

ISLAMIC SOCIETY, STATE AND ECONOMY
UNDER ISLAMIC LAW

BY

HAUWA ISAH BARWA
LA-3708

DEPT. OF ISLAMIC STUDIES
C. O. E. MINNA

AUGUST, 2000

ISS
91

TITLE SHEET

**ISLAMIC SOCIETY, STATE AND ECONOMY
UNDER ISLAMIC LAW.**

BY

HAUWA ISAH BARWA

NO - LA/3708

DEPARTMENT OF HAUSA/ISLAMIC STUDIES

A RESEARCH PROJECT

SUBMITTED

TO

**THE ISLAMIC STUDIES DEPARTMENT
IN PARTIAL FULFILLMENT FOR THE AWARD
OF NIGERIA CERTIFICATE IN EDUCATION
(N.C.E.) COLLEGE OF EDUCATION, MINNA, NIGER STATE.**

AUGUST 2000

TABLE OF CONTENTS

	PAGE
TITLE SHEET	i
APPROVAL SHEET	ii
DEDICATION	iii
ACKNOWLEDGMENT	iv
INTRODUCTION	v
 <u>CHAPTER ONE:</u>	
1.1 THE CONCEPT OF COMMUNITY IN ISLAM.....	1
1.2 THE UNIVERSAL GOD	2
1.3 ARABIC THE OFFICIAL ISLAMIC LANGUAGE.....	7
 <u>CHAPTER TWO:</u>	
2.1 THE ISLAMIC WELFARE STATE	10
2.2 THE BASIC IMPERATIVE.....	10
2.3 MATERIAL WELL BEING.....	16
 <u>CHAPTER THREE:</u>	
3.1 THE ROLE OF RELIGION IN ISLAMIC SOCIETY TO..... BRING ABOUT SOCIAL DISCIPLINE.....	20
3.2 CONCLUSION	23
3.3 REFERENCES	24

APPROVAL SHEET

This research work was carried out by Hauwa Isah Barwa under the supervisor of Mallam yahaya Sulaiman for the award of Nigeria Certificate in Education (NCE), in Islamic Studies department.

[Handwritten Signature]

MALLAM YAHAYA SULAIMAN
PROJECT SUPERVISOR

17th March, 2001

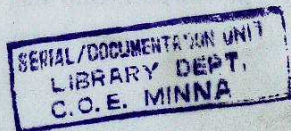
DATE

MALLAM MOHAMMED SHAKU
H.O.D

DATE

DEDICATION.

This project is dedicated to my brother Alhaji Aliyu Isah Barwa and my mother Hajiya Aishatu Isah Barwa who gave me moral support to see to the conclusion of my NCE Educational Programme, may Allah (S.W.T) guide and reward them abundantly Amin. And also in the memory of my Late father Alhaji Isah Barwa, may his soul rest in perfect peace, Amin.



ACKNOWLEDGMENT.

All praises be to Allah (S.W.T) the beneficent, the merciful, who in His infinite mercy spare my life up to this moment and gives me the courage and determination to write this project.

My heartily appreciation and gratitude go to my supervisor Mallam Yahaya Sulaiman for his advice, guidance and useful suggestions to see the completion of this project.

And also my gratitude goes to all lectures in Department of Islamic Studies who give me their moral support through the completion of this project, May Allah (S.W.T) reward them abundantly (Amin).

Similarly, I acknowledge the contributions of all parents whose response during the interview produce the information needed for this project. I also acknowledge the enamous contribution of Alhaji Aliyu Isah Barwa who provided the most crucial opportunity needed to undertake the N.C.E programme which metarmophosized to the writing of this project, May Allah reward him abundantly.

My in-depth gratitudes also goes to my parents late Alhaji Isah Barwa and Hajiya Aishatu Isah Barwa for all the support given to me morally or financially since my tender age so as to attain success in life. Not to forget my intimate friend who is like a sister Asma'u Abdulkadir Tufa who give me the encouragement of entry into the college.

My indepth gratitudes to all true friends like, Aishat M. Aminu Muye and Maryam M. Aminu, Hauwa Sadiq, Hassana Aliyu and Hajara Mustapha, for they gave me the key that unlocked the door in form of aspiration. And not left behind my beloved Brothers and Sister in persons of Ibrahim Isah Barwa, Nasir Isah Barwa, Abubakar Isah Barwa, Hajiya Habiba Isah Barwa.

Lastly, my gratitude goes to my beloved brother Late Umar Isah Barwa, may his soul rest in perfect peace, Amin. I once again give my special thanks to Allah (S.W.T) for making my dream a reality.

INTRODUCTION

Islam has set of goals and value encompassing all aspects of human life including social, economic and political.

Therefore, since all aspects of life are interdependent and the Islamic way of life is a consistent whole, its goals and values in one field determine the goals and values in the other fields as well.

This research project seeks to examine the interrelationship between the economic and political contents of the Islamic way of life and explain in detail the functions and the nature of Islamic state in the light of its basic imperatives, which is within the frame work of financial constraints.

These research project is divided into three chapters. The first chapter deals with the concept of community in Islam, the universal god, and explain why Arabic is used as an official language.

The second chapter explain, the Islamic welfare States, the basic imperative and material well being.

Moreover, the third chapter deals only with the role of Religion in Islamic Society to bring about social discipline.

Thank you.

HAUWA ISAH BARWA

CHAPTER ONE

1.0 THE CONCEPT OF COMMUNITY IN ISLAM

If the significant distinction of man is his possession of culture, the ideological concepts may be regarded as the blueprint of any specific cultures. Man does not act haphazardly. His actions follow mental models which constraints the area of his freedom.

In groups and organisations man's behaviour is designated by the status model which requires certain roles prescribed by the specific culture according to its prevailing ideology. The fact that the springs of ideology are influenced by and in turn influence the topography of any social structure is responsible for the variation of societies and for changes in social structures. There are two ways of understanding the social structure. The first is inductive, aiming at the collection of detailed facts to construct the general ideological model of the structure. The second is deductive which aims at the blueprint model of the structure. The second is deductive which aims at the blueprint to perceive a meaningful, harmonious whole out of the seemingly nebulous, unrelated parts.

It is quite difficult to comprehend the social structure and to be able to predict the direction of social change in the contemporary middle East without understanding the concept of community in Islam. Such a concept will serve as the thread stringing the beads of incidents in the middle East. At this point I would like to call attention to the "universalistic" nature of concepts in Islam as a means of achieving a politically unified human society through an internalised set of peaceful ideologies rather than coercion.

1.1 THE UNIVERSAL GOD:

The universal God, propounded by the Qur'an fourteen centuries ago, is unsurpassed by any other concept on its level of abstraction. Now in the twentieth century, social scientists are in a position to appreciate this.

In our distinction between organisations and institutions we insist on the level of abstraction for the latter. Its abstraction, however, does not affect its importance nor does it dilute its existence.

The presentation of a brief set of community concepts by some leading Western authorities on the subject will be helpful here. The meaning of community, as defined, the idea of God is central in Islamic concept of community. The perception of Islam elevated God from the concrete tribal and ethnic organisational level to the abstract universal level of institutions that are considered prerequisites for the existence and perpetuation of any human society.

Since human knowledge is limited, the assumption of an original source for this universe, as postulated in Islam, can never be refuted scientifically. But what counts in our human society is neither science nor logic alone, the tremendous literature in the area of collective behaviour indicates the importance of contagious sentiments and emotions in motivating action and attraction and in the formation and continuity of organisations. Belief, as an important component of our attitudes, has always permeated life.

Belief is the organising force without which life loses its full meaning. Those who do not believe in a purpose or goal toward which they strive are not productive members. Belief in a supernatural power reduces both man's vanity and despair. This is to say that belief makes man, for man is kept active oscillation between variety and despair. Belief in the existence of a limitless universal. God is a priceless heritage of our human society arrived at after a long period of trial and error as a means of a wider concept of human society and perpetuating the order of our expanding meaning of life. In one of his concluding lectures during a Seminar on social change,

professor Wilbert Moore Predicted the ultimate materialisation of a "Human State" with an executive central government invested with Federal coercive power. I could not understand what he meant and argued with him about the possibility of materialising such a future state. The fallacy of my argument, which prevented my understanding, sprang from the fact that I perceived the hypothetical ideal state of the future the viewpoint of the prevailing conditions of colonialism, imperialism, exploitation, greed, and suspicious, all of which defer such an international community and, instead, promote conflict rather than co-operation.

The idea was until in my subconscious when I decided to investigate the ebb and tide of the Islamic community. After reading a sizable number of references on the issue I found myself exposed to the usual extremes of criticism and praise. I decided, therefore, to rely heavily on the original source, the Qur'an, the political Islamic community, which has existed for more than thirteen centuries, differs from any other proceeding and succeeding community in one sense: it is an open-end community under one universal God. The significance of this lies in the absence of any racial, territorial, political, or any other exclusivism. The password for any nation to join is the acknowledgement of the one principle: The universality of the one God. This simply means the creation, for the first time in human history of a universal community based on complete equality, regardless of the considerations of race, colour and ancestry. The presentation of a brief set of community concepts by some leading Western authorities on the subject will be helpful here. The meaning of community as defined by political and social scientists, ranges from a small "locality group" 1 within a society to "any area of common life, village or town, or district or country" 2 or even wider area 3 Arensberg and Kimball "Start with the notion of a community as a master system encompassing social forms and cultural behaviour in interdependent subsidiary systems (institution)" 4 they add

that "what distinguishes communities from other human associations based upon territoriality and land use is precisely their repetitive characters (patterns) and their wholeness and inclusiveness" is Elliott and Merrill consider the community as "a complex social system with both a physical lacks and socio-psychological consensus" 6 Blackwell finds the term community, in its intimate application, to cover:

- a) "a population aggregate"
- b) Inhabiting or contiguous area
- c) Possessing a heritage of common experience
- d) Having a set of basic service institutions
- e) Conscious of its local unity
- f) Able to act as a whole in solving problems involving the public good".

Nelson, Ramsey and Verner makes it clear that "the community is composed of the relationship among the people living in the local area." They ask: "If the essence of the community is neither area nor people, what then is the 'community'?"⁸

The leading denomination of the western concept of a community is "geographical locality and physical territoriality". The Arabic Islamic term of community is Ummah, derived directly from umm, meaning mother. Ummah in Islam means more than mother-land in its geographical territorial limitation. It means FAITH and CREED. Ummah at Islam encloses the entire collectivity of the Muslims living anywhere regardless of their geographical boundaries. When the Muslim defends his community he is defending more than a piece of land. He is protecting his faith. He may happily die for its protection and preservation. By the same token, when he spreads the word of faith, his aim is not expansion of territory but spreading the faith and ideology of equality and human brotherhood. In early Islamic history up to the Abbasid caliphate [7-50-1258]. The word "conquer" was alien to Islamic terminology. The Muslims simply claimed that they were opening new territories and not conquering Nations. The expression

al-futuhal al- Islamiyah dictates specific sets of attitudes and behaviour different from typical of conquerors in general. Once the area was opened, it became a part of muslim community. The original inhabitants were giving protection and security.

Whoever, accepted the universal membership in the muslim community by acknowledging the cornerstone ideology of the oneness of God was treated as a fully-fledged member. The builders of the early muslim community differed from those of western empires in the following ways:

They did not aim at either human or materials exploitation. Their integration with the indigenous people resulted in the cross fertilisation of the two cultures; the continuous contact enriched the Islamic culture as well as those African and Asian cultures which came under the Islamic influence.

The concept of community in the mind of muslims helped and is still helping the community of this sort of fluid and swift amalgamation whenever the muslims moves anywhere in God's domain.

When the muslim is politically oppressed and is unable to change the prevailing system. He is religiously required to migrate to any other places where he has greater freedom. "When those who had done themselves injustice die, the angels will ask them: in where you engaged? They will say: we were oppressed in the land. The angels will admonish them saying: Wasn't God's globe spacious enough that you could have migrated therein? For this, their resort will be Hell, the worst habitation" a He created for you all that is in the earth" ¹⁰ is the underlying universal theme, which motivate and guided the builders of the early muslim community up to the end of Abbasids [750-1258]. Before his death [632]. The prophet laid the foundation of the community on complete equality regardless of colour, race, ethnic origin, or social stratum. The declaration of the prophet [peace be on him] that "there is no merit of an Arab over a non-Arab except through piety" ¹¹ strengthened the principles of equality and human

brotherhood."O people, all of you descended from Adam, and the origin of Adam is dust." ¹²

During the makkah period the Quran directed its appeal to all races, reminding people of their common origin. The Quran even provided a logical explanation of cultural diversities as a means of group identifications and inter group acquaintances for the sake of human merits, and not as a cause for inter group conflict. "We made you tribes and nations to get you acquainted"¹³. According to the Quran people began to form different communities as a result of their differences. "God by His will guided the believers, for their motive was to seek the truth" ¹⁴

With the new universal ideology of religious brotherhood, the early muslims dissociate themselves from their disbelieving blood kins to construct a new unique union in Madina which was based on creed and faith alone. In the capital of the developing muslims society, which in less than one century, encompassed more than half of the old world, the following features started to crystallise:

1. Islam became not only a religion, but the supreme unifying social bond. The Madinans affiliated themselves as brothers and sisters with the makkan immigrants. They voluntarily and gladly shared with the Makkans their entire property.
2. This type of affiliation was not motivated by any kind of gain or profit, or even a promise of gain or profit. It was simply motivated by the conviction, commitment and dedication.
3. The new principle of sharing was established. The early muslim drew a great amount of satisfaction from offering his help, property and life for the cause of what he believed to be the ultimate truth. All he owned, including his life, was a means and all was dedicated to this and
4. Being secured in its own territory for the first time and after giving up hope of gaining the confidence of people of the preceding books [Jews and Christians], Islam started to delimit and fortify its boundaries.

5. Like every mature and well-rounded movement with a strong universal ideology and dedicated adherents Islam envisaged a universal community whose limit is humanity. Muhammed, the prophet, never lost sight of that far-reaching goal while codifying for his ever expanding community.
6. Neither success nor defeat influenced the pioneers who always kept the ultimate goal in mind. Their aim was not material gain or influential position in the social hierarchy, but the accomplishment of their mission to which they had committed themselves. In its early stages, Islam was considered, by the believers, to be the "community of God" ¹⁵ the early muslim believe that they were merely the instruments of God's will to established His community on earth. Nothing, of course, could stand in the way of the invincible will of God.

1.2 ARABIC THE OFFICIAL ISLAMIC LANGUAGE

Arabic, the official islamic language, "became an invincible bond between diverse class and formed, whether consciously or not, the basis of national community of sentiments ¹⁶ Islam therefore, was swiftly able to undermine the narrow pre-Islamic boundaries and concept of community which devastated Arabia physically, socially, economically, religiously, politically and morally. This devastation, which was conducive to the emergency, appeal and rapid diffusion of Islam, gave the pre-Islamic period the label of era of ignorance".

Pre-Islamic Arabia did not know or use the concept of Ummah. All it knew was the tribe. It was possible for a stranger to become a member of that Gemeinschaft pattern of community if a tribe member sponsored him. Another tributary of the pre-Islamic community was slavery. The former slave had to be sponsored by his emancipator. The ascriptive link and the explicit or implicit contractual sponsorship constituted the wed of pre-Islamic community.

As exogamy was encourage for the reason of gaining new members with strong biological characteristics, the pre-Islamic tribe ramified and extended itself by way of affiliating the tribes of the alien wives.

A third factor which aided in the final preparation of the emerging pattern of the community was the mobile nature of the pastoral Bedovin tribes. In the light of the limitless desert and nomadic way of life the geographical connotation was finally ready to be stripped out of the concept of community. This non-geographical concept contributed to Islam the sense of universalism and generality in other to appeal to mankind on an equal basis anywhere and at any time. Social concepts are shorthand symbols for complex ideological and philosophical orientations. Once internalised, they may determine the social structure, change the institutional patterns, and influence human perception and behaviour. One of the most distinctive mark of Islam, compare with the other great religions; is as Gibb notices, 17 the variety of people and races who have embraced it. Islam fostered in the hearts of those various people a strong feelings of brotherhood and a sense of harmony through a wider and higher concept of community. Watt notices that:" there is nothing comparable until the nineteenth century expansion of Christianity and that is generally held to have been less successful so far in producing a sense of brotherhood. 18" Watt also observes that" perhaps a study of the achievement of Islam may throw some light on how the integration of world society is likely to come about, and may even suggest ways in which a man may consciously contribute to this process". 19

The new Islamic community concept worked in two different directions: It discouraged tribalism and encouraged personal initiative. Islam undermine and even condemned the traditionally fragmental pre-Islam social structure by attacking its blood kinship foundation which had been responsible for generating a series of emotional revenges and counter revenges and had plagued the social order.

The tribal community, which was pre-requisite for the nomadic survival, soon became malfunctional in the new cosmopolitan structure of Madina. One of the main attractions. Which presumably let to the wholesale conversion of Madina to Islam [with, of course, the Jews], was the disgust of the inhabitants with tribalism and its continuous social disruption. The people of Madina saw a permanent solution in the unifying social force of Islam. In Islam, tribalism has a bad connotation and is synonymous with narrow chauvinism, emotionalism, irrationalism, and social injustice. 20

On the other hand, Islam fostered personal initiative and responsibility and thus encouraged a larger measure of individualism. The Qur'an insisently and consistently reminds people that they are judged on their own merits as independent responsible individuals.

These two seemingly paradoxical, concept of universalism on the other hand, and individualism on the other, paved the way for the limitless boundaries of the Islamic community so as to enable in to include a variety of races, and peoples.

CHAPTER TWO

2.0 THE ISLAMIC WELFARE STATE

Islam has set of goals and values encompassing all aspects of human life including social, economic and political. Since all aspects of life are interdependent. Since all aspects of life is a consistent whole, its goals and values in one field determine the goals and values in the other fields as well. This paper seeks to examine the interrelationship between the economic and political content of the Islamic way of life and discusses the functions and nature of the Islamic state in the light of its basic imperatives within the framework of financial constraints.

2.1 THE BASIC IMPERATIVES

The Islamic way of life, being goal oriented, is inconceivable without an organised community governed in accordance with the tenets of Islam. The Qur'an unequivocally condemns disorder and anarchy (2:205) and the prophet (peace be on him) stressed the need for organisation and authority in Muslim society. This stress is also vividly reflected in general statements as well as the actual behaviour of his companions and in the thinking of Muslim jurists. 'Umar, the second, caliph, emphasised that there could be no organised society without an imam (sovereign) and that there could be no imam without obedience. The famous jurist Shafii recorded the mood of his age (A.H. 150-204) by stating that there is ijma (consensus) among Muslims that there must be a caliph.² likewise, Ibn Haribal stressed that the absence of an imam could only result in disorder.³

This teaching of Islam with respect to authority and organisation has continually influenced all Muslim political thinking except perhaps that of the khawarij. Abu Yaya and Mawardi, both contemporaries in Baghdad during the first half of the fifth century of the Hijrah (eleventh century C. E.), and writing on the characteristics of an ideal state, stressed that the exercise of imamah (sovereignty) is an absolute necessity.⁴ Mawardi went even further, stating that the existence of an imam was as necessary as the striving for truth and the acquisition of knowledge.⁵ Ibn khaldun emphasised that the institution of caliphate is a Shari obligation and that Muslims are obliged to establish and maintain it.⁶ Similar ideas were expressed by Ibn Taymiyah,⁷ shah Wali Allah⁸ and a number of other scholars, such an attitude toward the state is quite natural since Islam advocates certain goals and ideals which would be difficult of realisation without a value and goal oriented state. This idea was expressed beautifully by the famous Muslim poet-thinker Muhammad Iqbal (d.1938) when he stated that "the State according to Islam is only an effort to realise the spiritual in human organisation."⁹ Thus the state is viewed by Islam of an instrument for the realisation of the ultimate goals, both spiritual and material, of the Islamic society. However, the authority exercised by the State is not absolute.

It is a trust from God and is to be exercised in accordance with the terms of the trust as laid down in the Shari'ah. Two of the most important terms of this trust are that the state should be democratic and welfare oriented.

Sovereignty Democratic Orientation according to Islam, Vests in God. It is only His will that should prevail in this world. Says the Quar'an: Is it not His to create and to govern? (7:54)

Sovereignty is for none but God. (12:40)

Follow the Revelation sent to you from your Lord, and follow not as friends

or protectors, other than Him (7:3)

The sovereignty of God implies the rule of the Divine Law as revealed by Him in the Qur'an to the Holy prophet and are elaborated in the prophets sunnah during the course of his mission. Man as vicegerent of God on earth (2:30,6:165) can neither make nor abrogate the Divine law. Man must necessarily submit to it if he realises that the Allknowing God in His Great Wisdom is the best guide of man in all his affairs. Given the Divine law, all individuals who submit to it must be partners in its implementation. Hence, once the sovereignty of God is recognised, the authority for its establishment is vested in the whole ummah and is to be exercised in the light of the Qur'an and sunnah through the democratic process of consultation with the ummah, 10 (or its rightful representatives) as the Qur'an enjoins:

And consult them in affairs. (3:159).

And they conduct their affairs by mutual consultation. (42:38)

Welfare Commitment.

The mission of the Holy prophet is defined by the Qur'an to be a merciful blessing (rahmah) for all mankind (2:107). Some manifestations of this merciful blessing are stated explicitly in the Qur'an.

These include among others, the fostering of "good life" (hayat tayyibah) and "welfare" (Falah), 11 provision of ease and alleviation of hardship, 12 generation of prosperity. 13 nurturing a climate of love and affection 14 and ensuring freedom from moral corruption, 15 hunger fear 16 and mental tensions. 17 Hence, all organisations and institutions, including the states should reflect the character of merciful blessing, and cater to the "welfare" of all people. The welfare function of the Islamic state was particularly stressed by the prophet when he stated, 'Any ruler who is responsible for the affairs of Muslims but does not strive sincerely for their well-being will

not enter paradise with them” 18 the comparisons of the prophet clearly appreciated this welfare role of the Islamic state as is evidenced by numerous utterances of the early caliphs and their instructions to their governors. ‘umar, the second caliph, wrote to Abu Musa, the governor of a province: “the best of men in authority is he under whom people prosper and the worst of them is the one under whom people encounter hardships.” 19 Muslim jurists have unanimously held that catering to the welfare of the people and relieving them of hardships is the basic objective of the Shari’ah and hence of the Islamic state. 20 the letter addressed to caliph Harun al Rashid by his Chief Justice, Abu Yusuf, vividly clarifies the welfare character of the Islamic state 12 and the same stress is evident in the writings of medieval Muslim thinkers like Mawardi, Abu ya’al, al-Ghazali, Ibn khaldun, Ibn al-Qayyim and Ibn Taymiyah. The evidence in the Qur’an and Sunnah and the writings of Islamic Scholars for the welfare function of the Islamic state is so overwhelming that it would be absolutely unjustified not to term the Islamic state as a “welfare state”.

Strategy of Welfare

But there are other political systems which also claim to be welfare oriented. The difference lies essentially in their basic philosophy of what constitutes human welfare. Islam distinguishes itself by its own unique philosophy of welfare which is comprehensive and consistent with its concept of human nature. Man has been created from matter 22 but has been infused with a part of the Divine spirit. 23 the matter and the spirit together constitute the indivisible human self which is free but responsible before God for all its actions within the frame of reference of Divine guidance. He is intelligent and capable of differentiating between right and wrong and acting on his own initiative. His mission is to fulfil his obligations as the vicegerent of God on earth. He is not only a member of

the brotherhood of Islam but also a part of mankind, the family of God. 24 only that philosophy of welfare is best suited to man which enables him, firstly, to attain a fuller realisation of his complete indivisible self (spiritual as well as material) in keeping with his status as vicegerent of God and secondly, to make the optimum all-round contribution to his ummah and to mankind . The concept of welfare in Islam can hence be neither exclusively "other worldly" nor purely "this worldly". While urging Muslimsto gain mastery over nature and utilising the resources provided by God for the service and betterment of material acquisitions and the highest measure of human achievement and ignoring the indispensable spiritual content of the human sell. Islam nether provides a spiritualorientation to all material effort and creates a harmony between the innate spiritual and material urges of individuals and groups. Islam has so firmly and exauisitely dovetailed the spiritual and material aspects of life that they may serve as a source of mutual strength and together serve as the foundation of that human welfare and happiness. According to islam, negligence of either of the two aspects of life will prevent mankind from achieving true welfare. In fact there is no division between material and spiritual aspects of life in Islam. All human effort whether for "material", "social", educational", in "scientific" goals is spiritual in character as long as it conforms to the value system of Islam. Working hard for the material well being of one's own self, family and society is as spiritual as the offering of prayers provied that the material effort is guided by spiritual values. This synthesis of the material and the spiritual in what is missing in the welfare concept of the other two systems, capitalism and socialism, as they are morally neutral. This teaching has infiltrated all Muslim thinking throughout the ages. Ghazali defines the objective of the Shariah to the promotion of welfare of people which lies in safeguarding their faith, their life, their intellect, their posterity, and their property, and concludes that whatever ensures the

safequard of these five serves public interest and is desirable. 25 Ibn at Qayyim emphasised that the "basis of the shari'ah is wisdom and welfare of the people in this world as well as the Hereafter. This welfare lies in complete justice mercy, welfare and wisdom anything that departs from justice to injustice from mercy to harshness, from welfare to misery and from wisdom to folly has nothing to do with the Shari'ah: 26.

This is, of course, a general indication of what is implied by welfare in Islaam. More specific positions have been taken by the Shari'al on many issues which need not be elaborated here.

In brief it may be stated that the welfare of individuals in an Islamic society may be realised if there is a proper environment for:

- a) A fuller realisation of Islamic spiritual values in the individual as well as in society.
- b) An adequate fulfilment of all basic material needs of life.

These are briefly discussed below under the spiritual and material roles of the State. This dichotomy is only for the convenience of discussion and does not imply a separate identity for the two roles which are closely integrated.

Spiritual Uplift:

Since Islam lays a preponderant stress on moral values, the Islamic state cannot be a passive observer of the ethical scene in society. It is the responsibility of the Islamic welfare state to look measures by the state to bring to a living reality the moral code of Islam has been stressed by all Muslim political thinkers and jurists. This does not necessarily imply that the Islamic state is a Police state forcing people into certain channels of behaviour by use of its coercive power. There is some kind of built in indoctrination in all systems, including the capitalist and the Islamic system is no exception. The Islamic system, however, in compliance with the spirit

of the Qur'anic verse: "there is no compulsion in religion" (2:256). Shuns the extreme course of regimentation of through and action, as it gives significant value to individual freedom. It is for this reason that Islam lays stress on education and creation of conducive to the practice of the moral norms on which the edifice of the whole Islamic way of life in raised.

The realisation of the spiritual values of Islam in the individual and society demands that the Islamic state should strive in three major directions. First, it must foster conditions conducive to the creation of homer which would inculcate respect for and adherence to Islamic moral teachings in the rising generation. Islam has provided a blueprint for fostering love and affection and mutual help and co-operation among the members of the family (nuclear as well as extended), and for generating a suitable environment for the proper upbringing of children. Second, the Islamic slate must cast the educational system in the mauld of Islam so that educational institutions produce young men and women imbided with the ideals of Islam. Third, the State should enfore those norms and values of Islam which are amenable to legal enforcement and should inflict the prescribed penalties for violations so that they serve as a deterren to prospective violators.

1.2 MATERIAL WELL-BEING

Adequate fulfilment of basic material needs in the Islamic frame of reference, as necessary for human welfare as spiritual uplift. Therefore, while arranging for the spiritual guidance of men by a Chair of prophets to all people through space and time, God has also provided all necessary resources for his material well-being. Says the Qur'an: "He it is who has created for you everything on earth" (2:29) and "has made subservient to you whatever is in the heakens and the earth and granted you His bounties, manifest and hidden" (31:20, see also 4:32-3, 16:12-14, 22: and

45:12). Two fundamental principles may be derived from these verses. One that God given resources are for "you", which is addressed to all people and not to any privileged group or class; and two, that they are meant for general human welfare and at least for eradicating poverty and fulfilling the basic material needs of all people. There can be little dispute that some of the basic material needs of individuals that must be satisfied are:

- (i) Training and education to develop the innate abilities of the individual and to enable him to cater for his well-being independently without becoming of burden on others.
- (ii) A suitable job, profession or trade in keeping with his aptitudes, ability, ambition, and needs of society so that he and society both benefit from his ability and training;
- (iii) Adequate food and clothing;
- (iv) Comfortable housing;
- (v) A generally healthy environment combined with appropriate medical facilities, and
- (vi) Adequate transport facilities to enable a worker to communicate to his place of work without unreasonable discomfort and to convey his product to appropriate markets at reasonable cost. These material needs of the individual and their fulfilment have been so explicitly recognised by the Shari'ah that quotations from the Qur'an and the sunnah and Islamic writings would be tantamount to elaborating the obvious. 27

The fulfilment of these spiritual and material needs of individuals and society would naturally necessitate the playing of a vital role by the State in the economic system of Islam. Nevertheless, it may be stressed here for the sake of clarity, that it is basically the moral responsibility of the individual to cater for his own needs through his own violation and effort. Islam categorically condemns begging and sloth and places great stress on hard

work. The prophet enjoined: "Beg not anything from people" 28 and that: "A man has not earned better income than that which is from his own labour. 29 Umar, the second caliph, symbolised this Islamic teaching for earning one's own livelihood through hard work by saying: "No one of you should stay away from seeking livelihood and say 'O God' Give me sustenance; for the sky will not rain gold and silver" 30 and that: "Seek of the bounty of God and be not a burden on others" 31

The individual is not only expected to work for his own livelihood and welfare but is also expected to do his best on every job or mission he undertakes. "God desires that whenever anyone of you performs a job he does it perfectly". 32 In fact the spiritual and material goals of the Islamic society cannot be fully realised until all Muslims, man or women, put forth their best in keeping with the optimum potential of their God given talents.

Although it is essentially the responsibility of the individual to depend on himself and to try to do his best, the market forces need not always automatically be conducive to this. And even if the individual does his best it is a well - recognised fact that the blind operation of market forces may not always reward him optimally for his socially productive effort.

It would hence be the responsibility of the state to play a positive role in guiding and regulating the economy to ensure that the objectives of the Shari'ah are fulfilled. This positive role of the Islamic state cannot be equated with the term "intervention" in addition to carrying an opprobrious connotation, smacks of commitment to laissez faire capitalism under which the best state is the one which plays the least role. The question is: What specific role should the Islamic state play in the economy and how much regulation or control should it exercise? In principle it may be stated that the state should play an adequate role to bring to fulfilment the goals of the

Islamic system without unduly sacrificing individual freedom or compromising social welfare. An important measure would be to contain the self interest of individuals within moral restraints so as to prevent the individual from exploiting society to gratify his self interest, and to safeguard against society exploiting the individual by curbing his inherent right or preventing him from enjoying the lawful fruits of his labour and skill. The goal should be to bring about a healthy balance between the interests of the individual and of society in harmony with one of the fundamental teachings of the prophet: "The individual should not inflict harm (on others) nor should any harm be inflicted on him (by others)". This brings all instruments of direct and indirect controls, including wage-price controls and nationalisation, to the extent considered necessary in the overall interest of the Muslim society, within the tool-kit of the Islamic state. What instruments are to be used and to what extent, would be determined essentially by circumstances, given the guiding principles of the Shariah and particularly the commitment of the Islamic State of social welfare in a manner that would not destroy individual freedom.

Specification of certain essential elements of the positive role, or the essential economic functions of the Islamic Welfare State hence becomes necessary. The following section of this paper briefly specifies these functions.

CHAPTER THREE

THE ROLE OF THE RELIGION IN ISLMAIC SOCIETY.

3.1 TO BRING ABOUT SOCIAL DISCIPLINE:

The scope and aim Shairah is very wide: The scope of al-Shariah is very wide and comprehensive. It covers laws for both the private and public life of its followers. It provides practical guidance for the rights of Allah and Fellow human beings. Anything which is connected with human beings and thier welfare, such as finance, commerce, agriculture, industry, marital relations, constitutional, legal and administrative issues, relations of the state with other states of the world, war and peace, diplomatic relations, foreign trade land and sea communications, customs and the like always find shelter in the Shariah. Its principles are natural, dynamic and universal and have provided solutions to all complex problems of Muslims and can comfortably accommodate all future issue. Its prime aim is to grant human beings respect, protection, security, freedom, peace and tranquility and in still, nourish and develop all those noble qualities and values which are requisite in the ideal and perfect man as a true representative of Allah on earth.

How does the Shariah operates to create discipline and arrest criminal tendencies in society? This contrasts Sharply with the suclar appraoch). Its main characteristics are listed below;

1. Shariah directs itself towards developing an individual's inner moral qualities instittling the fear of God and the certainty of fair recompense for all human acts.

2. The Islamic criminal law is not separate from other means of social control. For instance the secular approach makes a demeraction between law and morality. In this way law and morality are often set against each other. It was the opinion of the wolfenden committee. For instance, that enforcement of morality is not a proper objective of the English criminal law. Part of the dilemma of those who oppose this view under English law this how to determine the moral values that are to be enforced judicially. Lord Devlin who supeported the view that "sixty may use the criminal law to preserve morality could not give too satisfactory answer to the question and admits: The stndard of morality is that of the man in the jury box" (6) Indeed the court which look, the stand in 1962 (In shaw V. DPP (7) that they had residual power to enforce the law to preserve the moral welfare of societiy had to abandone this position 10 years later and deny any suggestion that they had power to enforce good marals. (8) This amply show how difficult it is to introduce any moral element into the secular wasteran law.

In the Shariah no such confusion or difficulty could ever arise form the start in law takes the position that he determination of good or bad is not he provinect of any man or legislature. It is the right of God, once it is defined in the Qur'an and sunnah, no difficulty remains as to what is morally good or bad. This has eliminated the whole controversy about Standards of morality and made the issue totally meaningless in the can text of the Shariah.

3. . The nature and objectives of punishment are well defined, punishments under Shariah are of three classes: Hadd, Qisas and Ta'zir. The punishments for the six major offences known as the huded are

defined in the Qur'an and sunnah. They are unalterable. Once the offence is proved, the appropriate punishment, such as stoning for zina and cutting off the Hand for theft, must be carried out, and no pardon, mediation or alteration is allowed. The object of such punishment is both retributive and deterrent. The deterrent effect of these punishments, is unquestionable, According to El-Awa.

During the Ottoman administration of the Arabian peninsula, the hadd punishments were not applied. In the late 1920's when the Saudi took over, they introduced them, ordering judges to implement the teachings of the Hanbali school in entirety, including those relating to penal law, soon after this order, said for example that official figures indicate that the had a punishment for theft has never been carried out in Saudi Arabia more than twice a year. 10

Qisas is the principle of retaliation established by the Qur'an (11) it is the punishment for homicide and injuries, and is the impliciting on a culprit an injury exactly equal to the injury he inflicted on his victim" 12 unlike hudud, However, qisas may be forgiven by the person injured or the victim of murder, in which case the punishment would not be enforced, though diyya (compensation) may be demanded and paid.

All other crimes are subject to ra'zir or discretionary punishment, to be determined by the authorities taking into account the nature of crime and circumstances of the case. It must however be a punishment recognised by Shairah, Ibn Farhun in rabsirar al Hukkam says that it should be "a disciplinary, reformative and deterrent punishment.

4. The criminal law is not to be enforced in isolation from other aspects of the Shariah. In particular, it is also part of the Shariah that individual

citizens should be guaranteed social justice. The law of Zakah, aimed at alleviating poverty and attaining a fairer distribution of wealth in society, has to be enforced. Justice must be accessible to the ordinary man so that they does not despair of it lest he resorts to illegal means of enforcing his rights.

3.2 **CONCLUSION:**

If the rising rate of crime in Nigeria is taken with all the seriousness. It deserves its control should be the central issue in the effort to reform the society. The desired transformation however is impossible to achieve through the secular western approach here in lies the relevance of the Shariah, It presents a remedy of proven efficacy, it defines clearly the standard and values to be pursued and it puts forward a realistic and comprehensive programme. The criterion of good and bad that it lays down could be adopted by any government. The main pre-requisite however, that the Shariah model demands, is the creation of a society which is in conformity with the Shariah values. These values are based on universal Justice, fair play and good conduct and deserve to be adopted by anyone desproved of achieving peace and happiness in the society. For once the derractors of Shariah need to forget their hostility towards everything Islamic and try to judge things purely on merit and give a chance to this system to prove its worth.

REFERENCES

1. Khurshid Ahmed: Islamic Perspective 1980
and
Zafar Ishaqu Ansari.
2. Mishkat Vol. 2, P. 321; 36 86.
3. Al-Hidayah vol. 4, P. 106
4. The Holy Quran.
5. Muhammad Abu Zahrah USUL-Al-Fiqh