

them on account of sex, class, race, or nationality were unjust and contrary to the law of nature.¹²

According to ancient Greek thought men are divided by nature in respect of their capacities for virtue, some as freemen and others as slaves but Cicero postulates all men are equal and equally obliged to law. However, this supposed principle of human equality was never put into practice in the Roman Empire. In their empire slavery, tyranny and all such other degrading institutions reached their zenith. The rights to life, property and trade etc. all were conditional, qualified and reserved.¹³

The idea of human dignity, justice and equality was not conducive in the Middle Ages. The church fathers were Romans at the same time as they were Christians. Their basic philosophy was based on traditional origins which swept through the Roman Empire despite the fact that the chief source of their thought was the Bible.

The society was divided into three distinct classes; the nobility, the clergy and the common people. The clergy had their own distinctive robes. On the other hand, the nobility inherited nobleness from their forefathers and passed it on to their descendants. A man belonged to the nobility by birth and remained as such until his death, regardless of whatever noble or mean actions he might have done in his lifetime. As for the common people, they had no privileges or rights. They inherited poverty, slavery and humiliation and passed them on to their descendants.¹⁴

In the modern period starting in the seventeenth century, the dominant idea was of a natural equality in the tradition of the natural law and social contract theory. In Hobbes's concept of the state of nature, all men are equal and equally have the right to whatever they consider necessary for their survival. John Locke argued that all human beings have the same natural right to both ownership and freedom. He described the state of nature as the state of perfect equality, where naturally there is no superiority or jurisdiction of one over another, what any may do in prosecution of that law, everyone must have a right to do.¹⁵

Till the end of the eighteenth century the man-made law allowed discrimination between individuals on the basis of their social status. It did not recognize equality of individuals involved in criminal cases. They were rather dealt with differently in matters of judicial proceedings as well as incidence and enforcement of punishment. Courts also varied with the social strata of a nation. Special courts and judges were reserved for

his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals.⁶

Thus the idea of equality and Rule of Law excludes the idea of any exemption of any person from the application of law which governs other citizens. The philosophy behind this concept indicates that no man is above the law and that every man is subject to the jurisdiction of the ordinary tribunals. The history is evident that the Babylonian, Egyptian, Indian and Greek civilizations were either hierarchical in their setup, or authoritarian or paternalistic in their pattern, character and nature.⁷

The Greek philosophers gave great stress on the rule of law and justice. Although many books are written on its need and importance, but all this was in theory and they never applied it in their court system for the purpose of administering justice to all without any discrimination. Moreover, it is pertinent to mention that their ideas on justice and equality were in fact against the true spirit of equality.

A class system which is based on the presumed natural inequality of man existed for a very long period of time. The Republic of Plato is the first systematic work of political theory in the Western world. It strives to give a definition of justice in the ideal state and society.⁸

Plato in his vision of an ideal state divided a society into three classes. The justice of the state consisted in each of the three classes doing the work of its own class community.⁹

Plato, in his book *The Republic* says:

*You in this city are all brothers, but God as he was fashioning you, put gold in those of you who are capable of ruling; hence, they are deserving of most reverence. He put silver in the auxiliaries, and iron and copper in the farmers and the other craftsmen.*¹⁰

On the basis of his concept of justice and equality, he condemns democracy by stating that: 'The greatest weakness of democracy is that it grants equal status to all citizens. Democracy is a charming form of government, full of disorder and dispensing a sort of equality to equals and unequal alike'. Plato does not recognize equality between sexes. He is tolerant of inequality between man and woman. He says that women's nature is inferior to that of men in capacity of virtue.¹¹

As compared to Greeks, the views of Roman philosophers were more compatible to the idea of justice and equality. Roman Stoic philosophers admitted that men were essentially equal and that discriminations between

RIGHT TO EQUALITY

(A Comparative Study of Law and Sirah of
Mohammad (S.A.W.))

Atique Tabir^{*}

ABSTRACT: The protection of Human Right is generally recognized to be a fundamental right. The importance of human rights can be judged simply on this basis that there are diversified views of the leaders of the world regarding almost every issue about life and its concern. However, they agree in principle that human rights should be respected. Human Right has an utmost importance in the minds of sages and philosophers in every period of human history. It received almost universal recognition by all societies and people of all creeds, particularly in the contemporary world as a dominant human rights ideology. Human rights norms are adopted and responded by them in this regard. The chief mission of every religion is to inculcate the sense of morality and dignity in the mind of man. The religion of Islam, and sayings and conduct of its Messenger in particular, lay great emphasis on the development of character and dignity of a person. Even a cursory glance at the contents of the Islamic ideology indicates that the Quran¹ and the Sunnah² have dealt in depth with nearly every aspect of human rights. Islam is not a piece of spiritual decoration only. It is a complete and a practical code of life meant to guide men in all areas of organized human existence. The present study investigates different aspects and dimensions of *Right to Life* in the light of sayings and conduct of the last Messenger of Allah Muhammad (S.A.W), along with its comparison with law and western approaches to it.

Equality means that everyone has equal rights to live in a society. Equality before the law or equality under the law is the principle under which each individual is subject to the same laws, with no individual or group having special legal privileges.³ It means that all citizens are equally subject to the ordinary law of the land administered by the ordinary courts.⁴

In the views of Laski, equality means that adequate opportunities are laid open to all⁵ The Pakistani higher courts held that, the theory of equality before law means that no man is above the law, but that every man, what be

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- ¹⁶ Dr. Hamidullah, Muhammad, *Khutab'at-i-Bhawalpur*, IRI, Islamabad, 1985, pp.20-21
- ¹⁷ Jeffery, Arthur, *The Moslem World*, vol.30 (1940), p.191
- ¹⁸ Noldeke, Theodor, *Geschichte des Qorans*, Georg Olms Verlag, Hildesheim, N.Y., 1981, pp.60-96
- ¹⁹ Mohar Ali, Muhammad, *The Qur'an and the Orientalists*, Jamiyat Ihya Minhaj al-Sunna, UK, 2004, p.271
- ²⁰ A. Rodwell, *The Coran: Translated from the Arabic, the Surahs arranged in chronological order*, London, Williams and Norgate, Oxford, 1861
- ²¹ Bell, Richard, *The Qur'an: Translation with a Critical Rearrangement of the Surahs*, T&T Clark, Edinburgh, 1937
- ²² Al-A'zamī, Muhammad Muṣṭafā, *Hoping to Reform, Revise Islam*, Impact International, Vol.30, March 2000, p.28
- ²³ Al-Qushyri, Muslim, Al-Jāmi', Muqaddima; for translation see: Al-A'zamī, *The History of the Qur'anic Text From Revelation to Compilation*, Islamic Academy, Leicester, England, 2003, p. 13

A CRITICAL STUDY OF THE ṢANĀ' QUR'ĀNIC FRAGMENTS

NOTES & REFERENCES:

- ¹ Puin, Gerd-R, "Observations on Early Qur'an Manuscripts in Sanā'", In Stefan Wild, *The Qur'an as Text*, E. J. Brill, Leiden, Netherlands, 1996, pp. 107-111; See also: Ibn Warraq, *What The Koran Really Says: Language, Text and Commentary*, Prometheus Books, New York, 2002, pp. 739-40
- ² http://www.answering-christianity.com/karim/mosque_of_sanaa.htm, accessed on 30-03-2009
- ³ Ibn Warraq, *What The Koran Really Says*, p.109
- ⁴ Ibid., p.739
- ⁵ Ibid, p.740
- ⁶ Ibid. p, 741
- ⁷ Ibid. pp, 741-742
- ⁸ Ibid.p. 742
- ⁹ Ibid, p. 739
- ¹⁰ See Puin's letter to Q'adi Ismā'il al-Akwa', dated 14.12.1999, reproduced in Impact International, Vol. 30, March 2000, p.27
- ¹¹ He also appreciates Ibn Warraq for perusing notorious Salman Rushdie "The prospect of a Muslim black lash has not deterred the critical-historical study of the Koran, as the exercise of the essays in *The Origins of the Koran* (1998) demonstrates. Even in the aftermath of the Rushdie affair the work continues". See Ibn Warraq, *What the Koran Really Says*, p.111
- ¹² Ibn Warraq, *Opt.*, Cit., p.109
- ¹³ See A'zamī, *Hoping to Reform, Revise Islam*, Impact International, Vol.30, March 2000, p. 12; For the Arabic text of this complete letter, see the Yemeni newspaper, *atb-Thawra*, Issue 24.11.1419 A.H./11.3.1999.
- ¹⁴ Impact International, Vol.30, March 2000, p.27; also A'zamī, *Op. Cit.*, p. 12
- ¹⁵ Puin's letter to Q'adi Ismā'il al-Akwa', dated 14.12.1999, reproduced in Impact International, Vol.30, March 2000, p.27

I may add that if any proffered viewpoint clashes with the Prophet's own guidelines, either explicitly or otherwise, it becomes objectionable; in this light even the writings of devout Muslims may be rejected if they lack merit. This selectivity lies at the very heart of Ibn Sīrīn's (d. 110 A.H. / 728 C.E.) golden rule:

ان هذا العلم دين فانظروا عمن تاخذون دينكم

This knowledge constitutes your deen (religion), so be wary of whom you take your religion from.²³

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not claim afterwards having a variant version. For example A. Rodwell published an English translation of the Qur‘ān in 1861 rearranging the surah according to their order of publication under caption: *The Coran: Translated from the Arabic, the Surahs arranged in chronological order.*²⁰

Similarly Richard Bell made another translation in the early thirties with what he called a “critical rearrangement of the *Sūras*.”²¹

We conclude the discussion with M.M Azmi’s scholarly analysis of the issue of findings of Ṣan‘ā’ manuscripts who is also an eye witness of these fragments. He raises a question and then answers himself quite intellectually:

Question: If any complete or partial manuscripts are uncovered at present or in the future, claiming to be Qur‘ān but differing from what we now have in our hands, what impact would this have on the Qurānic text?

Answer: There will never be a discovery of a Qur‘ān, fragmental or whole, which differs from the consensus text circulating throughout the world. If it does differ then it cannot be regarded as Qur‘ān, because one of the foremost conditions for accepting anything as such is that it conforms to the text used in ‘*Uthmān’s Muṣḥaf*.’²²

Indeed A‘zamī has dealt with the case of Puin in a straightforwardly manner, he says that if we suppose “for the sake of argument that the findings are indeed true; what then is our response?” We will have to face three questions:

What is the Qur‘ān?

If any complete or partial manuscripts are uncovered at present or in the future, claiming to be Qur‘ān but differing from what we now have in our hands, what impact would this have on the Qur‘ānic text?

Finally, who is entitled to be an authority on the Qur‘ān? Or in general terms, to write about Islam and all its religious and historical facets?

Certainly anyone can write on Islam, but only a devout Muslim has the legitimate prerogative to write on Islamic and its related subjects. Some may consider this biased, but then who is not? Non-followers cannot claim neutrality, for writings swerve depending on whether Islam’s tenets agree or disagree with their personal beliefs, and so any attempts at interpretation from Christians, Jews, atheists, or non-practicing Muslims must be unequivocally discarded.

The discrepancies in writing *alif* at some places to which Puin refers belongs to this type of error or style in writing and they do not in any way affect the integrity and correctness of the text as whole.

Different Numbering of *Ayahs*

Slight difference in numbering of *ayahs* with regard to some *sur'ah* which Puin notices with regard to a few *surahs* is quite natural. Such difference in the numbering of *ayahs* is acknowledged even by some classical Muslim scholars and it does not affect the text at all. Significantly enough, while speaking about the difference in numbering of *ayahs* Puin does not at all indicate any difference in the text of the *surahs*.

Different Arrangement Order of *Sūras*

The conclusion that the *Surahs* were not written down in their final form during the lifetime of the Prophet or that a Qur'ān with a different ordering of the *Surahs* was in circulation for a long time just because two or three sheets have been found whereon some *Surahs* have been written in a different order, that is *Surahs* from different places of the Qur'ān in circulation have been put together, is hasty and untenable. It is important to note that it has been the habit of Muslims since the very beginning to make collection of selected *Surahs* in one compilation for purposes of study and memorization, especially by students at all *madrassahs*. And since mosques were invariably educational institutions it is not at all strange that such collection of selected *Surahs* should be found in stock of Arabic-manuscripts stored in a great mosque. In any case, by the very admission of Puin, this is confined to two or three manuscript sheets only out of more than 35,000 sheets. Before hazarding such a serious conclusion Puin and his sort should have got hold of copy of the Qur'ān, or a considerable part of the Qur'ān, showing a different ordering of the *Surahs* than that found in the existing Qur'ān. Professor Mohar 'Alī analyzes more comprehensively:

Even the existence of complete copy of the Qur'ān with different order of the *Surahs* does not ipso facto prove that such a Qur'ān prevailed among the Muslims unless it is proved that it was accepted and acted upon by them at any given time, for it is well known that for academic and other purposes the Qur'ān has been published from time to time with *Surahs* arranged 'according to the order of their revelation.'¹⁹

Not only Muslims but various non-Muslims have also published their translations of the Qur'ān with different arrangement of *surahs* and they did

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If we ponder at Puin's found discrepancies in Şan'ā' fragments, keeping in mind above discussion of variant readings, it becomes clear that these statements carry no weight of evidence, clearly far-fetched and totally untenable. It seems that the main theme runs behind his allegations is to resume the work of his ancestors to prepare a revised version of the Qur'ān. Let us critically evaluate his theology.

Endeavors for a Revised Version of the Qur'ān

In his reference to the collection of the Qur'ānic manuscripts at the University of Munich and the efforts of the orientalist in that connection, Puin refrains to mention a crucial fact. It is that, shortly before the outbreak of the Second World War the authorities in charge of those manuscripts had actually issued a statement in the basis of their study of them. In halls laid host to over 40,000 copies of the Qur'ān spanning different centuries and countries, mostly as photos of originals, while its staff busied themselves with the collation of every word from every copy in relentless excavation for variants:

Shortly before the Second World War II, a preliminary and tentative report was published that there are of course copying mistakes in the manuscripts of the Qur'ān, but no variants. During the war, American bombs fell on this Institute, and all was destroyed, director, personnel library and all but this much is proved that there are no variants in the Qur'ān in copies dating from the first to the present century.¹⁶

It is the matter of amusement that Puin wants to resume the work of Jeffery to prepare a variant version whereas Jeffery himself acknowledges this fact dejectedly, lamenting that "practically all the early codices and fragments that have so far been carefully examined, show the same type of text, such variants as occur being almost always explainable as scribal errors"¹⁷ Bergstrasser also reached a similar conclusion.¹⁸ Now we can ask: where does Puin stand?

Writing of *Alif*

The important thing, thank God, is that these Yemeni Qur'ānic fragments do not differ from those found in the museums and libraries elsewhere, with the exception of details that do not touch the Qur'ān itself, but is rather differences in the way words are spelled. This phenomenon is well-known, even in the Qur'ān published in Cairo in which is written:

Ibrhīm (ابراهيم) next to Ibrhm (ايرهم)

Qurān (قران) next to Qrn (قرن)

Sīmāhum (سيماهم) next to Sīmhum (سيمهم) etc .

In the oldest Yemeni Qur'anic fragments, for example, the phenomenon of not writing the vowel *alif* is rather common.¹⁴

G. R.Puin's Letter

Puin's letter to defend him is mere a twisting and turning of the words and it does not tally with what he actually says in his article. He says, as we have noticed that the Qur'ān, though it claims to be clear is not so, that the alleged discrepancies show variations in the Qur'ān. It is therefore necessary to discuss his claims and allegations briefly.¹⁵



His sensational and emotional attitude is quite noticeable in his description of availability of 35,000 microfilms of Ṣan'ā' manuscripts and quoting Puin's remarks:

This means that soon Von Bothmer, Puin, and other scholars will finally have a chance to scrutinize the texts and to publish their findings freely—a prospect that thrills Puin. "So many Muslims have this belief that everything between the two covers of the Koran is God's unaltered word," he says. "They like to quote the textual work that shows that the Bible has a history and did not fall straight out of the sky, but until now the Koran has been out of this discussion. The only way to break through this wall is to prove that the Koran has a history too. The San'ā' fragments will help us to do this."¹²

His article caused a great wave of protests and anger against the Yamani authorities handling of the manuscripts which in turn led Puin and Bothmer to fear that their relationship with the latter would be adversely affected. Hence each of them hurried to write a letter to Qāḍī Ismā'il al-Akwa' to clear their position. Puin defended himself as well as his colleague and denied all claims and revelations regarding Ṣan'ā' findings that Lester attributes to him. He wrote:

I am sorry to learn tht following the publication of (Toby Lester's) article in *Atlantic Monthly*, people in Ṣan'ā' were angry with the present and former heads of the Yemeni department of archaeology and that responsible officials were trying to cover up the matter. The press campaign about the Qur'ānic research that I and my colleague Dr. Graf von Bothmer are ding at Saarbrucken University is without any foundation.

I did not personally know the American writer of the article, but I have talked to him a number of times on telephone. As far as his own views about the Ṣana'ā' Magahi are concerned, they are of a fairly common nature and contain no dangerous finding. Here is a part of Puin's original letter- which he wrote to al-Qāḍī Ismā'il al-Akwa' shortly after Lester's article- with its translation.¹³

the Kufan counting....In general the number of separators seems to exceed the number of verses counted, which is clear from contradictory use of separators and markers for groups of five or ten verses. Separators are observed even at places where the Egyptian standard edition has the recitation mark (صلی)⁷

(3) **Different Arrangement Order of Surahs:**

Now, since we do have examples of different arrangement in Ṣan'ā' —are we allowed to invert of Weleh's argument, concluding from their exist and that most of the Surahs were not written down and put into approximately their final form during Muhammad's lifetime?__ The San'ani specimens are, however, not only proofs for their existence, but allow for the hypothesis that even more arrangements were in use which differed from the official sequence as well as from those reported to go back to the two authorities Ibn Mas'ud and Ubayy.⁸

Puin recognizes that these discrepancies are minor and they would not probably lead to any sudden and significant advance in the field of Qur'ānic studies. However he asserts that the Qur'ān, though it claims to be clear (*mubeen*) is not so.⁹

Toby Lester's Sensations about Manuscripts

Puin's writings gave rise wide-spread and wild speculations in the orientalist's circles if only because these fell on ready and willing ears. One of them was Toby Lester, who held telephonic conversations with Puin¹⁰ on the subject and then put forth an article in the January 1999. His article is made up of three types of materials:

- Information about the Ṣan'ā' and the conclusions said to have been arrived at by Puin.
- Assumptions of the other orientalist's like, Wansbrough, Cook, Crone, Nevo and J.A. Bellamy about the Qur'ān.
- Indications about what the orientalist's are doing or propose to do in the field Qur'ānic studies.

However, we shall concentrate upon only Toby Lester's views and conclusions about the Ṣan'ā' manuscripts. He looks more sensational in his article while discussing the findings of Ṣan'ā', than Puin. Toby Lester has written a lengthy article on the roots of these Ṣan'ā' findings.¹¹

The plan of Bergstrasser, Jeffery, and later Pretzl to prepare a critical edition of the Qur'ān was not realized, and the collection of variant derived from real old codices failed to survive the bombs of World War II. Many more old manuscripts are accessible now, which would justify a new approach, but no such undertaking is in sight. ⁴

Discrepancies in the Ṣan'ā' Manuscripts

In this article, he reveals the following peculiarities of the fragment discovered in Ṣan'ā':

Among the fragments of roughly nine hundred different parchment Mushafs, about 10 percent are written in peculiar pre-Kufic variety of script, Hijāzī or Ma'il. It is this group of manuscripts that was examined in a preliminary way in order to prepare a questionnaire for a more comprehensive investigation. Examples of these observations are recorded here according to the type of deviation from the Rasm of the Egyptian standard edition of the Qur'ān. My observations do not claim to be either new or unexpected. ⁵

Afterwards, he mentions what he has been able to note the following discrepancies in the Ṣan'ā' fragments:

(1) Defective Writings of *Alif*:

In a number of manuscripts the letter *alif* is written in an incorrect way: "defective writing of the *alif* constitutes the most common deviation from the *Rasm* of the printed standard edition. The spiritual appearance of the following examples presupposes an established oral tradition of correct reading, much more than the familiar *Rasm*-which has the *plene Alif*-does: *قال: q'al'u*, *قلت: q'ala*, *كنوا k'anū*, *سحر: s'ahir*, *بصحبكم bi-s'ahibikum*"⁶

(2) Numbering of Ayahs is Different:

The same true for the variants in counting the verses. Even in the most archaic manuscripts, the end of a meaningful portion of the text is marked by dots, strikes, Alifs, or similar signs. Many of the separators in the Yemeni manuscripts are placed in positions, however, that are not counted as the end of a verse according to



The fragments were discovered in 1972 in the loft of the Great Mosque. Subsequently the General Authority for Antiquities and Libraries took care of them in the *Dār al-Makhtūtāt*. Meanwhile the many thousand pieces of parchment at this stage have been cleaned and identified according to *Mushaf*, *Surah*, and *Ayah* at this stage complete microfilm documentation is needed in order to make the fragments available for study and for the preparation of a catalog. Unfortunately, the priorities of neither the German sponsor of the restoration project (Ministry of Foreign Affairs) nor of the Yemeni Antiquities administration seem to favor the idea.¹

*Palimpsest of Codex San‘ā’ 01-27.1, Dār al-Makhtūtāt al-Yamanīya, Sanaa, (Photo: Gerd Ruediger Puin; 1)*²

However, Toby Lester turns Puin’s disappointment into contentment when he reveals that his colleague of discovery has done the job. “H.C. Graf Von Bothmer, however, in 1997 finished taking more than thirty five thousand microfilm pictures of the fragments”³

Puin’s Determination

They worked at San‘a’ for some years in this project. It appears that besides being experts in restoration and preservation of manuscripts they had ‘Orientalist’ motives. As Puin wrote the above said article in an orientalist nature in which he starts with a thrilling leap on finding the variant version of the Qur’ān. He determines to complete the mission by his findings:

A CRITICAL STUDY OF THE ṢAN'Ā' QUR'ĀNIC FRAGMENTS

*Muhammad Feroz-ud-Din Shah Khagga**

Abstract: Most of the Orientalists have frequently asserted that the Qur'ānic text is hardly a preserved and divined discourse of God; rather, it is composed and fabricated by the Prophet of Islam. At the same time, many of the Western scholars bluntly described Qur'ānic textual developments and evolution by highlighting some major issues like multiple readings, 'Uthmānic recensions, codices of companions, orthography arrangement of verses and sūras and some transmissions apparently leading towards controversies in the text of the Qur'ān. However, a most significant story is of Toby Lester under title of "What is the Qur'an?" which got published in Atlantic Monthly and shortly received a huge applause by the West in view of proving the evolution in the Qur'ānic textual history. In 1972 a hoard of old parchments manuscripts containing manuscripts of the Qur'ān was discovered in the roof space of the Great Mosque of Ṣan'ā'. For the restoration and preservation of these parchments, Qaḍī Ismā'il al-Akwa', the President of Yemeni Antiquities Authority, invited two German scholars. Lester's article caused a great wave of protests and anger against the Yamani authorities handling of the manuscripts. In this paper, a scrutiny of this case has been made to explore the perspective of this story and its analyses on the bases of facts.

In 1972 a stock of old parchments manuscripts containing manuscripts of the Qur'ān was discovered in the loft of the Great Mosque of Ṣan'ā'. For the restoration and preservation of these parchments, Qaḍī Ismā'il al-Akwa', the President of Yemeni Antiquities Authority invited two German scholars especially Dr. Gerd- R. Puin and Hans-Christian Graf Von Bothmer, through the German Government in early eighties. G.R. Puin writes:

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