

Right to Equality and Justice under International Islamic Instruments and the *Shari'ah*: An Evaluation

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Abstract: One of the problems confronting humanity today is the violation of peoples' right to equality and justice. Inequality and injustice appear to be the order of the day in many countries of the world. It is not limited to underdeveloped or developing nations. Developed nations also have their share. However, much talk on violation the right to equality and justice appears to be focused on Muslim countries. Yet, the *Shari'ah* provides for lofty principles of justice and equality. Also, international Islamic instruments emphasise on the peoples' right to equality and justice. As a result, many people in these countries clamour for their rights to be treated equally, fairly and justly. These terms are though often misused. This paper therefore analyses the right to equality and justice from perspectives of international Islamic instruments and the *Shari'ah*. It finds that the *Shari'ah* provides for many ways to promote the peoples' right to equality and justice. In doing this, verses of the Qur'an, *Sunnah* of the Prophet (s.a.w.) and opinions of Muslim scholars are used to enrich the legal analysis.

Key words: right to equality, right to justice, international Islamic instruments, human rights, *Shari'ah*

INTRODUCTION

The right to equality and justice is one of the most significant rights belonging to mankind. Peace and security in the modern world is ultimately dependent on its realisation and promotion to all kinds of people. Yet, achieving justice and equality in many modern societies seems to be a mirage. Thus, one of the objectives of international Islamic instruments is to protect and promote equal rights and justice in the society. The preamble to Organisation of Islamic Conference Charter puts its objective as: "to preserve and promote the lofty Islamic values of peace, compassion, tolerance, equality, justice and human dignity." The preamble to the Universal Islamic Declaration of Human Rights (UIDHR) states, among others, "... .. i) wherein all human beings shall be equal and none shall enjoy a privilege or suffer a disadvantage or discrimination by reason of race, colour, sex, origin or language; ii) wherein all human beings are born free; iii) wherein slavery and forced labour are abhorred; iv) wherein conditions shall be established such that the institution of family shall be preserved, protected and honoured as the basis of all social life; v) wherein the rulers and the ruled alike are subject to, and equal before, the Law... ..". Also, Article 3 of the UIDHR provides that: "a) All persons are equal before the Law and are entitled to equal opportunities and protection of the Law b) All persons shall be entitled to equal wage for equal work. c) No person shall be denied the opportunity to work or be discriminated against in any manner or exposed to greater physical risk by reason of religious belief, colour, race, origin, sex or language." In addition, Article 18 of the UIDHR confers on every person the right to social security by providing that: "every person has the right to food, shelter, clothing, education and medical care consistent with the resources of the community." Similarly, the Cairo Declaration on Human Rights in Islam (CDHRI), states, in its Article 1 that: "(a) All human beings form one family whose members are united by submission to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path to human perfection. (b) All human beings are God's subjects, and the most loved by him are those who are most useful to the rest of His subjects, and no one has superiority over another except on the basis of piety and good deeds". Meanwhile, on the same issue of equality, its Article 19 states, "a) All individuals are equal before the law, without distinction between the ruler and the ruled...". Similarly, its Article 6(a) promotes gender equality by stating that: "woman is equal to man in human dignity...". The same article clearly imposes a duty on the husband to support and be responsible to the welfare of the family.

Also, the process of human creation as revealed in the Qur'an and *Sunnah* shows that human beings are of equal standing. Human beings have the same source of creation. Therefore, they are equals having been created from the same source and single soul. Allah (s.w.t.) states the source of man's creation in a lot of verses of the

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Qur'an. He says: "Did We not create you out of mere water which We stored in a secular place in a secular place until a decreed time? We set the time and good was our setting." He also says: "So let man consider from what was he created? He was created from the dropping water, from water issuing between the lions and the ribs" (Qur'an, 86: *ayah* 5-7). In another verse, He says: "It was Allah who created you from dust, from the seed and who then set you in pairs. No female conceives or gives birth without His knowledge; none is given long life and none is given short life, unless it be in a Book. Verily that is easy for Allah" (Qur'an, *ayah* 35: 12).

Also, the Qur'an says: "We have created man out of an extract of clay; when We made him a seed lodged in a secure place; We made the seed a clot of blood, and We created clot into a morsel. We created the morsel bones, and We clothed the bones with flesh. We made him grow as a new creation; blessed be Allah, the best of all creators" (Qur'an, 23: *ayah* 12-14).

In view the above, Allah (s.w.t.) makes it clear that human beings are equal to one another. Thus, there is no race or class that can claim superiority over others. He says: "O, ye people revere your Lord who created you from one soul, creating from it his mate; and He spread abroad from these too many men and women." He further says: O ye People, We created you male and female, and We made you race and tribe that you may know one another. Verily the noblest among you is the pious" (Qur'an, 49: *ayah* 13). The Prophet (s.a.w.) was also reported to have said that: "People are equal as the teeth of a comb" (Afridi, 2008).

Similarly, international Islamic human rights instruments confer the right to justice on every one. For example, Article 4 of UIDHR provides that: "a) Every person has the right to be treated in accordance with the Law, and only in accordance with the Law; b) Every person has not only the right but also the obligation to protest against injustice; to recourse to remedies provided by the Law in respect of any unwarranted personal injury or loss; to self-defence against any charges that are preferred against him and to obtain fair adjudication before an independent judicial tribunal in any dispute with public authorities or any other person; c) It is the right and duty of every person to defend the rights of any other person and the community in general (*Hisbah*); d) No person shall be discriminated against while seeking to defend private and public rights; e) It is the right and duty of every Muslim to refuse to obey any command which is contrary to the Law, no matter by whom it may be issued". Meanwhile, Article 19 states, "...b) The right to resort to justice is guaranteed to everyone".

From the previous discussions on the right to equality, it appears well settled that equality in the strict sense of it does not necessarily mean justice. It may not be sometimes necessary to achieve justice (Shamrahayu, 2012). It is however a mechanism to achieve the end of justice. The word "justice" or "*al-'adalah*" has literal connotation, which is to place a thing in a rightful and appropriate position. It appears relative, as what may be just to a person may be unfair or unjust to another person. However, from the Islamic perspective, justice is a fundamental aspect of human rights. In fact, it should also be stated that one of the major purposes for the revelation of the Qur'an is for justice to prevail on the land and that people will be firm in the art of justice. Allah (s.w.t.) says: "We have sent our Messenger with all evidence of truth, and through them we bestowed revelation from on high and (thus gave you) in the balance (to judge right and wrong) so that people may be firm in justice; and we bestowed (on you) from on high (the ability to make of iron, in which there is awesome power as well as many benefits for mankind and (all this was given to you) so that God shall know who would stand up for the cause of Allah and his Apostle..."

Against the above backdrop, the paper makes an analytical evaluation of these provisions of international Islamic human rights with the *Shari'ah*. It discusses various aspects of the right to equality in the *Shari'ah* and how the Islamic law emphasises on the concept of justice.

Equality Before the Law:

In Islam, all persons are equal before the law. That is to say, in one aspect, everyone is required to be protected before the law regardless of race, religion, origin, sex and language. Thus, individuals have to be treated equally before the law without any discrimination in the enforcement of the law. In another aspect, equality before the law includes the fact that individuals are equal in terms of rights and duties. As a result, every person is subject to Islamic law for every single act that he has done without any privilege. Thus, a judge is required to decide a case before him based on the *Shari'ah* principle as prescribed in Qur'an and *Sunnah* without exceptions.

Thus, the protection of equality before the law is further strengthened by the Qur'an and from the traditions of the Prophet (s.a.w.). As far as it is concerned, everybody is equal before the law and is entitled to equal protection before the law. This is clear from Qur'an and *Sunnah* of the Prophet (s.a.w.). Allah (s.w.t.) says: "The believers are brothers (to each other)" (Qur'an, 49: *ayah*10). He also says: If they (believers) repent and keep up prayer and pay the welfare due, they your brothers in faith" (Qur'an, 9: *ayah* 11). The Prophet (s.a.w.) was also reported to have said: "The life and blood of Muslims are equally important" (Abu Daud, Ibn Maja). In another tradition, he says: "The protection given by all Muslims are equals."

As far as the penal aspect of the *Shari'ah* is concerned, all persons are of equal standing. The concept of criminal immunity from prosecution is unknown to the *Shari'ah*. Punishments, courts decisions and legal sanctions apply to all classes of people without any difference. There are no particular forms of punishments or

sanctions for a certain class of people. All persons are equal and subject to the jurisdiction of Islamic court. Everyone is required to obey the rule of Islamic law. The law does not excuse any class of people from compliance with Islamic law. No class of people is above the Islamic laws. Aishah (r.a.) reported that the Korishites were too concerned when a Makhzumi woman stole and Allah's Messenger (peace and blessings of Allah be upon him) wanted to apply the Corporal punishment in her case, amputating her hand. The Korishites consulted among themselves and said: 'The best person to talk about the Makhzumi woman thief to the Prophet (s.a.w.) is his most beloved Companion (and the son of his most beloved companion) Osamah bin Zaid (s.a.w.)'. Thus, Osamah (r.a.) spoke to the Prophet (s.a.w.) concerning the Makhzumi, woman. Upon listening to Osamah (r.a.), Allah's Messenger (s.a.w.) said: 'Oh Osamah! Are you coming to intercede concerning a Corporal Punishment set by Allah (s.w.t.)? (How dare you do this)?'. Allah's Messenger (s.a.w.) stood up, as soon as he (s.a.w.) finished his conversation with Osamah and delivered a speech saying, "The people (or nations) before you were destroyed due to the fact that when a noble person among them would steal, they let him go unpunished, but if a poor, weak and gullible person among them steals they will apply the Corporal punishment to him. By Allah! If Fatimah (r.a.); the daughter of Muhammad (s.a.w.) stole (the value where she will be subject to Corporal punishment) I shall cut her hand" (Bukahri Hadith No.6406 and Muslim, Hadith No.9).

The above is a testimony to the fact that the Prophet (s.a.w.) applied the law to all class of people. It was even not material whether the person was influential in the society or was an intimate person to the Prophet (s.a.w.). He simply would apply the law. The gravity of not making people equal before the law was further strengthened by the Prophet (s.w.t.) when he made us to understand that certain group of people was destroyed long before now because of non-compliance with equality before the law.

Equality in Social Security:

In matters of social security, every person is accorded equal right except otherwise stated in the law. In employment for instance, everyone is entitled to equal treatment. This is notwithstanding the lineage, region, colour, gender or language in the Islamic society. The rate of work is the crucial way of earning, ownership and possession of wealth. Islam emphasises on equal wages for equal work and similar capability and skill. Islam denounces favoritism between men and should be no supremacy of employer over employee either in society or in law. Islam also stresses the fact that employer must pay wages to workers without delay with the sum corresponding to his input.

As far as the national resources are concerned, all members of the state have the right to benefit from it. Also, all are one and the same in this right. This indicates that persons have an equivalent right to collect a fair share of the national Islamic wealth. However, what they get depends on the work they present. Thus, there may be some measure of inequality of benefits in this regards due to the work each member presents. This is made clear from the circumstances that occurred during the period of the first Caliph; Abu Bakr (r.a.). He distributed the gifts among the Muslims equally. A group of people differed with him in opinion on this distribution and argued, 'Oh Caliph of the Prophet (peace and blessings of Allah be upon him)! We notice that you have distributed the gifts in equal shares among people. However, certain individuals have certain virtues and priorities. We wish that you had given a special gift to such individuals. 'Abu Bakr (r.a.) replied: "How can I tell the specific virtues and privileges of the individuals you mentioned? What I give is merely a living allowance. Offering an equal living allowance to people is better than favouring certain individuals. As for those who presented extra work for Islam, their rewards are preserved with Allah (s.w.t.). As for this worldly wealth, it is here for the good pious person and the evil ones. This wealth is not remuneration for the works they presented" (Abu Ya'la).

Also, every member of the Islamic society has a right to the national wealth and buried land resources, such as gold, oil, silver, diamond and other precious metals. Islamic State must try its best to secure job opportunities for its members and utilise the national resources in the best interest of the state. It is regarded as a public property, which no one has the right to abuse, monopolise, or act according to his personal interest. Allah (s.w.t.) states that: "It is He Who has made the earth manageable for you, so traverse you through its tracts and enjoy of the Sustenance which He furnishes: but unto Him is the Resurrection"(Qur'an, 67: *ayah* 15).

Also, equality in terms of human values also applies in Islam. The only difference between people is on the basis of service that the person renders to his society and community. Moreover, Islam combines the totality of the religious, social or worldly services that persons offer to the public or society. Islam does not encourage laziness, as for instance it does not view a hardworking person and a sluggish on equal standing in terms of pay and monetary rewards. Islam, also, does not put on equal footing the good and evil persons in terms of rewards and sentences. Allah (s.w.t.) states that; "To all are degrees (or ranks) according to their deeds: for Your Lord is not unmindful of anything that they do" (Qur'an, 6: *ayah* 132).

Minority Right to Social Security:

This aspect seeks to show that the poor and the needy non-Muslim minorities in an Islamic state have the right to social security. The *Shari'ah* makes this a right for them and it was well practiced by the early Muslims.

History revealed that non-Muslims were provided for from Islamic public treasury in order to protect their important social needs. Islam had established social security services before all nations. It provides societal benefits to the poor citizens. The *Shari'ah* sets up monetary provisions for Muslims in need. This is done through *zakah* (obligatory charity) and *sadaqa* (voluntary charity). Wealthy Muslims are obliged to pay *zakah* in order to take care of the poor. *Sadaqa* on the other hand was left for individual judgment to help the deprived.

It is important to mention that social security provided by Islam is extended to non-Muslims as well. The *Shari'ah* requires the state to provide assistance for its citizens with disabilities. This is notwithstanding whether they are Muslims or non-Muslims. This should not prevent them from enjoying benefits meant for the general public. It is required that provisions should be made from the public treasury. A ruler who does not do this is not responsible. Thus, there are many historical examples of Muslims providing social security to the non-Muslim minorities. For instance, it was reported that: "Umar ibn al-Khattab (r.a.), the second caliph of Islam, once passed by an old, blind man begging in front of a house. Umar (r.a.) asked him which religious community he belonged to. The man said he was Jewish. Umar (r.a.) then asked him, 'What has brought you to this?' The old man said, 'Do not ask me; ask ...poverty, and old age.' Umar took the man to his own home, helped him from his personal money, and then ordered the head of the treasury, "You must look after this man and others like him. We have not treated him fairly. He should not have spent the best years of his life among us to find misery in his old age." Umar (r.a.) also relieved him and others in his situation of paying the *jizya*" (Abu Yusuf).

An additional example can be seen in Khalid ibn al-Walid's letter to the people of the Iraqi city of Hira'. It is said to contain the terms of truce he offered them: "If God gives us victory, the people of the covenant will be protected. They have rights promised to them by God. It is the strictest covenant God has made incumbent on any of His prophets. They are also held by the duties that it places upon them and must not violate it. If they are conquered, they will live comfortably with everything due to them. I am commanded to exempt from *jizya* the elderly who cannot work, the disabled, or the poor who receive charity from their own community. The treasury will provide for them and their dependants as long as they live in Muslim lands or in the communities of Muslim emigrants. If they move outside of Muslim lands, neither they, nor their dependants shall be entitled to any benefits" (Abu Yusuf).

In another instance, it was reported that: "Umar ibn al-Khattab (r.a.), the Muslim Caliph, was visiting Damascus. He passed by a group of Christian lepers. He ordered that they be given charity and regular stipends for food" (Qaradawi). Also, Umar ibn Abdul-Aziz (r.a.), another Muslim Caliph, wrote to his agent in Basra, Iraq and said: "Search for the people of the covenant in your area who may have grown old, and are unable to earn, and provide them with regular stipends from the treasury to take care of their needs" (Abu Ubayd).

History also reveals that a number of the early Muslims (Sarkhasi) used to share out part of their post-Ramadan charity (*zakat ul-fitr*) to Christian monks. This is based on their understanding of the verse of Quran which says: "God does not forbid you from those who do not fight you because of religion and do not expel you from your homes – from dealing kindly and justly with them. Indeed, God loves those who act justly. God only forbids you from those who fight you because of religion and expel you from your homes and aid in your expulsion – (forbids) that you make allies of them. And whoever makes allies of them, then it is those who are the wrongdoers" (Qur'an, 60: *ayah* 8-9).

Furthermore, the non-Muslim minorities have the right to undertake any business enterprise or profession in an Islamic state like their Muslim counterparts. There should be no constraint imposed upon them in this regard. However, those businesses, which are considered as generally injurious to the public, would be totally banned for both the Muslims as well as the non-Muslims. The minorities also have the right to form or join any lawful trade profession they like. They are required to be subject to the same trade-related taxation as the Muslims.

Also, the Islamic state has the responsibility of providing for the disabled, the poor, the destitute or the old. In the same vein, it is obliged to pay for the maintenance of a member of the minority community in case of his disability, old age or poverty. Minorities have equal rights in terms of communal maintenance in an Islamic state. The Prophet (s.a.w.) was reported to have a tradition of giving donation to a Jewish family and it was continued to be delivered even after the Holy Prophet's departure from this world" (Reported by Abu 'Ubayd in *Kitab-ul-Amwal*).

Besides, non-Muslim minorities have the right to be protected and are secure in the Islamic state. This falls under the responsibilities of the Islamic state. Where there is an existing agreement between it and another nation, the protection and security of the people of covenant also falls under its area of duty. That Islamic state would be bound to provide basic necessities and security of lives of the minorities is one of the conditions that underline the treaties between Muslims and the conquered non-Muslim minorities. The Peace Treaty struck, for instance, with the residents of the Heera provided that: "A non-Muslim who grows old and cannot work or becomes disabled due to a natural calamity or he was previously rich but has become poor due to some untoward happening, the government would not charge any tax from such calamity-stricken people. Rather

these people and their families would be provided with the maintenance allowance out of official treasury” (Ibn Rushd).

It needs to be further mentioned that comparative study of the situations of non-Muslims living in Muslim countries and the status of Muslim minorities who reside in non-Muslim countries, especially with regard to Islamic history will reveal a great dissimilarity. Many have given instances of the situations of the Muslims during the Crusades, under the Spanish Inquisition, in Communist China, or the Soviet Union. Many violations of the Muslim rights also occur in, Russia, Palestine, and India. This is worth reflecting upon in order to give an answer that will be fair and objective. Allah (s.w.t.) says: “O you who believe! Stand out firmly for God as just witnesses; and let not the enmity hatred of others make you avoid justice. Be just: that is nearer to piety; and fear God. Verily, God is Well-Acquainted with what you do”(Qur’an, 5: *ayah* 8).

Finally, it should be noted that the rights discussed here are not exhaustive. Many other rights still exist. The discussion is not deemed necessary as it is seen as elementary. The other rights include the right to work, education, housing, transportation, and so on. This chapter has shown how non-Muslims living in Muslim countries enjoy rights in the early period of Islam. This shows a true picture of how tolerant the *Shari’ah* for non-Muslims minorities. These rights might not be available in many non-Muslim states.

Racial Equality:

In Islamic society, all obstacles as a result of classes among the members of the Islamic society are removed. This will facilitate the people to benefit from and carry out their lawful rights. Islam forbids all forms of discrimination. This is irrespective of colour, lineage, region or language. Individuals are not accorded special class or status except in piety in the Islamic society. The essence is to avert discrepancy between the privileged or under-privileged in the *Ummah*. This is based on the verse of the noble Qur’an that says: “Oh mankind! Reverence your Guardian-Lord, Who created you from a single Person, created, of like nature, his mate, and from them twain scattered (like seeds) countless men and women; fear Allah, through Whom you demand your mutual (rights), and (reverence) the wombs (that bore you): for Allah ever watches over you” (Qur’an, 4: *ayah* 1).

The basis of civilisation with all races, according to Islam, is one source without any difference. Islam does not permit any false arrogance in ancestry, social standing and any other forms of discrimination. In view of this, the Prophet (s.a.w.), was reported to have said: “Oh Mankind! Your Lord is One. Your (grand) father is one. All of you belong to Adam (peace and blessings of Allah be upon him). Adam is created of soil (earth dirt). Truly, the most honorable person in the Sight of Your Lord, the Almighty Allah, is the most pious among you. There is no superiority for an Arab over a non-Arab. There is no superiority for a non-Arab over an Arab. There is no superiority for (race) person over a white person. Likewise, there is no superiority of a white over a red (race) person except for the level of piety (mindfulness of God, the Almighty Allah in life and practices)”(Ahmad, Hadith No.411). The Prophet (s.a.w.) also says: “The Almighty Allah has removed the false pride taking, which was practised in the pre-Islamic period, where individuals took false pride with their ancestors (forefathers). All mankind belongs (in lineage) to Adam (Adam is created of soil (earth dirt))” (Abu Dawoud, Hadith No.5116).

More importantly, racial discrimination is frowned at by Allah (s.w.t.) by denying those who claim that they are His children; which means they are superior to other races. On the contrary, this is against the injunction of Allah (s.w.t.) as He begets not nor was He begotten. Previously, Jews and Christians considered themselves of a higher breed, race or class of people. Because of this, the Almighty Allah revealed the truth of Jews and Christians when He said: “(Both) the Jews and the Christians say: We are sons of Allah, and His beloved. Say: Why then does He punish you for your sins? Nay, you are but men, of the men He has created: He forgives whom He pleases, and He punishes whom He pleases; and to Allah belongs the dominion of the heavens and the earth, and all that is between: and unto him is the final goal of all”(Qur’an, 5: *ayah* 18).

Many traditions of the Prophet (s.a.w.) also testify to the prohibition of discrimination on racial grounds and call for racial equality. For instance, it is also reported that one of the Companions of the Prophet (s.a.w.) namely Abu Tharr (r.a.) once said to black slave who served him, calling him as follows: Oh the son of the black lady. Upon hearing this call, Allah’s Messenger (peace and blessings of Allah be upon him) turned to Abu Tharr (may Allah be pleased with him) and said to him immediately: “Are you insulting this man with his own (black) mother? Truly, you still possess some of the qualities of the pre-Islamic era. It is over. It is over. There is no virtue or merits for the son of the white woman over the black woman except for piety and righteousness or good deeds and actions” (Ahmad; Qur’an 4: *ayah* 145).

Abu Tharr (may Allah be pleased with him) upon hearing the comment of the Prophet (peace and blessings of Allah be upon him) put his head down on the ground for his slave servant to come and step with his black foot on his head although the Prophet did not command him to do so. Abu Tharr (may Allah be pleased with him) felt very bad and regretted what he did and that was the reason that urged him to lay his head on the ground for his black slave servant to step on it in retaliation and revenge for what he, the master, attacked his servant with. Moreover, Abu Tharr (may Allah be

pleased with him) wanted to discipline himself in a hard and humiliating way so as he would never repeat such a sin in the future (ibid).

The Prophet (s.a.w.) throughout his lifetime treated all people as equals without discrimination. When his family member thought he would lift their status, being a messenger of Allah and would confer on them an aristocratic status over the ordinary, he refused and told them that: "If my people cannot approach me through their good works, shall you then approach me through your genealogies? Verily, the noblest of you in the sight of Allah is the most pious." Also, when the Prophet (s.a.w.) was accosted by a blind man and turned away from the poor man, Ibn Umm Maktum, to pay attention to Al-Walid ibn al-Mughira, who was the chief of his people. Verses of the Qur'an were revealed to correct the situation. This shows equality of all people notwithstanding the class, rich or poor. The Prophet (s.a.w.) was also reported to have said: No Arab has superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab. Nor does a white man have any superiority over a black man or a black man any superiority over the white man. You are all children of Adam, and Adam was created from clay (Bayhaqi and Bazzaz). This shows that Islam establishes the equality of human race and does not permit discrimination on grounds of colour, race, place of birth, nation e.t.c. In another tradition, he was reported to have said: "O people, indeed your Lord is one and your father is one. Behold, there is no superiority for an Arab over a non-Arab, nor for a non-Arab over an Arab, nor for a white person over a black person, nor for a black person over a white person, except through piety" (Musnad Ahmad).

Gender Equality:

There is the protection of the right to gender equality in Islam. Every person irrespective of the gender is seen as equal in Islam. This is to an extent, which will benefit male and the female. Allah (s.w.t.) says: "O Mankind, keep your duty to your Lord who created you from a single soul and from it created its mate (of same kind) and from them twain has spread a multitude of men and women" (Qur'an 4: *ayah* 1). He also says: "He (God) it is who did create you from a single soul and therefrom did create his mate that he might dwell with her (in love)" (Qur'an 7: *ayah* 189). In another verse, He says: And their Lord has accepted (their prayers) and answered them (saying): "Never will I cause to be lost the work of any of you, *be he male or female*; you are members, one of another" (Qur'an 3: *ayah* 195. See also 9: *ayah* 71; 33: *ayah* 35-36; 66: *ayah* 19-21). Many verses also guarantee the equality of man and women. Allah (s.w.t.) says: "Verily, the Muslims, men and women, the believers men and women the men and the women who are obedient (to Allah), the men and women who are truthful (in their speech and deeds), the men and the women who are patient (in performing all the duties which Allah has ordered and in abstaining from all that Allah has forbidden), the men and the women who are humble (before their Lord Allah), the men and the women who give *Sadaqat* (i.e. *Zakah*, and alms, etc.), the men and the women who observe *Saum* (fast) (the obligatory fasting during the month of Ramadan, and the optional *Nawafil* fasting), the men and the women who guard their chastity (from illegal sexual acts) and the men and the women who remember Allah much with their hearts and tongues Allah has prepared for them forgiveness and a great reward (Qur'an,33: *ayah* 35). Allah also says: "For men there is reward for what they have earned, (and likewise) for women there is reward for what they have earned, and ask Allah of His Bounty. Surely, Allah is Ever All Knower of everything (Qur'an, 4: *ayah* 32)."

From the above verses of the Qur'an, Islam views men and women as equals. However, Islam does not consider men and women as equal in matters where considering them as equal would result in injustice to one of them. This is because equality that is inapt is a strict form of injustice. For instance, the Qur'an instructs women to dress in clothes that are dissimilar from those worn by men. This is due to the differences in the ways each sex is tempted by the other sex. The temptation posed by men could be less than the temptation posed by women. The clothes that women are instructed to put on is different from that of men. It will be unreasonable to tell women to expose the sensitive parts of their body which if exposed by men does not create any temptation.

Another permissible 'discrimination' in Islam is *Jihad* in the cause of Allah (s.w.t.). It is regarded as obligatory for men, but *jihad* in the sense of fighting is not obligatory for women. This is the mercy of Allah (s.w.t.) towards them, as He considered their nature. Thus, one may be right to say that the rulings for men are different from the rulings for women. With regard to many acts of worship and interactions with others, Islam regards men and women as equally obliged. For instance, women do ablution just as men do, they do *ghusl* as men do, they pray as men do, and they fast as men do, except when they are menstruating or bleeding following childbirth. Women pay *zakah* as men pay *zakah*, and they do Hajj as men do, except for a few differences in the rulings. It is permitted and all right to buy from a woman, and if a woman gives charity, that is acceptable. A woman has the right to set free the slaves that she owns, and there are many other similar cases because women are the twin halves of men.

Women are equal to men in some aspects. They differ from them in others. Most of the rulings of the *Shari'ah* equally apply to men and women. In cases where a difference is made between the sexes, the Muslim considers it as a mercy from Allah (s.w.t.) and a sign of His knowledge of His creation. However, the uninformed sees it as oppression and injustice. Thus, he tenaciously insists on claiming that men and women are equal. So how can a man carry a foetus and breastfeed it? He persistently refuses to consider the weakness of

women and how they bleed during their monthly period. However, the Muslim is still at peace with his faiths, surrendering to the rule of Allah (s.w.t.) (Qur'an, 67: *ayah* 14).

Equality in Acts of Worship:

All people are equal in terms of the various acts of worship. The rich, the poor, the leader, the peasant, the black, the white, the humiliated, the dignified, are all equal before Allah in terms of all acts of worship in Islam. All enjoins, and all prohibitory items, are applicable to all without any difference because of class, social status or race. The Almighty Allah states that: "Whoever works righteousness benefits his own soul; whoever works evil, it is against his own soul: nor is Your Lord ever unjust (in the least) to His Servants" (Qur'an, 41: *ayah* 46).

The difference between persons in the sight of Allah (s.w.t.) is based on their levels of righteousness, piety, compliance of the injunctions of Allah (s.w.t.). The Almighty Allah states: "Oh mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you may despise each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you (Qur'an 49: *ayah* 13). In addition, Allah has full Knowledge and is well acquainted (with all things)". Thus, in matters of piety, one cannot say everyone is equal. This is because everybody cannot worship Allah (s.w.t.) equally; hence the difference in terms of rewards to be granted to them in the hereafter. It also shows the difference in terms of faith. Allah (s.w.t.) says: "Say: Are those who know equal to those who know not?" (Qur'an, 39: *ayah* 9). He also says: "Is the blind equal to the one who sees? Or darkness equal to light?" (Qur'an, 13: *ayah* 16). Also, He says: "Not equal among you are those who spent and fought before the conquering (of Makkah, with those among you who did so later" (Qur'an, 57: *ayah* 10). He also says: "Not equal are those of the believers who sit (at home), except those who are disabled (by injury or are blind or lame), and those who strive hard and fight in the cause of Allah with their wealth and their live" (Qur'an, 4: *ayah* 95).

Right to Justice:

In view of this, many verses of the Qur'an enjoin justice between all kinds of people and everybody needs to be treated with justice. Allah says: "Allah enjoins justice and kindness, and giving to kinfolk, and forbids indecency and abomination and wickedness." In many other verses, Allah (s.w.t.) says: "Allah orders that you return trusts to their owners and that if you judge among people, you judge justly"; "And do not let hatred of any people dissuade you from dealing justly. Deal justly, for that closer to God-consciousness"; "O you who believe! Be firm in justice as witnesses for God, even in case against yourself, your parents or your kin"; "And if you give your words, you must be just, even though it be against your kin, fulfill the covenant of God. For that is what He has commanded you that you may remember"; "O you who believe! Stand out firmly for Allah as witnesses to fair dealings and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just, that is next to piety. Fear Allah, indeed Allah is well-acquainted with all that you do"; "And when you speak, then be just though it be (against) a relative, and fulfill Allah's covenant; this He has enjoined you with that you may be mindful;" And O my people! Give full measure and weight in justice and reduce not the things that are due to the people, and do not commit mischief in the land, causing corruption."

The *Shari'ah* also sanctions the use of force of arms or power to uphold justice in the cause of God and rights of His creatures. Allah (s.w.t.) says: "The indictment shall be upon those who oppress people, and those who commit injustice and wrong-doing on earth shall be severely punished." In another verse, Allah (s.w.t.) says: "And those who commit oppression shall know what kind of destiny they shall meet." Also, the Prophet (s.a.w.) was a man of justice and upheld the sanctity of justice during his lifetime. He was reported to have said: "If anyone walks with an oppressor to strengthen him, knowing that he is an oppressor, he has gone forth from Islam." He also said that: He is not one of us who proclaims the cause of *'asabiyyah*; He is not one of us who fights for the cause of *'asabiyyah*; He is not one of us who dies in the cause of *'asabiyyah*. He was reported to have said: Allah does not punish the individuals for the sins of the community until they see the evil spreading among themselves, and while they have the power to stop it, do not do so."

The State must strive at all times to ensure that justice prevails in the society and he must also do justice to his people. Where this is not done, the people have a right to raise their voices against him and even remove him from power. The Prophet (s.a.w.) was reported to have said: "The master of martyrs (*sayyid al-shuhada*) is Hamza, and a man who stands up to a tyrant ruler and gives him *nasiha* (advice). And so the ruler kills him." He also said: "By Allah you have to enjoin good (*Maroof*) and forbid evil (*Munkar*), and hold against the hand of the unjust ruler (Zalim), and force him on the truth strongly, or you have to limit him to the truth." By this evidence, which is the hadith commenting on the verse, Allah (s.w.t.) has prohibited Muslim from remaining silent against the evil (*Munkar*), and He commanded us to remove it. Allah (s.w.t.) commanded the Muslims to enjoin Maroof and deny *Munkar*, and made it a duty upon them to do so. Allah (s.w.t.) says: "Let it be from among you a group who call to the good, enjoin *Maroof* and deny *Munkar*." Allah (s.w.t.) also said: "You have been the best nation (*Ummah*) brought to the people, because you enjoin *Maroof* and deny *Munkar*."

In dispensing justice, one should not consider the class or social status of the person involved. The Prophet (s.a.w.) was reported to have said when he intended to punish a woman (who was found guilty of theft) from

high ranked tribe of ancient Makkah and people tried to influence him (PBUH) by sending Usama (r.a.), a beloved companion of Prophet Muhammad (s.a.w), to convince him (s.a.w) in not being very harsh in the punishment: "Do you want yourself to be responsible for not upholding the sanctity of the Divine law? The cause of misfortune and ruination of the followers of earlier Prophets was that when the aristocrats committed sins the Divine law was not enforced upon them but it was only done in the case of common people! By Allah! Even if my own daughter Fatima commits any theft, I shall chop off her hand also."

The major qualification of a leader is justice. An unjust person is not qualified to rule or to be a judge. This is because many verses of the Qur'an and traditions of the Prophet (s.a.w.) indicate justice as a pre-requisite of a leader: "And when Ye judge between men and man, that Ye judge with justice." Allah (s.w.t.) also says: "O David! We did indeed make thee a vicegerent on earth: so judge though between men in truth (and justice): nor follow thou the lusts (for thy heart), for they will mislead thee from the path of God." The Prophet (s.a.w.) was reported to have said: "On the day of reckoning, the dearest and nearest to me will be the just ruler and the most-detested person and one to be consigned to the worst torment in hell will be the despot and the tyrant." Also, Umar, (r.a.), the second rightly guided caliph of the Prophet, when bidding farewell to the governors with fresh assignments used to give them the following instructions: I am not sending you out as tyrants but as the leader and guides of the people. Do not debase and disgrace Muslims with flogging. And do not put them in trial by praising them. Do not wring them by depriving them of their dues. Do everything in your power to provide all possible facilities to the Muslims and go on working untiringly for their prosperity.

It should be observed here that where an injustice has been done in the society, Islam guarantees the right to protest such an injustice. This can also be done to a government who has become recalcitrant or tyrannical. In this regard, Allah (s.w.t.) says: "God does not love evil talk in public except it is by someone who has been injured thereby." This shows that abusive language or powerful words of condemnation is not permitted in Islam. However, a victim of an injustice of tyranny has the right to openly protest the injury he has suffered as a result of the tyranny or injustice. Also, if any government, institution, person or group of persons reigns injustice while they are at the helm of affairs, it is the peoples' right to protest against this act of injustice. It does not matter if it was openly made and none has the right to deny the people of this inalienable right. Any attempt to deny the people of this right is rebellious against Allah (s.w.t.).

The people in an Islamic state have the right to refuse to obey unlawful or unjust orders of a tyrant leader. The general rule is that leaders are to be obeyed. Allah (s.w.t.) says: "O you who have believed, obey Allah and obey the Messenger and those in authority among you. And if you disagree over anything, refer it to Allah and the Messenger, if you should believe in Allah and the Last Day. That is the best [way] and best in result." In another verse, Allah (s.w.t.) says: "And We did not send any messenger except to be obeyed by permission of Allah. He also says: "He who obeys the Messenger has obeyed Allah." However, there are limits to obedience. Muslims are not required to obey those who are mischief-makers, tyrants, unjust rulers, etc. Allah (s.w.t.) says: "And do not obey one whose heart We have made heedless of Our remembrance and who follows his desire and whose affair is ever [in] neglect. In another verse, He says: "...and follow not the bidding of those who are extragrent... who make mischief in the land and mend not (their ways)." He also says: "...and hearten not to the sinner and the ingrate among them". In addition to this, the prophet (s.a.w.) was reported to have said: "Listening and obedience is binding on Muslims whether it is pleasing or repugnant to him, so long as he is not ordered to do something sinful. And when he is ordered to commit a sin, there is neither listening nor obedience". Also, he says: "There is no obedience in transgression and sin. Obedience is only in what is right." Again, he was reported to have said: "There is no obedience for one who is a transgressor. In another tradition, the Prophet (s.a.w.) said: "No obedience for His creatures at the cost of disobedience to God."

In the same vein, the caliphs of the Prophet (s.a.w.) followed this path. For instance, it was reported that when Abu Bakr became a caliph, he said to his people: "Obey me as long as I obey God and His Apostle, but if I am found guilty of something involving disobedience to God and His Apostle, you are no more under any obligation to obey me." Umar, the second caliph also said: "The greatest and the most important duty of a ruler is to see whether the people are fulfilling their obligations enjoined on them by God. We shall enjoin upon you only that that has been enjoined on you by God, and forbid you what God has forbidden you. All we want is that divine injunctions be enforced far and wide." Ali, the fourth caliph was reported to have said: "You are under obligation to obey me in what I order you, while I am myself obeying God, whether you like it or not. And what I enjoin on you, while transgressing the divine injunctions, there is no obedience" in transgression.

Apart from the state administration of justice, usually through court processes, there are other aspects of justice. One important aspect is justice in domestic affairs. For instance, in family affairs, the parents are required to contribute their bit in the upbringing of the children in a just manner. They must justly among the children. There should not be favouritism and nepotism in resolving issues amongst them. The children are also required to respect parents and act in a just manner with them. Likewise, the husband must act justly with his wife. Where he has more than one wife, he should deal justly between them. More so, being able to take more than one wife requires the man to be able to justice to the best of his ability.

In social dealings, Islam has a well-entrenched system of social justice. Islam emphasizes more on collectivism rather than individualism. Thus, the rich is duty bound to assist the poor. This can be done through *sadaqah* or *zakah*. Today, there are many institutions of *zakah*, Islam requires that those who distribute it be just and fair in their dealings. It should be distributed in such a way as to meet the objective of *zakah*, which includes reduction of poverty in the society. Those who also manage the properties of orphans are required to fear Allah (s.w.t.) and be just in dealing with the orphan's properties.

Thus, everyone shall be treated justly as provided in Islamic law and shall not be treated against Islamic law. The government shall protect the dignity and welfare of its people and implement the principle of enjoining what is right and forbidding what is wrong. Everyone also has right to be protected against injustice including seeking for compensation, right of self-defence for any charge against him and fair judgment before court or tribunal. As such a person has right of self-defence against unwarranted charge and right to counsel for the accused of crime. The court or tribunal shall decide a case before him equality in litigants according to principle and procedure as provides in Islamic law. Thus, the government must protect and preserve the independency of judiciary. Moreover, everyone has right and duty to defend the rights of others either in private or in public individually or in community without any discrimination. Besides that, it is right of every Muslim to refuse obeying any man-made law, which does not conform to the Islamic law. It also extends to protest against government's tyranny.

Conclusion:

From the foregoing discussions, the right to equality is highly protected under International Islamic Instruments. This is in line with the lofty principles laid down by the *Shari'ah*. This right is guaranteed at different aspects of our life. One important aspect is that everybody is equal before the law and is entitled to equal protection of the law. It does not matter whether the person belongs to a particular race, class, colour, gender and religion. Thus, the concept of immunity of executive officers appears unknown to the *Shari'ah*. This is even evident from the tradition of the Prophet (s.a.w.), which says some nations were destroyed because they treated the noble ones amongst them differently by not subjecting them to the dictates of the law. Also, in matters of social security, people are seen as equal except for valid reasons provided under the law. Thus, national resources are for the benefit of all within an Islamic state without any form of discrimination. Even the non-Muslim minorities are entitled to social security according to the laid down rules and regulations that are *Shari'ah* compliant. This is based on the verse of the Qur'an, which enjoins kindness to those who do not stop the Muslim from practicing their religion. The practices of Umar ibn al-Khattab and Umar ibn Abdul-Aziz are also testimonies to this view. Also, other forms of equality such as racial equality, gender equality and equality in acts of worship are highly encouraged in Islam.

Again, there is a slight distinction between equality and justice. An act of equality may not necessarily be just. Even though it is a mechanism to get justice, it may not be necessary to achieve what is just. Thus, where Islam seems not to have promoted equality in an aspect of our life, it is for the purpose of achieving a just result. This is more so that Allah (s.w.t.) created us and Has all knowledge relating to our affairs and what is better for us. Thus, it is beyond argument that the right to justice is a fundamental right in Islam. In fact, the object of the *Shari'ah* rests entirely on this proposition. To this extent, in an unjust society, silence is not a virtue. The Prophet (s.a.w.) was a man of justice per excellence and this was deliberated throughout his lifetime. Justice should be dispensed manifestly no matter the caliber of the person involved. An unjust law in the society can be challenged in an Islamic court. This is because the Qur'an and *Sunnah* are just laws and any unjust man made laws will be contrary to the *Shari'ah*. In all aspects of life, the right to justice is not only significant but also necessary for the maintenance of peace, security, law and order in the society.

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