

# Principles of Policing In Islam and Muslim History Perspective

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### Abstract

Police is responsible for executing the primary most function of the state, namely protection of life, property and honor of the citizens, and maintaining law and order. Islam bestows glorious universal principles in guiding this most crucial institution which include obedience in obedience in ‘maroof’ only, ‘amar bil maroof’ and ‘nahi anil munkar’, protection of human rights, compliance of lawful orders alone, due process of law, no legal action on the basis of mere suspicion, impartial investigation based on facts and witness protection. The Holy Prophet (Peace be upon him) and the pious caliphs (may Allah be pleased with them), practiced these glorious principles in state administration and the subsequent Muslim history exhibits the effectiveness of systems devised on these principles, though partially. There is dire need to revamp the police institution in consonance with these principles in Pakistan, an ideological state created in the name of Islam, as a constitutional requirement.

**Keywords:** State, Police, Protection, Maroof, Principles, History, Reforms

### Cardinal Principles of Policing In Islam

Police is responsible for protection of life, honour and property of citizens. It is pivot of law enforcement to maintain law and order and ensure peace and tranquility on which depends the progress and development of all walks of national life.

Owing to its unique historical perspective, Islamic Republic of Pakistan is constitutionally an ideological state by all means, as is evident from the most significant Articles of the Constitution of Pakistan, 1973 like Article 2 (Islam to be the State Religion), Article 2A (Objectives Resolution), Article 31 (Islamic Way of Life), Article 203 C (Federal Shariat Court), and Articles 227 to 231 (Islamic Provisions and Council of Islamic Ideology). In the Constitution, it is unequivocally laid down that “steps shall be taken to enable the Muslims of Pakistan to order their lives in accordance with the fundamental principles and basic concepts of Islam”<sup>1</sup>, that “all existing laws shall be brought in conformity with the injunctions of Quran and Sunnah” and that “no law shall be enacted which is repugnant to such injunctions”<sup>2</sup>.

Islam attaches immense importance to the protection of human life, honour and property. Hence, the guiding principles for the institution of Police are based on these basic injunctions of Quran and Sunnah. Below are given the fundamental principles for Police in the light of Islam:

#### 1. Obedience in ‘Maroof’ Only

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Police, as all other organizations/departments of the state, is duty bound to obey only legal orders and fair directions of those who are at helm of affairs. The holy Quran has explicitly laid down the basic principle of policy:

وَلَا يَعْصِيَنَّكَ فِي مَعْرُوفٍ<sup>3</sup>

The word Maroof applies to only those orders and instructions which are legal and in consonance with teachings of Quran and Sunnah. Qurtubi has quoted at the authority of Kalbi that the word ‘maroof’ applies in general to all injunctions by Allah and his prophet (PBUH)<sup>4</sup>

The Holy Prophet (PBUH) is also reported to have expressly stated that:

السمع والطاعة على المرء المسلم فيما احب وكره ما لم يؤمر بمعصية، فإذا امر بمعصية فلا سمع ولا طاعة  
 “As-sama’ wat ta’at are obligatory for every Muslim whether he likes the orders or dislikes it, until he is ordered to obey something illegal. So, if he is given illegal orders, then there is no Sama’ wat taa’t.”<sup>5</sup>

The Prophet (PBUH), while propounding the Islamic concept of allegiance and obedience, stated that:

لا طاعة في معصية الله إنما الطاعة في المعروف

“There is no taa’t in disobedience of Allah (S.W.T). At-taa’t is only in what is ‘Maroof’.”<sup>6</sup>

Syed Abul Ala Maududi, while quoting the above two-traditions, refers to a multitude of sayings of Holy Prophet (PBUH) and his companions (R.T.A.) and asserts that the government is to be obeyed only when it issues legal orders. Only those orders of rulers and state functionaries are to be complied with which are legal and based on ‘Maroof’.<sup>7</sup>

## 2. ‘Amar bil maroof’ and ‘nahi anil munkar’

The prime responsibility of state is enforcement of law, promotion of good and suppression of evil. The holy Quran says:

الَّذِينَ إِنْ مَكَّنَّاهُمْ فِي الْأَرْضِ أَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ وَأَمَرُوا بِالْمَعْرُوفِ وَنَهَوْا عَنِ الْمُنْكَرِ

“These are the people, if we bestow authority on them on land, they establish system of as-Salaat, disburse the Zakat, and they direct Al- ma’roof and prohibit Al- munkar”.<sup>8</sup>

The holy prophet (PBUH) said in an oft quoted famous tradition:

مَنْ رَأَى مِنْكُمْ مُنْكَرًا فَلْيُغَيِّرْهُ بِيَدِهِ، فَإِنْ لَمْ يَسْتَطِعْ فَبِلِسَانِهِ، فَإِنْ لَمْ يَسْتَطِعْ فَبِقَلْبِهِ، وَذَلِكَ أَضْعَفُ الْإِيمَانِ

“Whoever notices something munkar, he must change it with the power of hand. And if he does not possess the (requisite) power, then he must change it with (use of) his tongue. And if he has not even possess that much power, then (he must do so) with his heart and it is the weakest degree of Iman.”<sup>9</sup>

The Qur’an has condemned the behavior of Bani Israel on this score.

كَانُوا لَا يَتَنَاهَوْنَ عَنْ مُنْكَرٍ فَعَلُوهُ ۗ

“They did not forbid one another from Al-Munkar.”<sup>10</sup>

## 3. Protection of Human Rights

### a) Life

Of all human rights, the most important are is the right to life. In the words of Quran:

مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا

“The one who killed a person, not in recompense of murder or (to prevent) Fasad fil Arz, it is as if he has put all humanity to death. And if someone saved the life (of a person), it is as if he saved the life of all humanity.”<sup>11</sup>

#### b) **Property**

After right to life, the most important is right to property and belongings. The Quran ordains:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ

“Do not devour up one another’s assets unfairly.”<sup>12</sup>

The word “unfairly” includes stealing, snatching, cheating, deceiving and all those forms and methods employed to divest someone of his property.

In an Islamic state, no person can be allowed to steal, snatch or take away the property or belongings of anyone else.

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا

“And the man and the woman (proved for the offense of) having committed theft and (punish them by), cutting off t hands of the both”<sup>13</sup>

#### c) **Honour**

The right to honour is protected amply in the injunction of Qur’an and Sunnah. Allah has forbidden fornication in all its manifestations and declared it a crime liable to Hadd.

الرَّزَايَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ

“The woman and the man (proved for the offense of) having committed Zina, punish each of the both with a hundred lashes.”<sup>14</sup>

#### d) **Peace and Order**

Fasad fil Arz is a situation which leads to anarchies and lawlessness in the society. The crime committed is not restricted to certain individuals; rather it threatens and endangers the society at large by jeopardizing its peace and order, its very existence.

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِّنْ خِلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ

“The only punishment of those persons who enter into conflict against Allah and His Prophet (PBUH) and strive to commit Fasad fil Arz is that they are to be killed or crucified or their hands and their feet are to be cut off from opposite sides or they are to be exiled from the territory.”<sup>15</sup>

#### 4. **Due Process of Law**

The right of freedom is guaranteed in Islam. Hazrat Umar (R.T.A) said:

لَا يُوسَرُ رَجُلٌ فِي الْأِسْلَامِ إِلَّا بِحَقِّ

“Nobody will be arrested in Islam except guilty”

Syed Abu-ul-Ala Maududi has equated it with the modern legal concept of judicial and due process of law. <sup>16</sup>

### 5. Compliance of Lawful Orders Alone

Islam gives each individual and, particularly the state officials, the right to refuse submission to illegal orders.

وَلَا تُطِيعُوا أَمْرَ الْمُسْرِفِينَ

“And follow not the command of Al-Musrifin.”<sup>17</sup>

The mufassirin have interpreted al-musrifin as those chiefs who are criminal and sinners. While mentioning the condemnable conduct of ‘Aad, Qur’an says:

وَاتَّبَعُوا أَمْرَ كُلِّ جَبَّارٍ عَبِيدٍ

“They followed the command of every proud, obstinate.”<sup>18</sup>

Imam Abu Hanifa has given the verdict that no oppressor has the right to lead the Muslims and if such a person imposes himself, his obedience is not obligatory. The Imam has used very meaningful words which saying that he will only be ‘tolerated’.

### 6. No Legal Action on The Basis of Mere Suspicion

Each individual in Islamic society is safeguarded against legal action against him merely on the basis suspicion.

أَجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ

“Stay away from too much misgiving, certainly some misgivings are (acts of) sin.”<sup>19</sup>

### 7. Impartial Investigation Based on Facts

Any person can be a crime suspect but it is only through professional, impartial and unbiased investigation that he is to be held guilty of the charge leveled against him or declared innocent. This investigation must be based on both circumstantial as well as direct evidence by the witnesses. Quran emphatically declares that:

أَمِنُوا إِن جَاءكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا أَن تُصِيبُوا قَوْمًا بِجَهَالَةٍ فَتُصْبِحُوا عَلَىٰ مَا فَعَلْتُمْ نَادِمِينَ

“In case a fasiq attends you with a piece of information, corroborate it (properly), so that you do not cause damage to (a certain) community in unawareness, and then you become remorseful of what you did.”<sup>20</sup>

### 8. Witness Protection

On the one hand, Islam enjoins upon its followers to come forward and produce the evidence which they have with them as witnesses.

وَلَا يَأْبَ الشُّهَدَاءُ إِذَا مَا دُعُوا وَلَا

“And the witnesses are not to repudiate when they are called upon (bear witness).”<sup>21</sup>

On the other hand, Islam lays down foundations of a sound witness protection programme, making it mandatory for the both state and individuals to ensure that the witnesses remain unharmed.

وَلَا يُضَارَّ كَاتِبٌ وَلَا شَهِيدٌ وَإِن تَفَعَلُوا فَإِنَّهُ فُسُوقٌ بِكُمْ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ

“And do not harm the one who pens down (the document) and the one who bears witness. And if you do so, it is (an act of) *fiṣq* on your part. And be fearful of Allah; and Allah teaches you, and Allah is All-knower of everything.”<sup>22</sup>

### Historical Perspective of Policing In Islam

Since the dawn of history, even in most primitive societies, there has always been a need for an institution, consisting of dedicated functionaries to maintain law and order, enforce laws and protect life, honour and property of the citizens.

D.A. Girling has rightly remarked that:

“Some kind of compulsion has always been necessary in the most primitive communities for securing effective observance of law and order”.<sup>23</sup>

The origin of word ‘Police’ is traced back to the Greek word “Polis”. This word, which meant ‘city’ in ancient Greece, denotes an institution which prevents and detects crime as well as maintains law and order.<sup>24</sup>

The origin of institution of police is traced back to the Anglo-Saxon Tithing in the 18<sup>th</sup> century in England.<sup>25</sup> It was in the wake of industrial revolution and subsequent socio-political changes that in 1829 London Metropolitan Police Act laid the foundation of modern police beginning with a thousand uniformed officials.

### During Prophethood

However, when we study the annals of Islamic history, it is evident that the institution of police had been conceptually and functionally present in its budding stage even in the period of Prophet (PBUH). We can safely contend that the functions of police were carried out not only by the Prophet (PBUH) himself, but he also deputed his companions for performing the duties which were police functions in strict sense of the word. He himself conducted patrolling in the area and checked whether commodities were being sold without adulteration and deception or not.<sup>26</sup>

During one of such patrolling inspections, he discovered that a seller of grain had mixed up wet grain by concealing it beneath the dried grains. He pronounced the policy statement on that occasion by saying:

مَنْ غَشَّنَا فَلَيْسَ مِنَّا

“The one who adulterates is not from amongst us.”<sup>27</sup>

He has been reported as having said:-

لي الواجد يحل عرضه وعقوبته

“Default in paying back debt by a rich person renders his honour and punishment lawful.”<sup>28</sup>

Ibn Mubarak has interpreted the punishment declared lawful by the Prophet (PBUH) to be the punishment of imprisonment.

The act of Prophet (PBUH) whereby he would order the prisoners to be tied with rope with pillars of Masjid-e-Nabvi is in itself a police function.<sup>29</sup> The Holy

Prophet (PBUH) also conducted interrogation when Ma'iz Aslami confessed having committed Zina<sup>30</sup>. He questioned them in depth to determine whether these confessions were under the influence of mental imbalance or psychological stress or otherwise<sup>31</sup>.

The Holy Prophet (PBUH) appointed Qais bin Sa'd bin Ubadah to perform police functions of arrest and imprisonment. That is why Anas bin Malik has likened him with Sahib-ash-Shurta (The term used in later Islamic history for police chief:

كَانَ قَيْسُ بْنُ سَعْدٍ مِنَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِمَنْزِلَةِ صَاحِبِ الشُّرْطِ مِنَ الْأَمِيرِ<sup>32</sup>

Mughira bin Shu'ba performed security duties to protect the person of Prophet (PBUH) when on the eve of the Hudaibia Treaty, he kept standing vigilantly and watchfully by the side of Holy Prophet (PBUH) with a sword in his hand.<sup>33</sup>

### **During Pious Caliphate**

It was during the caliphate of Hazrat Umar (R.T.A) that the regular institution of police was founded and it started functioning as a separate state organ. Hazrat Umar Farooq (R.T.A) established an elaborate administrative system both at Markaz-e-Khilafat, as well as at the provinces.

He was the first to lay the foundations of a regular police force, called al-Ahdas which was responsible to maintain order and discipline in the society.

There are numerous instances which prove that Hazrat Umar (R.T.A) performed police functions himself. He conducted patrolling, sometimes in disguise at nights. Some of the principles which he introduced in the state of Madina are at par with, and at times ahead of, modern theory of criminal justice system.

He had issued instructions that nobody will give refuge to or harbour the absconding culprits. The murderers of Umm-e-Waraqah were chased and hunted with the decree that no one will harbour them. They were arrested and put to death in qisas.

We find instances where use of forensic science was also made during the process of investigation. Hazrat Ali (R.T.A) got the clothes of a female complainant washed with hot water to determine the genuineness of semen traces. The woman had alleged an innocent person of having committed Zina with her under duress. The traces turned out to be those of the egg white, leaving no option to the lady, who had fabricated it, except confessing her lie. The expert opinion extended hence by Hazrat Ali (R.T.A) explicitly exhibits the inquisitive wisdom and professional excellence of investigative techniques introduced by Hazrat Umar (R.T.A) in dispensation of justice.

The concept of lady police officials was also introduced during this era. A female companion (Sahabia), namely Shifa bint Abdullah was appointed as supervisor of bazaars. Another lady, namely Samra bint Asadia used to patrol in the area and punish those involved in evil practices in the bazaars.<sup>34</sup> If the

miserable status of women before advent of Islam is taken into due consideration, this revolutionary change of women policing is quite startling.

According to Shibli Nomani, during the caliphate of Hazrat Umar (R.T.A), the department of police was established on regular basis with the name of ‘Ahdas’. The chief of police was styled as ‘Sahib-ul-Ahdas’. Hazrat Abu Huaira (R.T.A) was entrusted with functions of police in Bahrain.<sup>35</sup> Shibli Nomani is of the opinion that it cannot be said with certainty whether all these functions were performed by Sahib-ul-Ahdas or a separate Ehtisab department had been established. These functions include checking proper weighing by shopkeepers, sale of liquor, construction of buildings on thoroughfares and overloading the beasts of burden etc. As we can see of today, for these functions police has been mandated under Police Order 2002<sup>36</sup>.

However, it was during the period of Hazrat Ali (R.T.A), the forth pious caliph, that a regular municipal office was established with the name of Shurta whose chief was known as Sahib-ush-Shurta. The duties of Shurta included inspection of bazaars, examination of scales, and detection and prosecution of crimes.<sup>37</sup> Sahib-ush-Shurta would remain present all time in the court of caliphate and enforce the orders issued by the pious caliph.

The word Shurta is derived from word Shart. In the earlier days of caliphate, the word Shurta was used for the most daring and sacrificing advance contingent of army who imposed on themselves the condition that they will fight till last drop of blood and sacrifice their lives instead of retracting.<sup>38</sup>

Same has been explained in ‘Arabic English Lexicon’ that “they are choicest men of the army, and such as compose the first portion of the army that is present in the war or fight and is prepared for death; ‘the bravest of an army’.

The duties and functions of Shurta covered a range of multitude of tasks. It was basically a ‘police force’ and an ‘internal security force’.

Qais bin Sa'd bin Ubadah, who was in the likeness of Sahib-ush-Shurta in the eyes of Anas bin Malik, headed a para-military force of 12,000 men performing military as well as police functions during the caliphate of Hazrat Ali (R.T.A).

### **During Umayyid and Abbasid dynasties**

During the Umayyad dynasty, the organization of police was renamed as Ahdas, with Sahib-ul-Ahdas as its chief. He was responsible for detection of crime, bringing the culprits to punitive justice and preventing crime through effective measures eliminating the very causes of criminal activities.<sup>39</sup> Policing of the provinces remained with the provincial executives; however it was under the supervision of Sahib-ul-Ahdas.

During Abbasid Caliphate, the chief police officer got the title of Sahib-ush-Shurta again. He used to be a man of great influence and prominence. He used to hold the status of a minister or a governor. Ibn Khaldun describes the functions of police in the Abbasid dynasty as well as the dynasties of Umayyads

in Spain and Ubaydis (Fatimids) in Egypt as ‘wider than those of the office of the judge’.<sup>40</sup> The police functions were divided into two categories.

The Umayyads had further subdivided the office of al- Ahdaas into Kubra and Sughra departments. The responsibility of Kubra department was to deal with royal family members, nobles and aristocrats. The Sughra department handled the masses in general.<sup>41</sup> According to Ibn-e-Khaldun, Sahib-ush-Shurta maintained law and order, curbed crime, conducted investigations and punished the guilty. He also looked after the highways and thoroughfares.<sup>42</sup>

Almawardi has explained the duties and functions of police under caliphate in detail. Only a person of prominence, noble lineage and integrity was appointed as Sahib-ush-Shurta. He was empowered to maintain law and order, prevent crime and arrest the law breakers and mischief mongers.<sup>43</sup>

In Muslim Spain, there was a city police chief with the title of Sahib-ul-Madina (Officer of the city) or Sahib-ul-Lail (officer of the night). In dangerous areas, pickets were established by police with trained dogs. The police officers were well paid so that they might not get tempted to monetary and other benefits.

In Baghdad, the salary of Sahib-ush-Shurta was equal to that of the governor.

Police remained under judiciary in the beginning. However, subsequently it was separated as an independent organization.

The first and foremost responsibility of a state is to ensure protection for its people, irrespective of caste, creed, race and religion against all kinds of criminal acts and disorder. Pakistan is an ideological state, and Islam, its declared state religion, is a complete code of life. Being the most significant organ of this ideological state entrusted with the responsibility of these crucially prime state functions, Police plays pivotal role in creating and maintaining a tranquil, secure and peaceful environment in the society through effective preventive and detective strategies aimed at preservation of law and order. The improved internal security situation leads to rapid economic progress, favorable commercial environment and sustained growth rate.

Islam, the state religion of our country, has been declared to be the guiding spirit in all legislations and enactments according to provisions of the Constitution. It is essential that the issue of Police Reforms is put to the litmus test of glorious teachings of Quran and Sunnah to determine its conformity or, otherwise, to the injunctions of Islam.

It is not only a constitutional requirement but also a national responsibility. The issue is not of merely an academic nature, it is the most sensitive area of state functioning affecting our individual and collective life.

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