

The deconstruction of Sunnite Theory of Caliphate

Spreading the Rule of Law on the Earth

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Abstract

The concept of the Sunni *caliphate* is self-defined as the notion that a *caliph* is selected by the people (*ikhtiyār*) and is based on the denial of the concept of the Shiite Imamate that an *imam* is appointed by God (*naṣṣ*). In today's academic society in the field of Islamic politics, Sunni political scholars, by taking this notion of the caliphate as a starting point, attempt to position the caliphate system as a variant of the Western democracy that selects leaders through election. On the other hand, the Western scholars criticize the caliphate system as a form of dictatorship on several grounds, including the lifetime tenure of the caliph.

This paper aims to deconstruct the concept of the Sunni caliphate in the context of globalism and to redefine it as “a mechanism to bring about the Rule of Law on Earth,” taking hints from the thought of Ibn Taymiyah (d.1328), who reconstructed the concept of Islamic politics as “politics based on Shari'ah” by shifting the focus of the concept of Islamic politics from a caliphate to Shari'ah (≡ Islamic law).

If the caliphate system is to be understood as “a mechanism to bring about the Rule of Law on Earth,” we should be aware that the concepts (such as democracy and dictatorship) of modern Western political science originate in the Western tradition dating from the age of ancient Greece, which regards politics as a means to rule people by people. With this recognition in mind, this paper attempts to shed light on the unique features of Islamic political thought by carrying out a “triangular survey” on the political thoughts of the Islamic and Western worlds, as well as the Chinese world.

Keywords: rule of law, territorial nation state, Islamic law, Khilafah (Caliphate), Dar a-Islam (House of Islam)

Preface

Our new approach to the Sunnite Caliphate which we try to describe here is based on the three premises as bellow.

(1) The ultimate reference for Islamic politics should be *Shari'ah*, i.e., *Qur'an* and *Sunnah*.

- (2) The Islamic law system should be considered as one of the law systems including modern Western one, as it is manmade and fallible in difference to divine infallible *Shari'ah*.
- (3) We should try to invent quite a new style of discourse to explain the concept of Islamic politics contained in traditional Islamic law for the Westernized people, whether they were Muslims or Non-Muslims.

Thus this approach is intended to be a synthesis of three trends of contemporary Sunni Islamic thoughts, i.e., *Salafist* who advocates strict and exclusive observance of *Qur'an* and *Sunnah*, the traditionalist who considers traditional Islamic sciences (*'Ulum Shar'iyah*) still valid and binding and clings to them, and the modernist/reformist who adopts modern Western sciences to reconstruct Islam. This approach is unique, because there has been thus far no such attempt of synthesis yet, though we find sometimes reconciling efforts between *Salafist* and traditionalist or between *Salafist* and modernist/reformist.

We argue on these premises here that in the language space of the "contemporaries" accustomed the terminologies of the modern Western political thoughts it is most relevant that the Sunnite Islamic Theory, i.e., Caliphate would be expressed as follows.

- (1) The globalism and universalism is essential for Islamic politics, and the uniqueness of *Khalifah* (Caliphate) only symbolizes the unity and integrity of *Dar al-Islam*.
- (2) Mission of Islam in its complete form is to expand this *Dar al-Islam* in order to spread Islamic governance to all over the world even by resort to the military force, though there is no compulsion in the religion..
- (3) Islamic politics is in essence "rule of the law", rather it is the very *Rule of Law* contrary to "rule of the man", a kind of which is the democracy, and economy is its inseparable part, thus beside *Zakah*(alms giving), *Jizyah*(toll tax) and *Kharaj*(land tax)which have textual base in *Shari'ah*, any taxation is strictly prohibited.

Consequently our aim should be not only to prove the validity and legitimacy of spreading Islamic polity, the integrated global *Khilafah* which is nothing but Rule of the Law to all over the world, as the alternative of the false "globalization" made in America, but to convince of the possibility and necessity of coexistence of the coming reestablished *Khilafah/Dar al-Islam* with the outer world (*Dar al-Harb*).

1. Introduction

Human behaviors can neither be conducted nor be understood without value orientation. And the value cannot be found out by purely empirical observation of physical phenomena, rather we should refer to transcendental ultimate sources of the value. In Islam, such source of value is Allah ontologically, and *Qur'an* and *Sunnah* epistemologically, because in Islam Allah alone is the absolute being which is the sole source of all the existing things as well as the sole source of all the valid values, and Allah's will is communicated to human beings through His

revealed scriptures brought by His apostles and their completed form is the *Qur'an* and *Sunna* of *Muhammad*, the last Prophet.

Politics is a field of human behaviors, thus it needs value reference, which should be *Qur'an* and *Sunnah*, i.e., *Shari'ah*. *Shari'ah* is divinely revealed, consequently, absolute, transcendental, infallible and ever-binding until the Last Judgment, while *Fiqh*, Islamic Jurisprudence is a human effort to deduce legal norms from *Shari'ah*, thus manmade, fallible and variable. Therefore, *Ahkam Fiqhiyyah* (rules of Islamic law) should be discerned from *Shari'ah*, however, although they are to be differentiated from *Shari'ah* conceptually, it is difficult to separate between *Shari'ah* and *Ahkam Fiqhiyyah* in fact, because *Ahkam Fiqhiyyah* is the extract of the accumulation of collective effort of great Islamic jurists for generations. And these Islamic jurists are the successors of the founders of *Fiqh* (*A'immah Madhahib*) who belong to the *Salaf* or the Predecessors, the most knowledgeable about *Shari'ah* (*Qur'an* and *Sunnah*), thus actually, it is very difficult for us, the latter generations, to understand meaning of *Shari'ah* without referring to classical *Ahkam Fiqhiyyah* so that we reconstruct new system of law surpassing them (classical *Ahkam Fiqhiyyah*).

Therefore practically speaking, we had better refer to classical *Ahkam Fiqhiyyah* first for interpreting *Shari'ah*, because the classical *Ahkam Fiqhiyyah* are relatively the most integral and consistent system of understanding of legal dimension of *Shari'ah* comparing to any other Muslim modernist trends of unsystematic, arbitral, and ad hoc interpretation of *Shari'ah*, needless to say of non-Islamic Western politico-legal thoughts, in spite that *Ahkam Fiqhiyyah*, as manmade law system, cannot claim absolute validity of the truth.

However, even if the classical *Ahkam Fiqhiyyah* is the primary source reference to theorize Islamic Politics because it is the relatively best tool to approach *Shari'ah*, the ultimate source reference for Islamic Politics, we cannot help but forge new style of discourse to express this theory of Islamic politics towards not only Non-Muslims but also Muslim public, because the absolute majority of the contemporary Muslims are imbued with Western world-view and values and have no literacy of classical *'Ulum Shar'iyah* in general and *Ahkam Fiqhiyyah* in particular, as the Prophet said; "talk to people according to their understanding". So we should try to explain Islamic politics using terminology of Western social sciences, in spite that the terminology of the Western social sciences are so heavily laden with Western socio-political culture that it is not relevant to make concepts of Islamic politics understood accurately and it causes misunderstandings inevitably.

2. Islamic Polity of *Khalifah* as the Organ of the True Globalism

The globalism and universalism is essential for Islamic politics, because Allah is not the Lord of any certain country but the Lord of the earth, thus *Tawhid* (uniqueness of Allah) requires the acceptance of oneness of the lordship of Allah on the earth as well as denial of the lordship for any other creatures on any places on it. And the place on which the unique lordship of Allah

is realized, namely the *Shari'ah* alone is enacted and implemented to rule the people is called *Dar al-Islam*. The uniqueness of *Khalifah* only symbolizes the unity and integrity of *Dar al-Islam*.¹⁾

Khalifah must also be one person and two or more *Khalifahs* (*Khulafa'*)' coexistence is severely forbidden. The Prophet Muhammad ordered loyalty to single *Khalifah* in one age in order of accession to the throne, saying; "although there is no prophet after me any longer, *Khulafa'* (successors) will appear and their number will quite a large. Give loyalty in order one by one, and follow the authority which Allah vested in them." (*Hadith: Muslim*), and he did not only rejected the legitimacy of the second and following *Khalifahs* but ordered decisively execution of them, saying; "When the pledge of allegiance is given to two *Khalifas*, kill the second one." (*Hadith: Muslim*)

When the Prophet Muhammad passed away, many tribes of Arabia refused to give *Zakah* to Madinah, the capital of the *Khalifah* Abu Bakr. At this time, the *Khalifah* Abu Bakr subjugated them in spite that they confessed "there is no god but Allah and Muhammad is the apostle of Allah" and performed the prayer (*Salah*). This battle is called "apostasy (*Riddah*)" war. This decision of the Abu Bakr shows that the supremacy of the headship, *Khilafah*, and the unity of the *Ummah* (Muslim community) are fatal for Islam.

Although in *Fiqh*, *Khalifah* is abbreviation of *Khalifah Rasul Allah*, i.e., the successor of the Apostle of Allah, not *Khalifah Allah*, the vicegerent of Allah on the earth, but the connotation of the vicegerent of Allah on the Earth has never been forgotten. *Al-Mawsu'ah al-Fiqhiyyah*²⁾ cites the Qur'anic commentary of al-Qurtubi, "This verse (And when thy Lord said unto the angels: Lo! I am about to place a viceroy in the earth...Q:2:30) is the base for the appointment of Imam or *Khalifah* who is listened to and obeyed in order that the opinion would be agreed and rules of the people be carried on." (al-Qurtubi, *al-Jami' li-Ahkam al-Qur'an*, n.p., n.d., vol.1, p.264) Allah is the Lord of the heavens and the earth, *Rabb al-Samawat wa-al-Ard*. In this context, the term "*al-Ard*(the earth)" in *Qur'an* is always single contrary to "*al-Samawat*(heavens; plural)" . That is because the earth is one and indivisible, and consequently, the *Khilafah* as the vicegerency of Allah on the earth should be one and indivisible, as the lordship of Allah for the earth is one and indivisible, there is no god but Allah.

Fiqh prescribes the uniqueness of *Khalifah* and strictly forbids its plurality, because the Islamic order includes security of the freedom of immigration. An angel says in Qur'an; "But was not God's earth spacious that you might have emigrated therein. (4:97), and Ibn 'Abbas in his *Qur'anic* commentary *Tanwir al-Miqbas*, explains this verse; "...My earth is spacious..." as "the land of al-Madinah is safe, so immigrate to it." (Ibn 'Abbas, *Tanwir al-Miqbas*, 1992, Lebanon, p.102) Namely, al-Madinah, *Dar al-Islam* should be the place to which all the Muslims can immigrate. The oneness of the *Khalifah* symbolizes the oneness of the Islamic order, and the Islamic order secures the free movement of human beings and commodities within its territory, *Dar al-Islam*.

The earth belongs to nobody, but solely to Allah. No one is allowed to cut it into parts and restrict immigration in it. Contrary to the ideology of the “territorial nation state” of modern Western Europe, Islam does not allow human beings to be divided into separate nations. This is because Allah created human beings as various ethnic groups so that they could know each other, as Allah says; “We have indeed created you from a male and a female, and made you nations and tribes that you may come to know one another.” (49:13), and the freedom of the immigration is the precondition for mutual-understanding. And Allah orders us to travel in the earth to learn the history of nature and the history of human beings by saying; “... Travel in the land and observe how He originated creation.” (29:20), “...so travel in the land and behold how was the end of those who denied.” (3:137, 6:11, 16:36). The liberation of the earth by the abolition of the borders and the unity of the Islamic order are essential conditions for the Islamic mission.

The earth differs in climate regionally, and there are also differences in its underground resources. Additionally life in a particular area may be made temporarily difficult by a natural or manmade disaster. So, freedom of migration on the Earth is the first step to enabling the justice and equality of life among mankind. So, the abolition of borders which bar the migration of people is an indispensable part of the Islamic order. And for realizing this, the existence of the single *Khalifah* is necessary to prevent the discriminatory “territorial nation-state” system, which is nothing but the cartel of the rulers of each country in the world, who mutually agree to divide the world for the purpose of protecting their own vested interests.

John Rawls (d.2002) argued that the unfairness is the situation, in which what rational person cannot choose living under the veil of ignorance, i.e., without knowing whether he or she is part of the poor members or the rich. Without doubt, the contemporary “territorial nation state” system is unfair, in which the small number of nations of the advanced countries enjoy the wealth while the majority of human beings are forced to live inside the under developed countries separated by borders of “territorial nation state” from the advanced countries in order that they cannot immigrate, and number of the poor who live in starvation with less than 1 US dollar per day is 960 millions, which any rational person can accept, assumed under the veil of ignorance.

Therefore, the territorial nation state system is contradicting the ideal of the justice and the humanity which the West claim to advocate, thus the borders of the territorial nation states should be eliminated, in order that the earth would be liberated for all the human beings and the complete freedom of migration would be guaranteed.

Moreover, even in terms of economical development, the liberation of the earth, i.e., permission of the free migration is the best way. The Newsweek writes, ; Pretty much every expert agrees that creating a guest-worker program in the rich world would be one of the best ways to fight poverty and boost global incomes. The economic effects of migration are “profound,” says Dilip Ratha, an economist at the World Bank. “Even a small increase in migration can produce significant welfare gains, and those welfare gains can be much larger than complete

trade liberalization.”³⁾

In fact, the establishment of “the House of Islam” means liberation of the earth for free migration of the whole human beings through the elimination of the unfair rulers who enclose their exploited subjects by the border of their territory. It should be started from so-called “Muslim countries”, then expanded to all over the world.

In order to understand the true implication of Islamic globalism, we should reconsider the conception of nationalism in the light of Islam..

Nationalism is a form of neo-tribalism born in Western Europe in the second half of the 18th century. The Prophet Muhammad said; “Those who were killed under the flag of delusion which appeals for or support tribalism (*‘Asabiyyah*) died the death of the *Jahiliyyah* (pre-Islamic ignorance)” (*Hadith: Muslim*)

The Prophet Muhammad said, “Those who appealed for tribalism are not our fellows. And those who fought for tribalism are not our fellows. And those who died for tribalism are not our fellows.”

(Being asked “What is tribalism?”) He answered; “It is supporting your tribe in injustice.” (*Hadith: Abu Dawud*)⁴⁾

Tribalism was of the normal way of life for the Arabs of the *Jahiliyyah* (pre-Islamic ignorance), and the good tidings for all mankind was the advent of Islamic justice. Now the conquest of this “neotribalism” has become the major objective of the Islamic mission. The big problem is that “neotribalism” is not only the ideology of the anti-Islamic regimes of modern Muslim countries which oppose the reestablishment of *Khalifah* and the “House of Islam”, but is also polluting most of dissident and resistance groups which believe themselves to be an “Islamic movement”. In the Islamic world, the neotribalism of these “Islamic dissident movements” makes the transformation of “their own country” into “an Islamic state” their goal based on the illusion that the practice of Islamic law inside “their own country” alone is possible under the framework of the “territorial nation state”. The neo-tribalism of Islamic resistance movements which fight against the invasion of the infidels usually aims for the liberation of “its own country” from the infidels and the recovery of its national sovereignty.

As mentioned before, the unity of the *Khalifah* and the Islamic world is the essential prerequisites of the Islamic domain, *Daral-Islam*, “House of Islam”, thus enforcement of the Islamic law inside one country alone is only an illusion as we have already shown.

The precedent for the establishment of the Islamic Republic of Pakistan, which resulted in the miserable “independence” or separation of Bangladesh (ex East Pakistan) and defeat in the Indo-Pakistan war which led to the sacrifice of 3 million lives in spite of having previously sacrificed hundreds of thousands of victims for the establishment of a state entitled “Islamic”, clearly shows the fate of all the alleged “Islamic movements” based on neo-tribalism which lacks an understanding of the true idea of the Islamic mission.

However, in order to understand the true significance of the adherence of Islam to oneness

of the *Khalifah*, it is necessary to clarify the character of Islamic mission first, even if it results in taking a long circuit

3. Islamic Mission of Spreading its Governance to all over the World

Mission of Islam in its complete form is to expand this *Dar al-Islam* in order to spread Islamic governance to all over the world even by resort to the military force, though there is no compulsion in the religion.

A lot of contemporary Muslim apologists are trying to show that Islam denies the use of force except for self-defense, reacting to the slander against Islam from the West like “Sword in the right hand and Coran in the left”. The refutation is justifiable, if it means that Islam forces nobody to convert to Islam by compulsion. However, if it means that Islam does not accept the use of military force to realize its cause at all, it contradicts clearly the *Shari’ah’s* teaching as well as the historical facts. Islam rejects forcing conversion to Islam by means of threat by physical violence but does not reject the use of military power in order to realize its cause and spread its governance to all over the world, rather Islam consider the fight for the sake of spread its governance as its obligatory mission.

Islam loves peace and is not fond of unnecessary violence. However, Islam is not unconditional absolute pacifism. Rather, Islam teaches that the believers should practice commanding good deeds and prohibiting evil (Amr bi-Ma’ruf Nahy ‘an Munkar) according to their power, respectively. The ruler, as the holder of the greatest power, is especially burdened with the obligation to uphold the “statutory penalties (*Hudud*)”, to wage war (*Jihad*), and sometimes even to resort to violence for the sake of peace, security, and justice for the Islamic society.

While the process of enhancing the faith of individuals and society is a quantitative incremental change which progresses gradually, political power is realized through qualitative alteration from nothing into existence. Political power is the sole legitimate power which can lawfully employ violence to physically eliminate the enemy who insists on opposing it to the last. When such power is materialized, a political unity is generated which carries out war against enemies outside its borders and punishes offenders of the law within. We said before that true Islamic “statutory penalties” cannot be enforced in the framework of the “territorial nation-state”. This is because the “statutory penalties” can only begin to be enforced when political power based on Islamic law has been generated, ie., the Caliphate has been reestablished.

So, the revelations about the “statutory penalties” started after the Prophet Muhammad’s political power was established by the *Hijrah* to Madinah, and there was no punishment for those who disobeyed the instruction in the Maccan period before the *Hijrah*.

We must explain the Islamic mission in logical steps. When the *Ummah* awakes to the real faith of Islam, it will integrate itself under the banner of the *Khalifah*, and reestablish the “House of Islam”. Then, having clarified the basic Islamic view that each Muslim is responsible for

fulfilling his own individual duty under Islamic law, each according to his own capability, the *Ummah* will collectively undertake the Islamic mission of liberating all human beings by expanding the domain governed by fair and just Islamic law to the whole world. It will free the oppressed from the prisons of their “territorial nation states” where some human beings exploit other human beings, and establish a just society where all communities can live together regardless of differences of nationality, race, ethnicity, religion, etc., enjoining religious self-government and social equality.

Islam never forces the faith of Islam upon anyone. However, the Islamic domain, the lands under Islamic law, or the “House of Islam” should be spread to all over the world, in order that the Earth and human beings would be liberated from the unjust rulers who usurp the sovereignty of Allah.

Although Islam does not enforce the faith of Islam, Islamic order, the Islamic domain, and the *Dar al-Islam* must be expanded to all the Earth, even by resorting to military power.

Why? Islam means total submission to Allah, i.e., obedience only to Allah’s command. In other words, Islam means denying the power of all the things that rule over people beside Allah. As for what is related only with the inner minds of human beings and what they obey according to their own judgment, such as religion in a narrow sense, we must liberate ourselves from its rule after thinking and judging by ourselves, and liberation from outside by force is impossible.

However, when external rule enforced by violence, i.e., political domination, exists, it is necessary to liberate the ruled from the ruler by counter-violence or violent confrontation. For this reason, Muslims performed the mission of establishing Islamic order with the sword to liberate people from local rulers who enclosed the people within their domain in order to exploit them by tax collection, enforced labor and conscription.

When the Prophet Muhammad began his mission in Makkah, its main contents were faith of the unseen like Allah, the Last Judgment, the paradise and hell, and the ethics such as aids of the poor and the weak, and they were targeted at the individuals. However, after a “city state” centering on Muslims was materialized in Madinah after *Hijrah* in 622, legal provisions of maintenance of the security by execution of punishments on crimes, such as injury homicide, a burglar, and theft, tax collection, welfare, and dealing of non-Muslims and warfare, i.e., obligations which the political authority should perform, was added. And when Makkah was conquered, the Arabian Peninsula was unified under the banner of Islam, and the revelation given to the Prophet Muhammad was completed, the Islamic mission transformed from propagation of the individual faith and ethics in Makkah term to the liberation of the earth by spreading the Islamic order or governance.

The transformation of Islamic mission to “the liberation of the earth by spreading the Islamic governance” does not mean abrogation of propagation of faith and ethics on the level of individual and society, but it means that the spread of Islamic governance came to be given a priority as the aim of group behavior of the *Ummah* which came to have the military strength

which now enables them to establish the Islamic order.

This is shown clearly in Islamic rules of warfare, *Ahkam Jihad*. Allah says,; “Fight those who do not believe in God, nor in the Last Day, and who do not forbid what God and His Messenger have forbidden, nor do they practice the religion of truth, from among of those who have been given the Scripture, until they pay the *Jizyah* tribute, readily being subdued.”(9:29)

And al-Mugirah, a companion of the Prophet, said to the Persian army on the day of battle of Nihavand,; the Prophet who is the Apostle of our Lord ordered “Fight until you worship only Allah or you pay the tax (*Jizyah*)”. (*Hadith*: al-Bukhahri).

If only the *Jizyah* tax is paid, fighting is no more allowed, even though they don't embrace Islam. But fighting becomes inescapable when tax payment is refused. That is, the purpose of the jihad was admission of the Islam order by tax payment, not conversion to Islam. In other words, spread the Islam order was the first priority which must be promoted even with military force.

Muslim community started to perform their mission toward the whole world after the completion of the revelation to the Prophet Muhammad and the unification of the Arabian Peninsula under the banner of Islam. However, what was not allowed to refuse in confronting this mission and was to be forced even by military power was the payment of the *Jizyah* tax, not conversion to Islam. That is why we can say that the mission of Islam in its complete form is to expand this *Dar al-Islam* in order to spread Islamic governance to all over the world even by resort to the military force, though there is no compulsion in the religion.

Dar al-Islam should be expanded all over the world, even by *Jihad*. However, before jihad is waged, “the formal appeal from the Islamic authority which assumes the duty to make the Islamic Call (*Da'wah*), i.e., ‘official Islamic propagation by the *Khalifah*’, should be made first. If this appeal is rejected, *Jihad* is at the *Khalifah*'s will depending on his political judgment, although jihad becomes obligatory in case of the invasion against *Dar al-Islam* by infidels..

Indeed, Islam does not reject war categorically. Islam predicts that there will always be *Jihads* (wars) until the Last Day, as told in the *Hadith*; “*Jihad* will continue to be fought from the time Allah sent me until the last generation of my *Ummah* fight *Dajjal* (Anti-Christ).” (*Hadith*: Abu Dawud)

This *Hadith* does not illustrate the militancy of Islam, rather it is the expression of its realistic view of war and peace. The Islamic view of war is realistic from two aspects. First, it is characterized by the cool realism that, (1) neither will wars cease nor will the world be perfectly peaceful, because there will always be evil forces which try to hinder the rule of Islam, even by resorting to military action, and (2) Islam cannot win the final decisive victory against the evil forces in the normal run of history as long as there is no direct Divine intervention by means of the return of Jesus and advent of the *Mahdi* (the Savior), therefore it suspends the Final War or Armageddon. From these points we could say that the inevitability of the need to coexist with other religions and civilizations as “the reality” of this world is built into the Islamic world view.

Khalifah will not initiate a jihad, because the concept of “war” in the time of the Prophet Muhammad is so different from the concept of “war” in this age that we might hesitate to call them both by the same name.

The Prophet(SS) ordered the killing of the enemy but prohibited burning them to death, saying; “Torment by fire is not allowed for other than the Master of Fire” (*Hadith*: al-Bukhari, Ahmad)

In a contemporary war, soldiers are slaughtered indiscriminately by missiles, bombs, and heavy weapons without having the opportunity to surrender, and without even seeing the face of the enemy who kills them. Not only soldiers, but even innocent civilians too are massacred through being caught up in the battle. In modern Western warfare this is called collateral damage, but in Islam it is a serious crime.

Even if Muslims win such war, it can never be considered a desirable victory from an Islamic point of view. Although it might be unavoidable, if the *Dar al-Islam* were to be invaded, to be forced to fight such a battle, it is quite unthinkable that the caliph would initiate such war by himself for the purpose of expanding the Islamic domain.

Although Islam does not forbid war itself, it is a completely groundless fear that if the Caliphate were reestablished, it would soon start a jihad to expand the Islamic mission, because contemporary warfare in which inhumane weapons of mass-destruction are used quite clearly opposes the war ethics of Islam.

Therefore, it is a mistake to think that it is unavoidable that caliph will rush into a jihad, waging a total, all out war against the entire *Dar al-Harb* “House of the War or Non-Islam land” by his initiative, although it is inevitable that some regional conflicts, defensive jihads or skirmishes will continue in places like Palestine, Chechen, Kashmir, and Mindanao where the minority Muslim communities are suffering from persecution, being killed, having their lands and properties plundered, and being expelled from their homes.

4. Islamic Law as a Rule of Law

Islamic law is said to be a typical jurist’s law beside Roman law. Actually, while Roman law became law after its authorization by the Emperor and he is above the law, formation of the Islamic law had been independent from *Khalifah*’s authorization, rather the jurists, *Fuqaha*’ had rejected any interference from *Khalifah* in its formation, needless to say that they had rejected admitting that *Khalifah* is above it.

Islamic law is still valid for all the Muslims, in spite that the rulers of the Western-made territorial nation states in the former *Dar al-Islam* have no longer enforced Islamic law, because the ruler has nothing to do with the formation of Islamic law, and consequently its validity is not depending on their enforcement.

Thus the legitimate Islamic polity is still *Khilafah*, even if its throne is now vacant. Among

the contemporary jurists, *Fuqaha'*, there is still consensus that the establishments of *Khilafah* is obligatory. Not only the most widely-read book of *Fiqh* (Islamic Jurisprudence) among the contemporary jurists, *al-Fiqh al-Islami wa Adillatu-hu* (11 vol.), written by Dr. Wahbah al-Zuhaili, but the most voluminous and authoritative Encyclopedia of Islamic law declare definitely that the establishment of *Khilafah*, *Nasb al-Imam*, is obligatory.

Here we use the term “*Khilafah*” as the name of Islamic polity according to Sunni Islamic science. In literatures of *Fiqh* and *Usul al-Din* (Theology), *Khilafah* is synonymous with *Imamah Kubra*, but we prefer to the term *Khilafah* lest it should be confused with Shiite *Imamah*. As for the Shiite theory, Imam is the divinely appointed infallible successor of the Apostle of Allah Muhammad. On the other hand, Sunni *Khalifah* is neither divinely appointed nor infallible.

The inaugural speech of the first Sunni *Khalifah* Abu Bakr, ; “as long as I follow Allah and His Apostle, follow me. Supposing I disobey Allah and His Apostle, it is not obligatory for you to follow me.” (narrated by al-Tabari), shows clearly that the Sunni *Khalifah*, the successor of the Apostle, was homogeneous as the fallible Apostolic deputy officials under the reign of the Apostle who obeyed the Divine commandments embodied in *Qur'an* and *Sunnah*. Namely, *Khilafah* is “the rule of law” contrary to *Imamah* which is “the rule of man”, for the Divine Will is known through *Shari'ah*, Divine Law, according to Sunni thinking, while it is known only through the divinely appointed infallible *Imam* according to the Shiite *Imamology*.

And this regime of *Khilafah* is rather “secular”, although it may sound unexpectedly. Strictly speaking, the concept “secular” is so Western culture-laden that we can not apply it only to Islam but also any other religion like Judaism, Confucianism, Hinduism, and Buddhism, but we use it here just as a matter of convenience for comparative study.

The Western political sciences cannot describe the Islamic governance effectively with the analysis of the Religion-and-Politics-relation because of the lack of clear consciousness of difference of legal system and political system, but if we can differentiate them, it is rather obvious rather that *Khilafah* is “secular”.

The Prophet Muhammad's government was based on “unity of Religion and Politics”, thus “religious.” As already stated, the Prophet Muhammad was governing based on Allah' revelation. That is, a political decision of the outbreak of war etc. was also made based on Divine Will. And much of revelation had taken the form of the individual command responding to each situation, a legal system had not been formed yet, a political system and legal system were still undifferentiated. That is, the Prophet Muhammad's government is “religious”, in the meaning that it was based on the transcendental authority of the divine will of a revelation of Allah to which common believers has no access except through him, and is based on the “unity of Politics and Religion” in the meaning that both of the law and the politics were based on his transcendental authority in the undifferentiated form because the legal system and the political system was still undifferentiated.

The Prophet Muhammad's government was typical “hierocracy” or “theocracy” in terminology of Western political sciences in the meaning that the religious person who represents divine will

governs. However, the revelation ceased since the death of the Prophet Muhammad, and the *Khalifah* has no special access to the Divine Will. Thus there was no transcendental element in the *Khalifah's* political determination, it was carried out through the realistic worldly calculation of political interests, and it was completely same with the *Khalifah's* subordinates.

In the 8th century of the infancy of the Islamic legal system, *Fuqaha'*, jurists as specialists of the *Fiqh*, Islamic law, appeared and *Qadi*, official judges, came to be appointed out of such jurists since *Abu Yusuf* (d.798) took the position of *Qadi*, Islamic Judge, a famous disciple of *Abu Hanifah* (d.767) who himself staunchly rejected its position in spite of persecution. After this, although the idea that the *Khalifah* inherits the judicial duty of the Prophet was not lost, it becomes a custom that the *Khalifah* entrusts his judicial authority to jurists, thus executive power and a judicial power has been divided completely.

Islamic legal system is a legal system after all, as same as Common Law(of Britain) is a legal system, though in both of these law system the law is not existing in the form of a "code" compiling laws enacted by the parliament, so both of them are neither irrational nor mysterious beyond the understanding by the reason, but completely rational, in the meaning that the function of both these legal systems has nothing to do with the divine inspiration, and what is needed is not an understanding by faith but an understanding by professional training of legal reasoning.

We can understand this more clearly, if we take into consideration the fact that the existence of the mystic called Sufi who receives the inspiration from Allah is recognized widely in the Islamic history, and among jurists there are a lot of such mystics or Sufis, but at the place of a judicial trial, such inspiration is never adopted as a proof.

The Islamic law was "secularized", after the system of Islamic law had been materialized and the jurists had become professionals. That is, the trial is not performed by the transcendental authority which receives the inspiration from Allah to which common people has no access, but by the jurist who receives special professional training of legal reasoning, based on the legal provisions found in the authoritative classics of Islamic jurisprudence to which any lettered man can refer.

As for the origin of law, the fact that the origin of the Islamic law is a divine revelation does not mean that its legal system is divine. Because, whether the legal system is religious or secular, the origin of all the laws is related to the "myth" of foundation of the country, thus inevitably "sacred" and "irrational", as in the United States' Declaration of Independence it is stated, "We hold these truths to be self-evident, that all men are created equal, that they are endowed, by their Creator, with certain unalienable Rights." Therefore, it is unsuitable to call the Islamic law "religious" only because its origin is based on the divine revelation.

The transcendental authority which has access to the divine will to which common people has no access, i.e., the religious authority which Western political science assumes, is in the hand of mystics called Sufis in Islam.

In Sunnite Islam, the Prophetic authority, is divided into political authority, “legal authority”, and “religious authority” in the narrow meaning, and succeeded by *Khalifah*, *Fuqaha*’ and Sufis respectively, but we don’t discuss about role of Sufis in this paper.

That is, in Islam, law, religion, and politics are completely divided and the *Khilafah* is secular political regime separated from religion not only in its administration but in its jurisdiction also.

Moreover, the Islamic law is pluralistic because it is divided into “shared” law which all the residents should obey and “religious” law which only Muslims should obey and admits for the other communities their autonomy according to their own religious law.

Khilafah based on this pluralistic Islamic law is secular because it secures the safety to all the residents by ruling according to Islamic “shared law” and leaves to Muslims and non-Muslim communities the self-government in the domain of religion which contains not only a religious rite but family law, a dress code, etc.

Moreover, pluralistic *Khilafah* is anti-totalitarianism. All residents are not forced conversion to Islamic ideology, although the *Khilafah* is based on Islam. Non-Muslim is not required any inward commitments to Islam. It is sufficient for them to observe Islamic “public law” only externally. Even for Muslims, *Khilafah* does not interfere in the inside of their mind. The obligation of *Khilafah* is merely the enforcement of the “external” Islamic law.

Moreover, *Khilafah* does not interfere in individual’s “privacy” in private space as well as it does not interfere in ones interior faith. It is because Islam strictly prohibits revealing the hidden wrong, and inquiry and espionage by the Holy Qur’anic verse “And spy not”(49:12).

So *Khilafah* is located just in the opposite poles of a police state. *Khalifah* controls only infringement of the Islamic rules in public space, and he leaves the referee to Allah about the individual act in private space.

Unlike the nation-state based on the totalitarianism, in the meaning that it presupposes that the nation is homogeneous entity, which kidnaps its children and confines them to brainwash with its official ideology during a certain period under the name of compulsory education, the education is not the job of *Khilafah* regime. In Islamic history, although *Khalifahs* and kings built schools, *Madrakah*, it was not their “official” job but their personal or individual contribution. That is, in the *Khilafah*, education is left to the family and the society.

The political responsibility for the maintenance of security, order, and peace under the pluralistic and anti-totalitarian *Khilafah* is shared only among Muslims under *Khalifah* according to their capability, contrary to the deceptive fabrication of national representative system of the so-called “democratic” nation-state, in which it is to be assumed by all the citizens.

Under *Khilafah* non-Muslims are not required any political responsibility for the cause of Islam in which they do not believe but required only tax payment and outward observation of Islamic “shared” law as “passive citizen”, while all the Muslims assume the responsibility for participation in *Khilafah* as a judge, a soldier, etc. according to one’s capability as a “active citizen”

because of his faith in the cause of Islam.

Such secular, anti-totalitarian and pluralistic *Khilafah* is the political system that enables the realization of the Islamic order which Muslim community has the mission to spread to the whole earth even with resort to military force.

5. Islamic Rule as the very “Rule of Law”

As we have explained, the mission of *Khilafah* is to spread Islamic rule or governance. Now we try to argue that Islamic governance is nothing but the rule of law, moreover, that Islamic order is the very Rule of Law and there is no rule of law except Islamic order in the contemporary world.

A famous German legal philosopher Gustav Radbruch (d.1949) pointed out that the law has 3 mutually contradicting elements, *Gleichheit* (justice), *Zweckmäßigkeit* (purposiveness or effectiveness) and *Rechtssicherheit* (legal certainty), but the most fundamental is the legal certainty. The legal certainty means stability and predictability. The law should be unchanging and continuous to some ranges of time as well as understandable and well known to people.

As for the stability, the Islamic law system started to be formed around in 8–9 century and had been established around in 12–13 century and has little change since then. It remains unchanging and valid, thus it is still taught from the elementary school to the graduate school of the university in the Muslim world.

Citing *Justice without Frontiers*, by Weeramantry, C, (Martinus Nijhoff Publishers, 1997, p.132), even Wikipedia admits that the supremacy of law was developed by Islamic jurists before the twelfth century, so that no official, even *Khalifah*, could claim to be above the law.

Comparing to Islamic law, only Common Law of England has some limited stability, but “the rule of law” had been established only late in 17 century thanks to the efforts of Lord Chief Justice Edward Coke (d.1634) and the like, and it had never ceased to be transformed until courts of law and equity were combined in 1873 and 1875 and the current features of the common law had been completed.

Even this English Common Law is said to be influenced by Islamic Law through Norman conquest of England by the Normans, who conquered and inherited the Islamic legal administration of the Emirate of Sicily since the publication of legal scholar John Makdisi’s “The Islamic Origins of the Common Law” in the *North Carolina Law Review*, (Makdisi, John A., 1999, *North Carolina Law Review* 77 (5): 1635–1739.)

Criticizing John Austin’s (d.1859), a famous British legal positivist jurist, theory that law is the command of the sovereign backed by the threat of punishment, H. L. A. Hart (d.1992), one of the most influential legal philosopher of the 20th century, pointed out in his famous *The Concept of Law* that the ad hoc orders of the rulers cannot be called law. Such things like 12,000 yen flat-rate benefits enacted in 2008 under Aso Cabinet in Japan, 200 million dollar of bailout

for AIG(American International Group), and imposing 90% tax on bonus for its executives, both of which were legislated under Obama government in 2009, do not deserve the name of law. Even if they were legislated by parliaments or Congress under the name of law, they are in reality nothing other than arbitrary ad hoc commandments of “men”. Nowadays there is no country where the true “rule of law” exists, even though there might be a Rechtsstaat which rules “by law”.

Here it is worth mentioning that in Islam even the taxation is under “the rule of law”, not “the rule of man”, contrary to the West in which the taxation is under “the rule of man” justified by the slogan “No taxation without representation”, hence “the representatives” can impose taxes as they like under the name of “people”. On the other hand, Islam does not approve of any tax except what is legislated by *Shari’ah*, Islamic Law, i.e., *Zakah* for Muslims, *Jizyah* for Non-Muslims, and *Kharaj* for the utility of the lands conquered. Any other taxes imposed by human beings are strictly prohibited. A great *Hanbalite* jurist Ibn Taimiyyah(d.1328) says; ‘Levying taxes are what is not permitted by the agreement of legal schools’. (Ibn Taimiyyah, *Majmu’ah al-Fatawa*, al-Mansurah, 2001, vol.28, p.155) Another great jurist of the *Hanafi* legal school, al-Jassas (d.981) is so severe that he says that every Muslim should fight against those who levy taxes (Al-Jassas, *Akam al-Qur’an*, 1986, Beirut, vol.1, p.472), and he should even kill them if they are armed. Consequently, any tariff is not allowed in *Dar al-Islam*, in which the rule of law is prevalent, because *Dar al-Islam* is a unified law-governed space, thus it is not permitted to make borders in it to prevent the free movement of people, commodities, and money or capitals by imposing man-made tariffs or any other kind of taxes or fees.

Contrary to “democracy”, in Islam the economy including taxation and currency is under the rule of law, not the rule of man, so abrogation of borders and tariffs inside *Dar al-Islam* and monetary system of Gold Dinar and Silver Dirham, as clause 130 of *Al-Majallah*, a civil code of the Ottoman *Khilafah*, prescribes that “the *Nuqud* (species) are gold and silver”, is an important and integral part of *Khilafah* or the Rule of Law. Thus as Wikipedia points out, “the Islamic Golden Age” was created by the Muslims’ vigorous monetary economy with “the expanding levels of circulation of a stable high-value currency (the Dinar) and the integration of monetary areas that were previously independent.” (http://en.wikipedia.org/wiki/Islamic_economic_jurisprudence)

As for the legal certainty as the predictability, Muslims are familiar with Islamic law, both substantial rules, *Ahkam Taklifiyyah*, and legal concepts, *Ahkam Wad’iyyah*, because the learning of Islamic law is obligatory on every Muslim. So it is not unusual that ordinary Muslim children learn classical texts books of Islamic law even in elementary school or junior high school.

Comparing to Islam, in Japan, for example, the jurisprudence is not included in curriculum of compulsory education, i.e., elementary school and junior high school at all. Only small parts of the constitution is taught in junior high school as a part of the subject “The Contemporary Society”, and even the penalty of murder of penal law is not taught. There is no rule of law in

Japan, where the basics of the law and jurisprudence are not taught to its citizens but they are ordered to be a lay judge to judge others.

Khilafah is the very Rule of Law, the most stable and certain divine law in the world, which liberates all the human beings from the rule of men and guarantees the security of life, property, and honor for all the inhabitants, and this law-governed space is called *Dar al-Islam* or “House of Islam”, in which *Khalifah* the head of the *Ummah*, rules according to Islamic law and plural religious communities coexist enjoying religious self-government. The fact that *Khalifah* should be single symbolizes the unity of “*Dar al-Islam*” to guarantee the freedom of movement of human beings, commodities, money or capitals, and information. So the abolishment of borders which hinder the movement of the people is the indispensable essential part of Islamic order. And the outside of this law-governed space, *Dar al-Islam*, is called *Dar al-Harb*, literally “House of War”, or “Lawless Land”.

The pivot of *Khilafah* is the law, *Shari’ah*, not the person of *Khalifah* himself. We find the clearest expression of it in the works of Ibn Taimiyyah. In his book on Islamic politics, *al-Siyasah al-Shar’iyyah*, he not only ignored the role of *Khalifah* but never mentioned about the *Khilafah* at all. And in his treatise on the revolt, he affirmed that the true revolt which should be subdued as the apostasy is the violation of Law, *Khuruj ‘an Shari’ah*, not the revolt against the ruler, *Khalifah*. (Ibn Taymiyyah, *Majmu’ah al-Fatawa*, vol.28, pp.468–469, pp.502–504, pp.520–521)

But the Western scholarship obsessed with the Aristotelian tradition of typology of ruler can neither understand the real nature of *Khilafah* nor esteem its significance correctly; hence they tend to regard it as the monarchy or dictatorship focusing only on the number of the ruler, if it is one, monarchy, if minority, aristocracy, and if majority, democracy.

Without exception in human history, head of state must be one and alone by whatever name the regime is called, democracy, monarchy, republic, or Papacy, in terms of official institution and constitution, and sociologically speaking, no head of state can rule by him(or her)self alone with nobody’s support at all. *Khilafah* is not an exception. That is all.

6. Clarifying the Characteristics of the Caliphate in comparison to Chinese Political Thoughts

Here it seems useful to refer to Chinese political thought for triangulation. In Chinese political thought, the rule is classified into *Dézhi*, or rule by virtue of *Ríjiā*, Confucian school, and *Fǎzhì*, or rule by law, of *Fǎjiā*, legalist School.

The ideal of the main trend of Chinese political thought has been *Dézhi*, the rule by virtue, despite *Fǎzhì*, the rule by law, has been always real politics in the history.

The world view of this Chinese political thought is called *Huayizhixù*, China-barbarian order. In this world view, the moral teaching of Confucianism is pivotal and it is regarded as the very Civilization itself and any country which accepts this teaching become a part of *Zhōnghuá*,

Sinocentric world, thus, *Wángtǔ*, literally Land of King, or *Shénzhōu*, Divine State, which is the land of the Civilization and the areas outside this Sinocentric world are called *Huawaizhidi*, uncivilized land. Although *Huángdì* the emperor is regarded as *Tiānzǐ*, Son of Heaven, he is not above this teaching, but he is required to rule embodying the virtues of this teaching.

For both of them, Islamic political thought and Chinese one, the central idea is the divine order which is the aim to be realized by the politics, not the person of Ruler. In Islam, this order is conceptualized as the Law, the Revealed Divine law, *Shari'ah*, while in China it is called, *Wángdào*, literally the Way of King, virtuous rule according to Confucian teaching.

Thus, the comparative analyses between Western political thoughts, Islamic one, and Chinese one brings to light the fact that the basic frame work of Western political thought is rule of the man, while Islamic one, *Khilafah*, is rule of law and Chinese one is rule of virtue.

As we have already mentioned, in the process of theorization of *Khilafah* of Sunni school, counter-argument against Shiite *Imamology* has crystallized the concept of “rule of the law”, the sovereignty of *Shari'ah*, in contrast to concept of “rule of the man” of Shiite *Imamology* in which the person of the divinely nominated infallible Imam is the sole source of legitimacy of the rule and only it is what guarantees the good governance, which we can find clearly even in contemporary Shiite political thought of post-*Imam* Era (*Ghaibah*) symbolically called theory of “*Wilayah al-Faqih* (Guardianship of the Islamic Jurist)”

On the other hand, Katou Takashi, a Japanese scholar of New Testament and comparative civilization, proved theologically that Western political thought is classified definitely by “the rule of people”. Kato argues, “the rule of man by man has become the most essential characteristic of Christianity since the infant community of Jerusalem transformed from a sect to the Jerusalem Church” and “the feature of this principle is that the human beings are divided into two types and the upper class is to control or manage the lower class. After proclaiming that rule of man is the essential feature of the Christian societies, on this view of Christian society, Kato analyses that the dual structure of “rule of man” with sub-division of the secular domain of “the ruling clergy - ruled laity” into “ruling aristocrat - ruled common people and slaves” is the social structures of the Western Christian civilization, and its spread to a global scale is the modern world.⁵⁾

On the other hand, Western political thought can scarcely imagine form of the rule other than “rule of the man”, i.e., rule of the single person, monarchy or dictatorship, rule of the minority, aristocracy or oligarchy, and rule of the majority or democracy. The idea of rule of the law only appeared quite recently in 17 century in England, as we have told, and even this new borne concept of law has soon degenerated into “rule by the law” in Chinese sense, or *Rechtsstaat*, or “rule of the commandments of the rulers” in our terminology. We can only find trace of concept of rule of the law in Western political thought in the concept of “human rights” as supplement to “the rule of man” of the democracy to complement its defects and to neutralize its evils.

Historically speaking, *Khalifah* had lost his real power early Abbasid (750–1258) and his authority had become nominal and the political power had shifted to his subordinates, *Sultans*, *Amirs*, and *Wazirs*, a parallel phenomenon of which we find rather in history of *Tennnousei*, institution of Japanese Emperor, rather than institution of Chine Emperor itself.

Both of them claim that their political order is universal, thus their rule is the sole legitimate rule. This universalism is expressed by the dichotomy of *Dar al-Islam* — *Dar al-Harb*, House of Peace — House of War, Law-governed Space — Lawless Land, in Islam, and , *Zhōnghuá*, or *Wángtǔ*, *Shénzhōu* — *Huàwàizhìdì*, Sinocentric world, or Land of King, Divine State, Land of the Civilization — Uncivilized Land, in Chinese political thought.

In spite of their universalism, both of them are not totalitarian, contrary to the notion of the modern Western territorial state, but multi-ethnic and multi-religious.

As for the multi-ethnicity, beside the fact that various ethnic groups had coexisted in Islamic Caliphate and Chinese Empire, the political power has been shifted from Arab to Persian, then to Turk in case of Islam, and Chinese history has Mongol dynasty of Yuán (1279–1368) and Manchurian Dynasty of Qīng (1644–1911).

Regarding multi-religiousness, though indeed Islam in *Khilafah* and Confucianism in China were the base of their respective rule, both of them is not “theocracy” in the Western sense, i.e. the rule by the priests, and the “freedom” of religion, in the narrow sense of the West, had been enjoyed by people respectively in their “communal-private” sphere, for there were no “individual” in traditional Islamic and Chinese society, and besides ‘*Ulama*’ or *Fuqaha*’ in Islam and *Rúzhě* in China, who constituted the religious establishment of the Empire, were rather scholars than priests.

In Islam, Christian, Jew, and Zoroastrian were accepted as *Dhimmi*, protectee, then the category of *Dhimmi* is expanded to followers of all religions, while in China, Prof. Tu Weiming said ;“Taoism, Confucianism, Buddhism and Islam were lumped together as ‘the four teachings’ of China”. (Osman Bakar, “Confucius and the Analects in the light of Islam”, Osman Bakar(ed.), *Islam and Confucianism*, p.68.)

Islamic *Dar al-Islam* and Chinese *Zhōnghuá*, Sinocentric world or *Wángtǔ* is a space in which Divine Order is established, and as such its boundary must be rather vague, not clear cut, contrary to the notion of the territorial nation state. The boundary of *Dar al-Islam* and *Zhōnghuá*, *Wángtǔ* is continuously changing according to the religio-cultural condition of the inhabitants and the power relations with the outer world.

Although the similarities are remarkable, there are some important differences between Islamic political thought and Chinese one.

Because Confucian teaching is focusing on moral codes and rules of courtesy while Islamic *Shari’ah* includes public law and private law as well as moral codes and rules of courtesy, therefore definition of “self and others” and rules relating “self and others” both inside of *Dar al-Islam* and outside of it, in Islam is, positively speaking, more articulated, stable and predictable than ones

in Confucianism, or, negatively speaking, more inflexible, rigid, fossilizing, difficult to adapt itself to changing situations.

The boundary of *Huáyí* is quite ambiguous both at the level of countries and at the level of individuals. We can find only difference of graduation in mastery of virtues of Confucian teaching, while in Islam distinction between 'self and others' is rather dichotomic. Consequently, Chinese political thought rejects categorically to spread territory of *Zhōnghuá*, Sinocentric world or *Wángtǔ*, by force as the condemnable *Bàdào*, way of hegemon, and considers its spread through its voluntary acceptance by others yearning for it, *Wánghuà*, Islam rather regards it obligatory to spread its order or the rule of Law, Shari'ah, not Islamic faith, all over the world by military force, even though this missionary campaign should be performed according to Islamic law of warfare.

Conclusion

We tried to demonstrate that the mission of the highest priority in Islam is to spread the rule of law all over the world, i.e, *Khilafah*, not the proselytization for the Islamic faith, that *Khilafah* is secular, pluralistic and anti-totalitarian, and that *Khilafah* is nothing other than the Rule of Law.

Then we clarified that Islam shares with Chinese Empire centrality of the universal divine order, multi-ethnicity, multi-religiousness, openness of its boundary but Islam is more articulated in rules relating "self and others" and consider it obligatory to spread Islamic order of Rule of Law, *Shari'ah* all over the world even with resort to military force.

However the reestablished *Khilafah* will not rush into war for Islamic mission, because the contemporary war in which inhumane mass-destruction weapons are used opposes war ethics of Islam clearly. Therefore the relation between the *Khilafah*, or *Dar al-Islam* and the external world might be a "peace" by truce in principle. The coming *Khilafah* in *Dar al-Islam*, Law-governed space, will vie with *Dar al-Harb*, Lawless Land, the external world in attracting immigrants under the truce, for which is more comfortable to live in.

In order to find the way of co-existence with Muslims, the West should understand the intrinsic logics of *Khilafah* and *Dar al-Islam*, and we hope that our comparative studies would contribute to this aim.

NOTES

- 1) As for the concept of *Khilafah and Dar al-Islam*, see, Hassan Ko Nakata, *The Mission of Islam in the Contemporary World—: Aiming for Liberation of Earth through Reestablishment of the Caliphate*, 2009, Saba Islamic Media, Kuala Lumpur.
- 2) *al-Mawsu'ah al-Fiqhiyyah*, 40 vol.1, is officially edited by the Ministry of Islamic Affairs of

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Kuwait and Supreme Council of Islamic Affairs of Arab Republic of Egypt, and published on the Website of the Ministry of Islamic Affairs of Kuwait.

(<http://islam.gov.kw/cms/index.php/mousoaa/>), and endorsed by the Ministry of Islamic Affairs of Saudi Arabia also(<http://feqh.al-islam.com/bookhier.asp?DocID=100>), therefore it is duly regarded the most voluminous and authoritative Encyclopedia of Islamic law in contemporary Muslim world.

- 3) His 2005 study showed that if the OECD countries let in just 14 million additional migrants by 2025 – that’s about 700,000 extra migrants a year, spread across the entire rich world - the global economy would be better off by \$356 billion. By comparison, if the world could completely eliminate agricultural barriers, the benefit would amount to barely half that: \$182 billion.” Cf., Barret Sheridan, “People, Not Goods: Immigration May Trump Freer Trade in Terms of Increasing Prosperity,” *NEWSWEEK*, Dec 8, 2008.
- 4) “Tribalism” is partisanship or factionalism. “Natural” love for one’s own kinsmen or kinswomen as family is not necessarily reproachable. In another version of this *Hadith*, the Prophet Muhammad was also asked, “Is tribalism that man loves his tribe?” and answered, “No, it is supporting your tribe in injustice” (*Hadith*: Ahmad)
- 5) Katou Takashi, *Ishshinkyounotanjou (The Birth of the Monotheism)*, Tokyo, 2002, 260–286.