and do not mischief in the earth, working corruption.”

<sup>32</sup> 83:2: “Woe to the stinters who, when they measure against the people, take full measure but, when they measure for them or weigh for them, do skimp.”

<sup>33</sup> 11:85: “And diminish not the measure and the balance. I see you are prospering; and I fear for you the chastisement of an encompassing day.”

<sup>34</sup> 47:4-5: “When you meet the unbelievers, smite their necks, then, when you have made wide slaughter among them, tie fast the bonds; then set them free, either by grace or ransom, till the war lays down its loads. So it shall be; and if God had willed, He would have avenged Himself upon them. He will send their works astray.” 61:4: “God loves those who fight in His way in ranks, as though they were a building well-compacted.” 3:199-200: “Their wage is with their Lord; God is swift at the reckoning. O believers, be patient, and vie you in patience; be steadfast; fear God; haply so you will prosper.” 47:7-8: “O believers, if you help God, He will help you, and confirm your feet. But as for the unbelievers, ill chance shall befall them!”

يك كلمه در باب جميع فقرات مذكوره در قرآن احكام و آيات صريحه وارد است كه اگر خداوند توفيق عنايت فرمايد رساله جداگانه در اين باب خواهيم نوشت.

از سهوهای اهل مشرق زمین که به آن جهت از عالم ترقی دورتر مانده‌اند یکی هم این است که می‌گویند دنیا جهت دیگران است و آخرت برای ما و حال آنکه در اخبار وارد است: *نعم المال الصالح و الولد الصالح للعبد الصالح. لان بالمال ينال ثواب الصدقات و اعانة المحتاج و اغائة المهلوف و قضا حوائج الاخوان التي قال فيها الصادق (ع): "من طاف بالبيت اسبوعا كتب الله له سئة الالف حسنة و محى عنه سئة الالف سيئة و رفع له سئة الالف درجة و قضا حاجة المؤمن افضل من طواف و طواف و طواف حتى عدّ عشرة."*

و در دیوان منسوب بحضرت امیر علیه السلام آمده:

رب فتی دنیاہ موفوره      لیس له من بعدها اخره  
و اخر دنیاہ مذمومه      یتبعها اخره فاخره

## *One Word*

There is one word explaining the aforementioned concepts as they occur in the commandments of the Quran, and clear verses. If God grants his assistance, I will write a separate treatise on this topic.

Because of the misunderstanding of the peoples of eastern countries, they have remained very far from the developed world. One of these errors is that they say that worldly matters are for other people and our concern is with the Day of Judgement. But is it not reported in an Islamic tradition: *“How excellent are the pious and their descendants for a pious believer, because through the wealth he gains the merit of giving alms and succour for the needy and meeting the needs of the Brethren. In this respect, Imam Ṣādiq has said: ‘If someone walks around the House for one week, God records six thousand good deeds for him and erases six thousand sins and he is elevated by six thousand ranks. But to fulfil the need of a believer is better than if he goes around and around [the Ka’ba] ten times.’”*

And in the poem attributed to ‘Alī we find:

*One youth for whom the world is bountiful:  
for him there is no world to come.  
Another man for whom the world is vile:  
he finds a source of glory in the world to come.*

و اخر فاز بكنتيهما  
قد جمع الدنيا مع الاخرة  
و اخر يحرم كنتيهما  
ليس له الدنيا و لا الاخرة

و خدای تعالی در قرآن مجید میفرماید: و من كان في هذه اعمى فهو في الاخرة اعمى و اضل سبيلا. یعنی هرکس دیده بصیرتش در این دنیا نابینا باشد و راه صواب نبیند، پس او در آخرت نیز نابینا و گمراهتر خواهد بود. اگر بگویند که مقصود خداوند از کلام مزبور این است که هرکس در این دنیا خداشناس نبوده اعتراف به وحدانیت خداوند لاشریک نداشته باشد نابینا و گمراه است در این خصوص بر من لازم نیست از مراتب خداشناسی و اعتراف اهل اروپا به وحدانیت واجب الوجود شرح بدهم. تحقیق این فقره موقوف به همت مردان بزرگ است که بروند و مراوده و معاشرت با ایشان کرده و با چشم حقیقت بین حالت آنها را مشاهده نموده بفهمند به حسب ظاهر هیچ گونه مانعی در مراوده و معاشرت ایشان با اهالی فرنگستان بنظر نمی آید و خداوند در جذب قلوب و مهربانی و معاشرت با غیر اهل اسلام نهی نفرموده بلکه به عدالت محبت رفتار کردن با آنها امر نموده. چنانکه در سوره ممتحنه میفرماید:

## *One Word*

*Another attains to both the worlds,  
by merging this world with the world to come.  
Another man is barred from this world and the next;  
for him there is no "this world" or "to come."*

In the glorious Quran (17:72), God the Exalted has said: "*And whosoever is blind in this world shall be blind in the world to come, and he shall be even further astray from the way.*" That is, any man who is blind in terms of insight in this world, and does not see the right way, will also be blind in the world to come and further from the path.

If it be said that the intention of God in this verse is that anyone who does not know God while in this world and has not recognised the unicity of God, a unity without any partner, is blind and lost, I would reply, I am not required to explain the degrees of knowledge of God and of the recognition of the unicity of the Necessary Being among the people of Europe. Great men should devote themselves to investigating this matter, going there and doing business and associating with them, and with an unprejudiced eye observe their condition. Thus they can learn that there is no obstacle in the way of doing business and association with the people of Europe.<sup>35</sup> God has not forbidden attracting the hearts and affection and association with non-Muslims, rather we are commanded to deal with them with love and justice, as it is written in the Sura of the Woman to

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<sup>35</sup> Mustashār ad-Dowla wants to read the verse to mean that a person blind to the needs and requirements of this world while he is in it, will be similarly blind in regard to spiritual realities in the next world. But it could be objected that the meaning is that those who are blind to religious truths in this life will not have a second chance in the next world, and that the Europeans, with their doctrine of the trinity, are therefore eternally damned. Moreover, if Trinitarian Christians are regarded as polytheists, it would be forbidden to associate with them.

لا ينهاكم الله عن الذين لم يقتلوكم في الدين و لم يخرجوكم من دياركم ان تبروهم و تقسطوا اليهم ان الله يحب المقسطين، يعنى خداوند نهى نمى كند شما را از آنان كه با شما جنگ و كارزار نكردند در كار دين و ملت، و شما را بيرون نكردند از وطن خودتان، نيكوئى كنيد با ايشان و حكم بعدل نماييد در حق ايشان بدرستيكه خدا دوست دارد عادلان را.

ايضاً در سوره حجرات مى فرمايد: يا ايها الناس انا خلقناكم من ذكر و انثى و جعلناكم شعوباً و قبائل لتعارفوا، يعنى اى گروه مردمان به تحقيق ما آفريديم شما را از مرد و زن و گردانيديم شما را شعبها و قبائل تا بشناسيد يكديگر را. اين امر بديهى است كه فيما بين ملل مختلفه تا مروده و معاشرت نباشد معرفت به احوال و اوضاع همدیگر نمی‌توانند حاصل کرد و ماداميكه معرفت حاصل نگشته از حرف و صنايع و امتهه همدیگر منفعت نمی‌توانند برداشت. جای هیچ شبهه نیست كه اگر از اكابر قوم و از صاحب بصيرت اسلام چند نفر امتثالا لقول على بن ابيطالب عليه السلام كه فرموده: تغرب عن الاوطان فى طلب العلى و سافر فى الاسفار خمس فوائد تفرج هم و اكتساب معيشة و علم و اداب و صحبة ماجد به فرنگستان بروند و وضع مدنيت آنها را براى العين مشاهده نمايند بعد از مراجعت به ايران بلاترديد اسباب هزار قسم ترقى را فراهم خواهند آورد و بسعادت آية شريفه و لقد كرّمنا بنى ادم و حملنا هم فى البر و البحر و رزقناهم من الطيبات و

be Examined (60:8): “ (...) *as regards those who have not fought you in religion’s cause, nor expelled you from your habitations, that you should be kindly to them, and act justly towards them; surely God loves the just.*” That is, God has not held you back from those who have not warred against you in the way of faith and religious community and have not forced you from your homeland. Deal fairly with them and give judgement regarding their rights with justice. Truly God loves those who are just.

Again, in the Sura of Inner Apartments (49:13), it is written: “*O mankind, We have created you male and female, and appointed you races and tribes that you may know one another.*” That is, O groups of people, truly we have created you from the man and the woman and we made you cultures and tribes for the sake of your knowing one another. It is self-evident that until there are close relations and association between diverse peoples, they cannot be familiar with one another’s situations and affairs. So long as they do not have the benefit of knowing one another, they cannot profit from one another’s trades, manufacturing and machines. There is no room for doubt that if the most important and wise figures of Islam should rise, in obedience to the saying of ‘Alī: “*Leave the homelands in search of distinction and travel, because there are five benefits from travelling: driving away care, earning a living, growing in knowledge and manner, and the company of the glorious,*” and were to go to Europe and observe their type of civilisation with their own eyes, on their return to Iran they would prepare the means for a thousand different advances and would obtain the blessing promised in the noble verse (17:70): “*We have honoured the Children of Adam and carried them on land and sea, and provided them*



فضلناهم علی کثیر ممن خلقنا تفضیلا نایل خواهند شد. یعنی به تحقیق گرامی می‌گردانیم فرزندان آدم را و سوار کردیم آنها را در بر، بر چهارپایان و در بحر بر کشتیها و روزی دادیم ایشانرا از طعامهای پاکیزه و لذیذ و برتری دادیم ایشانرا بر بسیاری از آنچه آفریده‌ایم.

### تحقیق

هر نیکی که خدایتعالی در روی زمین خلق کرده در هر جا و میان هر ملت هرگونه بدی مشاهده بشود راجع به منبع بد است لمس ما باید هرگونه نیکی از اسباب مدنیت از نظم و عدالت و آسایش و ثروت و معموریت و حفظ صحت و رونق تجارت و قدرت دولت و تربیت ملت از ذکور و اناث و ترقی هر قسم صنایع و تنظیم راهها و توسیع و تطهیر کوچه ها و درستی اکیال و اوزان و مقیاس و صحت مسکوکات سیم و زر و غیره در هر جا و میان هر طایفه مشاهده بکنیم در اخذ و تحصیل آنها باید به نص آیه شریفه *یا ایها الذین آمنوا علیکم انفسکم لا یضرکم من ضل اذا هتدیتم عمل نمائیم.* یعنی ای آنکسانیکه ایمان آورده‌اید بر شما باد که محافظت کنید نفسهای خودتان را، زیان نرساند شما را کسی که گمراه شده چون هدایت یافته باشید شما.

## *One Word*

*with good things, and preferred them greatly over many of those We created.”* That is, truly we have ennobled the children of Adam and caused them to mount quadrupeds on land and set them on boats on the sea. And we gave them the daily needs from the pure and delicious food and set them higher than many of those we have created.

### *POSTSCRIPT I*

Every pure being that God the Exalted created on earth, in whatever place and among whatever people he may be, turns to one centre and one source. And whoever is wicked, in whatever place and among whatever peoples, and whatever type of evil we may be speaking of, turns to the source of evil. Therefore, we should adopt and benefit from every sort of good thing among the causes of civilisation such as order and justice, tranquillity and prosperity, development and the prevention of disease, flourishing commerce and strong government, the education of the people both male and female, progress in every type of industry, developing the main roads, widening and clearing the streets, the correction of weights and measures and of the weight and purity of gold and silver coinage etc., in whatever place and among whatever sect we may find them. This is in accordance with the noble verse (5:108): “*O believers, look after your own souls. He who is astray cannot hurt you, if you are rightly guided.*” That is, O you who have accepted the faith, you should protect your own souls and none who have gone astray will harm you, for you have found the right guidance.

در لزوم آبادی و ثروت و استفاده از نعمات آلهی آیات و احادیث کثیره وارد است، چنانکه در لزوم تعمیرات عمومی و ساختن راه ها خدا می فرماید: *و الله جعل لكم الارض بساطا لتسلكوا منها سبلا فجاجا*. ایضاً در سوره ۱۴ آیه ۳۷ و ایضاً در سوره بقره آیه ۲۷ و حدیث شریف لیس *خیرکم من ترک الدنیا للآخره و للآخره للدنیا و لکن خیرکم من اخذ من هذه و هذه*. یعنی نیک شما آن نیست که به جهت آخرت دینا را و به جهت دنیا آخرت را ترک بکند و لکن خوب شما آن کسی است که هم اینرا و هم آنرا تحصیل بکند. ایضاً حدیث شریف *احرث لدنیاک کانک تعيش ابدا و احرث لاخرتک کانک تموت غدا*.

در فرنگستان بد گفتن و دشنام دادن و سب کردن آنانی را که از دین و آئین فرنگی ها خارج هستند ناپسندیده و ممنوع است و با دین و آئین احدی کار ندارند و کسی از کسی نمی پرسد درچه دین و آئین هستی و این قسم سؤال بسیار عیب است. الحق میتوان گفت که در این باب نیز عمل کرده اند بمضمون آیه شریفه: *و لا تسبوا الذین یدعون*

There are many divine verses and Islamic traditions regarding the necessity of development, wealth and the use of the bounties bestowed by God. For example, with regard to the necessity of public buildings and making roads, God has said (71:19-20): *“And God has laid the earth for you as a carpet, that thereof you may thread ways, ravines.”* There are similar verses in Sura 14 verse 37,<sup>36</sup> and in the Sura of the Cow verse 27 (2:29),<sup>37</sup> and there is also the following noble tradition: *“The one who neglects this world for the next world, or the next world for this, is not better than you. The best of you is he who seizes this world and the next.”* That is, your excellence is not that you neglect the world for the sake of the next world, or the next world for the sake of this world, rather the best of you is that person who benefits from both this world and that. Another noble tradition says, *“Cultivate this world as if you would live forever, and cultivate the next world as if you would die tomorrow.”*

In Europe it is unacceptable and prohibited to speak ill, slander or curse anyone who is outside the religion and traditions of the Europeans. They do not concern themselves with a person’s religion or rite. People do not ask one another, “What is your religion or church?” Such questions are very impertinent. Truly, one could say that in this respect too they have acted in accordance with the noble verse (6:108) *“Abuse not those to whom they pray,*

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<sup>36</sup> The author is apparently referring to 14:32: “It is God who created the heavens and the earth, and sent down out of heaven water wherewith He brought forth fruits to be your sustenance. And He subjected to you the ships to run upon the sea at His commandment; and He subjected to you the rivers and He subjected to you the sun and moon constant upon their courses, and He subjected to you the night and day, and gave you of all you asked Him. If you count God’s blessing, you will never number it; surely man is sinful, unthankful!”

<sup>37</sup> 2: 29: “ (...) It is He who created for you all that is in the earth (...).”

من دون الله فيسبوا الله عدوا بغير علم كذلك زينا لكل امة عملهم ثم الى ربهم مرجعهم فينبئهم بما كانوا يعملون. یعنی دشنام مدهید آنان را که می‌پرستند بجز از خدای و قبایح ایشانرا یاد مکنید پس ایشان نیز در مقابله آن ناسزا گویند خدای را از روی تجاوز و بی‌دانشی، همچنانکه بیاراسته‌ایم از برای هرگروهی کردار ایشانرا، بعد بسوی آفریده‌گار است بازگشت ایشان. پس خبر می‌دهد ایشان را آنچه را که می‌کردند.

### تحقیق

فرنگیها قدر نعمات و آیات خداوند را زیاد تر از اهل مشرق زمین می‌دانند و اعتنای تمام به مفاد کلام حقیقت فرجام دارند: *ومن آیاته اختلاف السننکم و الوانکم*. به جهت قدرشناسی نعمات خداوندیست که در فرنگستان اکثر اهالی از ذکور و اناث اقلأ سه چهار زبان مختلف یاد می‌گیرند. در مشرق زمین اگر کسی زبان خارجه تکلم کند هزار ایراد به او وارد می‌آورند. در کتابخانه‌های پاریس و لندن پیش از پنجاه لسان کتب دیده‌ام.

فی یوم جمعه بیستم شهر ذیقعدہ الحرام در پاریس تحریر شد. سنه ۱۲۸۷

یا رحیم

### *One Word*

*apart from God, or they will abuse God in revenge without knowledge. So We have decked out fair to every nation their deeds; then to their Lord they shall return, and He will tell them what they have been doing.”* That is, do not curse those who pray to one other than God, and do not mention their shameful deeds, because then they too, in response, may say unworthy things about God, by way of going one step further, and without any knowledge. In the same way, we have adorned for each group its own behaviour. When they have returned to their Creator, (76) then they are told what they have done.”

### *POSTSCRIPT II*

The Europeans have realised the value of the bestowals and verses of God better than the people of the East, and they have taken great pains to implement the meaning of the word of truth in the Quran (20:21): *“And among his signs (...) is the variation in your languages and your colours.”* It is because of the value of knowing the bestowals of God that many people in Europe, men and women, know at least three or four foreign languages. In the East, if someone speaks a foreign language, people raise a thousand protests against him. In the libraries of Paris and London I have seen books in more than fifty languages.

Copied in Paris on Friday 20<sup>th</sup> of the holy month of Dhul-qa‘ada,  
1287 / 1871.



## Index of the references to the Quran

- 2: 27: "It is He who created for you all that is in the earth."
- 2:178: "O believers, prescribed for you is retaliation, touching the slain; [freeman for freeman, slave for slave, female for female.]"
- 2:179: "In retaliation there is life for you, men possessed of minds; haply you will be godfearing."
- 2:189: "It is not piety to come to the houses from the backs of them."
- 2:237: "Forget not to be bountiful one towards another."
- 2:272: "He gives the Wisdom to whomsoever He will, and whoso is given the Wisdom, has been given much good; yet none remembers but men possessed of minds."
- 2:282: "O believers, when you contract a debt one upon another for a stated term, [write it down, and let a writer write it down between you justly,]"
- 3:24: "But how will it be, when We gather them for a day whereon is no doubt, and every soul shall be paid in full what it has earned, and they shall not be wronged?"
- 3:103: "And hold you fast to God's bond, together, and do not scatter."
- 3:104: "Let there be one nation of you, calling to good, and bidding to honour, and forbidding dishonour; those are the prosperers."



- 3:110: "You are the best nation ever brought forth to men."
- 3:159: "hadst thou been harsh and hard of heart, they would have scattered from about thee."
- 3:159: "take counsel with them in the affair."
- 3:195: "I waste not the labour of any that labours among you."
- 3:199-200: "Their wage is with their Lord; God is swift at the reckoning. O believers, be patient, and vie you in patience; be steadfast; fear God; haply so you will prosper."
- 4:58: "when you judge between the people, that you judge with justice."
- 5:108: "O believers, look after your own souls. He who is astray cannot hurt you, if you are rightly guided."
- 5:35: "whoso gives life to a soul, shall be as if he has given life to mankind altogether."
- 5:41: "And the thief, male and female: cut off the hands of both."
- 5:45: "If thou judgest, judge justly between them."
- 5:47: "So fear not men, but fear you Me."
- 5:47-50: "Whoso judges not according to what God has sent down -- they are the evildoers;"
- 6:52: "And when you speak, be just, even if it should be to a near kinsman."
- 6:108: "Abuse not those to whom they pray, apart from God, or they will abuse God in revenge without knowledge. So We have decked out fair to every

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nation their deeds; then to their Lord they shall return, and He will tell them what they have been doing.”

6:151: “slay not the soul God has forbidden, except by right.”

6:153: “And fill up the measure and the balance with justice.”

6:153: “This is a Book We have sent down, blessed; so follow it, and be godfearing; haply so you will find mercy; lest you should say,”

6:160: “Whoso brings a good deed shall have ten the like of it; and whoso brings an evil deed shall only be recompensed the like of it.”

7:74: “And remember when He appointed you as successors after the people of Noah, and increased you in stature broadly; remember God's bounties; haply you will prosper.”

7:84: “So fill up the measure and the balance, and diminish not the goods of the people.”

9:112: “Those who repent, those who serve, those who pray, those who journey, those who bow, those who prostrate themselves, those who bid to honour and forbid dishonour, those who keep God's hounds – and give thou good tidings to the believers.”

10:35: ““God – He guides to the truth; and which is worthier to be followed – He who guides to the truth, or he

who guides not unless he is guided? What then ails you, how you judge?”

11:3: “He will give you fair enjoyment unto a term stated, and He will give of His bounty to every man of grace.”

11:85: “And diminish not the measure and the balance. I see you are prospering; and I fear for you the chastisement of an encompassing day.”

11:113: “And lean not on the evildoers.”

14:37: “It is God who created the heavens and the earth, and sent down out of heaven water wherewith He brought forth fruits to be your sustenance. And He subjected to you the ships to run upon the sea at His commandment; and He subjected to you the rivers and He subjected to you the sun and moon constant upon their courses, and He subjected to you the night and day, and gave you of all you asked Him. If you count God's blessing, you will never number it; surely man is sinful, unthankful!”

16:48: “We sent not any before thee, except men to whom We revealed: 'Question the people of the Remembrance, if it should be that you do not know – with the clear signs, and the Psalms; and We have sent down to thee the Remembrance that thou mayest make clear to mankind what was sent down to them; and so haply they will reflect.’”

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- 16:89-92: “And the day We shall raise up from every nation a witness, then to the unbelievers no leave shall be given, nor shall they be suffered to make amends. And when the evildoers behold the chastisement, it shall not be lightened for them, and no respite shall be given them. (...) Surely God bids to justice and good-doing and giving to kinsmen; and He forbids indecency, dishonour, and insolence, admonishing you, so that haply you will remember.”
- 16:90: “Surely God bids to justice and good-doing and giving to kinsmen; and He forbids indecency, dishonour, and insolence, [admonishing you, so that haply you will remember.”]
- 16:126: “And if you chastise, chastise even as you have been chastised.”
- 17:15: ““Read thy book! Thy soul suffices thee this day as a reckoner against thee.’ Whosoever is guided, is only guided to his own gain, and whosoever goes astray, it is only to his own loss; no soul laden bears the load of another. We never chastise, until We send forth a Messenger.”
- 17:33: “Whosoever is slain unjustly, We have appointed to his next-of-kin authority.”
- 17:35: “And fill up the measure when you measure, and weigh with the straight balance; that is better and fairer in the issue.”

- 17:70: “We have honoured the Children of Adam and carried them on land and sea, and provided them with good things, and preferred them greatly over many of those We created.” That is, truly we have ennobled the children of Adam and caused them to m
- 17:72: “And whosoever is blind in this world shall be blind in the world to come, and he shall be even further astray from the way.”
- 18:6: “We have appointed all that is on the earth for an adornment for it, and that We may try which of them is fairest in works.”
- 20:21: “And among his signs (...) is the variation in your languages and your colours.”
- 20:114: ““O my Lord, increase me in knowledge.””
- 22:41: “If We establish them in the land, perform the prayer, and pay the alms, and bid to honour, and forbid dishonour; and unto God belongs the issue of all affairs.”
- 24:2: “The fornicatress and the fornicator –scourge each one of them a hundred stripes.”
- 24:4-6: “The fornicator shall marry none but a fornicatress or an idolatress, and the fornicatress – none shall marry her but a fornicator or an idolator; that is forbidden to the believers. (...) And those who cast it up on women in wedlock, and then bring not four

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- witnesses, scourge them with eighty stripes, and do not accept any testimony of theirs ever.”
- 24:27: “O believers, do not enter houses other than your houses until you first ask leave and salute the people thereof.”
- 24:28: “If you find not anyone therein, enter it not until leave is given to you. And if you are told, 'Return,' return; that is purer for you.”
- 24:38: “that God may recompense them for their fairest works.”
- 25:68: “nor slay the soul God has forbidden except by right, neither fornicate.”
- 26:181-83: “Fill up the measure, and be not cheaters, and weigh with the straight balance, and diminish not the goods of the people, and do not mischief in the earth, working corruption.”
- 29:13: “O mankind, We have created you male and female, and appointed you races and tribes that you may know one another.”
- 29:43: “And those similitudes – We strike them for the people, but none understands them save those who know.”
- 31:17: “O my son, perform the prayer, and bid unto honour, and forbid dishonour.”
- 38:26: “David behold, We have appointed thee a viceroy in the earth; therefore judge between men justly and follow not caprice.”

- 39:9: "Are they equal -- those who know and those who know not?"
- 39:70: "Every soul shall be paid in full for what it has wrought; and He knows very well what they do."
- 42:38: "Their affair being counsel between them."
- 47:4-5: "When you meet the unbelievers, smite their necks, then, when you have made wide slaughter among them, tie fast the bonds; then set them free, either by grace or ransom, till the war lays down its loads. So it shall be; and if God had willed, He would have avenged Himself upon them. He will send their works astray."
- 47:7: "O believers, if you help God, He will help you, and confirm your feet. But as for the unbelievers, ill chance shall befall them!"
- 49:6: "O believers, if an ungodly man comes to you with a tidings, make clear, lest you afflict a people unwittingly, and then repent of what you have done."
- 49:12: "O believers, eschew much suspicion; some suspicion is a sin. And do not pry."
- 49:13: "Surely the noblest among you in the sight of God is the most godfearing of you."
- 53:51: "He may recompense those who do evil for what they have done, and recompense those who have done good with the reward most fair."
- 57:25: "And We sent down iron, wherein is great might, and many uses for men,"

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- 58:11: “God will raise up in rank those of you who believe and have been given knowledge.”
- 59:2: “Take heed, you who have eyes.”
- 60:8: “As regards those who have not fought you in religion’s cause, nor expelled you from your habitations, that you should be kindly to them, and act justly towards them; surely God loves the just.”
- 63:4: “God loves those who fight in His way in ranks, as though they were a building well-compacted.”
- 71:15: “And God has laid the earth for you as a carpet, that thereof you may thread ways, ravines.”
- 75:36: “What, does man reckon he shall be left to roam at will.”
- 83:2: “Woe to the stinters who, when they measure against the people, take full measure but, when they measure for them or weigh for them, do skimp.”
- 95:8: “Is not God the justest of judges?”
- 96:3-5: “Recite: And thy Lord is the Most Generous, who taught by the Pen, taught Man that he knew not.”



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