

IQBAL'S VISION OF 'SHARIAH' IN  
TWENTY FIRST CENTURY: AN  
ANALYTICAL PERSPECTIVE

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## ABSTRACT

This article explores Allama Iqbal's vision of Shariah, focusing on his approach to reinterpreting Islamic legal principles in light of modern conditions. Iqbal, a philosopher, poet, and reformer, emphasized the need to adapt foundational legal principles from the Qur'an to contemporary social, economic, and political contexts. His work, particularly *The Reconstruction of Religious Thought in Islam*, advocates for legislative processes in Muslim countries that are both Islamic and attuned to the demands of modern life. The article outlines Iqbal's distinction between foundational and non-foundational legal principles in the Qur'an, asserting that while certain principles are eternal, many others require reinterpretation to address evolving societal needs. Iqbal critiques the reliance on past juristic interpretations and stresses that legal systems should evolve with human progress. Furthermore, the article highlights how Iqbal's reinterpretation principle could be applied to various Islamic laws, such as inheritance, will, and marriage, while emphasizing that his vision of Shariah remains an academic exercise yet to be fully realized in the modern Muslim world.

Iqbal represents a complex human entity. In his mortal frame, we find an assemblage of a philosopher, a poet, a reformer, a jurist, a politician and a leader. His poetry has no territorial limitations in view of being deeply inspiring and extremely spiritual. Throughout his all compilations of poetry, his focus was on awakening of the human consciousness and revitalizing of one's inner self. This fact appealed to everyone irrespective of religion, colour, language and creed.

Equally important his contribution has been in the form of book titled "Reconstruction of Religious Thought in Islam". This book is essentially not for everyone but for Muslim intellectuals, economists, philosophers and jurists. The sixth chapter of the book titled "The Principle of Movement in the Structure of Islam" is primarily aimed at outlining the future law-making process in a Muslim country. His endeavour is to have such a legislation in a Muslim country which is Islamic and at the same time in accordance with the demands of modern life.

### **Iqbal's Vision of Shariah**

Every discipline of our life has immeasurably changed over time, so we need to revisit the Shari'ah in a new social, economic and political contexts. But the issue is how to proceed. An acceptable solution has been advocated by Allama Iqbal in following words:

The claim of the present generation of Muslim liberals to reinterpret the foundational legal principles deduced from Qur'an in the light of their own experience and the altered conditions of modern life, is, in my opinion, *perfectly justified*.<sup>1</sup>

In other words, for Iqbal Shariah in twenty first century means the sum total of enacted laws based on reinterpretation of foundational legal principles deduced from the Quran. Thus, one can identify the following three components of Shariah in modern times:

1. Every legal issue should be referred to the Quran.
2. Legal verses in the Quran are either foundational or non – foundational.
3. Foundational legal principles in the Quran need to be deduced from time to time and reinterpreted in the light of our own experiences and altered conditions of modern life.

## Every legal issue should be referred to al-Quran

About the Quran, Iqbal writes:

Qur'an is a complete book and is itself claimant of its excellence. But what is needed is the practical demonstration of this excellence with regard to human politics, meaning thereby that all important principles are present in it and such and such rule can be deduced from such and such verse.<sup>2</sup>

It is my belief that any person who analyses contemporary jurisprudence or legal fundamentals from the Qur'anic viewpoint and proves eternity and permanence of Qur'anic principles, he would be *mujaddid* of Islam and a great servant of mankind.<sup>3</sup>

Iqbal considers the spirit of Islam completely imbedded in the Qur'an and advises Muslims for not going outside the Qur'an for discovering the aim and object of Allah.<sup>4</sup> In a letter to Dr. Nicholson, he writes:

Qur'an is not only the book of metaphysics but whatever has been said in it about this world and the hereafter, has been said with absolute finality. This is another thing that it is related to metaphysical problems.<sup>5</sup>

The truth is that for Iqbal, Quran is everything. This fact has been unquestionably accepted by Maulana Abul Ala Mawdudi in following words:

Whatever Iqbal has thought he has thought through the brains of the Qur'an and what-ever he has seen he has seen through the eyes of the Qur'an. Truth and Qur'an were for him, one and the same, and in this one thing he was so absorbed that among the theologians of his century I have never seen any person who may have lived such life of fanafi'I Qur'an (annihilation in the Qur'an) as this M.A., Ph.D. Bar-at-Law.<sup>6</sup>

Regarding the legal content of the Quran, Iqbal writes:

The primary source of the law in Islam is the Qur'an. *Qur'an, however, is not a legal code.*<sup>7</sup>

Still, he expresses his views about legal content of the Qur'an in following words:

It is most copious on marriage and divorce, most precise in rules of inheritance and if compared to Christianity (Bible), possesses far greater vitality and responsibility instead of being arbitrary and despotic. It has true democratic characteristics in form and substance.<sup>8</sup>

He was further of the view:

Turning now to the groundwork of legal principles in the Qur'an, it is perfectly clear that far from leaving no scope for human thought and

legislative activity, the intensive breadth of these principles virtually acts as an awakener of human thought.<sup>9</sup>

One thing which needs clarification is that in relation to law in future, Iqbal simply demands our focus on the Quran. Nowhere in *Reconstruction*, has he insisted on identification of foundational legal principles from Hadith. Rather he had some doubts about Hadith as a source of law. He writes:

For our present purposes, however, we must distinguish traditions of a purely legal import from those which are of a non-legal character. With regard to the former, there arises a very important question as to how far they embody the pre-Islamic usages of Arabia which were in some cases left intact, and in others modified by the Prophet. It is difficult to make this discovery, for our early writers do not always refer to pre-Islamic usages. Nor is it possible to discover that the usages, left by the express or tacit approval of the Prophet, were intended to be universal in their application.<sup>10</sup>

### **Foundational and Non-Foundational Legal Principles in the Quran**

Muslims in general believe that the legal verses of the Qur'an are eternal and unchangeable. However, for Iqbal legal verses in Quran can be foundational and non-foundational. Foundational legal principles can be defined as those principles on which future laws and rules can be founded or based. So far non-foundational legal principles are concerned, they are those principles which are developed and evolved from foundational principles and have secondary importance.

For Iqbal, foundational legal principles can be either conceptual or institutional. The conceptual foundational legal principle can be illustrated by his following writing:

The essence of 'Tawhid' as a working idea, is equality, solidarity and freedom...<sup>11</sup> Islam as a polity, is only a practical means of making this principle 'Tawhid' a living factor in the intellectual and emotional life of mankind.<sup>12</sup>

The notion of institutional foundational legal principle can be impliedly identified in his letter to Syed Sulaiman Nadvi.<sup>13</sup> In the letter, he enquires as to whether:

Inheritance verses relating to shares are inherently eternal or only the rules which relate to inheritance regulations are unchangeable and there can be change in shares according to circumstances.

What can be grasped from these lines is that he treats institution of inheritance and the inheritance regulations unchangeable. But at

the same time he had a feeling that quantum of shares may be changeable according to the circumstances. If my understanding is correct, then quantum of shares falls under non-foundational legal principle.

Institutional foundational principles may include marriage, inheritance, *Hiba*, *Talaq*, *Khula*, *Halala*, *Hadd*, *Qisas*, *Diyat*, *Tazir* and other institutions.

### **Reinterpretation of Foundational Legal Principles**

It is evident now that for Iqbal, every legal verse in the Quran is not foundational. Most of the legal verses according to him are non-foundational implying thereby that such verses can be ignored in relation to practical application if the situation demands. However, he does insist on identifying foundational legal principles in Quran. After identifying these legal principles, he does not want us to interpret and apply these principles the same way as it was done fourteen centuries ago. Rather he advocates reinterpretation of the legal principles in the light of our experiences and altered conditions of modern life.

As to what sort of legislative activity is permissible in the Qur'an and are there any limitations on such activity were the other problems which confronted Iqbal. In this regard he is of the view that we should not be handicapped by the legislative activities of the past jurists. He writes:

Our early doctors of law taking their clue mainly from this groundwork evolved a number of legal systems; and the student of Mohammedan history knows very well that nearly half of the triumphs of Islam as a social and political power were due to the legal acuteness of these doctors... *But with all their comprehensiveness these systems are after all individual interpretations, and as such cannot claim any finality.*<sup>14</sup>

The reasons as to why we should resort to legislative activity have been explained by Iqbal in the following words:

Since things have changed and the world of Islam is today confronted and affected by new forces set free by the extraordinary development of human thought in all directions, I see no reason why this attitude recognising the finality of scholars should be maintained any longer. Did the founders of our schools claim finality for their reasonings and interpretations? Never... *The teaching of the Qur'an that life is a process of progressive creation necessitates that each generation, guided but unhampered by the work of its predecessors, should be permitted to solve its own problems.*<sup>15</sup>

All this discussion informs us that there is a need to reinterpret foundational legal principles in the Quran in the light of our circumstances and altered conditions of modern life.

### **Changeability of Foundational Legal Principle**

What may be a foundational legal principle today may not remain it so tomorrow. For example, we have a comprehensive discussion about slavery in the Quran. But slavery has been banned throughout the world. Even Saudi Arabia did sign relevant document in 1962. Conversely, Islamic injunctions regarding environmental protection remained unimplemented for centuries in view of unpolluted atmosphere globally till recent years. But in view of environmental crisis at the moment, every injunction in Islam focussing on safe and clean environment has relevance for today. We are told through the Quran and the Hadith to conserve and preserve earth. Physical and social cleanliness is ordained on Muslims. Equally there is an emphasis on planting of trees.

All these details have been given with the object of emphasising that while slavery as one of the foundational legal principle in Islam has lost its importance with the passage of time, it has been replaced by foundational legal principle of environmental protection.

### **Tawhid as Foundational Legal Principle**

In the concept of Tawhid, Iqbal assembles a group of legal principles. As mentioned earlier, he writes:

The essence of 'Tawhid' as a working idea, is equality, solidarity and freedom... Islam as a polity, is only a practical means of making this principle Tawhid a living factor in the intellectual and emotional life of mankind.

But the fact is that he did not want the words 'equality, solidarity, and freedom' to be interpreted in the light of interpretations made by the past jurists but in accordance with our circumstances and altered conditions of modern life. Had he kept the Islamic explanations in mind about these words, then he would not have insisted upon Muslims to be guided by the developments in Turkey. He observes:

If the renaissance of Islam is a fact, and I believe it is fact, we too one day, like the Turks, will have to re-evaluate our intellectual inheritance...<sup>16</sup>—The truth is that among the Muslim nations of today, Turkey alone has shaken off its dogmatic slumber and attained to self-consciousness. She alone has claimed her right of intellectual freedom;

she alone has passed from the ideal to the real, a transition which entails keen intellectual and moral struggle. To her the growing complexities of a mobile and broadening life are sure to bring new situations suggesting new points of view and necessitating fresh interpretations of principles which are only of an academic interest to a people who have never experienced the joy of spiritual expansion.<sup>17</sup>

### **Application of ‘Reinterpretation’ Principle**

There are numerous verses in Quran which, if simply interpreted, rather than reinterpreted, by a contemporary Muslim jurist or law student, would provide us rules which are very close to modern jurisprudence. The interpretation of such verses by classical jurists, *with due regard and respect for their legal acumen*, have many a time led to very complicated and often unjust outcome. The truth is that one can find no scope for Instant Triple Talaq, doctrine of ‘Halala’ and other doctrines developed by Sunni and Shia jurists. In this regard I hereby focus on Islamic law of will, inheritance, Halala doctrine, nearer in degree excludes more remote principle and diyah.

### **Will (Wassiyat)**

In relation to Will, there are following verses in al-Quran:

It is decreed for you that when death approaches one of you, if he leaves property, *he shall write a will in favour of the parents and relatives equitably*. This is a duty upon the righteous.<sup>18</sup>

If anyone changes a will after he has heard it, the sin of altering the will shall befall those responsible for altering it. God is Hearer, Knower.<sup>19</sup>

If one sees gross injustice or bias on the part of the testator and takes it upon himself to effect a reconciliation between them to restore justice to the will, he commits no sin. God is Forgiver, Most Merciful.<sup>20</sup>

It is evident in these verses that Allah obligates us to transfer our property through a will to our parents and relatives equitably and imposes it as a duty upon the righteous. In all these verses there is no mention about the limit of 1/3 and no bequest to an heir as is recognized by Sunni Law.<sup>21</sup> Sunni jurists have developed such limitations on the basis of following Hadith reported in Al-Bukhari:<sup>22</sup>

The Prophet, peace be upon him, in response to a question from Sa’d Ibn Abi-Waqqas - who was sick and believed that he was about to die - if he should bequeath his entire estate to charity, to the exclusion of



his only daughter, refused; Sa'd then suggested one half of the estate and again the Prophet refused, upon which he proposed that he will only one third. *The Prophet reluctantly approved suggesting that even that was too much. He also advised the dying man that it was better to leave his child rich rather than poor.* <sup>23</sup>

One thing is clear in this Hadith that the Prophet [SAW] allowed such Wassiyat as an exception on the persistent insistence of Sa'd Ibn Abi-Waqqas. The words "it was better to leave his child rich rather than poor" imply that the Prophet [SAW] did not intend this exceptional permission to be generalized and on this permission develop a rule that Wassiyat cannot be made beyond the limit of 1/3 and to an heir. But that is the law under Sunni School.

The truth is that Quran does contain rules which enable us to will away our property to any person particularly children and other relatives without any limit in relation to quantum and beneficiary. However, the approach adopted by our classical jurist in relation to wassiyat has caused injustices to our children, parents and spouses by developing such rules which mostly under Sunni jurisprudence do help remotest relatives in comparison to one's daughters, son's daughters' and spouses. Even a distant male relative disinherits a daughter's daughter and nearest heirs claiming through female. Contrarily, the freedom to will away one's property irrespective of limit and beneficiary is being followed through legislation globally in non-Muslim societies. So what was devised by Quran for Muslims has benefited non-Muslims.

### **Inheritance Rights in Quran**

Likewise, Quran provides us most rules relating to inheritance in chapter 4, An-Nissaa', from verses 7 to 14. These verses focus on inheritance rights of women and spouses among other heirs and lay down the rules in case of intestacy. At verses 11 and 12 we are informed, in part:

Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are [only] daughters, two or more, for them is two thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a sixth of his estate if he left children. But if he had no children and the parents [alone] inherit from him, then for his mother is one third. And if he had brothers [or sisters], for his mother is a sixth, after any bequest he [may have] made or debt. Your parents or your children - you know not which of them are nearest to you in benefit. [These shares are] an obligation [imposed] by Allah. Indeed, Allah is ever Knowing and Wise. And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any

bequest they [may have] made or debt. And for the wives is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you [may have] made or debt. And if a man or woman leaves neither ascendants nor descendants but has a brother or a sister, then for each one of them is a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, as long as there is no detriment [caused]. [This is] an ordinance from Allah, and Allah is Knowing and Forbearing.

It is evident from these verses that Quran specifically mentions the list of heirs and the circumstances under which they can inherit. The heirs are husband, widow, daughter, father, mother, full sister, consanguine sister, uterine brother and uterine sister. Sunni jurists however added three more heirs to this list namely son's daughter, true grandfather and true grandmother.

The result is that we have Sunni law and Shia law of intestate succession both claiming based on Quran. However, the outcome is many a time contradictory. On the basis of principle of 'Agnacy', remotest male heirs under Sunni law take the property to the exclusion of nearest blood relationship. For example, under Sunni Law, if the deceased left daughter's daughter and paternal uncle's son 'son, the latter will take whole property. Under Shia Law, the outcome is opposite and daughter's daughter will exclude paternal uncle's son' son.

### **Doctrine of *Halala***

The doctrine of *Halala* has its origin in Quran.<sup>24</sup> Under this doctrine, if a man divorces his wife for the third time, it would constitute an irrevocable divorce and it would be impermissible for him to marry the same woman again unless and until she (perchance) marries another man, consummates the marriage, and the man dies or of his own will divorces her. In case of instant triple talaq, this doctrine becomes immediately applicable. If we treat it as a foundational legal principle, then according to Iqbal we can reinterpret it in the light of our own experiences and altered conditions of modern life. Such reinterpretation may mean the retention of this principle with some amendments or if the situation demands its total abandonment. It has been already done in Pakistan. Section 7 (6) of the Muslim Family Laws Ordinance, 1961 deals with the issue of intervening marriage (*Halala*). It reads:

Nothing shall debar a wife whose marriage has been terminated by talaq effective under this section from remarrying the same husband, without an intervening marriage with the third person, unless such termination is for the third time so effective.

### **Nearer in Degree Excludes more Remote**

One of the principles of Islamic law of inheritance is that a nearer relation of the deceased excludes remoter relation. This rule has no reference in Quran and is based on the following hadith:

Give the *faraid* (Quranic Shares) to those who are entitled to receive it. Then whatever remains should be given to the closest male relative of the deceased.<sup>25</sup>

All the mature legal systems of the world recognise this rule with some exceptions. The strict application of this rule, however, leads to injustice to orphaned grandchildren in case the deceased has left son under Sunni Law and Son or daughter under Shia law.

In order to address the problems created by this rule, Muslims countries have enacted legislations which mandate the grandparents to make *Wassiyat* in favour of the grandson to the extent of 1/3<sup>rd</sup> of the property. If the grandfather fails to make *Wassiyat*, then law presumes that it has been made in favour of the orphaned grandson.

If we apply Iqbal's 'Reinterpretation' principle to this situation, then a legislation can be enacted which can provide that 'nearer in degree excludes more remote' rule will not apply to the descendants, whether male or female of the deceased. The basis for such rule will be that we will have to look at the nearer relation to the deceased through each pre-deceased descendant rather focusing on the deceased. Suppose a person died leaving behind

1. Son and Son's Son
2. Sons's Son and Son's Son'Son
3. Son's Son, Sons' and Son'Son' Son'Son

If we apply Sunni Law of inheritance as it is, Son as a nearer relation will take whole property and exclude all the heirs mentioned in the example. What we need to do is to see who is nearer to the deceased in each branch. Such approach will allow inheritance to Son's son and Son's Son's Son mentioned in entry 2 and entry 3 along with Son.

This approach needs to be adopted in relation to both male and female descendants. Such law has been already enacted in Pakistan in 1961. Section 4 of the Muslim Family Laws Ordinance reads:

Succession: .In the event of death of any son or daughter of the propositus before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall per

stripes, receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive.

## **Dīyah**

For legal purposes, *dīyah* (blood money and ransom) is the financial compensation paid to the victim or his/her heirs. In essence, in the case of death it is the fine paid by the killer or his/her family or clan to the victim's family or clan; in case of injury or grievous injury, it is paid to the victim.

Qur'an allows *dīyah* in cases of both intentional and accidental killing.<sup>26</sup> However, Qur'an leaves the quantity, nature, and other matters related to *dīyah* open to the society's customs and traditions. The problem is that four Sunni legal schools of thought do not provide uniform rate of *dīyah* for Jewish and Christian heirs. The Shafi'is prescribe one third of the amount paid for a Muslim, the Malikis prescribe one half, and the Hanafis do not differentiate between Muslims and non-Muslims. Such a practice is still followed in Arab countries. For example, in Saudi Arabia the victim's heirs have the right to settle for *dīyah* instead of the death sentence. The prescribed blood money rates are:

- 300,000 riyals if the victim is a Muslim man
- 150,000 riyals if a Muslim woman
- 150,000 riyals if a Christian or Jewish man
- 75,000 riyals if a Christian or Jewish woman
- 6,666 riyals if a man of any other religion
- 3,333 riyals if a woman of any other religion.<sup>34</sup>

Islam stands for justice and equality. The issue is whether the approach adopted by Sunni jurists and Saudi Arabia regarding the quantum of compensation is in accord with these principles. Iqbal's 'Reinterpretation' principle will simply adopt equal diyat approach for the family members of the victims irrespective of victim's religion.<sup>27</sup>

## **Conclusion**

What can be concluded from the above discussion is that Iqbal does not want a secular law but a law based on the foundational legal principles deduced from the Quran. But the fact is that Iqbal's views about shape and content of Shariah in future have so far proved an academic exercise. Least attention is paid by Muslims of Indian sub-continent to dynamic and awakening features of the Qur'an ; legal content of the Qur'an; consonancy of legal activities of a Muslim with the Qur'anic spirit and interpretational permissibility enjoined by the Qur'an. <sup>28</sup> Overall the Muslim

community is still of the view that all the legal verses in the Qur'an are of eternal value and future legislation has to take place literally in the light of all these verses. In India, it still holds good that in administering Muslim law no court should attempt to put its own construction on any Qur'anic text,<sup>29</sup> or examine the conformity of any traditionally settled legal principle with the relevant text of the Qur'an<sup>30</sup> or in any way circumvent or deviate from the law as settled by the jurists of the past even if it does not sound "modern", "just" or "logical".<sup>31</sup> Like-wise lawyers of modern age are not allowed to introduce new rules of law by claiming that they logically follow from the texts of the Qur'an.<sup>32</sup> However, Indian Supreme Court recently declared Instant Triple Talaq unconstitutional.<sup>33</sup> Consequently, the Indian Government issued an ordinance wherein the pronouncement of Instant Triple Talaq has been made an offence. The offence has been declared non-bailable and the offender can be sentenced to an imprisonment for a maximum period of three years. Even a Bill has been introduced in Indian Parliament to enact law relating to criminalization of Instant Triple Talaq. However, in view of resistance from all opposition parties of India, so far the bill has not become law.

In conclusion, it seems that it would take, if not centuries, at least decades, to realize Iqbal's dream of Muslim nations, like the Turks, re-evaluating their intellectual inheritance<sup>34</sup> and shaking off their dogmatic slumber.<sup>35</sup> So far Iqbal's suggestion to identify and reinterpret foundational legal principles deduced from the Qur'an has not much impressed the legislators and jurists of the Muslim countries.

## Notes and References

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- <sup>1</sup> M. Iqbal, *The Reconstruction of Religious Thought in Islam*, A. P., Lahore, 1989, p. 134. (Hereinafter referred to *Reconstruction*). [Italics Supplied].
  - <sup>2</sup> Ilias Rana, *Qur'an Aur Iqbal* in Bahar Allahabadi (Ed.), *Tafsir-i-Iqbal*, 13-26 at 14 (Urdu); Annemarie Schimmel, Gabriel Wing, 2nd Edn., Lahore, 1989, p. 222.
  - <sup>3</sup> Letter to Sufi Ghulam Mustaffa Tabassum dated 2 September 1925. For details B. A. Dar, *فکر اقبال اور مسلمہ اجتہاد*, Iqbal, Vol. II No. 2, pp. 29-48 at 41.
  - <sup>4</sup> Muhammad Hussain Arshi Amritsari, "Hayat-i-Iqbal ka Aek osha-i-Pinhan", *Iqbal Review*, Vol. 15 No. 2, pp. 1-12 at 11 (July 1974).
  - <sup>5</sup> Supra note 2 at 15.
  - <sup>6</sup> Annemarie Schimmel, *Gabrial Wing*, 2nd Edn. Lahore, 1989, p. 222.
  - <sup>7</sup> *Reconstruction*, p. 131. [Italics Supplied].
  - <sup>8</sup> R.H. Gillani, *The Reconstruction of Legal Thought in Islam*, Delhi, 1982, p. 55.
  - <sup>9</sup> *Reconstruction*, p 133
  - <sup>10</sup> *Ibid.*, p 136
  - <sup>11</sup> *Ibid.*, p 122

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- <sup>12</sup> *Reconstruction*, p 117
- <sup>13</sup> Letter to Nadvi dated 18th March, 1926. For details, see Tahir Tawnsawi. *Iqbal Aur Syed Sulaiman Nadvi*, 77.
- <sup>14</sup> *Reconstruction*, p 133 [Italics Supplied].
- <sup>15</sup> *Ibid.* [Italics Supplied].
- <sup>16</sup> *Reconstruction*, p. 121.
- <sup>17</sup> *Reconstruction*, p 128
- <sup>18</sup> Quran, Chapter 2, Al-Baqarah, verse 180. [Italics Supplied]
- <sup>19</sup> Quran, Chapter 2, Al-Baqarah verse 181.
- <sup>20</sup> [Quran, Chapter 2, Al-Baqarah verses 182]
- <sup>21</sup> Shia law allows a bequest to an heir to the extent of 1/3rd
- <sup>22</sup> *Sahih Bukhari*, Volume 4, Book 51, Number 5
- <sup>23</sup> Italics Supplied.
- <sup>24</sup> Surah al-Baqara, Ayat 230
- <sup>25</sup> *Sahih Al-Bukhari*, Vol. 8, Translation by Khan, M, Vol.8.Tr.No 724
- <sup>26</sup> Quran,4:92-93; Quran, 2:178
- <sup>27</sup> For detailed discussion about Diyah, see Muhammad Altaf Hussain Ahangar “Crime and Punishment in a Modern Muslim State: A Pragmatic Approach”-*American Journal of Islamic Social Sciences [AJISS]*, Spring 2014, pp 51-69.
- <sup>28</sup> For further details about Iqbal’s legal thought, See, Muhammad Altaf Hussain Ahangar, “Iqbal and Quran; A Legal Perspective”, *Iqbal Review*, Pakistan, Vol.35 No.3, Oct 1994, pp.1-22; Muhammad Altaf Hussain Ahangar, “Iqbal and Hadith: A Legal Perspective”, *Iqbal Review*, Pakistan, Vol.37 No.3, October 1996, pp 89-110; Muhammad Altaf Hussain Ahangar “Iqbal’s Theory of Ijma: Perspectives and Prospects”, *Iqbal Review*, Pakistan, Vol.38 No1, April 1997, pp. 17-38; Muhammad Altaf Hussain Ahangar “Iqbal’s Approach to Legislation in Islam: An Analysis” *Insight Islamicus*, Vol.2, pp.45-66, 2002; Muhammad Altaf Hussain Ahangar “Jurisprudential Basis for Islam Hadhari”, *Shariah Law Reporter*, Malaysia [2005] 4 Sh LR, pp 25-30; Muhammad Altaf Hussain Ahangar “Crime and Punishment in a Modern Muslim State: A Pragmatic Approach”-*American Journal of Islamic Social Sciences [AJISS]*, Spring 2014, pp 51-69.
- <sup>29</sup> *Aga Mahamed Jafar v. Koolsum Beebee* (1897) 24 I.A. 196.
- <sup>30</sup> *Ibid.*
- <sup>31</sup> *Veerankutty v. Kutti Umma*, A.I.R. 1956 Mad 1004; *Mohd. Ismail V. Abdul Rashid* (1956) ILRI Al]. 143.
- <sup>32</sup> *Baqar Ali v. Anjuman Ara* (1903) 301.A. 94.
- <sup>33</sup> *Sayara bano Vs. Union of India* decided on August 22, 2017
- <sup>34</sup> *Reconstruction*, p. 121.
- <sup>35</sup> *Ibid.* p. 128.