



**PROMOTION OF PEACE THROUGH LEGAL JUSTICE: AN ISLAMIC  
LAW PERSPECTIVE WITH PARTICULAR REFERENCE TO  
ENFORCEMENT OF FUNDAMENTAL RIGHTS IN PAKISTAN**

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***Abstract***

*Justice should be done with all without discrimination on the basis of sex, race, religion, caste or place of birth. Peace can only be achieved with justice and Justice is putting thing on a right place and its opposite is injustice which is putting thing on a wrong place. Justice is called عدل and Injustice is called ظلم in Islamic Law. The biggest injustice in the eye of Allah Almighty is making partners with him. When we look into the field of law, it is clearly stated in Holy Quran that do justice even if it goes against yourself, your parents, or your relatives and it is instructions of Allah Almighty that even do justice with your enemies. Peace cannot be achieved with injustice as it spreads hatred, agony and discomfort in the society. A society where rights of citizens are protected and people perform their duties have less chances of conflict thus foster stability, prosper and attain peace and stability. Justice system should operate fairly and with transparency which will build trust on citizens and each individual will take his responsibility seriously which will bring peace, harmony in the society. On the other hand, injustice spreads violence in the society because they do not have either access to justice or they loses confidence on the justice system thus it is essential for a fruitful, prosperous, and peaceful society. This research is a doctrinal research based on Islamic Teachings and general principles of law dealing with equality and justice to seek a clear picture of justice through which a peace can be achieved in the society. There is no dissimilarity about general principles of equality and justice in Islamic Teachings and in general principles of natural and positive law, as Islamic law describes Justice and Peace in detail to make a strong and good relationship of human beings not only with other members of the community but with the lawgiver Allah Almighty as well. Thus, peace and harmony can only be achieved with tolerance and which is only possible if justice prevails in the society that rights of each individual protected without discrimination as to sex, race, religion, caste, or place of birth.*

***Keywords:*** *Justice; Peace; Islamic Law; Modern Law; Positive Law.*

***Introduction***

Sustainable peace cannot be promoted and achieved without social, economic, religious and legal Justice. The topic of this research mainly focuses on justice in legal field and in Islamic Law. There are various principles set out by the lawgiver Allah Almighty in Holy Quran and explained by his



Messenger Prophet Muhammad ﷺ in his teachings by way of sayings, actions, and tacit approvals. Islamic Law is that revelation of Allah Almighty which is revealed on the last Prophet Muhammad ﷺ for betterment of human beings in both worlds. In modern day State Constitution, fundamental rights are protected and usually under International and Regional Treaties, Conventions and Declarations, human rights are prescribed to be protected by State parties to those instruments. Justice is not only required to be done with others as even Allah Almighty requires Justice to be done with yourself, your parents, your family members, your relatives, and even with your enemies. No system and society can prosper without a just and fair treatment thus this phenomena is not only required in Islamic Law but also in Positive and Natural Law. Fundamental rights are based upon justice which includes right to life, liberty, rules of law, freedom of expression, speech, assembly so that negative thoughts of the society dispel and positive thoughts prosper which is beneficial for the society at large.

Justice is required everywhere generally and in legal field specially. In law only justice is required which is putting a thing on a right place as in Islamic Law justice is required with charity meaning by giving more than what is asked for and required. Justice leads towards peace and stability. Protection of fundamental rights is an essential thing in promotion of peace and stability. Fundamental Rights are protected under Islamic Law and in Pakistan under Constitution of Pakistan 1973. Protected fundamental rights under Constitution of Pakistan 1973 are protection of life, liberty, clean, healthy and sustainable environment, protection against illegal arrest and detention, right to fair trial and due process of law, protection against slavery, forced labor, retrospective punishment, jeopardy, self-incrimination, and home. Freedom of movement, assembly, association, trade, business, profession, speech and religion. Protection of property rights, right to education, no discrimination in services and access to public places.

Islamic Law gives more emphasis on following religious instructions prescribed under Holy Quran and Sunnah of Holy Prophet Muhammad ﷺ than instructions of any individual as if there is a contradiction between Instructions of any individual and instructions of Islam, Islamic instructions are required to be followed for benefits in this world and in hereafter. Protection of life comes after protection of religion in Islamic Law and it is prescribed in Holy Quran that he who kills another as he kills whole humanity and he who saves another as he saves whole humanity. Protection of family institute also has an importance in Islamic Law as it is the backbone of building a fruitful society and community. Protection of intellect from things like liquor also important as a healthy mind is necessary for healthy lifestyle and last protection of wealth is also important thus all kinds of rights attached with property of a person are also protected under Islamic Law.

This research work is protection of peace through legal justice, an Islamic Law perspective with particular reference to enforcement of fundamental rights in Pakistan is a doctrinal research based on library based literature dealing with Natural, Positive and Islamic Law. In legal field, Constitution of Pakistan 1973 specially articles dealing with fundamental rights are discussed in reference to latest case laws dealing with relevant articles of Constitution of Pakistan 1973. مقاصد الشريعة known as Objectives of Sharia are described in a bit detail as they are fundamentally

#### **Interrelation between Justice and Peace**

Peace cannot be achieved without justice. Justice is putting thing on a right place. In legal parlance, delivering right to aggrieved is justice and resolution of disputes spread peace and prosperity in the society. In Islamic Law, justice is called عدل and peace is called سلم. Justice is not always linked



with Islamic Law only or with legal field only, it is required in every field of life. It is a general principle encompasses fairness, equality, equity, and preservation of rights for all individuals without discrimination as to sex, race, religion, place of birth. Justice leads towards peace and it is not the other way around as oppression leads towards unrest. True and lasting peace can only be achieved through establishment of justice. Holy Quran and teachings of Prophet Muhammad ﷺ consistently highlight importance of equitable treatment, condemnation of oppression ظلم and resolution of conflicts through just means. (Al-Khatib, 2023)

Natural Law and Positive Law talks about justice only which leads towards peace as in Islamic Law there are three terms used for justice: عدل, احسان, and قسط. عدل is justice which is putting thing on a right place as mentioned in Holy Quran “Verily! Allah commands that you should render back trusts to those to whom they are due and that when you judge between men, you judge with justice. Verily, how excellent is teaching which He (Allah) gives you! Truly, Allah is Ever All Hearer, All Seer”. (Quran, 4:58)

Islamic Law goes beyond justice as justice is giving similar thing or a required thing or an asked thing but Allah Almighty asks human beings to give more than the asked thing or a required thing as charity which is called احسان in Islamic Law. Allah Almighty states “Verily, Allah enjoins عدل and احسان and giving (help) to kith and kin and forbids evil deeds and prohibited things and all kinds of oppression, He admonishes you, that you may take heed”. (Quran, 16:90)

In Islamic Law, when justice is connected with charity which is required becomes قسط which is absolute and sustainable justice in superlative degree. Allah Almighty states in the Holy Quran “O you who believe! Stand out firmly for justice as witnesses to Allah even it be against yourselves or your parents or your kin, though he is rich or poor, Allah is a Better Protector to both. Do not follow lust lest you may avoid justice and if you distort your witness or refuse to give it, verily, Allah is Ever Well Acquainted with what you do”. (Quran, 4:135)

Similar kind of words mentioned in Holy Quran at another place where it is clearly mentioned that do justice even with your enemies. Allah Almighty states “O you who believe! Stand out firmly for Allah and be just witnesses and let not enmity and hatred of others make you avoid justice. Be just, that is nearer to piety and fear Allah. Verily, Allah is Well Acquainted with what you do”. (Quran 5:8)

Justice addresses root causes of conflict and unrest as when people feel that they are treated freely and their rights are protected discord and unrest diminishes significantly. Islamic law advocates justice in all spheres of life such as legal, social, economic, and political justice. Legal justice is required to provide and protect rights of citizens, social justice is required to have equal treatment in the society, economic justice is required to have fair distribution of wealth and resources, and political justice is required to have freedom of speech, expression and assembly. All these justices are required to have peace in the society as peace cannot be achieved without providing justice in all spheres of life. (Sadurski, 2011)

There are two words which are used for peace in Islamic Law أمن and سلم. Islam اسلام is derived from the root word سلم which means peace. Islam and peace are similar terms. A person enters Islam means a person enters into the religion of peace. Injustice is fatal for peace and tranquility. The concept of peace is not just absence of war as it encompasses holistic sense of well-being, security, and harmony in the society overall which is a direct result of justice. Establishment of



peace is not just the duty of State, it is the duty of each individual to avoid oppression and do justice within his private life and with other individuals and with everybody else. (Blonde, 2019) أمن literally means security. A person enters Islam enters into peace and security of Allah Almighty. Words مسلم and مؤمن are used for persons submitting will to Allah Almighty. “Angel Gabriel asked from Prophet Muhammad ﷺ about Islam. Messenger ﷺ replied: Islam is testifying that there is no worthy of worship except Allah and Muhammad is His Messenger ﷺ offering ritual prayers, paying compulsory charity, fasting during Ramadan and performing pilgrimage. Angel Gabriel asked from Prophet Muhammad ﷺ about faith إيمان. Messenger ﷺ replied: believing in Allah, His angels, His Books, His Messengers, in the Last Day and in fate قدر both in its good and in its evil aspects”. (Muslim, 1)

As mentioned above, Natural and Positive Law talks about and advocates justice alone which leads towards peace alone as Islamic Law talks about and advocates justice with charity which leads towards ultimate and sustainable peace and security which is requirement of the time. (Sarib, 2023)

### **Protection of Fundamental Rights in Assurance of Peace**

Protection of Fundamental rights is an essential ingredient for assurance of peace. A right is an interest, its respect is duty and its disregard is wrong. Preservation of fundamental rights linked with peace domestically and internationally. For a peaceful society, it is essential to have guaranteed freedom of expression, speech, and freedom of assembly, this will reduce grievances escalating into conflicts. Non protection of fundamental rights create oppression, tyranny and unrest in the society leading to extremism and violence. (Dimitrijevic, 2019)

Everybody is equal before law for protection of fundamental rights therefore, framework to peacefully resolve disputes is required for confidence of the people through which an impartial and effective legal system can be developed which will strengthen trust of people upon the legal system and respect of fundamental rights promotes peace and reduces conflicts. Protection of fundamental rights is a practical necessity to build and maintain peace and stability. (Lucy, 2020) Islamic Law emphasizes on justice, equality, and inherent dignity of all human beings. These principles form bedrock of fundamental rights, which, when upheld create a harmonious and peaceful society. When individuals feel secure in their rights to life, liberty, and fair treatment, conditions that breed conflict and unrest are significantly diminished. A core tenet of Islam is the establishment of justice عدل. This concept extends beyond legal frameworks to encompass social and economic equity. When fundamental rights are protected, it ensures all members of the society regardless of their background, have equal access to opportunities and are shielded from oppression. This equitable distribution of justice fosters a sense of belonging and reduces the potential for grievances that can escalate into conflict. Islamic Law stresses importance of safeguarding these rights, making it a religious obligation to ensure their preservation. (Kuran, 2013)

Islamic Law emphasis on human dignity as it plays a crucial role in maintaining peace. Holy Quran affirms that dignity must be protected. When fundamental rights such as freedom of expression, belief, and privacy are respected, individuals feel valued and empowered. This sense of dignity contributes to a society where individuals are less likely to resort to violence or engage in disruptive behavior. Violations of these rights, conversely, can lead to feelings of marginalization and resentment, which can fuel social instability. (Hefni, 2022)



Islamic Law also emphasis on consultation leading towards reinforcement of fundamental rights by encouraging open dialogues and participation in decision-making processes. Consultation ensures that diverse perspectives are considered and that rights of all individuals are respected. This inclusive approach to governance promotes social cohesion and reduces likelihood of conflict arising from feelings of exclusion or disenfranchisement. When people feel that their voices are heard and their rights are protected, they are more likely to contribute to peace and stability of their communities. (Khan, 2019)

In essence, protection of fundamental rights within Islamic context is not merely a legal or political matter, but a moral and religious imperative. By upholding these rights, societies can create an environment where justice, equality, and human dignity prevail, leading to lasting peace and harmony. Islamic teachings provide a comprehensive framework for safeguarding these rights, underscoring their vital role in achieving a just and peaceful world. (An-Na'im, 2021)

### **Islamic View on Fundamental Rights in context with Pakistani Law**

In Islamic Law, fundamental rights are required to be protected as required under Constitution of Pakistan 1973. Islamic Law is revelation of Allah Almighty revealed on the last Prophet Muhammad ﷺ for betterment of human beings in both worlds. (Mukhtar, 2018)

In Islamic Law, there are 5-6 essential things which are required to be protected in an order at State and private levels. These preservations are called مقاصد الشريعة known as Objectives of Sharia. These are (i) preservation of religion, (ii) preservation of life, (iii) preservation of intellect, (iv) preservation of progeny, (v) preservation of life, and (vi) preservation of honor. (Yimam, 2017)

Apart from Islamic Law, in Constitution of Pakistan 1973, protected fundamental rights are (i) protection of life and liberty, (ii) protection of healthy environment, (iii) protection of right to free trial and due process, (iv) protection against slavery and forced labor, (v) protection against retrospective punishment or a greater punishment than prescribed one, (vi) protection against double punishment for same offence, (vii) Freedom of movement, assembly, association, trade, business, profession, speech, and religion (viii) right to information, (ix) right to education, and (x) protection against discrimination in services. (Mukhtar, 2017)

In Constitution of Pakistan 1973, there are some Principles of Policy under which family rights, rights related to language, Islamic way of life, rights of women are protected but they are not directly enforceable as fundamental rights through Courts. (Mukhtar, 2016)

Islamic law emphasizes on protection of religion, it is clearly mentioned in Holy Quran that it is not compulsory for Muslims to impose Islam on others. Allah Almighty says “There is no compulsion in religion. Verily, the right path has become distinct from wrong path. Whoever disbelieves in طاغوت and believes in Allah then he has grasped the most trustworthy handhold that will never break. And Allah is All-Hearer, All-Knower”. (Quran, 2:256)

Islamic Law goes to the extent that it is disapproved to make statements against other religions and their lords to avoid back lash in response. Allah Almighty states “Do not insult those whom they (disbelievers) worship besides Allah, lest they insult Allah wrongfully without knowledge. Thus we have made fair seeming to each people its own doings then to their Lord is their return and He shall inform them of all that they used to do”. (Quran, 6:108)

All relevant articles of the Constitution of Pakistan 1973 dealing with preservation of religion come under these rules of Islamic Law, especially articles 20, 21, 22 dealing specifically with



fundamental rights. Peshawar High Court categorically stated in a Judgment that the Constitution gives right to every Citizen to profess, practice, and propagate his religion and every religious denomination, and every sect shall have right to establish and maintain its religious institution in Pakistan. (2023, PLC (CS) 910 Peshawar)

Preservation of life is very important in Islamic Law but after preservation of religion as preservation of religion have priority over preservation of life. Allah Almighty says “Because of that We ordained for the Children of Israel that if anyone killed a person not in retaliation of murder or (and) to spread mischief in the land, it would be as if he killed all mankind and if anyone saved a life it would be as if he saved life of all mankind and indeed there came to them Our Messengers with clear proofs, evidences and signs, even then many of them continued to exceed the limits after that in the land”. (Holy Quran, 5:32)

All relevant articles of the Constitution of Pakistan 1973 dealing with preservation of life come under this principles of Sharia, especially articles 9 to 13. According to Sindh High Court, right to electricity is also part of right to life as it is right to quality of life thus to provide electricity to Citizens is duty of the State as electricity service is part of essential service to be provided by State to its citizens. (2023 CLD 718 Karachi)

Preservation of intellect is also essential thing in Islamic Law. Islamic Law prohibits all kinds of alcoholic vines which effects mental capacity of human beings. Allah Almighty says “O you who believe! Intoxicants (all kinds of alcoholic drinks), gambling, الأنصاب, and الأزلام (arrows for seeking luck or decision) are an abomination of شيطان handiwork. So avoid that (abomination) in order that you may be successful”. (Holy Quran, 5:90)

All relevant articles of the Constitution of Pakistan 1973 dealing with preservation of intellect come under this principle of Sharia, especially articles 19 and 19A dealing with freedom of expression, speech and right to information. Lahore High Court stated that right to speech is linked with right to information as speech linked with and dependent upon right to read and receive information only then it is possible for right to freedom of speech. Such right is subject to reasonable restrictions to protect other rights. (2025 PLD 311 Lahore)

Preservation of progeny means family institution protection is also very important in Islamic Law. Allah Almighty prohibited all illegal ways leading towards destruction of family institution. Allah Almighty says “O mankind! Be dutiful to your Lord, Who created you from a single person (Adam), and from him (Adam) He created his wife [حوا] (Eve)], and from them both He created many men and women and fear Allah through Whom you demand your mutual (rights) and (do not cut the relations of) the wombs (kinship). Surely, Allah is Ever an All Watcher over you”. (Holy Quran, 4:1)

Although in Constitution of Pakistan 1973, no article of Fundamental Rights directly deals with protection of progeny and family life as article 35 under Principles of Policy deals with protection of mother, family, marriage and child. Lahore High Court stated in its Judgment that both male and female citizens of Pakistan have right to contract marriage with their own free will and their matrimonial life is protected under article 35 of the Constitution of Pakistan 1973. (2022 CLC 134 Lahore)

Protection of wealth has importance in Islamic Law but after religion, life, intellect, and progeny. All illegal ways through which a person acquires another person property is prohibited. Hudud Punishment is prescribed in Islamic Law for a specific type of theft and for remaining kinds tazir



punishment can be awarded. Allah Almighty says “And eat up not one another's property unjustly (in any illegal way e.g. stealing, robbing, deceiving, etc.), nor give bribery to the rulers (judges before presenting your cases) that you may knowingly eat up a part of the property of others sinfully”. (Holy Quran, 2:188)

Articles 23 and 24 of the Constitution of Pakistan 1973 deal with protection of property rights. According to Baluchistan High Court Judgment, Constitution of Pakistan 1973 guarantees fundamental right of a person to hold property in Pakistan in accordance with law and no person shall be deprived of property without adopting legal procedure. Executive can carry sanction of law if any person is deprived of his property and if action of executive is without compliance of law, such action is nullified in eyes of law. (2023 YLR 1344 Quetta)

### **Conclusion and Recommendations**

This research is about promotion of peace and stability through legal justice which is also required under Islamic Law with reference to enforcement of fundamental rights under Islamic Law and Constitution of Pakistan 1973. Justice is required in Natural and Positive Law as in Islamic Law there are three terms which are used for justice such as عدل means justice, احسان means charity and قسط is combination of عدل and احسان. Mere justice is required in Natural and Positive Law meaning by giving the aggrieved which is asked for as justice with charity is required under Islamic Law meaning by giving more than the required and asked for thing called قسط. Mere peace is required under Natural and Positive Law as in Islamic Law there are two terms used for peace such as اسلام and ايمان as both are different in meaning and practice. اسلام is all about practical worship can be seen as ايمان is hidden peace inside a person which is faith and belief on Allah Almighty and his Messenger which gives and leads towards peace and prosperity.

Human Rights and Fundamental Rights are protected generally under Natural Law and Positive Law thereby under Constitutions of States as under Objectives of Shariah there are 5 main preservations which are required to be protected by the State as well as individually. Religion has priority over life, as life has priority over intellect, progeny has priority over wealth as wealth is required to be preserved and protected at last after protection of religion, life, intellect, and progeny. Pakistan is an Islamic Country thereby fundamental rights are protected under its Constitution of Pakistan 1973 such as protection of religion, life, liberty, intellect, family institute, freedom of expression, speech, trade, business, and profession etc. It is recommended that article 35 dealing with protection of family should be added under fundamental rights as freedom of religion, protection of life, freedom of speech, expression, right to information, and property rights are already protected under fundamental rights thus progeny and family protection should also be included in fundamental rights under Constitution of Pakistan 1973.

Promotion of Peace can only be achieved by legal justice with protection of rights of citizens which leads towards sustainable security and peace which is the dire need of every society.



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