



The Concept and Principles of Citizenship From an Islamic Perspective

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المواطنة: مفهومها ومبادئها من منظور إسلامي

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ملخص البحث:

يتناول هذا البحث قضية المواطنة من المنظور الإسلامي من حيث المفهوم والمبادئ العامة، بغية استخلاص الأصول العامة للمواطنة كما تضمنتها الشريعة وكما تتعكس في تراث المسلمين. ويعالج البحث ثالث قضايا أصلية يتعلق الأول منها بالمواطنة من حيث مفهومها وتاريخها، ويعالج البحث الثاني المصادر العامة للمواطنة في التراث الإسلامي، بينما يذكر البحث الثالث على تحديد المبادئ العامة الحاكمة للمواطنة في الإسلام. وقد ناقش المبحث الأول المصطلحات التي استعملت في سياق معاني المواطنة من قبيل أهل الذمة، وأهل العهد، وأهل الأمان والجماعة، والأمة، ثم تناول المبحث الثاني المصادر الأساسية للمواطنة في الإسلام وهي محصورة بالولادة والهجرة بأنواعها وإعلان الموالاة والتحالف التام مع حكومة المسلمين والخضوع لأحكامهم والالتزام بحفظ النظام العام. ثم تناول المبحث الثالث المبادئ العامة الحاكمة لحق المواطنة في الشريعة الإسلامية وهي: المساواة العامة بين بني البشر، وحق الجميع في مشاركة الموارد، واحترام الخصوصيات والاختلافات، وهي ما يعرف بالتنوع، ومقصد التعارف الإنساني، والحق الأساسي لكل الإنسان في أن يكون له وطن، واعتماد الإسلام لقانون جمع الشمل بين الأسرة الواحدة، حيث حرم التفرقة بين الولد والوالديه أو بين الزوج وزوجته، وبالتالي يقر الإسلام بكون القرابة سبباً من أسباب اكتساب المواطنة، وإقرار الإسلام بكافة الوسائل والأعراف العالمية التي تعطي حق الإقامة أو المواطنة، ولا يضع الإسلام عائقاً في طريق اكتساب حق المواطنة فلا يعلقها على قضاء سنوات معينة في وطن أو استثمار مال مقدر. ركز البحث على مفهوم المواطنة من حيث الحقوق الأساسية وبين كيف فاق المسلمين غيرهم في هذا الباب حيث لم تفرق الشريعة بين المواطن والمهاجر واللاجئ في الحقوق دون وضع قيد على اكتسابها. وخلص البحث إلى وجود اصطلاحات متعددة تعبّر عن ألوان متميزة من المواطنة في التراث الإسلامي، واحتضن الإسلام في هذا العصر القديم بعلميته في منح المواطنة للجميع، واعتباره الهجرة والموالاة من أسباب الحصول على المواطنة دون قيود زمانية أو مالية، كما استخلص البحث المصادر العامة للمواطنة والمبادئ الأساسية التي ترتكز عليها في الإسلام وفق نصوص الشريعة وأقوال الفقهاء.

كلمات مفتاحية: المواطنة – الشريعة الإسلامية – مواطنون غير مسلمين – حقوق الإنسان

The Concept and Principles of Citizenship from an Islamic Perspective

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Abstract:

This paper endeavors to explore the concept and principles of citizenship from an Islamic perspective. It aims at extracting the fundamental principles of citizenship embedded in the texts of Sharia and mirrored in the heritage of Muslims. It has three main sections: first, Muwaṭṭana's concept and history; second, the sources of citizenship in Muslim Tradition; and third, the general principles of citizenship in Islamic Laws. The first section explores the traditional terms used in relation to citizenship, including Ahl al-Dhimmah, Ahl al-'Ahd, Ahl al-Aman, al-Jama'ah, and al-Ummah. The second section identifies the main sources of citizenship in Islam, which are: birth, migration, and the collective declaration of loyalty and alliance along with submission to Muslim laws and public order. The third section is an actual representation of the citizenship-related basic principles, which form the grounds for equal citizenship in Islam. Such principles may be summarized as follows: the equality of all human beings, the right of all human being to share resources, the respect of specificities and differences widely known as diversity, human acculturation and cooperation as a higher Quranic objective, the human right to homeland, and the principle of family reunion as an essential principle in Islamic laws; it is forbidden to force the separation or prevent the reunion of a child and parents or a husband and his wife. In a word, family ties form a legal ground for attainment of citizenship in Islam. Islam also confirms all global means and norms that give the right to residence and citizenship putting no restrictions on the way to get citizenship and requiring no specific number of years or certain capitals or investment activities for it. The research focuses on the concept of citizenship in terms of the fundamental rights and shows how Muslims excelled others in this area. Simply, the Sharia does not differentiate between citizens, migrants, and refugees in rights. At these ancient times, Islam was noted for its universality as it

allowed residence and citizenship for all. In conclusion, the research presents various citizenship-related traditional terms, explores their differences, investigates the sources of citizenship in Islam, and introduces the universal principles that govern the right to citizenship as extracted from the Islamic Sharia and reliable juristic texts.

Keywords:

Citizenship – Islamic Law – Non-Muslim citizen – Human Rights

Introduction

The terms, conceptions, and rights of citizenship have become of keen interest throughout the globe over the last decades.¹ They form an international concern widely discussed in national and international debates and conferences held by national governments, international organizations, and civil community alike. Reshaping the relationship of citizenship with religion and culture is essential for human freedom and peace worldwide. Sometimes this relationship may appear somewhat complicated when compared to the values and history of the ancient and mediaeval ages, preceding the rise of the modern human community. In a cosmopolitan world noted for the economic migration of people as well as the torrents of migrants and refugees uprooted by famine, political or ethnic persecution, war and civil wars—citizenship education has become the antidote for a healthy human community. The widening and deepening reach of the migration process is almost affecting most of regions worldwide. In light of these new developments, citizenship education serves as a conduit by which human societies transfer the past history and reshape their future. As part of this, the Council of Europe officially declared 2005 as the "European Year of Citizenship through Education"² to promote social coherence in Europe.³

¹ For more information on the history and development of citizenship in various regions and times, see Heater, Derek. *A Brief History of Citizenship*, (Edinburgh University Press, 2004), p. 6-79.

² Cf. Sharpe, Pamela. *Women, Gender, and Labor Migration: Historical and Global Perspectives*. (USA & Canada: Routledge, 2001 CE), p. 1-2; Bekerman and McGlynn, eds. *Addressing Ethnic Conflict through Peace Education*. (New York: Palgrave Macmillan, 2007), p. 27.

³ 'Ammar, Radwa. *Al-Ta 'īm wal Muwātana wal Indimāj al-Watani*, (Cairo: Egyptian Cabinet, 2014 CE), p. 3.

As such, it is highly significant to explore the concept and elements of citizenship in Islamic laws and Muslim heritage to build strong bridges between the corpus of Sharia and the necessary citizenship—based education for the future. Some writers think that Islam disregards non-Muslims as second class citizens. They recall old terms relevant to the context, e.g. *dhimmi* and *jizyah*, clad with intentionally devised disgust and bad impressions to prove their claims⁴ in isolation from the wider context of the ancient and medieval world. It is seriously important to explain the meanings of these terms and unveil the truth about them for the sake of better understanding of the Islamic stand on citizenship. This vital issue has many dimensions and implications, and hence, gives rise to several questions and debates, but the main focus of the paper is to discuss the concept of *muwatana* and extract the roots of citizenship from the corpus of Sharia texts and Muslim reliable sources in an endeavor to introduce a framework for the foundations of citizenship in Islam.

The main questions of the paper are: Does Islam present a certain fair concept and introduce solid universal principles for the structure of citizenship? In other words, do the Islamic teachings and history provide alternative foundations for a sense of belonging and affiliation to one's homeland? Answering this question constitutes a theoretical introduction expected to help Muslims build strong bridges with the new concepts of citizenship in modern times firmly connected with the practices of citizenship in areas of equal opportunities, voting rights, rights of migrants and refugees, etc. Simply, the issue of citizenship is inseparable from the area of

⁴ Cf. North, James. *A History of the Church: From Pentecost to the Present*. (USA: College Press Publishing: 2007), p. 456; Ye'or, Bat. *Islam and Dhimmitude: Where Civilizations Collide*. (UK: Fairleigh Dickinson University Press, 2002), p.180 ff.; Hooks, Benjamin. *Freedom: Keys to freedom from twenty-one national leaders*, (Tennessee: Main Street Publications: 2008), p. 56.

human rights, especially the human social and political rights. To put it short, the paper aims to explore the concept and principles of citizenship as mirrored in the Islamic heritage and actual practices in Muslim societies. It comes in three sections as follows:

- I. *Muwatāna*: Concept and History
- II. Sources of Traditional Citizenship
- III. Principles of Citizenship in Islam

These sections aim to provide researchers with new perspectives about the concept, models, principles, and applications of Islamic citizenship in the contemporary world.

I. *Muwatāna*: Concept and History

The tri-literal verbal roots of *muwatāna* in Arabic are “- ل - و - ج”. Only the adverb of place derived from this root occurs once in the Quran in the plural form; God says, “Indeed, God has given you victory in many *mawatīn*.⁵” The word *mawatīn* literally signifies the places where human beings or other living creatures may live or where a certain event takes place but communicatively it refers to the battles of the Prophet, e.g., Badr, al-Khandaq, etc., in which God gave victory to Muslims over their pagan enemies.

The root “*watān*” refers to the homeland or any place where a human being permanently lives.⁶ In other words, the *watān* i.e. homeland, is flexible in Arabic and a person may have various *awtān* i.e. homelands but it is better in Arabic to use the verb

⁵ The Quran, 25: 9.

⁶ It is striking that the very similar root of *watān*; namely “*watan*” also refers to constancy and permanency. Ibn Fares, Ahmad (d.395 AH/1004 CE). *Mu'jam Maqayis al-Lughah*. Edited by 'Abdel-Salam Harūn, (Beirut: Dar al-Fikr, 1399 AH/1979 CE), vol. 6, p. 84, 120.

awṭantu when a person moves to another land taking it as his/her homeland.⁷ The Qur’ān also uses other terms to express kinds of belonging to certain location, such as *diyār*,⁸ *dār*,⁹ and *al-balad* [i.e. town].¹⁰ Other terms also include *masakin* i.e. dwelling, locations, and remnants of houses that belong to past nations.¹¹ It is from this root that modern Arabic has derived the deveritative “*muwaṭṭin*”, which signifies a) a person whose two parents are citizens,¹² b) a person who is a member of a certain country, who enjoys the rights to political participation,¹³ c) someone with the right to participate in judicial functions and in office.¹⁴ The word *muwaṭṭana* “citizenship” has only come to usage recently; it refers to a bundle of entitlements and obligations, which constitute individuals as fully fledged members of a socio-political community, providing them with access to resources.¹⁵

As such, a person originally becomes a member of a certain nation or country when his/her parents are both citizens or by nationalization. In this regard, nations follow one or both of the following two rules: a) the rule of “*jus soli*” (place of birth)

⁷ Ibn Manzūr, Jamaluddīn. *Lisān al-‘Arab*. (Beirut: Dar Ṣader, 1414 AH), vol. 13, p. 451.

⁸ For instances where this term occurs in the Muslim Scripture, see the Quran, 2: 84, 85, 243, 246; 3: 195; 22: 40.

⁹ Dār is the singular form of *diyār*. It literally refers to one's house, location, or country. For instances in which this term occurs in the Quran, see the Quran, 7: 78; 59:9.

¹⁰ See, for instance, the Quran, 90: 1-2.

¹¹ See, e.g., the Quran, 20: 128, 29: 38; 32: 26.

¹² J.L. Ackrill and Lindsay Judson, eds. Richard Robinson, Trans. *Aristotle Politics*, (Oxford: Clarendon Press, 1995), vol. 3, p. 5.

¹³ Kane, Lester T. and Poweller, Marylyn R. *Citizenship in the 21st Century*, (New York: Nova Science Publishers, 2008), p. vii.

¹⁴ McGinn, Thomas. *Prostitution, Sexuality, and Law in Ancient Rome*. (Oxford University Press, 1998), p. 22.

¹⁵ Turner, Bryan S. and Peter Hamilton, eds. *Citizenship Critical Concepts*, (London/New York: Routledge, 2002), vol. 1, p. 3.

provides that any person born within a country boundaries is a citizen regardless of the nationality of the parents; b) the rule of “*jus soli*” (blood relationship) provides that a child’s citizenship is determined by his parents’ nationality regardless of his place of birth. Some countries use both rules.¹⁶ The awareness of the different types of citizenship is deeply serious to understand the past and present tradition in Muslim and non-Muslim societies. Transparently, the juristic terminology includes no hint to the term of “citizenship” itself but provides a number of traditional titles that belong to the same rich area expressing the relationship between the individual and the state. There is a number of famous terms traditionally used in the legal domain in reference to distinctive categories of citizenship. They partly guarantee the fundamental rights that the modern term “citizenship” includes. For example, terms like “*Ahl al-Islam* i.e. Muslims”, “*Ahl al-Dhimma* or *dhimmyūn* i.e. non-Muslim citizens”; “*Ahl al-‘Ahd* and “*Ahl al-Amān*” i.e. i.e. non-Muslim legal residents. These titles specify various forms of relationships between the individuals and the state; and guarantee a status for these categories. However, some of them have been badly overloaded with negative impressions as a result of abusive usages, terminological deformation, and selective projection arising from Muslim weakness and failure to take active part in the creation and promotion of new ideas or modeling traditional values and terms appropriately to get across to the modern human generations. As a result, the new generations of hybrid Muslim minds have become almost fully convinced of the outputs of western minds without analytical examination or critical investigation processes to mark the good and the evil in comparison with the rational facts of Muslim minds and terms.¹⁷ Here, the

¹⁶ Fogelman, Hugh. *Christianity Uncovered*, (Bloomington: Author House, 2012 CE), p. 480.

¹⁷ See, e.g., the debate of Fahmi Huweidi against the term “*Ahl Al-Dhimma*” in Huweidi, *Muwatinūn la Dhimmyūn*, (Cairo: Dar al-Shrūq, 1420 AH/1999 CE), p.110.

paper briefs the readers about these citizenship-related terms as follows:

- *Dhimmīyūn/Ahl al-Dhimma*: The term “*dhimmīyūn*” is the plural of *dhimmi*. The *dhimmi* signifies a non-Muslim citizen, enjoying the protection and citizenship's social and financial rights in the Muslim community under the Islamic laws. In reality, the life, property, and honor of a *dhimmi* is to be respected and protected exactly like that of a Muslim citizen.¹⁸ However, this term legally refers to a highly noble meaning; namely, one who has a commitment of protection from God after yielding himself/herself in obedience to God's laws. The term occurs twice in the Quran.¹⁹ In both cases, it speaks about ‘a commitment to one's convention’ and blames the hostile pagans for their lack of *dhimma* i.e. they do not fulfill their conventions. The Prophet, for instance, encourages Muslim to keep the Morning Prayer in time, saying: “Whoever observes the Morning Prayer will enjoy the *dhimma* [security and protection] of God.”²⁰

Evidently, this prophetic statement speaks of praying Muslims, not of others, and declares they would enjoy the *dhimma* i.e. a commitment to protection, security, and safety,²¹ that shares the same root with the term *dhimmi*. However, this term is badly used in current writings to refer to a second-class citizenship

¹⁸ Al-Mawdudi, Abu al-A'la. *Human Rights in Islam*. (Lahore: Islamic Publications, undated), p. 9.

¹⁹ The Quran, 9: 8, 10.

²⁰ Muslim, *Ṣaḥīḥ*, (*ḥadīth* no. 1056); Al-Tirmidhi, Muḥammad Ibn 'Isa, *al-Jami' al-Ṣaḥīḥ*, (*ḥadīth* no. 206).

²¹ Al-Nawawi, Yahya Ibn Sharaf (d. 676 AH). *Sharḥ Ṣaḥīḥ Muslim*, (Beirut: Dar Ihyā' al-Turāth al-'Arabi, 1392 AH), vol. 5, p.158; al-Menawi, 'Abdul-Raūf (d. 1031 AH). *Fayḍ al-Qadīr Sharḥ al-Jami' al-Saghīr*, (Cairo: al-Maktabah al-Tijariyyah al-Kubra, 1356 AH), vol.5, p. 381.

rendered to the non-Muslim members in the Muslim states.

²²Gabriele Marranci rightly observes that the state of *dhimmi* does not imply a ‘second-class citizens status’. Indeed, he even doubts that Muslims ever had the concept of ‘second class citizens’ as we know it today.²³ Indeed, the *dhimmitude* type of citizenship was highly honored in Muslim texts insomuch that the Prophet forewarns Muslims “On the Day of Resurrection, I would stand against anyone who hurts a *dhimmi*.²⁴ Al-Amīr al-Šan‘āni (1099-1182 AH/1687-1768 CE) blamed Muslims of his time for violating this command and as they ignorantly hurt non-Muslims, which in turn filled their hearts with hate of religion.²⁵ The *dhimmi* status, as far as the ancient traditional community concerned, offered all necessary rights for honorable life in the early and medieval Islamic ages, such as the rights to human dignity, fair judgment, appropriate official positions, social welfare, right to ownership, education, health, free movement, freedom of worship, etc.

Comparing the *dhimmi* status to the modern status of “citizenship” is only understood within the educational context noted for the recognition of the other regardless of the terms and convictions used. Muslim past reluctance to recognize the *dhimmi*’s *eligibility* for judicial and executive government positions was a reflection of a juristic and social transparency. For better comprehension, not that all European leaders, presidents, and prime ministers are “Christians” in a translation

²² See, e.g., Lewis, Bernard and Chrchill, Buntzie. *Islam: the Religion and the People*, (New Jersey: Pearson Education, 2009), p. 188.

²³ Marranci, Gabriele. *Jihad Beyond Islam*, (Oxford and New York: Berg, 2006), p. 144.

²⁴ Al-Menawi, *Fayd al-Qadīr*, vol. 6, p. 19.

²⁵ Al-Amīr al-San‘āni, Muhammad Ibn Isma‘il (d. 1182 AH). *Al-Tanwīr Sharḥ al-Jami‘ al-Ṣaghīr*. Edited by Muhammad Ishāq, (Riyadh: Maktabat Dar al-Salam, 1432 AH/2011 CE), vol. 10, p. 11.

of the public religious mood regardless of the letters of constitution, laws, and declared rights. The religious spirit of mediaeval ages is even still reflected in the waves of '*islamophobia*' against Muslim citizens in Europe. It is indicative that the Supreme Court of Denmark accepted a ban on *hijab* and did not consider it a violation of the European Conviction.²⁶ In 2009, the Swiss voters voted against the construction of minarets in Switzerland.²⁷ Similar French and Belgian restrictions are imposed on *burqa*. In aden-Württemberg, a state in southwest Germany, the restrictive legislation specifically targeted the Islamic dress in educational spaces, allowing Christian and Jewish symbols to be worn in public schools.²⁸ These are just examples of the violation of Muslim rights in the European countries widely marketed as democratic states that honor citizenship rights. To sum up, the juristic partiality of the past Muslim nations are still living in the western partiality of the modern European Christian nations.

- *Mu'ahadūn/Ahl al-'Ahd*: This term refers to the non-Muslim citizens of another non-Muslim state with which Muslims have made peace.²⁹ As such, those individuals are granted free movement and trade within the Muslim state and guaranteed freedom, security, and protection based on the international

²⁶ W. Cole Durham Jr. et al., *Islam, Europe, and Emerging legal issues*, (England: ASHGATE, 2012 CE), p. 108.

²⁷ Villaroman, Noel. *Treading on Sacred Grounds: Places of Worship, Local Planning, and Religious Freedom in Australia*, (Leiden and Boston: Brill Nijhoff, 2014 CE), p.223.

²⁸ Kallis, Aristotle. *Breaking Taboos and 'Mainstreaming the Extreme': the Debate on Restricting Islamic Symbols in Contemporary Europe*, in 'Right-Wing Populism in Europe: Politics and Discourse', Ruth Wodak et. al. eds. (London and New York: BLOOMSBURY, 2013), p. 66.

²⁹ Al-'Uthaymīn, Muḥammad Ibn Ṣalīḥ. *Fatḥ Dhil Jalal wal Ikrām Sharḥ Bulūgh al-Marām*, (al-Maktabah al-Islamiyyah: 1427 AH/2006 CE), vol. 4, p. 348.

relations of their states with Muslims. It is worth noting that Islamic laws impose no restrictions on them regarding the period of residence, commercial transactions, marriages with non-Muslim women, or any other legal action. As such, they enjoy the same status of a citizen without any limit in terms of time, place, ownership, or movement so long as they keep the public order and abide by the applied laws.

- *Musta'minūn/Ahl al-Amān*: This term refers to another type of relationship between the individual and the Muslim state. This time the Muslim state gives a pledge of security ‘*amān*’ i.e. security and protection to a non-Muslim³⁰ allowing him/her entry into and temporary residence in the Muslim land for any legal purpose, e.g., trade, education, medical treatment, etc.³¹ By then, they are legal temporary residents and enjoy the fundamental freedoms and rights guaranteed by citizenship but they are not subject to Muslim jurisdictions concerning their past affairs, which took place before their residence in Muslim state unless they file the case to the Muslim court and express their approval of any legal Judgment issued pursuant to the Islamic laws.³²

It is seriously important to note that any Muslim citizen, man or woman, had the right to give a pledge of protection to any non-Muslim individual and guarantee him/her freedom and safety. In other words, individuals had the right to grant the right to temporary residence and citizenship. ‘Umar Ibn al-Khaṭṭab even allowed Muslim slaves to grant the pledge of

³⁰ Al-‘Uthaymīn, *Fatḥ Dhil Jalal*, vol. 4, p. 348.

³¹ Cf. Johnston, Douglas, ed. *Faith-Based Diplomacy: Trumping Realpolitik*, (Oxford University Press, 2003), p. 188.

³² Al-Sarakhsī, Muḥammad Ibn Aḥmad. *Al-Mabsūt*, (Beirut: Dar al-Ma‘rifah, 1414 AH/1993 CE), vol. 10, p. 93.

protection.³³ Consequently, all Muslims had to honor this pledge even if the one to whom the pledge is given was fighting against Muslims before the pledge. Even a woman can grant the same pledge of protection,³⁴ as Umm Hani' did on the day of conquering Mecca, when she granted a pledge of protection to one of the deadly enemies of the Prophet. Her brother 'Ali Ibn Abi Taleb, however, persistently wanted to kill the man. She kept him inside her house and conveyed the case to the Prophet who said, "We have given protection whom you have given protection."³⁵ Zaynab, the daughter of Prophet Muhammad, had also given a pledge of protection to her non-Muslim husband and the Prophet approved it.³⁶ It is embarrassing to know that while Muslim women had the right to grant a pledge of protection to enemies and foreign, the Athenian and Roman women were not citizens played no political role and had but few rights.³⁷

The term used for *muwaṭṭana* in English is “citizenship”, which signifies a relationship between an individual and a state to which the individual owes allegiance and in turn is entitled to its protection. It is a civic entity including the rights guaranteed by the state and the duties performed by the citizens, who are all

³³ Ibn al-Mundhir, Muḥammad Ibn Ibrāhīm (d. 318 AH/930 CE). *Al-Awsat fi al-Sunan wal Ijmā'* wal Ikhtilāf. Edited by Şaghīr Ahmet Hanīf, (Riyadh: Dar Taybah, 1405 AH/1985 CE), vol.11, p. 258.

³⁴ Ibn al-Mundhir, *al-Awsat fi al-Sunan wal Ijmā'*, vol. 11, p. 260.

³⁵ Ibn al-Mundhir, *al-Awsat fi al-Sunan wal Ijmā'*; vol. 11, p. 260; Malik, *al-Muwaṭṭa*. Edited by Muḥammad M. al-A'zami, (Abu Dhabi: Zayed Bin Sultan Al-Nahayan Charitable and Humanitarian Foundation, 1425 AH/2004 CE), vol. 2, p. 211.

³⁶ Ibn al-Mundhir, *al-Awsat fi al-Sunan wal Ijmā'*, vol. 11, p.261.

³⁷ Graham, Ian. *Scarlet Women: The Scandalous Lives of Courtesans, Concubines, and Royal Mistresses*, (New York": Thomas Dunne Books, 2016), p. 79; McGinn, *Prostitution, Sexuality, and Law in Ancient Rome*, p. 23.

autonomous and equal in status.³⁸ Citizenship evidently grants rights as well as other accompanying responsibilities. Citizens have certain rights, duties, and responsibilities that may be wholly or partly denied to aliens and other noncitizens residing in a given country. In general, full political rights, including the right to vote and to hold public office, are predicated upon citizenship. The normal responsibilities of citizenship are allegiance, taxation, and military service.³⁹

Consequently, the concept of citizenship in the modern usage is identical with that of nationality. Citizenship appeared in the ancient city-state of Greece where it was a privilege to landlords, who could vote and were liable to taxations and military services. But all women, slaves, and poor people were denied the right to citizenship. Later, the Romans used it as a device to distinguish the people of Rome from those originated from the territories that Rome conquered but later the Romans granted this right to their allies and other inhabitants of Roman provinces until 212 CE when citizenship was extended to all free inhabitants of the empire.⁴⁰

It is highly important to stress the fact that the concept of citizenship reflects cultural and historical variables whose intellectual image differ from a cultural model to another based on the dominant educational, social, and informational values of each community. Although the modern citizenship is essentially political and expresses the relationship of an individual with the state, the laws alone cannot immunize a person against violation. The spread of hate and mutations of extremisms in the developed countries affirm this fact. In this regard, the Muslim civic citizenship is noted

³⁸ Cf. Heater. *A Brief History of Citizenship*, p. 2.

³⁹ The most important rights are voting, candidacy, equal education, and employment opportunities. See, the following link: <https://www.britannica.com/topic/citizenship> (retrieved August 12, 2017).

⁴⁰ Ibid.

for its heterogeneity, universality, and openness apart from the discriminative backgrounds of different cultures, races, colors, gender, and residence or migration. The current concept of European citizenship is essentially of national character with delineating devices with each state,⁴¹ but it is now steering towards the Islamic universal form originated from the mere belonging to humanity and keeping peace and public order—loyalty. Even the fighting enemies of Muslims, once declaring their good intentions, making peace, and abiding by laws, they are entitled to several rights of citizenship. On the Day of Ḥunayn, Ka'b Ibn Malik—the Prophet's poet, said in the presence of the Prophet:

We obey our Prophet and obey the Merciful Lord,

Who shows kindness to us.

If they [enemies] offer peace,

*We immediately accept them as part and support to us.*⁴²

Under the Islamic laws, even if Muslims besieged a fortified location in which only women remain, and they offer to pay *jizyah* [official taxation imposed on non-Muslims]⁴³ in return for *dhimma*

⁴¹ Ulreich K. *Citizenship in the European Union: a Paradigm for Transnational Democracy?* In “Re-imagining Political Community: Studies in Cosmopolitan Democracy.” Daniele Archibugi, David Held and Martin Köhler, eds., (Stanford University Press, California: 1998), p. 145.

⁴² Ibn al-‘Arabi, Abu Bakr Muḥammad Ibn ‘Abdullah (d. 543 AH/1148 CE) *Aḥkām al-Qurān*. Edited by Muḥammad Abdel-Qader ‘Ata, (Beirut: Dar al-Kutub al-‘Ilmiyyah, 2003), vol. 2, p. 466-467.

⁴³ This kind of taxation was only imposed on those financially able to pay it and was usually less than the *zakah* imposed on Muslims' different kinds of properties. This taxation granted non-Muslims the privilege of being exempted from taking part in military services and, in return for it, the Muslim State had to guarantee them

agreement [security and citizenship], they shall be given protection and citizenship without taking any taxation from them. It becomes illegal to humiliate or enslave them.⁴⁴ Such was the spirit of human dignity and respect that distinguished the Muslim liberation of other nations. Actually, the extremely quick spread of Islam owes its strength to its capacity to contain different environments and legal, intellectual, and social realities. It was never a form of rigidly codified authorities. Islam carried a sense of citizenship through a strong religious and moral message able to adapt to various local circumstances without having to rely on a robust state or a unified legal apparatus.”⁴⁵

Given this inclusive concept of Islamic citizenship, it has enough room for the entire peaceful human beings going beyond the narrowness of nation-state borders and concepts largely shaped by the French model of citizenship “equal national citizenship.”⁴⁶ Note the several badly systematic violations that the French model presents these years insomuch that they failed to accept the religious and cultural diversities of the modern French population contrary,

security and protection. Finally, non-Muslim women, children, aged people, clergymen, slaves, and other infirm and poor people were relieved from this financial duty. Ibn al-Majashūn al-Maliki—the notable mufti of Medina (d. 213 AH/828 CE) is quoted to have said, “Nothing shall be taken from the poor [non-Muslims].” See, Ibn al-Faras al-Andalusi, Muḥammad Ibn ‘Abdel-Mun‘im (d. 597 AH). *Aḥkām al-Qur’ān*. Edited by Ṣalāḥ al-Dīn Bu ‘Afīf et al., (Beirut: Dar Ibn Hazm, 2nd ed. 1427 AH/2006 CE), vol. 3, 142-143.

⁴⁴ Ibn Qayyim al-Jawziyyah, Abu ‘Abdullah Muḥammad Ibn Abi Bakr (d. 751 AH). *Aḥkām Ahl al-Dhimmah*. Edited by Yousuf al-Bakri and Shaker al-‘Arūri, (KSA: Ramadi Publishers, 1418 AH/1997 CE), p. 156.

⁴⁵ Challand, Benoit. *Citizenship and Violence in the Arab Worlds*, in “*The transformation of Citizenship: Struggle, Resistance, and Violence*”. Jürgen Mackert and Bryan S. Turner, eds. (London and New York: Routledge, 2017 CE), vol. 3, p. 98-99.

⁴⁶ Ulreich, *Citizenship in the European Union*, p. 145.

for instance, to the leading Egyptian Sharia-set model of citizenship that fully respects cultural and religious differences of Muslims and Christians alike. It is noticeable that the universal character of citizenship, which is originally Islamic, is increasingly expanding in modern times.

Winning the membership of a certain community by means of birth, movement, migration, or refuge form the dominant devices to get citizenship in Islam as proved by the Sharia texts and events of the Prophet's life.⁴⁷ It is significant to observe the primary relation between the two terms of *community* [*jama'ah*] and *ummah* (Muslim people) as the safe vessels and fortress of citizenship in Islam. The first term frequently occurs in the prophetic statements as well as in the literature of scholastic theology. The Prophet said, “Stick to the community [*al-jama'ah*] and keep apart from disunity, for the devils would most likely overcome an alone individual but he is further away from a two-company. A person who aims to win the best place in Paradise shall hold fast to the community.”⁴⁸

Actually, it has become an epithet for the *community* of Muslims in the famous appellation: “*Ahl al-Sunnah wal Jama'ah* i.e. *people who follow the sunnah and keep the Muslim community.*” However, this is an honorary distinction is based on faith and religious affiliation apart from the national elements and legitimacy, although it yields in some fair legal effects and appliances that go in line with the modern democratic devices and laws. These laws include: a) the consensus reached by the scholars of “*Ahl al-Sunnah wal Jama'ah*” is authoritative and binding;⁴⁹ b) declaring any rebellion against

⁴⁷ The Quran, 4: 97, 100; 8: 72; 60: 10.

⁴⁸ Al-Tirmidhi, *al-Jami' al-Sahih*, *Kitab al-Fitan*, (*hadīth* no. 2092).

⁴⁹ Actually, this scholarly creative consensus is superior to the majority-based democratic rule in two aspects; first, its source is the scholars qualified to exercise juristic reasoning and, hence, they are all well-aware experts of life and benefits of the community. Second, its mechanism depends on consensus or overwhelming

them is illegal and forbidden;⁵⁰ c) yielding to the chosen ruler to whom the pledges of allegiance have been given.⁵¹ In this regard, the Prophet guaranteed protection to all law-abiding citizens excepting the person who deserts his religion in defiance of the community.⁵²

As far as the term *ummah* is concerned, it originates from the Quranic usage. It is a very rich term in theory and practice. It occurs 49 times in the singular form in different Quranic contexts and 2 more times in the genitive case as well as 13 times in the plural form “*umam*.⁵³ It is fair to say that the two terms “*ummah*” and “*jama‘ah*” have many connotations and meanings throughout the history, which now pose a challenge to the new understanding of citizenship in the Muslim space. However, it is seriously significant to cite the traditional sources of citizenship, which pave the way for creative ideas and new types of relationship with the values of freedom, democracy, refugees, and minorities from the Islamic perspective.

agreement and it is not based on just majority of votes or opinions. Actually, only the difference of one or two is tolerated, or else the consensus loses authoritativeness. As such, it bears a high degree of harmony and agreement.

⁵⁰ Ḥal-Amīr, *Subul al-Salam*, (Cairo, Dar al-Hadīth, n.d.), vol. 2, p. 378.

⁵¹ The community here refers to the entire community—Muslims and non-Muslims, men and women, residents and migrants on equal footing, which stands for the absolute majority in the democratic system.

⁵² Al-Bukhari, *sahīḥ*, *Kitab al-Diyāt*, (*hadīth* no. 6878); Muslim, *sahīḥ*, *Kitab al-Qasamah*, (*hadīth* no. 3182); Abu Dawūd, *Sunan*, *Kitab al-Hudūd*, (4352).

⁵³ ‘Abdel-Baqī, Muḥammad Fuad. *al-Mu‘jam al-Mufahras li-Alfāz al-Qur’ān*, p. 80.

II. Sources of Traditional Citizenship

Identifying the traditional models of citizenship is highly important, because it reveals the sources and motives underlying it and unveils the ethics marking the Muslim perception of citizenship.

1. **Birth:** The fact that a person is born in a certain Muslim territory naturally qualifies him/her to be a legal citizen by the legitimacy of birth. As a consequence, that very person belongs to this land and “shall” belong—as a member—to its people. The Quran is very assertive of this truth in the addresses of prophets with their peoples; they used the word “*qawmi* [my people or nation], *qawmana* [our people or nation].”⁵⁴ This vocative style asserts the firm common relationship between them and their peoples or nations; they are the community of their country; the context clearly indicates a sense of belonging; namely, fellow citizens of the same land and nation. In other contexts, the Quran reminds Muslims of God’s favors on them as He made them to inherit the territories of their enemies “*wa awrathakum arḍahum wa diyarahum* i.e. He made you to inherit their land and homes.”⁵⁵ Evidently, the Quran regards them owners and inhabitants of their lands and homes by birth and residence.

Birth was always a natural reason for getting this right following the concurrent practices of Muslim history. According to the declaration of the right of the child proclaimed by the General Assembly Resolution 1386 (XIV) of 20 November 1959 “The child shall be entitled from his birth to a name and a

⁵⁴ The Quran, 7: 65, 73, 85; 11: 50, 61, 84.

⁵⁵ The Quran, 33: 27.

nationality.”⁵⁶ Unfortunately, most of Muslim countries do not abide by this fair law while several western countries prove closer to the Islamic perspective in this regard.

2. **Migration:** As far as the Islamic Sharia is concerned, the act of migration is enough to have the status of citizenship. The Sharia considers the entire world a home for a human being,⁵⁷ so a true Muslim shall always seek the best “home” for his/her life, religion, and freedom. Once a Muslim is denied freedom, s/he shall migrate to another “home” where freedom is guaranteed. In other words, a Muslim shall be a free citizen anywhere and prove loyal to his new home; it is his/her right to have citizenship as the land is the land of God and a person is the created being of God. This universal concept of citizenship is very close to the universal citizen of modern world. This concept is plainly stressed in numerous Quranic verses:
 - “Those who believed and migrated and struggled hard in God's way with their property and their souls, and those who gave shelter and helped—these are guardians of each other; and (as for) those who believed and did not fly, not yours is their guardianship until they fly; and if they seek aid from you in the matter of religion, aid is incumbent on you except against a people between whom and you there is a treaty, and God sees what you do.”⁵⁸
 - Even loyal female immigrants must be honored and integrated as full citizens: “O Believers! When believing women come to you as migrants, then test them. Their faith is best known to

⁵⁶ <https://www.unicef.org/malaysia/1959-Declaration-of-the-Rights-of-the-Child.pdf>;

⁵⁷ The Quran, 4: 97; 67: 15.

⁵⁸ The Quran, 8: 72.

God. Then if their faith is proven true, do not send them back to the unbelievers...”.⁵⁹

- The preamble of the prophetic constitutional document widely known as the Document of Medina provides that “This is a document from Muhammad—the Prophet and Messenger of God—concerning the rules governing the relations between the believing Muslims of Quraysh and Yathrib and those who follow them and work hard with them: they form one nation.”⁶⁰ It is worth noting that a non-Muslim is equal to Muslim in getting the right to citizenship so long as s/he peacefully respects the laws and keeps the public order. The Quran clearly states “God does not forbid you to show kindness and do justice with those who had neither fought against you on account of religion nor drove you out of your homes. Surely, God loves those who deal with equity.”⁶¹ Evidently, kindness and justice are only possible when they share the same homeland.
- Even a pagan refugee has a fundamental right to security, freedom, and protection in case s/he ask for the protection of Muslims: “If any one of the idolaters should seek your protection, grant it to him so that he may hear the word of God, then escort him to a place of safety.”⁶² The fact “they may hear the word of God” is not an ultimate end, because we naturally know that a non-Muslim will not be a Muslim on the spot. It is just a reminder of the duty of enlightenment and education. God’s command: “then escort him to a place of safety” refers, before any, to the Muslim homeland, since it is the safest place

⁵⁹ The Quran, 60: 10.

⁶⁰ Ibn Hisham, ‘Abdul-Malek (d. 213 AH). *Al-Sirah al-Nabawiyah*. Edited by M. al-Saqqa, E. al-Ibyari, and A. al-Shalabi, (Cairo: Maktabat Muṣṭafa al-Babi al-Halabi, 1375 AH/1955 CE), vol. 1, p. 501.

⁶¹ The Quran, 60: 8.

⁶² The Quran, 9: 6.

- and nothing precludes it from being included in the generality of this direction.
- It is well known that Muslim-governed territories were always open for all human beings, be they refugees, immigrants, traders, students of knowledge, or others. For instance, the Andalusian cities were vital centers of artistic and intellectual activities far advanced beyond other cities in medieval Europe, so students from all regions of Europe used to study at the universities of Andalusia.⁶³ Likewise, The Jews migrated to the Muslim new city of al-Qayrawan in 54 AH/674 CE.⁶⁴ Similarly, some Jews from Syria, Iraq, and other Muslim territories accompanied Muslims to North Africa and Spain.⁶⁵ Simply, they accompanied them as fellow natives, not as second-class citizens. Ellis Rivkin precisely concludes that each phase of Islamic growth gave rise to a positive and creative reaction among Jews while each phase of Muslim breakdown resulted in a Jewish disintegration.⁶⁶ Contemplating the Quranic text stresses that the Islamic universal citizenship transcending many forms of modern citizenship around the world in several aspects, which can be clear throwing the quiet reflection on the pillars of citizenship in the Islamic sharia and Muslim tradition.
 - **Collective Loyalty/Alliance with Muslims:** When a certain community declares loyalty to Muslims or decides to be under

⁶³ Tacaks, Sarolta. *The Modern world: Civilizations of Africa, Civilizations of Europe*, p. 152.

⁶⁴ Bashīr, Abdul-Rahmān. *Al-Yahūd fi al-Maghrib al-‘Arabi*: 22-462AH/642-1070, (Cairo: Ayn li al-Dirasāt wal Buḥūth, 2001 CE), p. 40.

⁶⁵ Wexler, Paul. *Non-Jewish Origins of the Sephardic Jews*, (State University of New York Press, 1996), p.26.

⁶⁶ Zeitlin, Irving M. *The Unity Principle: the Historical Muhammad*, (Cambridge: Polity Press, 2007), p. 166; Proctor, Candice E. *Women, Equality, and the French Revolution*, (USA: Greedwood Press, 1990), p.166.

their government, following their public order and laws, they have equal rights to Muslims. It is well known that in the wake of al-Hudaybiyah peace treaty (Dhu al-Qi'dah, 6AH/March 627 CE) made with non-Muslims of Mecca, the Arab tribes were given the option either to join the Muslim side as allies or the Qurashite side. The Khuza'ah tribe, Muslims and non-Muslims alike, chose to become an ally with Muslims. When Banu Bakr—another ally tribe of Quraysh—attacked Khuza'ah, Muslims speeded up to support the wronged Khuza'ah tribe as fellow citizens of the same state, which in turn resulted in liberating Mecca.⁶⁷ In conclusion, the declaration of loyalty to Muslim government or deciding on holding alliance with the Muslim community begets the rights of citizenship, especially the rights to security, protection, freedom, and free movement.

III. Principles of Citizenship in Islam

The concept of citizenship is built on a group of general principles that Islam recognizes and affirms as the legitimate basis for the relationship among people in general and inside the same homeland on particular. These principles may be epitomized as follows:

1. **Equal origins and dignity:** Equality of all human beings as they all belong, following the Islamic faith, to the same origin⁶⁸ and all of them are begotten from the same soul.⁶⁹ They are all entitled to the same human dignity.⁷⁰ Cairo Declaration of Human Rights in Islam affirms this truth stating, “All human beings form one family whose members are united by their

⁶⁷ Ibn Hisham, *al-Sirah*, vol. 2, p. 318; Ibn Kathīr, *al-Bidayah wal Nihayah*. Edited by ‘Abdullah Ibn ‘Abdel-Muhsin al-Turki, (Cairo: Dar Hajar, 1418 AH/1997 CE), vol. 6, p. 508.

⁶⁸ The Quran, 20: 55.

⁶⁹ The Quran, 4: 1.

⁷⁰ The Quran, 17: 70.

subordination to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of race, color, language, belief, sex, religion, political affiliation, social status or other considerations.”⁷¹ This fundamental principle of human egalitarianism begets the sense of human universal fraternity as attested by the prophetic statement, “I do bear witness that all servants i.e. human beings, are equal brothers and sisters.”⁷²

2. **Resource-Sharing:** All human beings have equal right to share the resources of the universe in return for undertaking the responsibility of building and developing it. In support of this principle, the Quran states, “He [God] originated you from the earth and let you build and develop it.”⁷³ This command to build and develop the world necessitates life-sharing, cooperation, and unity.

To facilitate this ultimate end, God helps humankind to take over, discover, and use the resources of the world: “Do you not see that God has made everything in heaven and on earth subject to you, and has abundantly showered you with His favors, [both] seen and unseen? Yet some people argue about God in ignorance without guidance or illuminating Scripture.”⁷⁴ God always says, “It was He who spread out the earth for you

⁷¹ Al-Zuheili, Wahba. *Al-Fiqh al-Islami wa Adillatuhu*, (Damascus: Dar al-Fekr, 2008), vol. 6, p. 826. See the full text of this declaration on the following link: <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/Human-Rights/cairo.pdf>.

⁷² Abu Dawud, Sulaimān ibn al-Ash‘ath (d. 275 AH/889 CE). *Sunan, Kitab al-Salah*, ḥadīth no. 1508; Ahmad, *Musnad*, vol. 14, 434, ḥadīth no. 19189.

⁷³ The Quran, 11: 61.

⁷⁴ The Quran, 31: 20.

and traced routes in it. He sent down water from the sky. With that water We bring forth every kind of plant, so Eat and raise your livestock. Surely there are Signs for those endowed with understanding.”⁷⁵ In this context, the Prophet commanded all people to guarantee the basic needs of life and allow each other to use them. He said, “Three things must not be withheld from anyone: water, pasture, and fire.”⁷⁶ In other words, people shall share the necessary resources of life, such as water as essential for both humans, animals, and plants; pasture as essential food for animals, which in turn provides supplies of food for humankind; fire, which was in the past the basic source for human cooking, industries, and warming.

Such three elements were the essential means for maintaining the life of ancient and mediaeval human beings. Human rights to education, health, and fundamental freedoms are essential elements for the life of modern human beings. As such, it is fair to conclude by analogy that all members of the human community should equally share them as a result of sharing the resources of modern times.

3. Respect of Specificities and Differences: This principle is most important of all. In a word, there is an Islamic recognition of human differences in beliefs, convictions, and lifestyle. Clearly, we know that the Prophet allowed the Jewish schools in Medina called *bayt al-midrās*. He even visited them⁷⁷ and some Companions discussed issues with Jews inside them as was the case with the mosque in which the Prophet debated with the Christians.⁷⁸ As such, cultural diversity and special costumes,

⁷⁵ The Quran, 20: 53-54.

⁷⁶ Ibn Majah, *Sunan, Kitab al-Ruhūn*. Edited by Muḥammad Fuad ‘Abdel-Baqi, (Cairo: Dar Iḥyā’ al-Kutub al-‘Arabiyyah, undated), vol. 2, p.826.

⁷⁷ Ibn Hisham, *al-Sirah al-Nabawiyah*, vol.1, p. 552.

⁷⁸ Ibn Hisham, *al-Sirah al-Nabawiyah*, vol.1, p. 553, 558.

habits, and feasts were all guaranteed by Islam. The remarkable encyclopedia of Islam even mentions that the Feast of Saint George on 23 April to be celebrated under Islam and its ceremonies at the Church were also attended by Muslims.⁷⁹

4. **Human acculturation and cooperation:** It is a Quranic duty to contact other human fellows and nations to know better and deeper about them, for the sake of proving your being equal in the sight of God. So the best of you are the best in abiding by the divine laws: “O mankind! Surely We have created you from a male and a female, and made you into nations and tribes so that you may know one another. Surely, the most honorable of you with God is the most pious of you...”⁸⁰ Naturally, this duty of knowing one another necessitates cooperation, peaceful coexistence, and friendly relations among nations based on mutual understanding, guaranty of human rights, and enhancement of peace worldwide. This open-minded positive stand removes all obstacles from getting the position of a citizen anywhere, since all human beings are encouraged to know, which was best achieved in the past through travels and movements. The Quran even warns Muslims against doing injustice to the enemies and encourages them all in good endeavors of common benefits to mankind: “Do not let the enmity of those who barred you from the Sacred Mosque lead you into sin. Help one another in goodness and righteousness. Do not help one another in sin and hostility. Fear God! God is severe in punishment.”⁸¹ In other words, the believers are forbidden to base their movement on religious or racial hatred of others and must cooperate with all Muslims and non-Muslims in good and righteous matters. This opens new horizons for a

⁷⁹ C.E. Bosworth, Edmund, Bernard Lewis, and Charles Pellat, eds. *The Encyclopedia of Islam*, (Leiden: 1983), vol. 5, p. 800.

⁸⁰ The Quran, 49: 13.

⁸¹ The Quran, 5: 2.

universal human citizenship exemplary for future human beings and for the future of human international community and welfare.

5. **Citizenship is a human fundamental right:** Getting this right, as far as Islam is concerned, depends on the freewill of a person, who is willingly determined to join a certain community, even though he may not share them in religion or ethnicity. The Document of Medina states this fact: “This is a document from Muhammad—the Prophet and Messenger of God—concerning the rules governing the relations between the believing Muslims of Quraysh and Yathrib and those who follow them and work hard with them: they form one nation. The Jews who follow us have the right to help and support without being wronged in the least. No Jew will be wronged for being a Jew. No support will be given to the enemies of the Jews...The Jews of Bani ‘Awf clan as well as the believers are one community, even if they have different religions. The same goes for their freedmen [allies] except for those who act unjustly and sinfully.”⁸² It is evident that the allies, friends, and freedmen of the Jews get the same rights, whether they are past, present, or future friends so long as they act righteously and keep the public order, a condition applicable to Muslims on equal footing.
6. **Family Reunion:** Family reunion is an essential principle in Islamic laws. In other words, it is forbidden to force the separation or prevent the reunion of a child and parents or a husband and his wife.⁸³ As such, family reunion is a Sharia-set

⁸² Ibn Hisham, *al-Sirah al-Nabawiyah*, vol. 1, p. 501-502.

⁸³ This conclusion is based on the forbiddance of separating the members of the same family in case they suffered slavery, after being free, as a result of past wars. Similarly, in case a person gets a citizenship of a certain country it is forbidden to prevent his children, parents, wife/husband from joining him/her. The bonds of parenthood, childhood, and marriage have a very significant

objective to maintain human psychological and social balance. This principle is absolutely authoritative regardless of the religions of the family members. In this regard, the Prophet said, "Anyone who separates a mother from her child, God will separate him/her from their beloved ones on the Day of Resurrection."⁸⁴

A Muslim relative is also encouraged to host and show kindness to non-Muslim relatives. Asmā' Bint Abi Bakr said: "My mother, who was a polytheist, came to me after the Prophet made peace with Quraysh. I consulted the Prophet, "My mother came to me while she is still a denier of faith: should I show her kindness?" In response, he said, 'Show kindness to her.'"⁸⁵ In this case, the mother of Asmā' visited her daughter—who was a Muslim citizen in Medina but the daughter feared lest being kind to her may affect her faith. The Prophet immediately commanded her to act kindly to her mother putting no restrictions on her residence in Medina. Truly, we understand that she most likely stayed for a short time but the decision of the Prophet put no restriction on her long residence and made no distinctions in this regard. In other words, Islam opens gates

position is the Sharia, so these relationships provide enough grounds to get citizenship rights. In this regard, there is a juristic unanimous agreement on the case of a mother and her child. The majorities of Ḥanafis, Shafi'is, and Ḥanbalis admit the same right to a child with his father. The Ḥanafis and Ḥanbalis extend the same right to brothers and spouses, which is the preferable view. See, e.g., Ibn Qudamah, *al-Mughni*, vol. 10, p. 413-418.

⁸⁴ Al-Tirmidhi, *al-Jami'*, *Kitab al-Siyar*, (*ḥadīth* no. 1566). Edited by Ebrahīm A. Awad, (Cairo: Maktabat wa Maṭba'at Muṣṭafa al-Babi al-Ḥalabi, 1395 AH/1975 CE), vol. 4, p. 134.

⁸⁵ Al-Bukhari, *Sahīḥ*, *Kitab al-Hiba*, (*ḥadīth* no. 2477); *Kitab al-Adab*, (*ḥadīth* no. 5979); al-Ghumāri, Ahmad Ibn Muhammad Abu al-Fayd (d. 1380 AH/1960 CE), *al-Hidayah fi Takhrīj Aḥadīth al-Bidayah*. Edited by 'Ali Hasan al-Ṭawil, (Beirut: Dar 'Alam al-Kutub), vol. 6, p. 136.

wide for peaceful non-Muslims to join their relatives and enjoy free residence and, consequently, citizenship. It puts no impediments on their way to move to Muslim-ruled territories and settle in as real citizens regardless of their faith.

Only the region of Hejaz, e.g., Mecca and Medina, is forbidden to non-Muslims according to the majority of jurists.⁸⁶ The Prophet said, “No two religions shall be left in Arabia.”⁸⁷ Other cities are not included in this limited geographic restriction. The Yemen, for instance, is part of Arabia, but there is a juristic agreement that non-Muslims may live in it. For the Ḥanafi jurists, they shall not be allowed access to the Sacred Mosque only while Imam Malik allows them entry for commercial activities. Imam al-Shafī'i stipulates that the Muslim ruler shall first give them permission for the benefits of Muslims. Or else they should not be allowed entry.⁸⁸ Actually, this geographic restriction is practically similar to devoting the Land of Vatican

⁸⁶ Al-Kasāni, Abu Bakr Ibn Maṣ‘ūd al-Ḥanafi (d. 587 AH/1191 CE). *Bada’i’ al-Ṣanā’i’ fi Tartīb al-Sharā’i’*, (Beirut: Dar al-Kutub al-‘Ilmiyyah, 1406 AH/1986 CE), vol. 7, p. 114; al-Baberti, Akmal al-Dīn Muḥammad Ibn Maḥmūd (d. 786 AH/1384 CE), *al-Īnaya Sharḥ al-Hidayah*, (Beirut: Dar al-Fekr, undated), vol. 2, p. 244; Ibn Qudamah al-Ḥanbali, Muwaffaq al-Dīn ‘Abdullah Ibn Aḥmad (d. 620 AH), *al-Mughni*, (Cairo: Maktabat al-Qahirah, 1388 AH/1968 CE), vol. 9, p. 355..

⁸⁷ Malik Ibn Anas (d. 179 AH), *al-Muwaṭṭa’*. Edited by Muḥammad Muṣṭafa al-A‘ẓami, (Abu Dhabi: Zayed Bin Sultan Al-Nahayan Charitable and Humanitarian Foundation, 1425 AH/2004 CE), vol. 5, p. 1314; Ibn Zanjawayh, Ḥumayd (d.251 AH/865 CE). *Al-Amwāl*, Edited by Shaker Dhīb Fayyāḍ, (Riyadh: King Faisal Center for Research and Islamic Studies, 1406 AH/1986 CE), p. 275; al-Zayla’i, ‘Abdullah Ibn Yusuf (d.762 AH/1360 CE), *Nasb al-Rayah li-Aḥadīth al-Hidayah*, (Beirut: al-Maktab al-Islami, 1393 AH), vol.3, p.454-455.

⁸⁸ Al-Shawkani, Muḥammad Ibn ‘Ali (d. 1250 AH/1834 CE). *Nayl al-Awtār*. Edited by ‘Iṣam al-Sababiṭi, (Cairo: Dar al-Hadīth, 1413 AH/1993 CE), vol. 8, p. 73.

to the Catholic Christians, as a symbolic religious area. To sum up, getting the rights to citizenship depends on one's own readiness to move and join the Muslim land. The Sharia gives equal opportunities for all human beings to share its human, social, and economic welfare and justice.

7. **Approval of all just means to citizenship rights**, e.g. the international laws and norms. In this context, Islam affirmed the pre-Islamic norms of Arabs that allowed people residence and citizenship upon their actual movement and evidence of loyalty. This principle is lucidly understood in the Quranic encouragement to migrate and escape persecution, corruption, and tyranny in pursuit of freedom and equality; namely, in pursuit of true citizenship if we are to use the modern term. The Quran encourages migration as follows: “Whoever migrates in *the way of God*, will find in the earth many places of refuge (*maraghahan*) and abundant resources.”⁸⁹

For Ibn ‘Abbas, *maraghahan* signifies the availability of movement from a place to another. This is also the view of al-Dahhak Ibn Muzahim (d. 102 AH/720 CE), Sufyān al-Thawri (d. 161 AH/777 CE), and al-Rabī‘ Ibn Anas (d. 139 AH/756 CE). It should be noted that “*the way of God*” is not restricted to the migration from non-Muslim land to Muslim lands. Actually, it is inclusive of all kinds of movements certainly or most likely conducive to benefits and good ends. For example, Prophet Abraham migrated from Iraq to Syria.⁹⁰ It is noticeable that Syria was not a place of faith and monotheism at that time. Likewise, Moses migrated⁹¹ to the northwest of Arabian Peninsula and Jacob along with his children including Joseph

⁸⁹ The Quran, 4: 100.

⁹⁰ The Quran, 29: 26.

⁹¹ The Quran, 28: 22.

migrated to Egypt,⁹² which was not a Muslim land at that time. Later, the Yemeni tribes migrated to the north and northeastern parts of Arabia and then Muslims migrated to Abyssinia and Medina. When Islam came, it guaranteed the free movement for all peaceful citizens and civilians, Muslims and non-Muslims alike. Practically, the pre-Islamic Arabs asserted this right, as we find several individuals living in Mecca, such as al-Miqdad Ibn ‘Amr (d. 33 AH/653 CE)—who belonged to Quda‘ah tribe, Suhayb Ibn Sinan (d. 38 AH/659 CE)—who was from Nineveh, ‘Abdullah Ibn Mas‘ūd (d. 32 AH/652 CE)—who belonged to Hudhayl tribe, Hatib Ibn Abi Balta‘ah (d. 30 AH/650 CE)—who is a descendent of Lakhm tribe, among others, while they do not belong to Quraysh tribe. They got permanent residence in Mecca and enjoyed social and economic freedom available that this old time.

Faraway from Mecca, the case in Medina was not different. Medina was a home for the Arab migrants from Yemen, the Jews, and other Arab citizens from various tribes, including Quzman Ibn al-Harith (d. 3 AH/625 CE)—who was from ‘Abs tribe and died while fighting by the Muslim side against the Meccan polytheists in Uhud Battle without accepting Islam;⁹³ and Abu al-Haythm Malik Ibn al-Tayyihān (d. 20), who was originally from Quda‘ah tribe and was an ally and a tribal leader of Banu ‘Abd al-Ashhal during al-‘Aqabah Convention⁹⁴(Dhu al-Hijjah three month before hegira/622 CE). Undeniably,

⁹² The Quran, 12: 99.

⁹³ Al-Ya‘muri, Ibn Sayyid al-Nas. *Uyūn al-Aثار fi Funūn al-Maghazi wal Shama‘il wal Siyar*. Edited by Muḥammad al-Khaṭrāwi and Muḥiddīn Motto (Damascus: Dar Ibn Kathīr & Medina: Maktabat Dar al-Turāth, undated), vol. 2, p. 26; Ibn Ḥajar al-‘Asqalāni, *al-Isābah fi Tamyīz al-Ṣaḥabah*, (Cairo: Dar Hajar, 1429 AH/2008 CE), vol. 9, p. 63.

⁹⁴ Ibn Ḥajar, *al-Isābah*, vol. 13, p. 66.

ensuring migrants, permanent residents, allies, refugees, and freedmen the right to citizenship was an Arab merit whereby they excelled Athena's ethnic/gender-based right to citizenship. In Athena, male children could inherit citizenship from fathers only when women, foreigners, legal residents, and slaves were denied this right.⁹⁵ Nevertheless, the Arabs of Quraysh denied the Prophet and his followers this right on account of their conflict with Muslim faith and their fears of the birth of Muslim entity and independent state.

Man's right to home and citizenship is in principle an assertion of human right to home-sharing as a fundamental right that events of human history stand for. For example, the birth of the countries of North America, Latin America, and Australia was originated by human migration and movements. The Universal Declaration of Human rights has affirmed this Islamic principle in the 13th article, which asserts that "Everyone has the right to freedom of movement and residence within the borders of each state" and "Everyone has the right to leave any country, including his own, and to return to his country." Likewise, the 14th article affirms that "Everyone has the right to seek and to enjoy in other countries asylum from persecution. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations." The 15th article speaks of human inborn right to nationality as follows: "Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied

⁹⁵ Dominik Shneiber and Kristian Baschule, *Mal-Muwatana*, Trans. Sonia M. Naja, (Cairo: National Center For Translation, 2016), p. 14.

the right to change his nationality.”⁹⁶ Two serious observations are important to highlight in this context:

First, the Islamic heritage makes no difference between a refugee and a citizen. Both of them share the same right to human dignity and fundamental rights. This realistic vision is one of the main features of Islamic laws and Muslim tradition. However, the Islamic laws set various rankings for a citizen in terms of public administration based on knowledge, qualification, and loyalty. As such, the special ranking of *Ahl al-hall wal Aqd* refers to a very distinguished category of professional citizens noted for their firm faith, exceptional knowledge and long expertise. However, no especial demand is declared by Sharia to get the right to citizenship. No exact number of years to stay or a special amount of money is required to invest to get the right to residence and citizenship.

Second, the Islamic heritage puts no restrictions on the sovereignty of the states in denying some people the right to entry or in expatiating others when necessary. In support of this ruling, the Prophet is quoted to have banned the alliance and loyalty to the Meccan enemies, because they were in a state of war with Muslims in Medina. According to the document of Medina, “No unbeliever is allowed to promise protection of the property or the lives of Qurayshites.”⁹⁷ One should here differentiate between two elements of citizenship:

- The fundamental element of citizenship, which guarantees the fundamental freedoms and rights, such as the freedom of belief, the freedom of worship, the freedom of movement, the right to practice one’s religious and cultural customs, the right to

⁹⁶ See the full text of the Universal Declaration of Human rights on the UN website: <http://www.un.org/en/universal-declaration-human-rights/>.

⁹⁷ Ibn Hisham, *al-Sirah*, vol. 1, p. 503.

ownership, the right to fair judgment, the right to equal job opportunities, the right to education, health care, and other necessary public facilities and services. As far as the Islamic citizenship is concerned, it ensures all these rights fourteen centuries ago.

- The political rights of citizenship, such as the right to hold official executive, parliamentary, or diplomatic political positions, the right to candidacy, the right to voting, and the duty of military service. In this special context, the differences between a migrant and a citizen are clearly observed in modern times. Unlike the migrant, the citizen enjoys all the political rights, especially the rights of voting, candidacy, and membership of political parties.
- The universal declaration of human rights affirms these political rights in article 21 as follows: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives..." Similarly, The right to take part in the government is enshrined in article 25 of the International Covenant on Civil and Political Rights, which provides that "Every citizen shall have the right and the opportunity, without any of the distinctions and without unreasonable restrictions a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors..."⁹⁸

Evidently, many non-Muslim citizens hold political positions, e.g. ministers, advisors, governors, official writers, etc. It is most important to note that the process of nominating a person

⁹⁸ http://www.claiminghumanrights.org/government_definition.html.

for any official position was wholly subject to the will of the absolute rulers, e.g. caliphs, emirs, or sultans, whether the nominated are Muslims or not. In other words, the political rights were generally within the hands of absolute rulers apart from the people, which go against the principle of *Shūra*. This totalitarian aspect was equally applied for all citizens, Muslims and non-Muslims alike. Nevertheless, some famous non-Muslim figures had occupied the high positions of ministers and court poets under Muslim rule, such as Ya‘qūb Ibn Killis (318-380 AH/930-991 CE)—a Jewish great Fatimid vizier;⁹⁹ Fahd Ibn Ibrāhīm—a Christian Fatimid vizier for al-Hakim Bi-Amrillah (d. 411 AH/1021CE);¹⁰⁰ and Naṣr Ibn Harun, the Minister of ‘Aḍud al-Dawlah.¹⁰¹

In all cases, the element of time is very influential in this context for the process of mutual knowledge and cooperation, which proves one’s abilities and skills and, consequently, introduces a person to a certain political position. Actually, it is not easy to become a candidate for a position in government before the necessary enough time for integration and coexistence, which begets trust and reliability to welcome the

⁹⁹ Al-Suyūṭī, Jalal al-Dīn (d. 911 AH/1505 CE), *Husn al-Muḥāḍara fi Tarīkh Miṣr wa al-Qahirah*. Edited by Muḥammad A. Ibrahīm, (Cairo: Dar īḥyā' al-Kutub al-‘Arabiyyah, 1968), vol. 2. p. 201; S.D. Goitein, *A Mediterranean Society: The Jewish Communities of the Arab World* as portrayed in the documents of the Cairo Geniza, (University of California Press, 1967), vol. 1, p. 33-34, 39.

¹⁰⁰ Ibn al-Athīr, ‘Ali Ibn Muḥammad (d. 630 AH/1233 CE). *Al-Kamil fi al-Tarīkh*. Edited by M. Yusuf al-Daqqaq, (Beirut: Dar al-Kutub al-‘Ilmiyah, 1st Edited by 1987), vol.7, p. 482; Lev, Yaacov. *State and Society in Fatimid Egypt*, (Leiden and New York: Brill, 1991), p. 26.

¹⁰¹ Kanso, Wagih. *Eligibility of Non-Muslims to Assume Power*. In *Towards a Civic Democratic Islamic Discourse II: Islam: State and Citizenship*, (Amman: Al-Quds Center for Political Studies, 2010), p. 135.

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new comers as administrators and governors of their new home. It is also unforgettable that the element of power was and is still most important for those who desire to take part in governments. The fact that the Mamluk Sultanate ruled Egypt, Syria, and Hejaz for centuries is most outstanding in this regard. The rulers of this sultanate were originally slaves but took over this large part of Muslim lands for centuries by means of their powers. Anyway, it was a unique case when the slaves formed a long-term rule over great ancient nations.

Conclusion

Citizenship concept and principles form an international concern widely discussed nowadays. Reshaping the relationship of citizenship with religion and culture is essential for human freedom and peace worldwide. The history of Islam proves the existence of forms of citizenship given traditional terms. These terms were traditionally used in the legal domain in reference to distinctive categories of citizenship. They were proper for their context if we keep in mind that Islam did not know the nation-state form. However, they partly guarantee the fundamental rights that the modern term “citizenship” includes. However, it should be clear that the notion of citizenship in light of realities of Muslim history primarily gives a person legal privileges rather than political participation, because neither Muslims nor non-Muslims were fully free to run for political offices, even if some famous non-Muslim figures became ministers and court poets and writers.

However, the Islamic presented model of citizenship is notably open, universal, and border-free model. The corpus of Islamic heritage and Sharia includes several principles that regulate the issue of citizenship. First of all, Islam admits birth as the basic source of citizenship rights. Likewise, the Islamic Sharia considers the act of migration as enough to have the status of citizenship. It also regards the declaration of collective loyalty and alliance a basis for equal citizenship. Actually, the paper presents several universal Islamic principles upon which the rights of citizenship in Islam are seated:

- Equal origins and dignity: All human beings are equal and honorable as they all belong, as per Muslim faith, to the same origin.¹⁰²

¹⁰² The Quran, 20: 55; 17: 70.

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- Resource-Sharing: All human beings have equal right to share the resources of the universe in return for undertaking the responsibility of building and developing it.
- Respect of specificities and differences: Islam recognizes human differences in beliefs, convictions, and lifestyle, and then encourages diversity.
- Human acculturation and cooperation: It is a Quranic duty to contact other human fellows and nations to know better and deeper about them.¹⁰³ Citizenship is a human fundamental right: Getting this right depends on the freewill of a person, who is willing to join a certain community, even though he may not share them in religion or ethnicity.
- Family Reunion: Family reunion is an essential principle in Islamic laws. In other words, it is forbidden to force the separation or prevent the reunion of a child and parents or a husband and his wife, etc. As such, family reunion is enough reason for citizenship. Finally, Islam approves all just means to citizenship rights in the international laws. Islam, for instance, affirmed the pre-Islamic norms of Arabs that allowed people residence and citizenship upon their actual movement and loyalty

¹⁰³ The Quran, 49: 13.

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