

Draft Constitution by Hizb ut-Tahrir
A Draft Constitution

GENERAL RULES

Article 1

The Islamic ‘Aqeedah constitutes the foundation of the State. Nothing is permitted to exist in the government’s structure, accountability, or any other aspect connected with the government, that does not take the ‘Aqeedah as its source. The ‘Aqeedah is also the source for the State’s constitution and shar’i canons. Nothing connected to the constitution or canons is permitted to exist unless it emanates from the Islamic ‘Aqeedah.

Article 2

The domain of Islam (Daar ul-Islam) is that entity which applies the rules of Islam in life’s affairs and whose security do Muslims maintain. The domain of disbelief (Daar ul-Kufr) is that entity which applies the rules of kufr and whose security is maintained by the kuffaar

Article 3

The Khaleefah is empowered to adopt divine rules (aHkaam shar’iyyah) enacted as constitution and canons. Once the Khaleefah has adopted a divine rule, that rule alone becomes the divine rule that must be enacted and then implemented. Every citizen must openly and secretly obey that adopted rule.

Article 4

The Khaleefah does not adopt divine rules pertaining to worship, i.e. ibadaat, except in connection with alms (zakaah) and war (jihaad). Also, he does not adopt any of the thoughts connected with the Islamic ‘Aqeedah.

Article 5

All citizens of the Islamic State are entitled to enjoy the divine rights and duties.

Article 6

All citizens of the State shall be treated equally regardless of religion, race, colour or any other matter. The State is forbidden to discriminate among its citizens in all matters, be it ruling or judicial, or caring of affairs.

Article 7

The State implements the aHkaam shar’iyyah on all citizens who hold citizenship of the Islamic State, whether Muslims or not, in the following manner:

- a. The aHkaam shar’iyyah is implemented in its entirety, without exception, on all Muslims.
- b. Non-Muslims are allowed to follow their own beliefs and worships.
- c. Those who are guilty of apostasy (murtadd) from Islam are to be executed according to the rule of apostasy, provided they have by themselves renounced Islam. If they are born as non-Muslims, i.e., if they are the sons of apostates, then they are treated as non-Muslims according to their status as being either polytheists (mushriks) or People of the Book.
- d. In matters of food and clothing the non-Muslims are treated according to their religions within the limits allowed by aHkam Shara’iah.

e. Marital affairs (including divorce) among non-Muslims are settled in accordance with their religions, but between non-Muslims and Muslims they are settled according to the aHkaam shar'iyyah.

f. All the remaining shar'i matters and rules, such as: the application of transactions, punishments and evidences (at court), the system of ruling and economics are implemented by the State upon everyone, Muslim and non-Muslim alike. This includes the people of treaties (mu'aahid), the protected subjects (ahludh dhimmah) and all who submit to the authority of Islam. The implementation on these people is the same as the implementation on the subjects of the State. Ambassadors and envoys enjoy diplomatic immunity.

Article 8

Arabic is the language of Islam and the sole language of the State.

Article 9

Ijtihad (personal exertion to derive the Islamic rule) is farD kifaayah (a collective duty). Every Muslim has the right to exercise ijtihad if he has acquired the necessary conditions to perform it.

Article 10

There is no such thing as a clergy in Islam as all Muslims bear the responsibility for Islam. The State will prevent anything that indicates the existence of a clergy among Muslims.

Article 11

The primary function of the State is the propagation of the invitation (da'wah) to Islam.

Article 12

The only evidences to be considered for the divine rules (aHkaam shar'iyyah) are: the Qur'an, the Sunnah, the consensus of the Companions (ijmaa' us-SaHaabah) and analogy (qiyaas). Legislation cannot be taken from any source other than these evidences.

Article 13

Every individual is innocent until proven guilty. No person shall be punished without a court sentence. Torturing is absolutely forbidden and whoever inflicts torture on anyone shall be punished.

Article 14

All human actions are, in origin, restricted by the divine rules (aHkaam shar'iyyah), and no action shall be undertaken until its rule (Hukm) is known. Every thing or object is permitted, i.e., Halaal, unless there is an evidence of prohibition.

Article 15

Any means that most likely leads to a prohibition (Haraam) is itself Haraam. However if it was (only) feared that it may lead to a prohibition, then it would not be Haraam.

THE RULING SYSTEM

Article 16

The ruling system of the State is that of a unitary ruling system and not a federation.

Article 17

Article 18

Ruling is centralised and administration is de-centralised.

There are four positions of ruling in the State. They are: The Khaleefah , the delegated assistant (mu'aawin ut-tafweeD), the governor (wali), the provincial mayor ('aamil). All other officials of the State are employees and not rulers.

Article 19

No one is permitted to take charge of ruling, or any action considered to be of the nature of ruling, except a male who is free (Hurr), i.e. not a slave, mature (baaligh), sane ('aaqil), trustworthy ('adl), competent; and he must not be save a muslim.

Article 20

Calling upon the rulers to account for their actions is both a right for the Muslims and a farD kifaayah (collective duty) upon them. Non-Muslim subjects have the right to make known their complaints about the rulers' injustice and misapplication of the Islamic rules upon them.

Article 21

Muslims are entitled to establish political parties to question the rulers and to access the positions of ruling through the Ummah on condition that the parties are based on the 'Aqeedah of Islam and their adopted rules are aHkaam shar'iyyah; the establishment of such a party does not require a license by the State. Any party not established on the basis of Islam is prohibited.

Article 22

The ruling system is founded upon four principles. They are:

1. Sovereignty belongs to the divine law (shara') and not to the people.
2. Authority belongs to the people, i.e., the Ummah.
3. The appointment of one Khaleefah into office is an obligation upon all Muslims.
4. Only the Khaleefah has the right to adopt the aHkaam shar'iyyah and thus he passes the constitution and the various canons.

Article 23

The State systems are made up of eight institutions. They are:

1. The Khaleefah (Al-khaleefah).
2. The delegated assistant (mu'aawin at-tafweeD).
3. The executing assistants (mu'aawin at-tanfeedh).
4. Amir of jihad (Ameerul jihad).
5. Governors (Wulaah).
6. Judges (QuDaah).

7. The state departments (maSaaliH ud-dawlah).

8. The council of the Ummah (majlis ul-Ummah)

THE KHALEEFAH

Article 24

The Khaleefah is deputised by the Ummah with authority to implement the shar'.

Article 25

Khilafah is a contract of nomination and acceptance. No one is obliged to accept it and no one is obliged to nominate a particular person for it.

Article 26

Every mature male and female Muslim, who is sane, has the right to participate in the election of the Khaleefah and in giving him the pledge (ba'iah). Non-Muslims have no right in this regard.

Article 27

Once the contract of the Khilafah has been concluded on a person through the ba'iah of those by whom the ba'iah is legitimately concluded, the ba'iah of the remaining people is a ba'iah of obedience and not contract. Consequently, those who might disobey or rebel are obliged to give ba'iah.

Article 28

Nobody can become Khaleefah without being appointed by the Muslims. Nobody can hold the power of the Khilafah unless it is conveyed to him legitimately, as is the case with any contract in Islam.

Article 29

Any country that wishes to give the Khaleefah the ba'iah of contract, her sulTaan (authority) must be self-acting that depends on Muslims only and not on any kaafir state. The security of the Muslims in that country, both internally and externally, must be maintained by the security of Islam and not kufr.

As for the ba'iah of obedience only, it can be taken from any other country without such conditions.

Article 30

The individual who is given the ba'iah for Khilafah need only to fulfill the contracting conditions, even if he did not fulfil the preferable conditions, because what is essential is the conditions of contracting.

Article 31

There are seven conditions needed in the Khaleefah so that the Khilafah can be contracted to him. They are to be a male, Muslim, free (Hurr), mature (baaligh), sane ('aaqil), trustworthy ('adl) and able (qaadir).

Article 32

If the post of the Khaleefah becomes vacant, due to death, resignation or dismissal, the appointment of a new Khaleefah must take place within three days, which includes the nights from the date when it became vacant.

Article 33

The Khaleefah is to be appointed in the following manner:

- a. The Muslim members of the Majlis ul-Ummah short-list the candidates for that post. Their names are subsequently announced and the Muslims are asked to elect one person from them.
- b. The result of the election is announced and the person who has attained the majority of the votes is to be announced to the Muslims.
- c. The Muslims must hasten to give ba'iah to the one who has attained the majority of votes as a Khaleefah for Muslims on the condition of following the Qur'an and the Sunnah of the Messenger (saw).
- d. Once the ba'iah has been accomplished, the name of the man who has become the Khaleefah along with a statement that he has met the conditions necessary for holding the office of Khilafah is announced to the people so that the news of his appointment reaches the entire Ummah.

Article 34

The Ummah has the authority to appoint the Khaleefah but she has no right to dismiss him after he has legitimately attained the ba'iah of contracting.

Article 35

The Khaleefah is the State. He possesses all the powers and function of the State; he possesses the following powers:

- a. The Khaleefah implements the aHkaam shar'iyah, once he adopted them, into law, and as such they become canons that must be obeyed and not violated.
 - b. The Khaleefah is responsible for both the internal and external policies of the State. He takes charge of the leadership of the army and has the right to declare war, conclude peace, armistice, and treaties.
 - c. The Khaleefah has the authority to accept and reject foreign ambassadors, and to appoint and dismiss Muslim ambassadors.
 - d. The Khaleefah appoints and dismisses the assistants (mu'aawineen) and the governors (wulaah). The assistants and governors are responsible to the Khaleefah as well as to the Majlis al-Ummah.
 - e. The Khaleefah appoints and dismisses the chief judge, the directors of departments, the heads of the armed forces and the generals; all of whom are responsible to the Khaleefah and not to the Majlis al-Ummah.
- a. The Khaleefah adopts the aHkaam shar'iyah by which the State's budget is set. The Khaleefah decides its sections and the funds required for every field, whether they are related to revenue or expenditure.

Article 36

The Khaleefah is restricted in what he adopts by the aHkaam shar'iyah. He is forbidden to adopt any rule that is not soundly deduced from the divine texts. He is restricted to the rules he has adopted and to the method for deduction that he has chosen. Accordingly, he is prevented from adopting a rule deduced

by a method that contradicts the method he has adopted, and he must not enact any command that contradicts the rules he has adopted.

Article 37

The Khaleefah has the absolute right to conduct the citizens affairs according to his ijtihaad, so he has the right to adopt of the mubaaH matters anything he wants to run the State affairs and to look after the affairs of the citizens. However, he is not allowed to disagree with a Hukm shar'i under the name of interest. For example; he cannot prevent a family from having more than one child under the pretext of the shortage in food. Nor can he fix prices on the pretext of preventing exploitation; or appoint a kaafir or a woman as a waali on the pretext of caring for affairs or the interest, nor anything that disagrees with sharee'ah rules. The Khaleefah must not forbid any Halaal thing or allow any Haraam thing.

Article 38

There is no limitation on the Khaleefah's period in office. So as long as he abides by the shara', implements its rules and is able to manage the State's affairs, he continues as a Khaleefah unless his situation changes in such a way as to discharge him from the office of Khilafah. He is to be dismissed immediately, once such a situation occurred.

Article 39

There are three matters by which the situation of the Khaleefah changes, and by such he is discharged from the office of Khilafah. They are:

- a. If one of the qualifying conditions of the Khilafah contract becomes void, such as apostatising from Islam, insanity or manifest sinfulness (fisq) and the like. This is because these are conditions for contracting the Khilafah and for its continuity.
- b. His inability to undertake the responsibilities of the Khilafah post, for any reason.
- c. In the event of sub-dual, whereby the Khaleefah is rendered unable to conduct the affairs of the Muslims by his own opinion according to the shara'. If the Khaleefah is subdued by any force to an extent that he is unable to manage the citizens affairs by his own opinion alone according to the rules of shara', he is considered to be legitimately incapable of undertaking the functions of the state, and thus he ceases to be a Khaleefah. This situation may arise under two circumstances. They are:

Firstly. When one, or more of the Khaleefah's entourage exerts control over the management of affairs. If there is a chance that the Khaleefah could rid himself of their dominance he is cautioned for a specified period of time, after which, if he fails to rid himself of their dominance, he must be dismissed. If it appears that there is no chance of the Khaleefah freeing himself from their dominance, he is to be dismissed immediately.

Secondly. Should the Khaleefah be captured by a subduing enemy, whether he is actually captured or under its influence. In this case the situation is to be examined; if there is a chance to rescue the Khaleefah, he is given a period of time until it appears that there is no hope to rescue him, after which he is dismissed. Should it appear from the outset that there is no hope of rescuing him, he is to be dismissed immediately.

Article 40

The responsibility of deciding whether or not the Khaleefah's situation has altered in such a way as to warrant his dismissal is the prerogative of the Court for the Acts of Injustice (maHkamat al-maZaalim). It alone has the authority to admonish or dismiss the Khaleefah.

Article 18

DELEGATED ASSISTANT (Mu'aawin ut-tafweeD)

Article 41

The Khaleefah appoints an assistant delegated with the authority to assist him in undertaking the responsibility of ruling. He deputises to him to manage affairs with his own point of view and ijtihaad. The Mu'aawin ut-tafweeD must be qualified with the same essential qualifications of the Khaleefah, i.e. that he should be male, free, Muslim mature, sane, and 'adl (trustworthy). Additionally he must be competent in the tasks for which he is deputised to undertake.

Article 43

The appointment of the Mu'aawin ut-tafweeD must entail both deputation and a general responsibility. Thus, in the appointment of the assistant, the Khaleefah must pronounce a statement to the effect of "I appoint you on my behalf as my deputy" or any other statement that confers both deputation and general responsibility. Unless the Mu'aawin ut-tafweeD is appointed in this manner he would not be a Mu'aawin ut-tafweeD nor hold the authority of a delegated assistant.

Article 44

The function of the delegated assistant, so as to distinguish between him and the Khaleefah in his authority, is to inform the Khaleefah of the matters he has managed and the appointments and delegated duties he has implemented. Therefore, the function of the Mu'aawin ut-tafweeD is to inform the Khaleefah of his analysis and, unless the Khaleefah prevents him, to carry it out.

Article 45

The Khaleefah has to examine the actions and dispositions of the Mu'aawin ut-tafweeD so as to confirm what is sound and to adjust that, which is wrong. This is because the management of the Ummah's affairs is entrusted to the Khaleefah and subject to his own ijtihaad.

Article 46

Once the Mu'aawin ut-tafweeD has managed a matter with the agreement of the Khaleefah, he has the right to carry it out – as acknowledged – without any alteration. If the Khaleefah revises the matter and objects to what the Mu'aawin ut-tafweeD has executed, the following considerations apply: If the Khaleefah has objected to what the Mu'aawin ut-tafweeD has carried out in regard to a rule implemented soundly, or a fund spent justly, then the view of the Mu'aawin ut-tafweeD must be enacted. This is because it is originally the view of the Khaleefah and the Khaleefah must not redress laws that he has implemented and funds that he has spent. However if the Mu'aawin ut-tafweeD has implemented something else, such as the appointment of a waali or the equipping of the army, then the Khaleefah has the right to object and to overrule the decision of the Mu'aawin ut-tafweeD. This is because the Khaleefah has the right to redress his own decisions in such cases and hence those of the Mu'aawin ut-tafweeD.

Article 47

The Mu'aawin ut-tafweeD has a general deputation and therefore he must not be assigned to specific departments or specific types of action. He undertakes general supervision of the administrative system but does not undertake administrative matters.

EXECUTION ASSISTANT (Mu'aawin ut-tanfeedh)

Article 48

The Khaleefah appoints a Mu'aawin ut-tanfeeh whose function is administrative and not ruling. His duty is to execute the instructions of the Khaleefah in both the internal and external affairs of the State and to relay to the Khaleefah what is received from these areas. This administration office is a medium between the Khaleefah and others, i.e. it executes instructions on his behalf and hand over reports to him.

Article 49

The Mu'aawin ut-tanfeeh must be a Muslim because he is one of the Khaleefah's entourage.

Article 50

The Mu'aawin ut-tanfeeh is always in direct contact with the Khaleefah the same way the Mu'aawin ut-tafweeh is. The Mu'aawin ut-tanfeeh is considered an assistant but in execution instead of ruling.

AMIR OF JIHAD

Article 51

The directorate of the Amir of jiidah consists of four Departments, they are: The External Affairs, The Military, The Internal Security, and Industry.

The Amir of jiidah is the supervisor and director of all four departments.

Article 52

The Department of External Affairs directs the foreign affairs connected with the relationship of the state with foreign countries, whatever these affairs.

Article 53

The Military Department oversees all affairs connected with the military forces, such as: the army, the police, equipment, tasks, armament supplies, etc. It also includes control of the military academies, military missions, and everything deemed necessary from the Islamic culture and the culture of the army and whatever is related to warfare and its preparation.

Article 54

The Department of Internal Security oversees everything connected with security. It undertakes maintaining security in the country by means of the military forces, and uses the police as a means to maintain security.

Article 55

The Department of Industry directs all affairs connected with industry, including heavy industry, such as the production of motors, engines and car bodies; metallurgical industries, electronics and light industry; and factories of private and public ownership connected with the military industry. All factories of whatever type should be established on the basis of the military policy.

THE ARMY

Article 56

Jihad is a compulsory duty (farD) on all Muslims. Military training is therefore compulsory. Thus, every male Muslim, fifteen years and over, is obliged to undergo military training in readiness for jihad. Conscription, however, is farD kifaayah.

Article 18

Article 57

The army is divided into two parts: the regulars, who are paid salaries from the State's budget as employees, and the reserves, who comprise all the Muslims capable of fighting.

Article 58

The military forces are one force, which is the army from which certain divisions are selected and organised in a particular way and provided with a certain culture, these are called police (shurTah). The police are authorised to protect public order, supervise internal security and to carry out all executive duties.

Article 60

The army possesses flags and banners; the Khaleefah gives the flag to whomever he appoints as a leader of the army, the banners are presented by the chiefs of the flags (alwiyah).

Article 61

The Khaleefah is the leader of the army, he appoints the commander-in-chief, a general for each brigade and a commander for each division. The Brigadiers and commanders appoint the remaining ranks of the army. Members of the general staff are appointed according to their military culture, and are appointed by the general chief of staff.

Article 62

The army comprises one army located in specific camps. Some of these camps must be located in different provinces (wilaayaat) and strategic locations, and some must remain permanently mobile fighting forces. The camps are organised in numerous groups, each one of which is given a number as a name, such as the first army, the third army or can be named after a province (wilaayah) or district ('imaalah).

Article 63

It is necessary to provide the army with the highest possible level of military education and to elevate its intellectual level as far as possible, and to provide every member in the army with the Islamic culture that enables him to have a general awareness of Islam.

Article 64

Each camp should have a sufficient number of officers of the general staff who have attained the highest level of military knowledge and experience in devising plans and directing battles. The army, as a whole, should have as many officers of the general staff as possible.

Article 65

It is necessary to provide the army with all the required armaments, supplies and equipment so as to fulfill its task as an Islamic army.

JUDICIARY

QaDaa

Article 66

Judgeship is the pronouncement of the verdict in a binding way. It settles the disputes among people, prevents that which harms the community's rights and eliminates the disputes arising between people and

Article 18

members of the ruling apparatus – rulers and employees – including the Khaleefah and those of lesser rank.

Article 67

The Khaleefah is to appoint a chief judge authorised to appoint, discipline, and dismiss judges within the administrative regulations. The chief judge must be a mature Muslim male who is sane, just and a jurist. The remaining employees of the courts come under the domain of the directorate that administers the court's affairs.

There are three types of judges. They are:

1. The judge who settles the disputes among people in transactions (Mu'aamalaat) and punishments ('Uqooaat);
2. The muHtasib who settles the violations of the community's rights; and
3. The judge of the Court for the Unjust Acts (maHkaamat ul-maDHalim) who settles disputes between people and officials of the State.

Article 69

All judges must be qualified by being Muslim, mature, free, sane, 'adl, and a jurist being aware of how to apply rules to incidents. Judges of maHkaamat ul-maDHalim must additionally be qualified with being male and a mujtahid, i.e., a person capable of making ijtihaad.

Article 70

The judge and the muHtasib may be given a general appointment to pronounce judgement on all problems throughout the State, or alternatively they can be given an appointment to a particular location and to give judgement on particular cases. On the other hand, the judge of the maHkaamat ul-maDHalim must be given a general appointment to pronounce judgement on all problems, but in terms of location he may be appointed to a particular location or all over the State.

Article 71

The courts should be comprised of only one judge who has the authority to pronounce verdict. One or more judges are however permitted to accompany him with only the authority of advising and assisting. They have no authority to pronounce verdict and their opinion is not binding on the judge who has the sole authority to give judgement.

Article 72

The judge cannot pronounce verdict except in a court session. Evidence and oaths are not considered except in a court session as well.

Article 73

It is permissible to vary the grades of courts in respect to the type of cases. Some judges may thus be assigned to certain cases of particular grades, and other courts authorised to judge the other cases.

Article 74

There are no courts of appeal or cassation, because all judgements are of equal standing. Thus, once the judge has pronounced the verdict it becomes effective and no other judge's decision can overturn it, unless he judged with other than Islam, disagreed with a definite text in the Qur'an, Sunnah or Ijmaa' us-SaHaabah or it appeared that he judged in contradictory to a true reality.

Article 75

The muHtasib is the judge who investigates all cases, in the absence of an individual litigation, involving the rights of the public that are non-criminal and not involving the Hudood (i.e., the punishments.)

Article 76

The muHtasib has the authority to judge upon violations, at any place as soon as he gains knowledge of these violations without the need to hold a court session. A number of policemen are put at the muHtasib's disposal to carry out his orders and to execute his verdicts immediately.

Article 77

The muHtasib has the right to appoint deputies to himself, that possess the same qualifications as the muHtasib, and to assign them to various locations where they exercise the same authority as the muHtasib in the location and the cases assigned to them.

Article 78

The judge of the maHkaamat ul-maDHalim is appointed to remove all unjust acts, committed by the Khaleefah, governor(s), or any official of the State, that have been inflicted upon anyone – whether that person is a citizen or not – living in the domain of the State.

Article 79

Judges in the maHkaamat ul-maDHalim of Injustice are appointed by the Khaleefah or the chief judge. As for their accounting, disciplining and dismissal, this is carried by the Khaleefah, the maHkaamat ul-maDHalim or the chief judge if authorised by the Khaleefah to do so. However, it is not allowed to dismiss him during his investigation in an unjust act against the khaleefah, mua'win ut-tafweeD or the chief judge.

Article 80

There is no limit on the number of judges that can be appointed for the Unjust Acts. The Khaleefah can appoint as many as he may deem necessary to eradicate the unjust acts. Although it is permitted for more than one judge to sit in a court session, only one judge has the authority to pronounce a verdict. The other judges only assist and provide advice, and their advice is not binding on the judge authorised to pronounce the verdict.

Article 81

The maHkaamat ul-maDHalim has the authority to dismiss any ruler, governor and official of the State, including the Khaleefah.

Article 82

The maHkaamat ul-maDHalim has the authority to investigate any case of iniquity, whether it be connected with officials of the State, the Khaleefah's deviation from the divine rules, interpretation of the legislative texts in the constitution, canons and divine rules within the framework adopted by the Khaleefah or the imposition of a tax, etc.

Article 83

The judicature of the Unjust Acts is not restricted by a court session or the request of the defendant or the presence of the plaintiff. It has the authority to look into any case of injustice even if there is no plaintiff.

Article 84

Article 18

Everyone, both prosecution and defence, has the right to appoint a proxy, whether male or female, Muslim or not, to act on his or her behalf. There is no distinction in this matter between the attorney and to the individual granting power to the attorney. The proxy has the right to be appointed on a salary according to the terms agreed upon between the two parties in question.

Article 85

It is permitted for the one who holds office, such as the Khaleefah, waali, official, muHtasib and judge of the Court for the Unjust Acts, or persons who have been vested with a specific responsibility, like a custodian or guardian, to appoint a person to his position as a proxy – within the bounds of his authority – for the purpose of appearing on his/her behalf as the plaintiff or defendant, and for no other reason.

THE GOVERNORS OF THE PROVINCES (WULAH)

The territories governed by the State are divided into units called provinces (wilayaat). Each wilayaah is divided into units called districts ('Imaalaat). The person who governs the wilayah is called the wali or Amir, and the person who governs the 'Imaalaah is called the 'aamil.

Article 87

The waalis and the 'aamils are appointed by the Khaleefah. The waali can, if authorised, also appoint the 'aamils. The walis and 'aamils must possess the same qualifications as the Khaleefah, i.e., Muslim, male, free, mature, sane, 'adl (trustworthy or competent) and competent in their responsibilities. They have to be selected from the people of piety (taqwa) and strength.

Article 88

The wali has the authority to govern and supervise the performance of the departments in his province on behalf of the Khaleefah. He has the same authority in the province as the delegate assistant has in the Khilafah State. He has command over the people of his province and control over all affairs except finance, the judiciary and the army. He has command over the police in respect of execution, but not in administration.

Article 89

The wali is not obliged to inform the Khaleefah of what he has carried out within his authorised command, but if a new problem arises, he has to wait until he has informed the Khaleefah about it, and then proceeds according to the instructions of the Khaleefah. If, as a result of waiting, the problem would be exacerbated, he must act first and then inform the Khaleefah later about the reason for not informing him.

Article 90

Every province has an assembly elected from its people, and headed by the wali. The assembly has the authority to participate in expressing opinions on administrative matters and not ruling; their opinions are not binding.

Article 91

The waali's term of office in a particular province is not to be long. He must be discharged whenever he becomes powerful in his province or the people become enchanted with him.

Article 92

The waali's appointment is a general responsibility in a defined location. Consequently, the waali is not

Article 18

moved from one province to another. He has to be discharged first and then reappointed.

Article 93

The wali can be discharged if the Khaleefah decides so, or if the majlis ul-ummah expresses dissatisfaction with him – whether justified or not – or if the majority of the people of the province show displeasure with him. However, the wali can only be dismissed by the Khaleefah.

Article 94

The Khaleefah must exercise strict control over the wulah and continually assess their performance. He must deputise people to monitor them and enquire about them. He has to periodically gather the wulah, or some of them, and listen to the complaints of the ummah of them.

THE STATE DEPARTMENTS

The management of the government's affairs and the interests of the people is performed by, and the responsibility of, administrations, directorates and departments.

Article 96

The policy of the administrations, directorates and departments is built upon the efficiency of the system, speed in carrying out the tasks and competence in those who are in charge of administration.

Article 97

Any subject of the State, male or female, Muslim or not, who is suitably competent may be appointed as head or official of any administration, directorate or department.

Article 98

Every administration must have a general manager and every directorate and department must have a special director responsible for them. All directors are responsible before the general manager of their administrations, directorates and departments. In respect to conforming to the laws and public orders, they are responsible to the Khaleefah, waali and 'aamil.

Article 99

The managers and directors of all the administrations, directorates and departments are to be dismissed only for reasons connected with administrative regulations. It is permitted to move them from one post to another and to suspend them. The general manager of each administration, directorate or department is responsible for the appointing, dismissing, transferring, suspending and disciplining.

Article 100

Employees, other than the directors and the managers, are appointed, transferred, suspended, questioned, disciplined or dismissed by the general manager of their administration, directorate or department.

THE UMMAH ASSEMBLY (Majlis ul-Ummah)

Article 101

The members of the Majlis al-Ummah are those people who represent the Muslims in respect of expressing their views to the Khaleefah when consulted. Non-Muslims are allowed to be members of the Majlis al-Ummah so that they can voice their complaints in respect to unjust acts performed by the rulers or the misapplication of the Islamic laws.

Article 102

The members of the Majlis al-Ummah are elected by the people.

Article 103

Every citizen of the State has the right to become a member of the Majlis al-Ummah, provided he or she is both mature and sane. This applies to Muslim and non-Muslim. However, membership to non-Muslims is confined to their voicing of complaints in respect to unjust acts performed by the rulers or the misapplication of Islam upon them.

Article 104

Consultation (Shoora) and the mashoora are the seeking of views in absolute terms. These views are not binding in legislation, definitions, intellectual matters such as discovering the facts and the technical and scientific matters. However they are binding when the Khaleefah consults in other practical matters and actions that do not scrutiny or research.

Article 105

All citizens, Muslim or not, may express their views, but Shoora is a right for the Muslims only.

Article 106

All issues that fall under the binding Shoora, when the Khaleefah seeks opinion, are decided on the basis of the majority opinion, irrespective of whether it is considered to be correct or not. In all other matters of Shoora, the correct opinion is sought, whether it is a majority or minority held view.

Article 107

The Majlis al-Ummah is charged with five duties. They are:

(i) (a) To be consulted by the Khaleefah or to advice him on the practical matters and actions which do not need scrutiny or research, such as: affairs of ruling, education, health, and the economy, industry, farming and the like; and its opinion in that is binding.

(i) (b) However in the matters which require scrutiny and research and the technical matters, the financial, the military and the foreign policy, the Khaleefah has the right to refer to the Majlis for consultation and seeking an opinion; however the opinion of Majlis in such matters is not binding..

(ii) The Majlis has the right to account the Khaleefah regarding all the actions that the state has actually executed, whether they were of the domestic or foreign matters, or the finance or the army and the like. The view of the Majlis is binding wherever the majority opinion is binding and not binding wherever the majority opinion is not.

(iii). The Majlis has the right to express dissatisfaction with the assistants, governors, and mayors; and in this matter the view of the Majlis is binding and the Khaleefah must discharge them at once.

(iv). The Khaleefah may refer to the Majlis the rules, the constitution and canons, that he intends to adopt. Muslim members of the Majlis have the right to discuss them and express their views about them, but their opinion is not binding.

(v). To select the list of candidates standing for the position of Khaleefah; no candidate excluded from this list may stand and the decision of the Majlis is binding. Only Muslim members of the majlis may participate in drawing up this list.

THE SOCIAL SYSTEM Article 108

The primary role of a woman is that of a mother and wife. She is an honour ('ird) that must be protected.

Article 109

Segregation of the sexes is fundamental, they should not meet together except for a need that the shar' allows or for a purpose the shar' allows men and women to meet for, such as trading or pilgrimage (Hajj).

Article 110

Women have the same rights and obligations as men, except for those specified by the shar'i evidences to be for him or her. Thus, she has the right to practice in trading, farming, and industry; to partake in contracts and transactions; to possess all form of property; to invest her funds by herself (or by others); and to conduct all of life's affairs by her.

Article 111

A woman can participate in elections and giving of the bai'ah to the Khaleefah, and elect, and be a member of the Majlis al-Ummah, and can be appointed as an official of the State in a non-ruling position.

Article 112

Women are not allowed to take charge of ruling, thus women cannot hold the positions of Khaleefah mu'aawin, waali, 'aamil nor to practice any actions of ruling. She is not allowed to be a chief judge, a judge in maHkaamat ul-MuDHalim nor ameer of Jihad.

Article 113

Women live within a public and private life. Within their public life, they are allowed to live with other women, maHram males [males forbidden to them in marriage] and foreign men (whom they can marry) on condition that nothing of the women's body is revealed, apart from her face and hands, and that the clothing is not revealing nor her charms displayed. Within the private life she is not allowed to live except with women or her maHram males and she is not allowed to live together with foreign men. In both cases she has to restrict herself with the rules of shara'.

Article 114

Women are forbidden to be in private (khulwah) with any men they can marry, they are also forbidden to display their charms or to reveal their body in front of foreign men.

Article 115

Men and women must not practice any work that poses danger to the morals or causes corruption in society.

Article 116

Marital lives is one of tranquillity and companionship. The responsibility of the husband on behalf of his wife (qiwaamah) is one of taking care, and not ruling. She is obliged to obey her husband and he is obliged to meet the costs of her livelihood according to a fair standard of living (ma'roof).

Article 117

The married couple must fully assist each other in performing the household duties, with the husband performing all the actions normally undertaken outside of the house, and the woman performing those actions normally undertaken inside the house as best as she can. The husband should provide home help as required to assist with the household tasks she cannot manage herself.

Article 118

The custody of children is both a right and duty of the mother, whether Muslim or not, so long as the child is in need of this care. When children, girls or boys, are no longer in need of care, they are to choose which parent they wish to live with, whether the child is male or female. If only one of the parents is Muslim, there is no choice for the child is to join the Muslim parent.

THE ECONOMIC SYSTEM Article 119

The management of economics is the view of what the society ought to be when addressing the satisfaction of (human) needs, so what the society ought to be is made as the basis for satisfying the needs.

Article 120

The fundamental economic problem is how to distribute funds and benefits/ services to all subjects of the State, and to facilitate all the subjects to utilise these funds and benefits/ services by enabling them to strive and possess them.

Article 121

Every individual must have all his basic needs provided for completely by the State, and he/she must be guaranteed to satisfy his luxurious needs (non-basic needs) to the highest possible level.

Article 122

Allah is alone the owner of property and He has made human beings heirs in it. By this general entrust humankind has acquired the right to possess property. As a consequence of Allah's (swt) permission for the individual to possess property, man has the actual possession.

Article 123

There are three types of property, they are: private property, public property, and State property.

Article 124

Private properties are a divine rule determined by the property itself or the benefit from it. As a result of this possession, the person who possesses it obtains a benefit from it or receives a return for it.

Article 125

Public properties are the sharee'ahs permission for the community to participate in obtaining benefit from the property itself.

Article 126

State property comprises all property whose expenditure is determined solely by the view of the Khaleefah and his ijtihaad, such as: the funds of taxes, land tax (kharaaj) and head tax (jizya).

Article 127

Private property consisting of liquid and fixed assets is restricted by the following divine means (asbaab):

- a. Work.
- b. Inheritance.

- c. Acquisition of property to survive.
- d. A donation from State funds to a citizen.
- e. Funds obtained by individuals neither by effort nor through purchase.

Article 128

The disposal of property is restricted by the permission of the Legislator, i.e., Allah, (swt) whether it is spending or investing of property. Squandering, extravagance and miserliness are forbidden. Also forbidden are the capitalist companies, co-operatives, all other illegal transactions, usury (riba), fraud, monopolies, gambling and the like.

Article 129

Tithed land (al-'Ushriyyah) constitutes land within the Arabian peninsula and land whose owners had embraced Islam whilst possessing the land, (i.e. before the Islamic State encountered them by jihad). Tax land (al-Kharaajiyah) is all land, other than the Arabian Peninsula, which was opened by jihad, i.e. war or peace. Al- Ushriyyah land, together with its benefits, is owned by individuals. Al Kharaajiyah land is owned by the State, and individuals own its benefits. Everyone has the right to exchange, through shar'i contracts, tithed land and the benefits from tax land. All people can inherit these, the same as with other properties.

Article 130

Uncultivated (muwaat) land is acquired by giving life to the land, i.e. irrigating it, or by protecting it, i.e. erecting fencing. Cultivated land can only be acquired by way of shar' means, such as: inheritance, purchasing or through a donation from the State.

Article 131

Leasing land, whether al- Ushriyyah land or al al-Kharaajiyah land, for agriculture is forbidden. Sharecropping of land planted with trees is permitted, and sharecropping on all other land is forbidden.

Article 132

Every landlord is obliged to use his land; those who are needy are to be given a loan from the treasury (bayt ul-maal) to facilitate this. Anyone who leaves his land fallow, i.e., does not use the land, for three years will have it taken from him to be given to another.

Article 133

The following three categories constitute public property:

- a. Public utilities, such as the town parks.
- b. Vast mineral resources, like oil fields.
- c. Things that, by their nature, preclude ownership by individuals, such as rivers.

Article 134

Factories by their nature are private property. However, they follow the rule of the product manufactured within them. If the product is private property, the factory is considered to be private property, like a textile mill. If the product is a public property, like iron ore, then the factory is considered to be a public property.

Article 135

The State has no right to change private property into public property, because public property is determined by its nature and not by the view of the State.

Article 136

Everybody in the State has the right to utilise public property, and the State has no right to allow any individual to singularly possess, own or utilise public property.

Article 137

The State is allowed to protect parts of the uncultivated land or public property on behalf of any of the citizens' interests.

Article 138

Hoarding funds, even if zakaah is paid on it, is forbidden.

Article 139

Zakaah is collected from Muslims on their properties that are specified by shara', i.e. money, trading goods, cattle and grain. It is not taken from anything not specified by the shara'. Zakaah is taken from every owner whether legally responsible (mukallaf), i.e. mature and sane, or not, i.e. immature and insane. It is recorded in a specific account of the bayt ul-maal and is not to be spent except for one or more of the eight categories of people mentioned in the Glorious Qur'an.

Article 140

Jizyah (head-tax) is collected from the non-Muslims (dhimmis). It is to be taken from the mature men if they are financially capable of paying it. It is not taken from women or children.

Article 141

Kharaaj (land-tax) is collected on al-Kharaajiyah land according to its potential production. However, in respect of al-Ushriyyah land zakaah is payable on it, on the basis of its actual production.

Article 142

The Muslims only pay the tax that shar' has permitted to cover the expenditure of bayt ul-mal, on condition that it is levied on that which is surplus to the individual's needs. The tax must be sufficient to cover the demands of the State.

Article 143

The State has the right to collect tax from the Ummah when the funds of bayt ul-maal are inadequate to cover the expenditure required to undertake all the functions the shar' has obliged the Muslims to perform. The State is not allowed to impose a tax on the people for a function the shar' has not obliged the Muslims to undertake. Thus, the State is not allowed to collect fees for the courts or departments or administrations, or for accomplishing any interest.

Article 144

The budget of the State has permanent sources decided by the AHkaam shar'iyyah. The budget is further divided into sections. The funds assigned to each section and the matters for which the funds are allocated are all decided by the view of the Khaleefah and his ijtihaad.

Article 145

The permanent sources of income for bayt ul-maal are: spoils (fei`), jizyah, kharaaj, a fifth of the buried treasure (rikaaz) and zakaah. All these funds are collected, whether there is a need for them or not, on a perpetual basis.

Article 146

If the revenues derived from the permanent sources of income for bayt ul-maal are insufficient to cover

the expenditure of the State, it is permitted to collect taxes from the Muslims to cover the expenditure obliged on bayt ul-maal. The obligations are the following:

- a. The needs of the poor, the needy, the wayfarers, and to perform the obligation of jihad.
- b. Remuneration of the salaries of the employees, the rulers and the provisions for the soldiers.
- c. Providing benefits and public utilities due on bait ul-maal, such as constructing roads, extracting water, erecting mosques, schools and hospitals.
- d. Meeting emergencies, like natural disasters, famine, floods and earthquakes.

Article 147

Income derived from public and State property, people dying without heirs, properties of the apostates and customs levied at the state's borders (thoghoor), are all recorded in bayt ul-maal.

Article 148

The expenditure of bayt ul-maal is distributed among the following six categories of people as follows:

- a. The eight categories of people entitled to partake of the zakaah funds.
- b. The poor, the needy, the wayfarers, the debtors and jihad are funded from the permanent sources of revenues whenever there are insufficient funds in the zakaah account. When there are inadequate funds from the permanent revenues, the debtors are not to receive assistance. The poor, the needy, the wayfarers and jihad must be funded from the taxes collected for this purpose; and if required – to prevent them from falling into corruption – they are to be funded from loans raised by the State for this purpose.
- c. Bayt ul-maal must fund those people who perform certain duties or services for the State, such as employees, rulers and soldiers. If there are insufficient funds for this purpose, taxes must be collected immediately to meet their expenses, and loans should be raised if it is feared that corruption might ensue.
- d. Bayt ul-maal shall fund the essential services and utilities such as the roads, mosques, hospitals and schools. If there are insufficient funds, taxes must be collected to cover their cost.
- e. Non-essential services and utilities are funded by bayt ul-maal, but when there are insufficient funds available they are not financed and accordingly delayed.
- f. Disasters, such as earthquakes and floods, must be financed by bayt ul-maal; if there are insufficient funds available, loans are to be raised immediately, and will be repaid later from taxes.

Article 149

The State should provide employment for all subjects holding citizenship of the State.

Article 150

Company employees and the self-employed have the same rights and duties as employees of the State. Everyone who works for a wage, irrespective of the nature of the work, is considered an employee. In matters of dispute, between employer and employee over salary levels, the salary level is to be assessed on the basis of the market. If they disagree over something else, the employment contract is to be assessed according to the rules of the shar'.

Article 151

The salary is to be determined according to the benefit of the work, or the benefit of the employee, and not according to the knowledge or qualifications of the employee. There are to be no annual increments for employees. Instead, they are to be given the full value of the salary they deserve for the work they do.

Article 152

The State is to guarantee the living expenses of the one who has no money, no work and no relatives

responsible for his financial maintenance. The State is responsible for housing and maintaining the disabled and handicapped people.

Article 153

The State must endeavour to circulate wealth among all the subjects and forbids the circulation of wealth among only a sector of society.

Article 154

The State tackles the task of enabling every subject to satisfy his luxuries (non-basic needs) and to achieve equality in society in accordance with the funds available to her, in the following way:

- a. The State grants liquid and fixed assets from those owned by bayt ul-maal, and from the war booties etc, to its citizens.
- b. The State donates from its cultivated land to those who have insufficient or no land. Those who possess land but do not use it are not given land. Those who are unable to use their land are given financial assistance to enable them to use their land.
- c. Those who are unable to settle their debts are given funds from zakaah, and the war booty, etc.

Article 155

The State supervises agricultural affairs and their products in accordance with the needs of the agricultural policy, so as to achieve the potential of the land to its greatest level of production.

Article 156

The State supervises the whole affairs of industry. It directly undertakes those industries included in the public property.

Article 157

Foreign trade is assessed on the basis of the citizenship of the trader and not the origin of the goods. Merchants from countries in a state of war with the State are prevented from trading in the State, unless given a special permission for the merchant or the goods. Merchants from countries that have treaties with the State are treated according to the terms of the treaties. Merchants who are subjects of the State are prevented from exporting any goods that the enemies could benefit of militarily, industrially or economically. However, they are not prevented from importing any property they own. Any country that we have real war between its citizens and us (such as Israel) is excluded from these rules. The rules applicable to the actual land of war apply to such a country in all the relations with it whether trade or otherwise.

Article 158

All individual subjects of the State have the right to establish research and development laboratories connected with all life's affairs. The State should also establish such laboratories.

Article 159

Individuals are prevented from possessing laboratories producing materials that could harm the Ummah or the state.

Article 160

The State provides free health care for all, but it does not prevent using private medical care or the sale of medicine.

Article 161

The use of foreign capital and its investment within the State is forbidden. It is also prohibited to grant franchises to foreigners.

Article 162

The State issues its own currency, which is independent of all foreign currencies.

Article 163

The currency of the State is to be restricted to gold and silver, whether minted or not. No other form of currency for the State is permitted. The State can issue coinage not of gold or silver provided that the treasury of the State (bayt ul-maal) has the equivalent amount of gold and silver to cover the issued coinage. Thus, the State may issue coinage in its name from brass, bronze or paper notes etc. as long as it is covered completely by gold and silver.

Article 164

It is permissible to have exchange between the State currency and the currency of other states like the exchange between the state's own coinage. It is permissible for the exchange rate between two currencies to differ provided the currencies are different from each other. However, such transactions must be undertaken in a hand-to-hand manner and constitute a direct transaction with no delay involved. The exchange-rate can change or fluctuate without any restrictions as long as it is between two different currencies. All citizens can buy whatever currency they require from within or outside the State, and they can purchase the required currency without obtaining prior permission or the like.

EDUCATION POLICY

Article 165

The Islamic creed constitutes the basis upon which the education policy is built. The syllabi and methods of teaching are designed to prevent a departure from this basis.

Article 166

The purpose of education is to form the Islamic personality in thought and behaviour. Therefore, all subjects in the curriculum must be chosen on this basis.

Article 167

The goal of education is to produce the Islamic personality and to provide people with the knowledge connected with life's affairs. Teaching methods are established to achieve this goal; any method that leads to other than this goal is prevented.

Article 168

A distinction should be drawn between the empirical sciences such as mathematics, on the one hand, and the cultural sciences, on the other. The empirical sciences, and all that is related to them, are taught according to the need and are not restricted to any stage of education. As for the cultural sciences, they are taught at the primary and secondary levels according to a specific policy that does not contradict Islamic thoughts and rules. In higher education, these cultural sciences are studied like other sciences provided they do not lead to a departure from the stated policy and goal of the education.

Article 169

The Islamic culture must be taught at all levels of education. In higher education, departments should be assigned to the various Islamic disciplines as will be done with medicine, engineering, physics etc.

Article 170

Arts and crafts may be related to science, such as commerce, navigation and agriculture. In such cases, they are studied without restriction or conditions. Sometimes, however, arts and crafts are connected to culture and influenced by a particular viewpoint of life, such as painting and sculpting. If this viewpoint of life contradicts the Islamic viewpoint of life, these arts and crafts are not taken.

Article 172

The state's curriculum is only one, and no curriculum other than that of the state is allowed to be taught. Private schools provided they are not foreign, are allowed as long as they adopt the state's curriculum and establish themselves on the State's educational policy and accomplish the goal of education set by the State. Teaching in such schools should not be mixed between males and females, whether the students or the teachers; and they should not be specific for certain deen, madhab, race or colour.

Article 173

It is an obligation upon the State to teach every individual, male or female, those things that are necessary for the mainstream of life. This should be obligatory and provided freely in the primary and secondary levels of education. The State should, to the best of its ability, provide the opportunity for everyone to continue higher education free of charge.

Article 174

The State ought to provide the means of developing knowledge, such as libraries and laboratories, in addition to schools and universities, to enable those who want to continue their research in the various fields of knowledge, like fiqh, Hadeeth and tafseer of Qur'an, thought, medicine, engineering and chemistry, inventions and discoveries etc. This is done to create an abundance of mujtahideen, outstanding scientists and inventors.

Article 175

The exploitation of writing for educational purposes, such as copyrighting, at whatever level is strictly forbidden. Once a book has been printed and published, nobody has the right to reserve the publishing and printing rights, including the author. However, if the book has not been printed and published, and thus is still an idea, the owner has the right to take payment for transferring these ideas to the public, the same way he can take payment for teaching them.

FOREIGN AFFAIRS

Article 176

Politics is taking care of the nation's affairs inside and outside the State. It is performed by the State and the nation. The State practices it and the nation questions that practice.

Article 177

It is absolutely forbidden for any individual, party, group or association to have relations with a foreign state. Relations with foreign countries are restricted only to the State, because the State has the sole right to practice taking care of the Ummah's affairs. The Ummah is to question the State in connection with this task of executing the taking care of her affairs.

Article 178

Ends do not justify the means, because the method is integral to the thought. Thus, the duty (wajib) and the permitted (mubaaH) cannot be attained by performing a forbidden action (Haraam). Political means must not contradict the political methods.

Article 179

Political manoeuvres are necessary in foreign policy, and the effectiveness of these manoeuvres is dependent on concealing (your) aims and disclosing (your) acts.

Article 180

Some of the most important political means are disclosing the crimes of other states, demonstrating the danger of erroneous politics, exposing harmful conspiracies and destroying misleading personalities.

Article 181

One of the most important political methods is the manifestation of the greatness of the Islamic thoughts in taking care of the affairs of individuals, nations and states.

Article 182

The political cause of the Ummah is Islam, in the might of the State, the improvement of the implementation of its rules, and continuity in its call (da'wah) to humankind.

Article 183

Conveying the Islamic da'wah is the core around which the foreign policy revolves, and upon which relations between the State and other states are built.

Article 184

The state's relations with other states are built upon four considerations. These are:

1. States in the current Islamic world are considered to belong to one state and, therefore, they are not included within the sphere of foreign affairs. Relations with these countries are not considered to be in the realm of foreign policy and every effort should be expended to unify all these countries into one state.
2. States who have economic, commercial, friendly or cultural treaties with our State are to be treated according to the terms of the treaties. If the treaty states so, their subjects have the right to enter the State with an identity card without the need for a passport provided our subjects are treated in a like manner. The economic and commercial relations with such states must be restricted to specific items and specific characters that are deemed necessary and which, at the same time, do not lead to the strengthening of these states.
3. States with whom we do not have treaties, the actual imperialist states, like Britain, America and France and those states that have designs on the State, like Russia are considered to be potentially belligerent states. All precautions must be taken towards them and it would be wrong to establish diplomatic relations with them. Their subjects may enter the Islamic State only with a passport and a visa specific to every individual and for every visit, unless it became a real belligerent country
4. With states that are actually belligerent states, like Israel, a state of war must be taken as the basis for all measures and dealings with them. They must be dealt with as if a real war existed between us – whether an armistice exists or not – and all their subjects are prevented from entering the State.

Article 185

All military treaties and pacts, of whatever source, are absolutely forbidden. This includes political treaties and agreements covering the leasing of military bases and airfields. It is permitted to conclude good neighbouring, economic, commercial, financial, cultural and armistice treaties.

Article 186

Article 18

The State is forbidden to belong to any organisation that is based on something other than Islam or which applies non-Islamic rules. This includes international organisations like the United Nations, the International Court of Justice, the International Monetary Fund and the World Bank, and regional organisations like the Arab League.

Source: <http://www.pickledpolitics.com/pictures/documents/Hizb%20ut%20Tahrir%20Constitution.html>