



Research Paper

Concept of the Rule of Law: A Glance from the Shariah Point of View

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Abstract

The rule of law is a political ideal that all citizens and institutions in a country, state or community are subject to the same laws, including legislators and political leaders. It is sometimes simply referred to as "no one is above the law". This paper aims to investigate this concept from the Shariah point of view. In doing so, the research adopts a qualitative research methodology. The research finds that the phrase 'rule of law' is not found in the Qur'an and may not have been used by the Messenger (S.A.W.), but many aspects of the rule of law have been identified in verses of the Qur'an and the Sunnah of the Messenger (S.A.W.); the rule of law means that nothing is above the Shari'ah as the ultimate reference point. It removes the basis of absolute rule of man, which has often been the cause of corrupt practices and unbridled exercise of power. In other words, the concept represents a rule of law; All people are equal before the law as demonstrated by the Prophet Muhammad when he said, "By Allah, if Fatimah had stolen, I would cut off her hand" (Fatimah was Prophet Muhammad's – (S.A.W) daughter); a fundamental characteristic of the rule of law in Islam is that it begins with the individual, i.e. when the individual judges himself according to the law revealed by Allah (S.W.T); the introduction of the rule of law in Islamic societies stemmed from the fact that the laws of Allah (S.W.T) are supreme and not the laws made by a person or group of people, regardless of their position. This was true even for the Prophet Muhammad

(S.A.W.), as can be seen from the instances in which the Qur'an corrects him for committing an error of action or judgement.

Keywords: Rule of law, Shariah, Islam, Supremacy of Shariah (siyadatal-shariah).

Received 12 Jan., 2024; Revised 25 Jan., 2024; Accepted 28 Jan., 2024 © The author(s) 2024.

Published with open access at www.questjournals.org

I. Introduction

The rule of law is a political ideal that all citizens and institutions in a country, state or community are subject to the same laws, including legislators and political leaders. It is sometimes simply referred to as "no one is above the law". The rule of law is defined as "the mechanism, procedure, institution, practice, or norm that supports the equality of all citizens before the law, ensures a non-arbitrary form of government, and generally prevents the arbitrary use of power.

The use of the expression can be traced back to 16th century England. It can be traced back to the end of the 16th century. In the following century, the Scottish theologian Samuel Rutherford used the term to argue against the divine right of kings. John Locke wrote that liberty in society means being subject only to the laws enacted by the legislature, which apply to all, while an individual is free from governmental and private restrictions on his liberty. The term "rule of law" was further popularized in the 19th century by the British jurist A. V. Dicey. However, the principle, if not the term itself, was already recognized by ancient thinkers. Aristotle wrote: "It is more fitting that the law should govern than any citizen: if it is an advantage to place the supreme power in the hands of certain persons, they should only be appointed guardians and servants of the laws." The rule

of law means that everyone is subject to the law, including those who act as legislators, law enforcement officials and judges. Several scholars have traced the concept of the rule of law back to 4th century BC Athens and see it either as the predominant value of Athenian democracy or as a value that applied in conjunction with the concept of popular sovereignty.

This paper will examine this concept from the point of view of the Shari'ah to determine whether the Shari'ah also validates his concept.

Concept of the Rule of Law

The "rule of law" is often understood as the opposite of the "rule of men". Aristotle declared: "It is better that the law should rule than an individual citizen," which means that the guardians of the law must also obey it (Aristotle, 1981). The rule of law means that the law must be obeyed, in the sense that the government must operate according to the principles of law. The law applies equally to everyone, including the head of state, the rich and the poor, the privileged and the marginalised, regardless of race or gender. No one is above the law, and those who break the law must be punished justly (<https://www.spokesman.com/stories/2020/oct/08/rule-law-vs-rule-law/>). Today, this logic borders on common sense: everyone wants the rule of law because no one wants the rule of man. "Where the rule of law ends, tyranny begins," declared the English philosopher John Locke (Locke). Indeed, we are so united on this issue that an English judge, Lord Bingham, described it as "the nearest thing we have to a universal secular religion" (Bingham, 2011). Nonetheless, what constitutes the "rule of law" is controversial. This can be seen, for example, in the Nuremberg Trials. The Nuremberg Trials were set up after the bitter events of the Second World War and the Holocaust and were used to try Nazi officials. Although it could be assumed that these individuals had committed serious crimes, it was disputed whether they could be punished. For example, a court can only punish someone who has violated an existing law – as the legal maxim states, *nulla poena sine lege* ("no punishment without law"). In order to establish a crime, a law must therefore have been violated (Hazri).

The rule of law is an essential component of good governance and sustainable development. The rule of law will ensure an accountable and transparent legal system, guarantee equal opportunities and equitable access to justice and basic services, and strengthen state institutions. It will protect human rights and the environment. United Nations Sustainable Development Goal 16, namely: Peace, Justice and Strong Institutions, aims to promote the rule of law at national and international levels and ensure equal access to justice for all (Kamali, 2022). The rule of law limits arbitrary government power and ensures fairness, equality and justice in society (Bingham, 2011, 1-2). Therefore, no person or group of people is above the law (as is still the case in many developing countries), and opportunities are not reserved for or usurped by the rich and powerful. Thomas Fuller put it succinctly in 1733: "Never be so high, the law is above you" (Denning, 1977, 762). The rule of law thus creates stability and order based on legal checks on government and the maturation of a society that recognises the wisdom and benefits of limiting arbitrary power and of equality, fairness, and justice (Weingast, 2010, 28.)

The rule of law means that the state and the laws it enacts serve the common good and promote equality of opportunity. The requirement of the rule of law places considerable limits on state power, which serve to protect citizens from arbitrariness or unjust laws. The "law" to which the concept of the rule of law refers is therefore not that which is enacted by legislatures and courts, but rather "a certain kind of restraint on the use of force" or arbitrariness (Hayek, 1976, 55). Law is a system of rules and legal principles "which regulates the conduct of persons towards others, is applicable to an unknown number of future cases, and contains prohibitions which define the limits of the protected areas of all persons and organised groups" (Hayek, 1979, 100).

If a society is not governed by a constitutional state, it is governed by people, usually kings, emperors and other rulers. This was the case in ancient Egypt and China, for example, where the orders of the rulers were binding on the people. These societies were in a sense ruled by humans – it was a human (i.e. the ruler) who created the law and then enforced it. However, the problem with the "rule of men", as Aristotle puts it, is that it relies on the whims of the human mind, which can say one day that a certain action is permitted, but another day that it is wrong and should be punished. It would be better if society were governed by basic rules that people generally agree on and that bind them as much as the rulers. When a society is governed by such rules, it is called the rule of law; in such cases, it is the law that people rely on, not the arbitrary decision of a single individual. Although there must necessarily be someone responsible for enforcing the law, this "someone" is also bound by the rules, which they cannot simply change at their own discretion. The law applies to everyone, without exception. A society governed in this way is called a democracy (Hazri).

According to the United Nations, the rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to publicly promulgated, evenly enforced and independently adjudicated laws that are consistent with international human rights norms and standards. Measures are also needed to ensure compliance with the principles of supremacy of law, equality before the law, accountability before the law, fairness

the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency (Report of the Secretary-General, UN Doc. S/2004/616, 4).

Rule of Law from Islamic Perspective

There is not much literature on the rule of law from an Islamic perspective. In fact, there is no classic book on the rule of law. In the 21st century, there are several works. For example, *The Rule of Law, Freedom of Expression and Islamic Law* (2017) by Hossein Esmaeili, Irmgard Marboe and Javaid Rehman, as well as edited books *The Rule of Law, Islam, and Constitutional Politics in Egypt and Iran* (2013) and *Islam and the Rule of Law: Between Sharia and Secularization* (Kamali, 2022).

The Arabic term for the rule of law is: “*siyādah al-qānūn*”. The term is not found in the Qur’ān and may not have been used by the Messenger (s.a.w.), but many aspects of the rule of law have been identified in verses of the Qur’ān and the Sunnah of the Messenger (s.a.w.). The principle that a government must operate on the basis of legal principles is contained in the Qur’ān. The Prophet Muḥammad (s.a.w.) also ruled Madīnah justly and without discrimination. It is stated that the idea of the rule of law is enshrined in Islam. It is also stated that some of the divine texts are not accepted by some societies, such as not recognising a third gender, criminalising same-sex relations and apostasy from Islam, as well as certain regulations for non-Muslims that differ from the laws for Muslims. Nevertheless, it is claimed that the rule of law is one of the objectives of Islamic law and Muslim states are therefore obliged to improve this aspect in their respective governments (Kamali, 2022).

The concept of the supremacy of the Shari’ah (*siyādah al-shari’ah*) or the rule of law means that nothing is above the Shari’ah as the ultimate reference point. It removes the basis of absolute rule of man, which has often been the cause of corrupt practices and unbridled exercise of power. In other words, the concept represents a rule of law (Yusuf Al-Qaradawi, 2015, 30). The primacy of Shariah does not mean that the Islamic-based system is theocratic in the Western sense, in which the rights and freedom of people, including non-Muslims, are denied. Their interests, needs and welfare are always taken into account, and they are included in the decision-making processes. The jurists, policymakers and the people are given ample space through the principles of *ijtihad*, *shura* and *siyasah shar’iyyah* to work out the necessary details, formulate policies and enact laws and regulations within the parameters of religion, its foundations and *maqasid al-shari’ah* (Abdul Samat Musa, 1998, 31). Therefore, the use of law to serve the whims or objectives of those in power, however benign that power may be (both brutal and benign uses of power are easily demonstrable in Muslim societies), has no place in the rule of law. The rule of law must take root in society and be embraced by it through a general commitment to it by every member of society. It is not an “imaginary” entity deployed by the government for its equally imaginary ends and imposed on the people (May, 2014). Similarly, the rule of law is not the sole prerogative of the government but requires the obligation of citizens to abide by and uphold the rule of law. Therefore, in rule of law societies, corruption is not widespread and does not affect the daily lives of individuals (Balala, 2023: 23).

The fact that the rule of law in Islam begins with the individual is also underlined by the fact that in Islam, government accountability (*muḥāsabat al-ḥukkām*) is an extension of self-responsibility or self-judgement (*muḥāsabat al-nafs*). The primary addressee of self-responsibility is the conscience of the individual: “Ready your book, and you own souls suffice as an account against you on this day” (17: 14) and “Nay, (but) every man is witness over himself” (75: 14). The Shari’ah, unlike man-made laws, makes no distinction between the private and the public, in the sense that it is applicable in both spheres of human life; the fact that others may not observe one’s wrongdoing does not diminish the individual’s responsibility, for the Qur’ān says that the individual “may conceal what he does from men, but from God he cannot conceal it[...]. His knowledge encompasses all that he does” (4: 108). Indeed, the Qur’ān repeatedly reminds us that “God sees what you do”, “that God knows your reactions” and “God watches over you” (3: 156, 2: 234, 4: 1) (Kamali, 2011).

According to al-Ghannūshī (1999), those who proclaim that sovereignty belongs to God do not mean to imply that God governs the affairs of the Muslim community directly or through the clergy: For in Islam there is no clergy, and God cannot be perceived directly, nor does He reside in a human being or institution that can speak for Him. What the slogan “Sovereignty belongs to God” means is the rule of law (*ḥukm al-qanun*), government by the people. Wael Hallaq states that “justice and equality” are the very emblem of Islam, as both are central to the rule of law. Thus, “Judicial independence and the rule of law are undoubtedly two of the most distinctive features of traditional Islamic cultures”. Thus, it seems that aspects of the rule of law such as the separation of powers and the supremacy of the law were established early in Islamic history. The jurists (‘ulamā’) performed a wider range of economic, political, and administrative functions and acted primarily as intermediaries between the ruling classes and the laity, legitimising their

vis theruled and often explaining the rules. The jurists also used their moral weight to thwart tyrannical measures, sometime leading or legitimising revolts against the ruling classes. The post-Reformation centuries of Islamic history suggest that rulers generally preferred to maintain an equation in favour of compliance with religious law, since compliance was how the ruling elite could gain the sympathy, or at least the tacit approval, of the populace" (Hallaq, 2003, 1708). All disputes between the ruler and the ruled were brought before the judiciary to be resolved. The same applied to all disputes between fellow citizens, regardless of their status or reputation. Equality before the law was therefore also practised and embodied by the Prophet Muhammad when he said, for example, "By God, if Fatimah had stolen, I would cut off her hand" (Fatima was Prophet Muhammad's – (S.A.W) daughter) (Balala, 2023).

A fundamental characteristic of the rule of law in Islam is that it begins with the individual, i.e. when the individual judges himself according to the law revealed by God, the *sharī'ah*. This feature goes along way towards offering an alternative insight into contemporary constitutional thinking, which tends to view the rule of law as a governing principle. Of course, we do not mean to deny the importance of the latter: There is ample evidence for it both in the Qur'an and Sunnah and in Islamic scholarly literature. However, we would like to point out here that in Islam there is a close connection between the rule of law as a constitutional principle and the rule of law in the sense of the self-government of the individual. In Islamic cosmology, man and the universe reflect each other: *manisa* "miniature cosmos" (*al- 'ālamal- ṣaghīr*) (Bakar, 1995) and his social order an extension of this human macrocosm – a principle that Muhammad Iqbal understood very well when he argued that the state is nothing but "an attempt to realise the spiritual in a human organisation." (Iqbal, 2006). In other words, just as *man* is an individualist vicegerent of God (*khalīfah*), so too does society reflect this vicegerency, as evidenced using the word *khalīfah* to refer to the Muslim polity. In English, however, *khalīfah* has been translated in two different ways: as "vicegerent" when it refers to the individual in relation to God, and as "caliph" when it is understood politically. In the original meaning of the word, however, *khalīfah* is used to denote both concepts. This linguistic dichotomy, originating in English, creates a conceptual split where there should be none; the two meanings of the word are closely linked. In Sufi discourse in particular, the Prophet Muhammad (S.A.W) is seen as the universal man (*al-insānal-kāmil*) who embodies the entire cosmos in its perfection. The Prophet (S.A.W) is thus the one who has truly realised and perfected his vicegerency (*khalīfah*). In the same macrocosmic expanse, the social order he established is considered the best. Muslims are therefore required to live according to the Sunnah of the Prophet (S.A.W) (Hazri).

According to Elliesie (2010), contemporary scholars of Islamic law placed great emphasis on the notion that legal doctrine is a constant state of change and development. The high value placed on the historical development of doctrine has given rise to new ways of thinking about law and its place in Islamic societies: the role of the *sharī'ah* in jurisprudence probably functioned well under the imperial states of the pre-colonial era, which intervened only minimally in the day-to-day governance and jurisprudence of local communities. However, the situation changed considerably with the introduction of the European model of the state and the European conception of law as a result of colonialism. The legal system in the modern sense, created in the late 19th century, strengthened the authority of the central state while imposing (sometimes weak) restrictions on certain individuals and officials. The relationship of law to rule and authority can therefore be seen as political rather than ideological in contemporary understanding. Legislation became the exclusive domain of the state. The current legislature enacts many legal texts, and its courts are overwhelmed with civil and criminal disputes, which means that people are somehow convinced that the courts actually apply the law enacted at the national level. This shows the paradoxical use of the concept of the rule of law in these countries: It can be seen as protecting individuals from the arbitrary power of the state, but it can also be used to build "a stronger, more efficient, more centralized and more intrusive state". One example of this is the relationship between law and morality. On the one hand, recourse to moral (Islamic) principles enables individuals to challenge the authority of the state; on the other hand, it also enables the judiciary to construct a legal and official sanction and interpretation of these principles. In other words, morality restricts the law, although it is the lawyers who legalize morality. In this way, the supposedly heteronomous status of morality is transformed into a positive and legal one. The rule of law is strengthened by the fact that people and the state must abide by rules laid down by law and by the courts. However, this is a "rule of law" by jurists", which raises the question of the extent to which jurists can exercise legislative function. In the context of many Islamic countries, where politically sensitive issues are monopolized by the executive by creating a dichotomy that does not contrast law and morality, but rather ordinary law and extraordinary law, the challenge is no longer just the rule of morally restricted law. Rather, it is also about the rule of hierarchical law, in which cases are treated differently depending on their political character. The rule of law thus becomes the rule of the ruler.

In essence, the exact content of the *sharī'ah*'s normative system was and is the product of human understanding in its specific historical context. Although the law of the *sharī'ah* is of divine origin, the actual construction of the law is a human activity, and its results constitute the law of God as understood by humans. The ratio legis (*hikmatasharī'iyah*) of a norm and its logical conclusion is a subjective understanding. Therefore, if one argues that the norms in the Qur'an and Sunnah are the understanding of justice at the time the norm was created, then one can exchange the perception of justice in the modern sense. One must remember that law in the Islamic context does not fall ready-made from the sky, but that the human understanding of law – the human *fiqh* –

must be normative for society. According to Assem Hefny and Mashood Baderin, Islamic rules and regulations on worldly matters are subject to change at certain times and in certain places. The doctrine of *al-‘illawa-lma’lūl* must be taken into account, according to which the causes vary in time and place, which is why the results also vary. Therefore, a generalization of the concept of the rule of law in each country should be avoided. Rather, it must be viewed from a different perspective, namely that of the specific national understanding of law against the background of the dichotomy between the respective traditional influence of (Islamic) legal theory and contemporary law in practice, i.e. legal reality (Ellie, 2010).

According to Balala (2023), the rule of law in Islam is not a topic about which much is written. While there are some who have dealt with the subject of constitutionalism and democracy in Islam and refer to such ancient texts as Ibn Khaldun's writings on good governance, none of them deal with the rule of law as defined here. Ibn Khaldun's statements and perspectives on good governance differ from the rule of law as defined and discussed here, which also differs from democracy and constitutionalism. Although the rule of law can encompass democracy and constitutionalism, it should not be lumped together with them. This is about the rule of law – not democracy). However, if there was a pre-modern legal and political culture that preserved the principle of the rule of law so well, it was the culture of Islam. In Islam, the introduction of the rule of law in Islamic societies stemmed from the fact that the laws of God are supreme and not the laws made by a person or group of people, regardless of their position. This was true even for the Prophet Muhammad (S.A.W), as can be seen from the instances in which the Qur'an corrects him for committing an error of faction or judgement (Qur'an, Ābasa). Every man and every woman were/isequal before God (Balala, 2023).

At the time of the Prophet Muhammad (s.a.w) and his companions (*khulafā' arraṣhidīn*), scholars and jurists had no status. They de facto did not exist. The leader had supreme control, even if he delegated responsibility to judges (whosometimes act as governors) in distant lands under the rule of Islam. The Prophet (S.A.W) and his companions were considered rightly guided by God and were said not to have abused their power or acted arbitrarily. Rather, they acted as "rightly guided representatives of God" to prevent any excesses or abuses of power in Muslim societies. They were also trusted to ensure that the law applied equally and justly to all. Prophet Muhammad (s.a.w.) was considered the only one who implemented the rule of law by ensuring fairness, equality and due process and checking the abuse of power wherever it occurred. This was because in Prophet Muhammad (s.a.w.) the roles of head of state, judge and jurist were combined in one person. Subsequently, these separation of powers was specified to the effect that the judge/ qāḍī had the task of settling disputes, passing judgement, and administering the law. The caliph/ruler played a minimal role in this quasi-judicial administrative function. However, the caliph was not above the law and did not have the authority to issue laws or judgements. The caliph was himself subject to the laws and customs of the land and handed down from previous generations and recorded by precedent in the sunan (Balala, 2023).

Because the government was bound by a higher law that could not be changed, and because the government could not act capriciously or outside the law, the caliphate system was superior to any other (Barakat, 1985, 119). Muslim scholars, such as Ibn Khaldūn, regarded the Islamic political system as a challenge to the world. While all other political systems were doomed to despotism and their laws were individualistic and capricious, the caliphate's system of government was superior because it was based on the rule of law, i.e. a law that was above and controlled those who ruled. Whether or not this assumption was justified from a historical perspective, the point is that classical Muslim jurists had a distinct aversion to capricious or unbridled government. A government bound by sharia was seen as meritorious in part because it is a government in which people do not have unfettered authority over other people and in which there are limits to the scope of power (Balala, 2023).

According to Kuran, the rule of law was applied in the history of Islam, but even at the height of the Islamic empire its application was impaired. He emphasizes that the establishment of a principle is not synonymous with its implementation in practice and notes that the Ottoman Empire provides numerous examples of the compromised application of the rule of law. He explains that the rule of law includes government accountability, equal access to justice and the political process, efficient judicial and political systems, clear laws, generally stable laws, and the protection of basic human rights. He then explores the question: "To what extent does Islamic law conform to these principles in theory and practice?" (Kuran, 2010, 78). Regarding government accountability, Kuran (2010) writes:

"A central concept in Islamic political thought is that an Islamic ruler must not only enforce Islamic law but obey it strictly himself. The legitimacy of his rule depends critically on his adherence to the sharia. If he fails to uphold Islamic law through either his policies or his personal life, he must be deposed. Centuries before the issuing of the English Charter of Liberties (Magna Carta) in 1215, in Islamic thought the law was considered a force above government and independent of the whims of individual rulers. In principle, Muslim rulers were accountable for their actions. ... Precisely because Muslim rulers were accountable under Islamic

law, Feldman (Feldman, 2008) considers Islam's traditional form of government to have provided, for a while, a version of the rule-of-law."

He concludes that for the purposes of the modern application of state accountability:

"Both the historical record and contemporary patterns suggest that the balance of power implied by the concept of rule-of-law cannot be achieved simply by declaring government accountable to the ulama. Major constituencies will try to frustrate any attempt to increase the powers of religious functionaries."

At the end of his assessment of whether Islamic law complies with the core principles of the rule of law, he states that:

"Three broad themes stand out. First, the early development of Islamic law involved a panoply of institutions that served these principles. For each principle we can identify one or more early Islamic institutions that were meant, at some level, to promote it. Second, the institutions in question were not flawless as measured by long run success in sustaining the rule-of-law. Over time they lost effectiveness. Finally, the relevant Islamic institutions now tend to be out of date. Hence, Islamic law, as it is now understood, does not offer an efficient variant of the rule-of-law."

Balala (2010) said in relation to the above that while I agree with Kuran, including the fact that the application of the rule of law in Islamic history has been flawed and deficient, his conclusions simply state the obvious: the fact that the historical expressions of the rule of law and the means by which it was achieved, no matter how brief the equilibriums sought, are woefully inadequate today. We no longer use camels and horses for transportation, nor do we need to resort to historical forms and structures of exercising and maintaining the rule of law. After all, the Prophet (s.a.w.) ruled alone in his time, whereas today's government consists of three arms and many offices, as is common in modern governmental practice all over the world. The application of the rule of law was common even at the time of Prophet Muhammad (s.a.w.) and after the 8th and 9th centuries. This shows the capacity and space for development and change. The same should apply to the rule of law in Muslim societies today; its applications should reflect modern global standards, and there is nothing in the teachings of Islam that contradict this. After all, if all Muslim societies have banned slavery in line with modern global human rights practices, even though the Qur'an explicitly condones the practice, why should the adoption of modern rule of law practices and institutions be limited to historical Islamic practices or forms? In his writing on *Awqaf* in Islamic history versus the modern version of *Awqaf*, Timur Quraan shows first-hand that the development of institutions and the way they are run is crucial to their survival and success. He also emphasizes the detrimental effects of a negative legacy or lack of a positive past to emulate, which leads to the repetition and perpetuation of past negative ways of working.

The question remains: Why has the Muslim world today jettisoned the rule of law instead of reintegrating it into the nation state? Is it because the rulers of most Muslim-majority countries are still hungry for power and control? Is it that the population of Muslim majority nations is politically immature and willing to be controlled? Or is it a combination of both? But how is a population supposed to mature if it is constantly shackled by overbearing leaders who manipulate and control it? There are no clear answers yet, but Muslim societies must face these questions. She went on to say that almost all governments at the top of Muslim societies are not transparent, but rather corrupt and heavy-handed. Their citizens live in conditions of great fear and are generally deprived of the opportunity to mature as a society. As a result of high inequality and low trust in both governments and in each other, civil society and a sense of civic duty are very weak (Wilkinson, 2005:30). As a result, it is rare for citizens to establish and run their own socio-economic organisations for the benefit of society. Charities, foundations, grants and other philanthropic organisations established and run by individuals and corporations in countries such as the UK, USA, Sweden, Canada, Australia and New Zealand are usually the sole prerogative of the government in most Muslim societies, which is not spared from the negative effects of corruption, mismanagement, nepotism, and cronyism. All this must change and be replaced by the effective application of the rule of law in Muslim societies if a return to the glory days of Islam is to be truly achieved. It is not the Caliphate's system of governance or Shari'ah that is the missing factor, but the effective application of the rule of law in Muslim societies (Balala, 2023).

Furthermore, there is no book or academic work that examines why Muslim societies oppose the rule of law. However, we can assume that most Muslim societies are ruled by undemocratic systems, so the majority of Muslims have no say or choice when it comes to whether or not they want their governments to act according to the rule of law. It is also logical to think that an

one who understands the rule of law and the benefits it brings would want it to work to their advantage in their society. Two questions arise: the question of acculturation and the question of the nature and maturity of the society in question. The question of acculturation refers to the fact that most Muslims have lived for generations in societies without the rule of law, be they in rich or poor countries, and that they know no other form of existence. Therefore, even if they are given the free choice to live in a society under the rule of law, they resort to customs and traditions that are fundamentally contrary to the rule of law. This is the main reason for the clashes between immigrants and the rest of the population in most Western societies. The culture and way of life to which most Muslim immigrants are accustomed is fundamentally at odds with the rule of law, so they find life in constitutional societies alienating. Initially, their behaviour is often at odds with the rules and ethos of the society they immigrate to, until they are "integrated" into the new constitutional society in which they live. Sometimes integration only occurs in the second or third generation of these immigrant communities, when they have achieved full autonomy. In this sense, Timur Kuran writes of the "persistence of historical political patterns" in examining the waqf institution in history and its contemporary version in the Middle East, he notes that the lack of accountability to beneficiaries and non-democratised forms of governance persist today because the Middle East has no legacy of mass participation in serviced delivery, civil society, or democratic governance (Balala, 2023).

II. Findings

1. The rule of law means that the law must be obeyed, in the sense that the government must operate according to the principles of law. The law applies equally to everyone, including the head of state, the rich and the poor, the privileged and the marginalised, regardless of race or gender. No one is above the law, and those who break the law must be punished justly.
2. The Arabic term for the rule of law is: "*siyādah al-qānūn*". The term is not found in the Qur'ān and may not have been used by the Messenger (s.a.w.), but many aspects of the rule of law have been identified in verses of the Qur'ān and the Sunnah of the Messenger (s.a.w.). The principle that a government must operate based on legal principles contained in the Qur'ān. The Prophet Muḥammad (s.a.w.) also ruled Madīnah justly and without discrimination. Thus, the idea of the rule of law is enshrined in Islam.
3. The concept of the supremacy of the Shari'ah (*siyādah al-shari'ah*) or the rule of law means that nothing is above the Shari'ah as the ultimate reference point. It removes the basis of absolute rule of man, which has often been the cause of corrupt practices and unbridled exercise of power. In other words, the concept represents a rule of law.
4. All people are equal before the law as demonstrated by the Prophet Muhammad when he said, "By Allah, if Fatimah had stolen, I would cut off her hand" (Fatimah was Prophet Muhammad's – (S.A.W) daughter).
5. A fundamental characteristic of the rule of law in Islam is that it begins with the individual, i.e. when the individual judges himself according to the law revealed by God, the shari'ah. This feature goes along way towards offering an alternative insight into contemporary constitutional thinking, which tends to view the rule of law as a governing principle.
6. Those who proclaim that sovereignty belongs to God do not mean to imply that God governs the affairs of the Muslim community directly or through the clergy: For in Islam there is no clergy, and God cannot be perceived directly, nor does He reside in any human being or institution that can speak for Him. What the slogan "Sovereignty belongs to God" means is the rule of law (*hukmal-qanun*), government by the people.
7. In Islam, the introduction of the rule of law in Islamic societies stemmed from the fact that the laws of God are supreme and not the laws made by a person or group of people, regardless of their position. This was true even for the Prophet Muhammad (S.A.W), as can be seen from the instances in which the Qur'an corrects him for committing an error of action or judgment (Qur'an, Ābasa). Every man and every woman were/isequal before God.
8. However, even though the rule of law was applied in the history of Islam, but even at the height of the Islamic empire its application was impaired. The establishment of a principle is not synonymous with its implementation in practice and the Ottoman Empire provides numerous examples of the compromised application of the rule of law.

III. Conclusion

The rule of law means that the law must be obeyed, in the sense that the government must operate according to the principles of law. The law applies equally to everyone, including the head of state, the rich and the poor, the privileged and the marginalised, regardless of race or gender. No one is above the law, and those who break the law must be punished justly.

The term 'rule of law' is not found in the Qur'ān and may not have been used by the Messenger (s.a.w.), but many aspects of the rule of law have been identified in verses of the Qur'ān and the Sunnah of the Messenger (s.a.w.). The principle that a government must operate based on legal principles contained in the Qur'ān. The Prophet Muḥammad (s.a.w.) also ruled Madīnah justly and without discrimination. Moreover,

a fundamental characteristic of the rule of law in Islam is that it begins with the individual, i.e. when the individual judges himself according to the law revealed by God, the *sharīah*. This feature goes along way towards offering an alternative insight into contemporary constitutional thinking, which tends to view the rule of law as a governing principle.

However, even though the rule of law was applied in the history of Islam, but even at the height of the Islamic empire its application was impaired. The establishment of a principle is not synonymous with its implementation in practice and the Ottoman Empire provides numerous examples of the compromised application of the rule of law. Furthermore, violation of the 'rule of law' is rampant in many Islamic societies.

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