

**A Research Review of Hallaq's Ideology about Evolution of Islamic law in Prophetic  
Period (610 C.E-632 C.E)**

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**Abstract**

Wael B. Hallaq is a famous Scholar of the twentieth century. His books and articles are a big source of knowledge to understand the oriental approach to Sharia. He has two points of view on Islamic law. In the first case, for the development of Islamic law, we must take historical, gradual, and evolutionary concepts into account. He broadly concurs with western philosophers in this aspect. This first component of Hallaq's theories' may be renamed as the theory of evolution of Islamic law. This theory has two steps. One is the origination of sources of sharia and the 2<sup>nd</sup> is the development of theories of law. In Hallaq's opinion, the origins of Islamic law were proposed by Prophet Muhammad Peace be upon Him, therefore it is much important to understand Hallaq's ideology about personality of prophet and his proposed origins of law. Hallaq's views on the Prophet of Islam are similar to those of other Orientalists. In his books, he has mostly discussed the Prophet of Islam's political and legal life. Furthermore, in Hallaq's writings both the political and legal aspects have been described as variable and dubious.

From a political point of view, the invitation of the Prophet of Islam (peace be upon him) was renamed New Political Word Order by Hallaq. Whereas the call of the Prophet of Islam, may Allah bless him and grant him peace, has been declared variable and metaphorical by the law. This article describes the ideology of Hallaq about Prophetic Period as a "Theory of Evolution of Islamic law".

**Key Words:** Theory of Evolution of Islamic law, Quranic Legality, Comprehensive Diversion in Islamic law.

### Hallaq's Ideology about Prophetic Period (610 C.E to 632 C.E)

The Holy Prophet Peace be upon Him was born in Mecca in 570 A.D. At the age of forty years, he announced his prophethood and received first revelation in the cave of Hira.<sup>i</sup> He lived here about thirteen years and called people to the Message of Almighty Allah. After that He (peace be upon Him) migrated to Medina and lived here for about ten years. According to Muslim thoughts the first thirteen years are called "Mecci period" and the last ten years are called "Madni Period". Hallaq's ideology about Founder of Islam (Holy Prophet Peace Be Upon Him) has following points:

1. He called The Holy Prophet Peace Be Upon Him "**An agent of Judaism**".
2. He considered Islam "**A New Political World Order.**"
3. Islamic Message was only **Ethical** in its beginnings.
4. At last **variations(distinctions)** from Judaism and Christianity are required to form it a new political order and Muhammad did it for his objectives. Two important variations about it are 1) Development of Concept of Ummah 2) Change of Qibla.
5. Some other modifications in idda, worship, marriage, alms tax(zakat), drinking, usury etc. are for **the reformation of society** to develop a new concept of Ummah.

All these are misconceptions and doubts of western scholars. It is not only Hallaq but a lot of western scholars have these thinking about Islam, Islamic system, prophet of Islam and Islamic law.<sup>ii</sup> In History, the Jews and Christians of Arab have also these types of ideas about Islam. This type of oriental approach was discussed by Quran at different places.<sup>iii</sup> Their doubts about prophethood, personality, message and character of Muhammad (Peace be upon Him) have been discussed in the Quran and rejected by Almighty Allah. The Quran Says:

يُرِيدُونَ أَن يُطْفِئُوا نُورَ اللَّهِ بِأَفْوَاهِهِمْ وَيَأْبَى اللَّهُ إِلَّا أَن يُتِمَّ نُورَهُ وَلَوْ كَرِهَ الْكَافِرُونَ ۝ هُوَ  
الَّذِي أَرْسَلَ رَسُولَهُ بِالْهُدَىٰ وَدِينِ الْحَقِّ لِيُظْهِرَهُ عَلَى الدِّينِ كُلِّهِ وَلَوْ كَرِهَ الْمُشْرِكُونَ ۝

"They want to extinguish the light of Allah by their words, but Allah will not agree with them and will instead perfect his light, regardless of how the unbelievers may feel about it. He is the one who dispatched His messenger to vanquish him and bring guidance and

the right religion. All religions, although non-believers may not like it.”<sup>iv</sup>

At other point Almighty Allah says in the Holy Quran:

وَمَنْ أَظْلَمُ مِمَّنْ ذُكِّرَ بِآيَاتِ رَبِّهِ ثُمَّ أَعْرَضَ عَنْهَا ۗ إِنَّا مِنَ الْمُجْرِمِينَ مُنتَقِمُونَ ۝

“And who is more unjust than one who is reminded of the verses of his Lord; then he turns away from them? Indeed We, from the criminals, will take retribution.”<sup>v</sup>

### Hallaq's Views About Personality of Holy Prophet Peace Be Upon Him

According to Hallaq, the prophet's mission and vision have changed over time (PBUH). He believed that Muhammad's mission in Mecca was moral and religious, promoting modesty, altruism, and faith in God, who has neither a son nor a father and is categorically distinct from the idols revered by the Arab tribes. His message was primarily focused on morals, religion, and the purity of earthly living. The message was initially presented as continuing with monotheism, but it represented a purer version of the generally corrupt forms of Christianity and Judaism.<sup>vi</sup>

Muhammad was familiar with all of the peninsulas and its neighbors' cultures and religions, particularly Judaism and Christianity, which were practiced widely by the principal Arab tribes. This is according to Hallaq. He was forced to relocate to Medina, where he shared a home with several of his devotees. According to Hallaq, his message was developed in terms of continuity with Judaism and Christianity right after he arrived in Medina. Islam essentially represented the original faith, which had been distorted by later adherents of both religions into its Judaic and Christian incarnations, in its purest form. Muhammad changed his name to Hanif while already in Mecca, most likely due to the influence of a certain Zayd b. Amr. It appears that the basically monotheistic Hanifiyya was a Meccan theological formation that developed around Abraham and the adoration of the Kaaba, which was thought to have been its creator. Muhammad most likely had no intention of creating a new polity before he arrived in Medina, much less a new set of laws or legal framework. He was largely preoccupied with faith, morals, and the purity of worldly living up until that point and shortly thereafter. But he was suddenly confronted with a new world. He encountered Jews in Medina who, like the Meccan tribes, disagreed with him or at least questioned his message. They believed that this revelation represented a new religion that was separate from Judaism and Christianity.<sup>vii</sup> In his book Sharia, He writes clearly:

“In so far as we know about its (Islamic)beliefs and practices, the Hanifiyya appears to have been an agnate of Judaism, providing the spiritual background and precedent for the new religion.”<sup>viii</sup>

### **New Political World Order(I) and its features**

From following statement of Hallaq it is clear that Islam was developed pre-planned as a new political world order.

“It was in the Hejaz cities of Mecca and Yathrib later renamed Medina that a man named Muhammad emerged to proclaim a new religion with a political order at its center. At the time of his death in 11/632, he left behind a small state and clear ideas about justice, but with underdeveloped ideas of law and an even less developed judiciary. Soon, however, Islam was to conquer lands to the east and west, from western China to the Iberian Peninsula. Along with this territorial expansion, the new religion developed a full-fledged, sophisticated law and legal system in the short period of three and a half centuries that followed its inception.”<sup>ix</sup>

Hallaq mostly discusses the last 10 years (From these ten, last five years are important for Him) of Holy Prophet Peace be Upon Him. He gives concept of variation of message of The Prophet from his Mecci life and variation was completed by Prophet in Madni life. In his opinion, the modifications are continued to this message after prophetic period as well. The companions of the prophet (peace be upon Him) used a religious concept of Prophetic Authority to propagate the message of Islam.

According to Hallaq, in the life of the Holy Prophet Peace Be Upon Him, people did not listen to him.<sup>x</sup> In His opinion, the evolution of law was completed after the death of the Holy Prophet Peace be upon him. For example, giving the concept of Sunna of Holy Prophet Peace Be Upon Him He says:

”However, some evidences indicate that the Sunna of the Prophet became an established concept soon after his death.”<sup>xi</sup>

From this point, he concluded that after the death of the Prophet people of Arab moved towards Him. Then, concept of Sunna was developed as a source of law.

### **Major Source of law: The Quran**

Quran is the last revealed message of Allah for guidance of mankind. It was revealed on Last Prophet Hazrat Mohammad Peace Be Upon Him. As, Quran is the basic and major source of law therefore, here we will discuss ideas of Hallaq about it.

### **Hallaq's Point of View about Quran**

According to Hallaq's understanding, there are two important questions about the authenticity of The Quran. These are:

- Is the Quran a revealed message of Allah (God)?
- What is the source of Quranic-teachings?

In Hallaq's opinion, the Quran is a collection of teachings of past religions i.e Christianity and Judaism. Arabian customary law is also a part of Quranic-teaching. Some reformations are also its part. From Hallaq's writings it can be understood that He considered it a Man-Made Law. His ideology is based upon Goiten, joyball and other orientalist in this case. He writes:

“Theologically, Quranic Islam arrived, first, as a corrective and, second, as the final form of Judaism and Christianity, the form they should have taken, but did not save it.”<sup>xii</sup>

In his book Sharia, He also points out about Quran, which can be concluded as:

“Message of Islam i.e. The Quran is a collection of teachings of Past religions, Arab customs and cultural diversions.”<sup>xiii</sup>

In his work History of Islamic law, Hallaq outlines his interpretation of the Quran. There is no question that the Quran does contain some aspects of law, despite theories that it is predominantly a book of religious and moral teachings. The concepts of Hallaq about the legality of the Qur'an are taken from Goiten. According to Hallaq, the Prophet made it clear when He gave His message that He desired to renounce pre-Islamic institutions and gods, but only to the amount required to create the foundations of a completely new religion. Being a pragmatist, he was unable to eliminate all of the social customs and institutions that were prevalent at the time. There are 500 or so passages in the Qur'an that have legal content, according to Muslim jurists and contemporary academics. The legal verses seem straightforward in comparison to the rest of the Qur'anic text, providing the erroneous impression that the Qur'anic concern in legal issues is essentially incidental. Islamicists frequently note that the Quran repeatedly repeats itself, both thematically and literally,

from their point of view. Contrary to popular belief, there is a higher proportion of legal to non-legal topic matter. The legal subject is essentially devoid of repetition. Because the length of the verses that are considered to be legal are typically twice or even three times longer than the verses that are considered to be non-legal, the Quran includes no less legal content than the Torah. Such type of ideas of Hallaq are extracted from Goiten.

Unlike other orientalists, Hallaq has a unique perspective on situations recounted in the Quran from two angles. He feels that two historical remarks are necessary. First, he makes the presumption that the Qur'an was written during the Prophet's lifetime and that it accurately reflects the events and thoughts of that time. This assumption is supported by the lack of compelling evidence to the contrary. Therefore, he believes that whatever the Qur'an says about a circumstance or idea that occurred during the lifetime of the Prophet is an accurate description of that circumstance or idea. The veracity of accounts of the Prophet's deeds and words comes in second, but is more challenging historically. In Hallaq's opinion, Goldziher, Schacht, and Juynboll, among others, have argued that we have good reason to believe that prophetic messages were invented at a later stage in Islamic history and that they were gradually projected back to the Prophet. Schacht placed the origins of the Sunnah and the verbal reports that expressed it at the end of the first century CE and the beginning of the second century (720 A.D.) Hallaq has his own position about Prophetic reports.<sup>xiv</sup> He considered it a pseudo problem.<sup>xv</sup> In our opinion, As Hallaq accepts that evidences not support his assumptions therefore, his perceptions are rejected here.

### **Quranic Legality**

According to Hallaq Quranic legality is based on following three things:

- 1) Past Religions i.e. Abrahamic theology.
- 2) Arabic social, political and tribal cultural life.
- 3) Quranic Reforms.

He also agrees with Goitein as follows:

"If we consider the fact that the average length of the legal verses is two or even three times longer than the length of the non-legal verses, it is not difficult to argue, following Goitein, that the Qur'an contains no less legal material than the Torah, which is commonly known as the "Law".<sup>xvi</sup>

In his book Sharia He writes:

“A large portion of pre-Islamic Arabian laws and customs remained applicable and survived in somewhat modified forms into legal culture that was being constructed. But the new Quranic laws created their own juristic problems that rendered many of the old customary laws irrelevant. i.e., problem of drinking wine and its prohibition.”<sup>xvii</sup>

The above two statements also illustrate about Hallaq’s confusion about Quranic legal position. In 1<sup>st</sup> one case he finds similarity with Torah just like Goitein and in 2<sup>nd</sup> one case he finds two things one is similarity with Arab traditions and the other one is reformation. In this way he concludes about Quranic legality as extraction from three sources explained earlier.

#### Graphical Representation of Quranic Legality

Sr.#	Topic	Quranic Legality
1.	Belief and Worship	Monotheism
2.	Social / Political Reform	Concept of Ummah/Concept of Qibla
3.	Relation with Jews	5:47
4.	Relation with Christians	5:48-50
5.	Relation with Arab tribes: Wines, Games of chance, law of bettering unripen dates, law of Qasama.	Prohibition
6.	Family law, Dowry, Idda, Inheritance etc.	Social Reforms

#### Characteristics of Message of Prophet

According to Hallaq message of Prophet has following characteristics:<sup>xviii</sup>

1. Monotheism
2. Guidance about Worship (Religious life)
3. Guidance about Relationship (Social life)
4. Politics (Political Reforms as New World Order).

## Monotheism

Hallaq explains in his book *Sharia* that Islam promotes message of hazrat Ibrahim Alihesalm. Islam demolished and severely apposed idolatry and promotes monotheism. Monotheism is basic message of Islam. I will quote only two points from the Holy Quran about Monotheism.

اللَّهُ لَا إِلَهَ إِلَّا هُوَ الْحَيُّ الْقَيُّومُ<sup>xix</sup> ه

Allah none is worthy of worship, except Him, He is Alive (eternally, on His own) and the Upholder (keeps others established).

قُلْ هُوَ اللَّهُ أَحَدٌ ﴿١﴾ اللَّهُ الصَّمَدُ ﴿٢﴾ لَمْ يَلِدْ وَلَمْ يُولَدْ ﴿٣﴾ وَلَمْ يَكُنْ لَهُ كُفُوًا أَحَدٌ ﴿٤﴾<sup>xx</sup>

Proclaim (O dear Prophet Mohammed peace and blessings be upon him), “He is Allah, He is One.” “Allah is the Un-wanting.” (Perfect, does not require anything.) “He has no offspring, nor is He born from anything.” “And there is none equal to Him.”

## The Evolution, development and variation in the message of Prophet

According to Hallaq's understanding, Islam was not really a big issue for the infidels or polytheists but it was a real issue for the People of the Book because Islam gave place to the Arab Customs as Law but claimed a gradual change in the thoughts and actions of the People of the Book. It was the foundation of a new political mission that included the revision of all Arab religions and civilizations.

Here I concluded my critique on understanding of Hallaq by his own narrated and accepted two points:

1. Islam was the corrective form of Abrahamic religions. It means there was a need for reformation.
2. If people of book have threat from Islam and Islamic political order, then, the above-mentioned reason is justified by itself. It means the people of the book (Jews and Christians) were frightened by reformations introduced by Prophet (PBUH).

From Hallaq's point of view, there exists a continuous change in the message of the Holy Prophet Muhammad (Peace Be Upon Him) from social, religious, and political point of view.

## Bilateral Variations of Islamic law

Hallaq's theory of Variation of Islamic law includes bilateral variations i.e., Variation in law as well as variation in sources of law. The details of origins of Islamic law have been discussed in my



article **A critical study of Wael B. Hallaq's understanding of Islamic law**<sup>xxi</sup>, While the Variation in sources of law has been discussed in my article, **A research review of Hallaq's theory of variation of Islamic law**.<sup>xxii</sup> Following examples are discussed in detail by Hallaq, to prove Islamic law and its sources as Variable factors.

- Concept of Ummah
- Concept of Qibla
- Relations of Prophet with Jews
- Relation of Prophet with Christians
- Relation of Prophet with Arab Tribes
- Comprehensive diversions in Islamic law

### **Conclusion**

Here we conclude the primitive period i.e first part of formative period which is also known as Prophetic period of development of Islamic law. In above discussions we have proved following points about Hallaq's understanding of evolution of Islamic law:

1. Quran is a Man-Made Book.
2. Holy Prophet was a political leader.
3. There are three variable sources of Islamic law.
4. The theory of evolution of Islamic law proposed by Hallaq is based on concept of Variation.

All the ideas of Hallaq regarding Islam, the Prophet of Islam, the Qur'an and the evolution of Islamic law are derived from the earlier Orientalists and are very similar to the views of the People of the Book of Prophetic Period. All these ideas have already been refuted by the Qur'an. The subject of Qibla change has been clearly explained in detail in Surah Al-Baqarah.<sup>xxiii</sup> In the same way, a separate concept of Ummah has been given in verses 41-52 of Surah Al-Maida. This also makes it clear that these are not new topics, but the People of the Book of the Prophetic Period, had also expressed doubts in this regard, which are refuted in detail in the Qur'an. The only difference is that the people of the book of that period, adopted formal methods to oppose the message of Prophet. While the Orientalists of the present day are carrying out the same work in an organized, coordinated and systematic way in the form of modern movements.

## References

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- <sup>i</sup> Al-Alaq, 96:1-5
- <sup>ii</sup> Some evidences indicate or sources tells or evidences are found, using these words by Hallaq means he uses books of Western scholars or historians like joynball, Bravaman, Schact, Goldz etc as reference and accepts their findings and agrees with them.
- <sup>iii</sup> Al-Baqarah, 02: 145.
- <sup>iv</sup> Al-Quran, 09:32-33
- <sup>v</sup> Al-Quran, 32:22
- <sup>vi</sup> Hallaq, Origins, pp.19
- <sup>vii</sup> Hallaq, Origins, pp.19
- <sup>viii</sup> Hallaq, Sharia, pp.30
- <sup>ix</sup> Ibid
- <sup>x</sup> Hallaq, Origins, pp.47
- <sup>xi</sup> Hallaq, Origins, pp.48
- <sup>xii</sup> Hallaq, Origins, pp.22
- <sup>xiii</sup> Hallaq, Origins, pp.31
- <sup>xiv</sup> Hallaq, History of Islamic Legal Theories, pp.2-3
- <sup>xv</sup> The Authenticity of Prophetic Ḥadīth: A Pseudo-Problem, Wael B. Hallaq, *Studia Islamica*, No. 89 (1999), pp. 75-90
- <sup>xvi</sup> Hallaq, History of Islamic Legal Theories, pp.3-4
- <sup>xvii</sup> Hallaq, Sharia, pp.36
- <sup>xviii</sup> Hallaq, Origins, pp.8-30 / Hallaq, History, 7-15 / Hallaq, Sharia, pp.16-30
- <sup>xix</sup> Al-Imran, 03:02.
- <sup>xx</sup> Al-Ikhlās, 112:1-4.
- <sup>xxi</sup> A critical study of Wael B. Hallaq's understanding of Islamic law, Abdul Basit, *Al-Qamar*, Vol.4, Issue.02 (April-June 2021)
- <sup>xxii</sup> A research review of Hallaq's theory of variation of Islamic law, Abdul Basit, *Folia Linguistica*, Vol.15, No 03.2022.
- <sup>xxiii</sup> Al-Baqarah, 02: 115-145.